

DETERMINING RESPONSIBLE PERSON POLICY

Mandatory – Quality Area 4

Precious Gems Childcare Pty Ltd trading as "Kids Haven Childcare"

Quality Area 4.1.1 ORGANISATION OF EDUCATORS

National Law Section 56	Notice of addition of nominated supervisor
National Law Section 161	Offence to operate education and care service without nominated supervisor
National Law Section 161A	Offence for nominated supervisor not to meet prescribed minimum requirements
National Law Section 162	Offence to operate education and care service unless responsible person is present.
National Law Section 162A	Persons in day-to-day charge and nominated supervisors to have child protection training
National Law Section 169	Offence relating to staffing arrangements
National Law Section 172	Offence to fail to display prescribed information (a) the provider approval; (b) the service approval; (c) each nominated supervisor of the service; (d) the rating of the service; (e) any service waivers or temporary waivers held by the service;
Regulation 117A	Placing a person in day-to-day charge
Regulation 117B	Minimum requirements for a person in day-to-day charge
Regulation 117C	Minimum requirements for a nominated supervisor
Regulation 118	Educational leader
Staff Records	
Regulation 145	Staff record
Regulation 146	Nominated supervisor
Regulation 147	Education leader
Regulation 150	Responsible person
Regulation 151	Record of educators working directly with children
Regulation 152	Record of access to early childhood teachers

Minimum Requirement , Notification and Compliance

Ensuring that a person nominated as a nominated supervisor or a person in a day to day charge:

- Is at least 18 years of age
- Has adequate knowledge and understanding of the provisions of education and care to children
- Has the ability to effectively supervise and manage an education and care service
- Has not been subject to any decision under the [National Law](#), or any other children's services or education law, to refuse, refuse to renew, suspect, or cancel a licence, approval, registration, certification or other authorisation granted to the person
- Has a history of compliance with the National Law and other relevant laws (**Regulation 117C and 117B**)
- Ensuring that the service does not operate without a nominated supervisor(s), and that the nominated supervisor(s) has given written consent to be in the role (*National Law: Section 161*) (**Regulation 117A (b)**)
- Ensuring that an early childhood teacher/educator gives written consent to being a person in day-to-day charge (**Regulation 117A (b)**)
- Ensuring that the name of the nominated supervisor is displayed prominently at the service (*National Law: Section 172*) (**Regulation 173**)
- Notifying the approved provider and the Regulatory Authority within **7 days** of any changes to their personal situation, including a change in mailing address, circumstances that affect their status as fit and proper, such as the suspension or cancellation of a Working with Children Clearance or teacher registration, or if they are subject to disciplinary proceedings.
- Ensuring that, when the nominated supervisor is absent from the premises, an alternative responsible person is on site (**National Law: Section 162**)
- Ensuring that the nominated supervisors and person in day-to-day charge have successfully completed child protection training (*refer to Child Safe Environment and Wellbeing Policy*) (*National Law: Section 162A*)

Service policies

- *Child Safe Environment Policy*
 - *Participation of Volunteers and Students Policy*
 - *Staffing Policy*
- Code of Conduct Policy*
Privacy and Confidentiality Policy
Supervision of Children Policy

PURPOSE

This policy will provide guidelines to assist in determining the Responsible Person at Precious Gems Childcare Pty Ltd.

POLICY STATEMENT

1. VALUES

Precious Gems Childcare Pty Ltd is committed to:

- meeting its duty of care (refer to *Definitions*) obligations under the law
- ensuring staffing arrangements contribute to the safety, health, wellbeing, learning and development of all children at the service
- meeting legislative requirements for a Responsible Person (refer to *Background* and *Definitions*) to be on the service premises at all times.

2. SCOPE

This policy applies to the Approved Provider, Persons with Management or Control, Nominated Supervisor, Persons in day-to-day Charge, staff, students on placement, volunteers and parents/guardians of Precious Gems Childcare Pty Ltd.

RESPONSIBILITIES

RESPONSIBILITIES	Approved provider and persons with management or control	Nominated supervisor and persons in day-to-day charge	Early childhood teacher, educators and all other staff	Parents/guardians	Contractors, volunteers and students
R indicates legislation requirement, and should not be deleted					
Ensuring there is a responsible person on the premises at all times the service is delivering education and care programs for children (National Law: Section 162)	R	<input type="checkbox"/>			
Nominating sufficient nominated supervisors to meet legislative requirements for a responsible person at the service at all times, including during periods of leave or illness (National Law: Section 161A)	R				
Ensuring that a person nominated as a nominated supervisor or a person in day-to-day charge: <ul style="list-style-type: none">• is at least 18 years of age• has adequate knowledge and understanding of the provision of education and care to children• has the ability to effectively supervise and manage an education and care service• has not been subject to any decision under the National Law, or any other children's services or	R	<input type="checkbox"/>			

<p>education law, to refuse, refuse to renew, suspect, or cancel a licence, approval, registration, certification or other authorisation granted to the person</p> <ul style="list-style-type: none"> has a history of compliance with the National Law and other relevant laws (Regulations 117C and 117B) 					
Ensuring that the service does not operate without a nominated supervisor(s), and that the nominated supervisor(s) has given written consent to be in the role (National Law: Section 161) (Regulation 117A (b))	R	<input type="checkbox"/>			
Ensuring that an early childhood teacher/educator gives written consent to being a person in day-to-day charge (Regulation 117A (b))	R	<input type="checkbox"/>	<input type="checkbox"/>		
Ensuring that the name of the nominated supervisor is displayed prominently at the service (National Law: Section 172) (Regulation 173)	R	<input type="checkbox"/>			
Ensuring that information about the nominated supervisor, including name, address, date of birth, evidence of qualifications, approved training, a Working with Children Clearance or teaching registration, and other documentary evidence of fitness to be a nominated supervisor (<i>refer to Staffing Policy</i>) is kept on the staff record (Regulation 146)	R	<input type="checkbox"/>			
<p>Notifying the Regulatory Authority if:</p> <ul style="list-style-type: none"> there is a change to the name or contact details of the nominated supervisor (National Law: Section 56, Regulation 35) the nominated supervisor is no longer employed or engaged by the service has been removed from the role the nominated supervisor withdraws their consent to the nomination if a nominated supervisor or person in day-to-day charge has their Working with Children Clearance or teacher registration suspended or cancelled, or if they are subject to any disciplinary proceedings under the law there is any other matter or incident which affects the ability of the nominated supervisor to meet minimum requirements and re-assessing the nominated supervisor's suitability for the role 	R	<input type="checkbox"/>			
Notifying the approved provider and the Regulatory Authority within 7 days of any changes to their personal situation, including a change in mailing address, circumstances that affect their status as fit and proper, such as the suspension or cancellation of a Working with Children Clearance or teacher registration, or if they are subject to disciplinary proceedings.	R	<input type="checkbox"/>			
Ensuring that, when the nominated supervisor is absent from the premises, an alternative responsible person is on site (National Law: Section 162)	R				
Ensuring that the nominated supervisor and person in day-to-day charge have a sound understanding of the role of responsible person (<i>refer to Attachment 1</i>)	R				
Ensuring that the staff record includes the name of the responsible person at the centre-based service for each time that children are being educated and cared for by the service (Regulation 150)	R	<input type="checkbox"/>			

Ensuring that the nominated supervisors and person in day-to-day charge have successfully completed child protection training (<i>refer to Child Safe Environment and Wellbeing Policy</i>) (<i>National Law: Section 162A</i>)	R				
Developing rosters in accordance with the availability of responsible persons, hours of operations and the attendance patterns of children.	R				
Supporting the approved provider to develop rosters in accordance with the availability of responsible persons, hours of operations and the attendance patterns of children		□			

Determining Fit and Proper Person in administrating of CCS

- evidence of activity that does not comply with criminal or civil law, including (but not limited to) activity related to children or indicating dishonesty or violence
- court proceedings and convictions or findings of guilt, including (but not limited to) activity related to children or indicating dishonesty or violence
- any past administrative decisions relating to a person's suitability to be involved in child care
- evidence of fraud or dishonesty
- the person's history of managing public funds; and any past or current debts to the Commonwealth
- the person's record of financial management, including any instances of bankruptcy, insolvency or external administration
- any potential conflicts of interest between managing or delivering the child care service and other business or financial interests of the person
- any other matter relevant to the suitability of the provider and their staff.

Checks required	A person with management or control of the provider	A person with responsibility for day- to-day operation of the service
A National Police Certificate from the state or territory police service (or an agency accredited by the Australian Criminal Intelligence Commission) no more than six months before the date of the application.	✓	✓
A working with children card (if required to hold one).	✓	✓
A National Personal Insolvency Index check performed using the Bankruptcy Register Search service provided by the Australian Financial Security Authority.	✓	
Evidence that the person does not appear on the banned and disqualified register held by the Australian Securities and Investments Commission.	✓	
A current and historical personal name extract search of the records of the Australian Securities and Investments Commission.	✓	

3. BACKGROUND AND LEGISLATION

Background

Under the *Education and Care Services National Law Act 2010*, it is an offence to operate an approved centre-based education and care service unless a Responsible Person (refer to *Definitions*) is physically in attendance at all times the service is educating and caring for children.

An Approved Provider must not operate a service unless there is a Nominated Supervisor appointed for that service. The Nominated Supervisor does not have to be in attendance at the service at all times, but in their absence, a Responsible Person, such as a Person in day-to-day Charge must be present.

4. DEFINITIONS

The terms defined in this section relate specifically to this policy. For regularly used terms e.g. Approved provider, Nominated supervisor, Notifiable complaints, Serious incidents, Duty of care, etc. .

Person in day-to-day charge: A person who is placed in day-to-day charge of an education and care service by an approved provider or a nominated supervisor; and who has consented to the placement in writing (*Regulation 117A*)

Person with management or control: Where the approved provider of a service is an eligible association, each member of the association's executive committee is a person with management or control and has the responsibility, alone or with others, for managing the delivery of the education and care service (*National Law: Definitions (b)*).

Responsible person: Centre-based services must have a responsible person present at all times that the service is delivering education and care. The responsible person is the person in day-to-day charge at the service and can be one of the following:

- the approved provider, if the approved provider is an individual, or in any other case, a person with management or control (*refer to Definitions*) of an education and care service operated by the approved provider
- the nominated supervisor of the service
- a person placed in day-to-day charge of the service. (*National Law, Section 162*)

Nominated supervisor: A person who has been nominated by the approved provider of the service under *Part 3 of the Act* and who has consented to that nomination in writing can be the nominated supervisor. All services must have a nominated supervisor(s) with responsibility for the service in accordance with the *National Regulations (Section 5 and 161)*

Working with Children (WWC) Check: The check is a legal requirement under the *Worker Screening Act 2020* for those undertaking paid or voluntary child-related work in Victoria. The Department of Justice assesses a person's suitability to work with children by examining relevant serious sexual, physical and drug offences in a person's national criminal history and, where appropriate, their professional history.

Working with Children (WWC) Clearance: A WWC Clearance is granted to a person under Worker Screening legislation if:

- they have been assessed as suitable to work with children
- there has been no information that, if the person worked with children, they would pose a risk to those children
- they are not prohibited from attempting to obtain, undertake or remain in child-related employment.

Nominated Supervisor: A person who has been nominated by the Approved Provider of the service under Part 3 of the Act and who has consented to that nomination in writing can be the Nominated Supervisor. All services must have a Nominated Supervisor(s) with responsibility for the service in accordance with the National Regulations (Section 5 and 161).

EVALUATION

In order to assess whether the values and purposes of the policy have been achieved, the Approved Provider will:

- regularly seek feedback from everyone affected by the policy regarding its effectiveness
- monitor the implementation, compliance, complaints and incidents in relation to this policy
- keep the policy up to date with current legislation, research, policy and best practice

- revise the policy and procedures as part of the service's policy review cycle, or as required
- notify parents/guardians at least 14 days before making any changes to this policy or its procedures unless a lesser period is necessary because of a risk.

ATTACHMENTS

Nil

AUTHORISATION

This policy was adopted by the Approved Provider of Precious Gems Childcare Pty Ltd trading as Kids Haven Childcare on 1st December 2022.

REVIEW DATE: 01/01/2024