

# Greenbrook Kindergarten

## Determining Responsible Person Policy

Authorisation – This policy was adopted by the Approved Provider of Greenbrook Kindergarten on 10<sup>th</sup> March 2021

Review Date – March 2023

Amended on 13<sup>th</sup> May 2021 to reflect new Working with Children Clearance / Worker Screening Act 2020 / Worker Screening Regulations 2021 (Vic)

### PURPOSE

This policy will provide guidelines to assist in determining the Responsible Person at Greenbrook Kindergarten

### Introduction

#### 1. VALUES

Greenbrook Kindergarten 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 Greenbrook Kindergarten.

#### 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.

##### Legislation and standards

Relevant legislation and standards include but are not limited to:

- Child Safe Standards
- *Education and Care Services National Law Act 2010*
- *Education and Care Services National Regulations 2011*
- *National Quality Standard, Quality Area 4: Staffing Arrangements*
- *National Quality Standard, Quality Area 7: Leadership and Service Management*
- Worker Screening Act 2020
- Worker Screening Regulations 2021 (Vic)

## Responsibilities

### The Approved Provider or Persons with Management and Control is responsible for:

- ensuring there is a Responsible Person on the premises at all times the service is delivering education and care programs for children
  - 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
- ensuring that a person nominated as a Nominated Supervisor or a Person in day-to-day Charge:
- 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 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 (Regulations 117C and 117B)
- ensuring that the name and position of the Responsible Person in charge of the service is displayed and easily visible from the main entrance of the service<sup>1</sup> (National Law: Section 172)
  - 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
  - ensuring that the name of the Nominated Supervisor is displayed prominently at the service
  - 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 (refer to *Staffing Policy*) is kept on the staff record (Regulation 146)
  - notifying the Regulatory Authority if:
    - there is a change to the name or contact details of the Nominated Supervisor (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

<ul style="list-style-type: none"> <li>– 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</li> </ul>
<ul style="list-style-type: none"> <li>• ensuring that, when the Nominated Supervisor is absent from the premises, an alternative Responsible Person is on site</li> </ul>
<ul style="list-style-type: none"> <li>• ensuring that the Nominated Supervisor and Person in day-to-day Charge have a sound understanding of the role of Responsible Person</li> </ul>
<ul style="list-style-type: none"> <li>• 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)</li> </ul>
<ul style="list-style-type: none"> <li>• ensuring that the Nominated Supervisors and Person in day-to-day Charge have successfully completed child protection training (see <i>Child Safe Environment Policy</i>)</li> </ul>
<ul style="list-style-type: none"> <li>• developing rosters in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children.</li> </ul>

<p><b>The Nominated Supervisor or Persons in Day to Day Charge is responsible for:</b></p>
<ul style="list-style-type: none"> <li>• providing written consent to accept the role of Nominated Supervisor</li> </ul>
<ul style="list-style-type: none"> <li>ensuring they have a sound understanding of the role of Responsible Person (refer to <i>Definitions</i>)</li> </ul>
<ul style="list-style-type: none"> <li>• ensuring that, in their absence from the service premises, a Responsible Person is present</li> </ul>
<ul style="list-style-type: none"> <li>• ensuring that a Person in day-to-day Charge: <ul style="list-style-type: none"> <li>– is at least 18 years of age</li> <li>– has adequate knowledge and understanding of the provision of education and care to children,</li> <li>– has the ability to effectively supervise and manage an education and care service</li> <li>– 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</li> <li>– has a history of compliance with the National Law and other relevant laws (Regulation 117B)</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• ensuring that an educator gives written consent to being a Person in day-to-day Charge</li> </ul>
<ul style="list-style-type: none"> <li>• ensuring that the name and position of the Responsible Person in charge of the service is displayed and easily visible from the main entrance of the service</li> </ul>
<ul style="list-style-type: none"> <li>• supporting the Approved Provider to develop rosters in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children</li> </ul>
<ul style="list-style-type: none"> <li>• 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.</li> </ul>

### **Educators and other staff are responsible for:**

- meeting the qualifications, experience and other requirements if they wish to be nominated as a Person in day-to day Charge
- providing written consent to be the Person in day-to-day Charge
- ensuring they have a sound understanding of the role of Responsible Person.

### **Parents and guardians are responsible for:**

- reading and understanding this policy
- being aware of the Responsible Person at the service on a daily basis.

Volunteers and students, while at the service, are responsible for following this policy and its procedures

## **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**

- Attachment 1: Definitions & Source Documents

# Attachment 1

## Definitions & Source Documents

### 1. Definitions

The terms defined in this section relate specifically to this policy.

<b>Duty of care:</b>	A common law concept that refers to the responsibilities of organisations to provide people with an adequate level of protection against harm and all reasonable foreseeable risk of injury
<b>Person in day-to-day Charge:</b>	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).
<b>Person with Management or Control:</b>	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)).
<b>Responsible Person:</b>	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: <ul style="list-style-type: none"><li>• the Approved Provider, if the Approved Provider is an individual, or in any other case, a Person with Management or Control (refer to <i>Definitions</i>) of an education and care service operated by the Approved Provider</li><li>• the Nominated Supervisor of the service</li><li>• a Person placed in day-to-day Charge of the service. (National Law, Section 162)</li></ul>
<b>Nominated Supervisor:</b>	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).

## 2.Sources & Service Policies

### Sources

- Australian Children's Education and Care Quality Authority (ACECQA), Information Sheets: [www.acecqa.gov.au](http://www.acecqa.gov.au)
- *Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011*: [www.acecqa.gov.au](http://www.acecqa.gov.au)
- *Guide to the National Quality Framework*: [www.acecqa.gov.au](http://www.acecqa.gov.au)

### Service policies

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