

## POLICY AIM

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Sweetpeas Kindergarten ensures that a Responsible Person is always in attendance while the service is educating and caring for children. The Responsible Person is either the Approved Provider/Nominated Supervisor of the service or an appointed educator who has been placed in day-to-day charge of the service.

## RATIONALE

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The *Education and Care Services National Regulations 2011* state that there must be a nominated Responsible Person in Charge (RPiC) at all times. The National Regulations stipulate criteria for determining fit and proper members of staff to be designated a responsible person in day-to-day charge of the service.

There are additional criteria under Family Assistance Law for any designated Responsible Persons who are to be allocated as Child Care Subsidy (CCS) specified personnel.

## SCOPE - WHO IS AFFECTED BY THIS POLICY?

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- Children
- Educators
- Staff
- Families
- Management

## NQS QUALITY AREA

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### QUALITY AREA 7 - GOVERNANCE AND LEADERSHIP

## RELATED POLICIES AND LEGISLATION

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### SWEETPEAS POLICIES

- Anti-Bias and Inclusion Policy
- CCS Governance and Management Policy
- Child Protection Policy
- Child Safe Environment Policy
- Confidentiality Policy
- Ethical Code of Conduct Policy
- Handling Grievances and Complaints Policy
- Interactions with Children Policy
- Staff Recruitment Policy
- Supervision of Children Policy

### NATIONAL REGULATIONS

- Regulations 117A-B
- Regulation 168

### RELATED LEGISLATION

- A New Tax System (Family Assistance) (Administration) Act 1999
- Child Protection (Working with Children) Act 2012
- Child Protection (Working with Children) Regulation 2013
- Children (Education and Care Services) National Law 2010
- Children and Young Persons (Care and Protection) Act 1998
- Children and Young Persons (Care and Protection) Regulation 2012
- Children's Guardian Regulation 2022
- Children's Guardian Act 2019
- Education and Care Services National Regulations 2011

## IMPLEMENTATION AND STRATEGIES

### RESPONSIBILITIES FOR THE APPROVED PROVIDER

The Approved Provider must:

- Ensure there is a Responsible Person on the premises at all times the service is educating and caring for children.
- Ensure that the name of the Nominated Supervisor is displayed at the main entrance of the service.
- Notify the Regulatory Authority within 7 days if there is a change of person in the role of Nominated Supervisor through the NQA ITS Portal (ACECQA Notification).
- Ensure that, in the absence of the Nominated Supervisor from the service, the Responsible Person is placed in day-to-day charge of the service.
- Ensuring that the Nominated Supervisor and Responsible Person have an understanding of their role, and have given their acceptance of this role in writing (National Regulation 117A).
- Ensure that there are sufficient staff at the service who meet the criteria to be a Responsible Person at the service during periods of leave or illness.
- Ensure that there is a sign in and out register (National Regulation 150).
- Ensure to notify if adding another Nominated Supervisor to the service (National Regulation 35, National Law 56).
- Ensure that any designated Responsible Persons who are designated as CCS personnel, understand their responsibilities under Family Assistance Law and,
  - They meet the Fit and Proper requirements under Section 194E of the A New Tax System (Family Assistance) (Administration) Act 1999. (see CCS Governance and Management Policy)

### RESPONSIBILITIES OF THE NOMINATED SUPERVISOR

The Nominated Supervisor must:

- Provide written consent to accept the role of Nominated Supervisor (National Regulation 117C).
- Ensure that, in their absence from the service premises, another Responsible Person is placed in day-to-day charge of the service.
- Ensure that all staff have a sound understanding of the role of Responsible Person.
- Create a roster in accordance with the availability of a Responsible Person, hours of operation and attendance patterns of children.
- Notify the Approved Provider and the Regulatory Authority within 14 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 Check) or if they are subject to disciplinary proceedings.
- Ensure that any designated Responsible Persons who are designated as CCS personnel, understand their responsibilities under Family Assistance Law and,
  - They meet the Fit and Proper requirements under Section 194E of the A New Tax System (Family Assistance) (Administration) Act 1999.

### RESPONSIBILITIES OF THE RESPONSIBLE PERSON

The Responsible Person must:

- Provide written consent to accept the role of Responsible Person (National Regulation 117A).
- Ensure to sign into the register when in responsible position (National Regulation 150).
- Ensure that they have a sound understanding of the role of Responsible Person (National Regulation 117B).
- Understand that a Responsible Person placed in a day-to-day charge of an approved service does not have the same statutory responsibilities under the National Law as the Nominated Supervisor.
- If designated as CCS Personnel, ensure that all enrolments and CCS submissions are made correctly as per Family Assistance Law.

## RESPONSIBILITIES OF THE FAMILY/GUARDIAN

The Family/Guardians of an education and care service must -

- Read and understanding this policy
- Being aware of who is the Responsible Person at the service on a daily basis.
- Understand that a Responsible Person in day-to-day charge is not the same role as Nominated Supervisor, nor do they have the same responsibility.
- Understand that not all Responsible Persons have access to CCS information or are able to make CCS submissions or enquiries.

## PROCEDURE

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### APPOINTING A RESPONSIBLE PERSON

The Approved Provider is responsible for ensuring the safety and wellbeing of children at the service and will consider a person's qualifications, experience and age when deciding whether they are suitable to be placed in day-to-day charge of the service (National Regulation 117A).

- The Approved Provider or the Nominated Supervisor identifies that an educator meets the criteria to be given a Responsible person role, and
- they give their written consent to be placed in day-to-day charge of the service

### CRITERIA TO BE DETERMINED A RESPONSIBLE PERSON

Educators at the service who have been deemed suitable by the Approved Provider or Nominated Supervisor and wish to be considered for the role of Responsible Person in the absence of the Nominated Supervisor will be considered based on the following criteria set out in the National Regulations (National Regulation 117B). Responsible Persons who are to be allocated as Child Care Subsidy (CCS) specified personnel additional criteria under Family Assistance Law.

- Their practical knowledge of the day-to-day responsibilities of being an educator at the service, including how to work through unexpected problems.
- Must be over 18 years of age.
- Have demonstrated understanding of:
  - Children (Education and Care Services National Law) Act 2010, and the Education and Care Services National Regulations 2011.
  - Equal Opportunity Employment Conditions.
  - Health and Safety, including Child Protection responsibilities.
  - Privacy and Confidentiality and Equal Opportunity/Anti-Discrimination policies and procedures.
  - The education and care service's policies and procedures.
- In the case of CCS personnel, have a demonstrated understanding of:
  - Family Assistance Law, in relation to the provision of the Child Care Subsidy (CCS) and the Additional Child Care Subsidy (ACCS) under the A New Tax System (Family Assistance) (Administration) Act 1999.
- Consideration will be also given regarding whether the individual has been subject to compliance action to or disciplinary proceedings under Education and Care Services Law, Family Assistance Law, or a previous relevant Law, in any state or territory. Candidates will be asked to submit a Compliance History Statement.

### DETERMINING THE RESPONSIBLE PERSON

- Whenever possible the Nominated Supervisor will be the Responsible Person. If the Nominated Supervisor will be absent, they will ask a suitable staff member/s to be the Responsible Person.
- The Responsible Person will sign in, as on duty (National Regulation 177(G)).
- Only one staff member can be appointed to the position of Responsible Person at any one time.

## REFERENCES

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- A New Tax System (Family Assistance) (Administration) Act 1999

- Australian Children's Education and Care Quality Authority (ACECQA)  
[www.acacqa.gov.au](http://www.acacqa.gov.au)
- Children (Education and Care Services) National Law 2010:  
<https://www.legislation.nsw.gov.au/#/view/act/2010/104a/full>
- Education and Care Services National Regulations 2011:  
<https://www.legislation.nsw.gov.au/#/view/regulation/2011/653>

## REVIEW AND AMENDMENT HISTORY

The policy will be reviewed annually. Review will be conducted by management, employees, parents and any interested parties.

Version	Amendment(s)	Review Date	Updated By
3.	<ul style="list-style-type: none"><li>• Regulations updated</li><li>• No other changes required</li></ul>	June 2020	Janine Evans
3.1.	<ul style="list-style-type: none"><li>• No changes required</li></ul>	July 2021	Janine Evans
4.	<ul style="list-style-type: none"><li>• Added Family Assistance Law</li><li>• Responsible person responsibilities as per CCS submissions</li><li>• Criteria for a fit and proper person</li><li>• CCS Personnel</li></ul>	July 2022	Cassandra Way
4.1.	<ul style="list-style-type: none"><li>• Cosmetic changes for new template and colours only</li></ul>	August 2022	Cassandra Way