



## Responsible Person in Charge Policy and Procedures

Policy Number:	2020/49
Approved by:	Heritage Management Committee – 8 December 2020; 14 May 2024
Last reviewed:	August 2020; February 2024
Next review due:	2027
National Law & Regulations	National Law: Part 6, Operating an Education and Care Service: 56, 161, 161A, 162, 172. Part 14: Infringement Notices: 291(5). National Regulations: 35, 117 (A) (B) (C), 146, 150, 168(2)(i) (ii), 173, 176(2)(c)
National Quality Standard	Quality Area 4: Staffing Arrangements; Quality Area 7: Leadership and Service Management

### Policy Statement

Heritage Early Childhood Centre (Heritage) recognises it has a duty of care and legislative obligation to ensure staffing arrangements contribute to the health, safety, wellbeing, learning and development of all children at the service.

It is understood that under the Education and Care Services National Law, it is an offence to operate an approved centre-based education and care service unless a Responsible Person is physically present on the premises at all times when children are being educated and cared for by the service. Under [National Law Section 162](#), the Responsible Person can be:

- The Approved Provider, if that person is an individual, or a Person with Management or Control (PMC).
- The Nominated Supervisor.
- A Person placed in Day-to-Day Charge (PIDTDC) such as a qualified educator.

At Heritage, the Approved Provider (Management Committee) oversees the operation of the Heritage service and appoints a Nominated Supervisor (Director) ~~to oversee~~ who is responsible for the day-to-day running of the service in line with the National Regulations. The Nominated Supervisor does not have to attend the service at all times, and in their absence, a Responsible Person will be placed in day-to-day charge and on the service premises at all times.

A Responsible Person placed in day-to-day charge of an approved service does not have the same responsibilities under the National Law as the Nominated Supervisor. Heritage recognises it is responsible for ensuring the safety and wellbeing of all children enrolled at the service and will consider a person's qualifications, experience, and age and other the criteria set out in the National Regulations ([117B](#) and [117C](#)) when deciding whether a person is suitable to be placed in Day-to-Day Charge.

Details of the Nominated Supervisor or the Responsible Person on duty will be clearly displayed at the service entrance.

### Definitions

**Approved Provider:** An individual or organisation that has completed an application form and been approved by the Regulatory Authority as fit and proper (in accordance with Sections 12, 13 and 14 of the National Law) to operate one or more education and care services. The Management Committee is the Approved Provider of the Heritage service.

**Duty of care:** 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.



**Nominated Supervisor:** A person who has been nominated by the Approved Provider of the service under Part 6 of the *Education and Care Service National Law Act 2010* to be the Nominated Supervisor of that service, and who has consented to that nomination. The Nominated Supervisor has day-to-day responsibility for operating the service in accordance with the National Regulations.

**Person in Day-to-Day Charge (PIDTDC):** A responsible person under section 162 of the Education and Care National Law who physically on the premises, ensures the consistency and continuity of practices and is the point of contact for parents and staff. A service does not need to have a PIDTDC if a Nominated Supervisor or Person with Management or Control is the Responsible Person at the service.

**Person with Management or Control (PMC):** From 1 July 2023, PMCs are defined as persons within or outside the Approved Provider that hold executive or management roles within the approved entity and are responsible for managing the delivery of the service or have a significant influence over the service activities. PMCs must be fit and proper persons as they make decisions that impact the health, safety, and wellbeing of children at the service. PMCs include each member of the Management Committee. The regulatory authority must be notified of all persons who meet this expanded definition.

**Responsible Person:** A Responsible Person may be:

- The Approved Provider, if that person is an individual, or a Person with Management or Control.
- A Nominated Supervisor.
- A Person placed in Day-to-Day Charge (PIDTDC) of the service, such as a qualified educator.

## Policy Aims

This policy aims to ensure that:

- Heritage meets its legal obligation to ensure a Nominated Supervisor or Responsible Person is physically in attendance at all times the service is educating and caring for children.
- The details of the Responsible Person at the service are clearly visible to families and visitors at the Main Entrance.
- A record of the Responsible Person is documented each day via the Staff Register.
- If the Responsible Person leaves the premises, they hand over to another Responsible Person at the service, and this is documented on the Responsible Person Register.

## Scope

This policy applies to the Management Committee, Director, Responsible Person, staff and educators, families, students and family volunteers participating in programs at Heritage Early Childhood Centre.



## Rationale and Legislative Background

Heritage recognises it has a duty of care to take all reasonable, practicable steps to provide the Heritage community with a safe and healthy environment that supports the emotional and physical wellbeing of all employees and children ([Work Health and Safety Act, 2011 \(ACT\)](#)). In addition, this policy has been developed to comply with the:

- [Education and Care Services National Law Act \(ACT\) \(2011\) \(amended 2023\)](#)
- [Education and Care Services National Regulations \(2011\) \(amended 2023\)](#)
- [National Quality Standard for Early Childhood Education and Care 2012](#)
- [Working with Vulnerable People \(Background Checking\) Act 2011 \(ACT\)](#).
- [Working with Vulnerable People \(Background Checking\) Regulation 2012 \(ACT\)](#).

Relevant Education and Care National Law	
<a href="#">S 12</a>	Applicant must be fit and proper person
<a href="#">S 13</a>	Matters to be taken into account in assessing whether fit and proper person
<a href="#">S 14</a>	Regulatory Authority may seek further information
<a href="#">S 56</a>	Notice of addition of nominated supervisor.
<a href="#">S 161</a>	Offence to operate education and care service without nominated supervisor.
<a href="#">S 161A</a>	Offence for nominated supervisor not to meet prescribed minimum requirements.
<a href="#">S 162</a>	Offence to operate education and care service unless responsible person is present.
<a href="#">S 162A</a>	Persons in day-to-day charge and nominated supervisors to have child protection training.
<a href="#">S 172</a>	Offence to fail to display prescribed information.
<a href="#">S 173</a>	Offence to fail to notify certain circumstances to Regulatory Authority
<a href="#">S 291(5)</a>	Infringement offences
Relevant Education and Care National Regulations	
<a href="#">R 35</a>	Notice of addition of new nominated supervisor
<a href="#">R 117A</a>	117A Placing a person in day-to-day charge.
<a href="#">R 117B</a>	117B Minimum requirements for a person in day-to-day charge.
<a href="#">R 117C</a>	117C Minimum requirements for a nominated supervisor.
<a href="#">R 146</a>	The staff record must include the following information in relation to each nominated supervisor
<a href="#">R 150</a>	The staff record must include the name of the responsible person
<a href="#">R 168 (2)(i)(ii)</a>	Education and care service must have policies and procedures in relation to the matters set out in sub-regulation (2) including: (i) staffing, including: (ii) <b>determining the responsible person present at the service.</b>
<a href="#">R 173</a>	Prescribed information to be displayed
<a href="#">R 174</a>	Time to notify certain circumstances to Regulatory Authority
Relevant National Quality Standard Areas	
<a href="#">QA 4</a>	<b>Staffing Arrangements</b> <b>Standard 4.1: Staffing arrangements enhance children's learning and development.</b> Element 4.1.2: Continuity of staff. Every effort is made for children to experience continuity of educators at the service. <b>Standard 4.2: Professionalism: Management, educators and staff are collaborative, respectful and ethical.</b> Element 4.2.2: Professional standards. Professional standards guide practice, interactions and relationships.
<a href="#">QA 7</a>	<b>Governance and Leadership</b> Standard 7.1: Governance supports the operation of a quality service. Element 7.1.3: Roles and responsibilities are clearly defined, and understood, and support effective decision making and operation of the service.



## Key Roles and Responsibilities

Role	Responsible for ensuring:
Management Committee	<ul style="list-style-type: none"> <li>• This policy is available, up to date, easily accessible at all times, and available for inspection by the ACT Regulatory Authority (CECA).</li> <li>• There is a process in place to ensure all service policies and procedures are regularly updated in consultation with educators and families and reflect legislative requirements, <a href="#">government guidelines</a> best practice recommendations.<sup>1</sup></li> <li>• This policy clearly defines the roles and responsibilities of the Management Committee, Director, educators other staff, families, students and family volunteers.</li> <li>• The name and position of the Responsible Person in charge of the service is displayed and easily visible in the Main Entrance (r173).</li> <li>• The ACT Regulatory Authority is notified if there is a change of person in the role of Nominated Supervisor (r35).</li> <li>• Records are maintained with suitable information relating to each Nominated Supervisor (r146).</li> <li>• The Chairperson meets with the Director annually to review their performance prior to the AGM, including ensuring regulatory compliance.</li> <li>• Reasonable steps are taken to ensure this policy and procedures are followed.</li> <li>• Families are notified 14 days before making significant changes to this policy or procedures.</li> </ul>
Director/ Nominated Supervisor	<ul style="list-style-type: none"> <li>• They provide written consent to accept the role of Nominated Supervisor.</li> <li>• In their absence from the service premises, a Responsible Person is placed in day-to-day charge of the service in line with this policy.</li> <li>• They have a sound understanding of the role of Responsible Person.</li> <li>• A person placed in day-to-day charge (Responsible Person) in their absence has appropriate knowledge, understanding, skill levels, experience, qualifications and approval to work with children, as required under the National Law and National Regulations outlined in this policy.</li> <li>• 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 (s172). <b>Note:</b> Where the Responsible Person changes during the day (for example, at a changeover of shifts), this requirement continues to be met such as via an interchangeable name plate at the entrance.</li> <li>• The staff register includes the name of the Responsible Person for each time that children are being educated and cared for by the service (r150).</li> <li>• Staff rosters are developed in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children.</li> <li>• The Management Committee and ACT Regulatory Authority (CECA) is notified of any changes to their personal situation including a change in mailing address, circumstances that affect their ability to meet the minimum requirements to be a Nominated Supervisor set out in this policy, such as the suspension or cancellation of a WWVP registration or teacher registration, or if they are subject to disciplinary proceedings.</li> </ul>
Person in Day-to-Day Charge	<ul style="list-style-type: none"> <li>• They provide written consent to accept the role of Responsible Person.</li> <li>• 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> <li>• They have a sound understanding of the role of Responsible Person.</li> <li>• Understanding that a Responsible Person placed in day-to-day charge of an approved service does not have the same responsibilities under the National Law as the Nominated Supervisor.</li> </ul>

<sup>1</sup> Refer to: Policy Development and Review Policy and Procedures



	<ul style="list-style-type: none"> <li>Informing the Nominated Supervisor of their absence from the service due to leave/illness so they can be replaced by another Responsible Person.</li> <li>Notifying the Nominated Supervisor of any changes to their personal situation, including a change in mailing address or circumstances such as the suspension or cancellation of a WWVP registration or teacher registration, or if they are subject to disciplinary proceedings.</li> </ul>
Students and Family Volunteers	<ul style="list-style-type: none"> <li>Reading the Relief Educator Handbook.</li> <li>Being familiar with the Heritage policy and procedures</li> <li>Being aware of the Nominated Supervisor or Responsible Person in Charge at the service when they are in attendance at the service.</li> </ul>
Families	<ul style="list-style-type: none"> <li>Reading the Family Handbook</li> <li>Being familiar with the Heritage policy and procedures</li> <li>Being aware of who is the Nominated Supervisor or Responsible Person in Charge at the service when their children are in attendance.</li> </ul>

## Strategies and Practices

### Placing a Person in Day-to-Day Charge or as a Nominated Supervisor

A person may be placed in day-to-day charge of the service, when:

- The Nominated Supervisor or Responsible Person identifies that they meet the criteria below, required under [r117B](#) and [117C](#).
- The Nominated Supervisor must give [written consent](#) to be placed in day-to-day charge of the service.
- The Responsible Person must give their written consent to be placed in day-to-day charge of the service. **Refer to:** Attachment: Responsible Person Consent Form.

### Criteria to be Determined a Nominated Supervisor

To meet the prescribed minimum requirements for nomination of a person as a Nominated Supervisor at Heritage under [r117C](#), that person must:

- Be over 18 years of age.
- Have demonstrated practical knowledge of the day-to-day responsibilities of being an educator at a service, including how to effectively supervise and manage an education and care service and work through unexpected problems.
- Be aware of child protection laws and obligations (Section 162A) and have a current Working with Vulnerable People (WWVP) check that is compliant with relevant laws.
  - Note:** While there is no specific training requirement in the ACT under *Children and Young People ACT 2008*, Heritage is committed to professional development, ongoing training, and continually updating its resources in child protection to ensure the Heritage community has up to date skills and knowledge.
- Have a demonstrated understanding of:
  - Education and Care Services National Law Act 2010*, and the *Education and Care Service National Regulations 2011 (amended 2023)*.
  - Equal Opportunity Employment Conditions
  - Health and Safety, including Child Protection responsibilities
  - Privacy and Confidentiality and Creating Inclusion and Equity policies and procedures.
  - All other service policies and procedures.

### History of Compliance Check

- In addition, candidates will be asked to submit a [History of Compliance Check](#) and consideration will be given to:
  - The person's history of compliance with the National Law/other relevant laws in any State/Territory, and any compliance/disciplinary action.

- Whether any decision has been made to refuse, suspend, refuse to renew, or cancel a license, approval, registration, certification or other authorisation granted to the person under the National Law and other relevant laws.

To ensure a Nominated Supervisor is not prohibited the Management Committee may:

- Ask the candidate to and sign a [Prohibition Notice Declaration](#) for prospective staff members declaring they are not prohibited.
- Review the candidate's references, including previous employers.
- When undertaking reference checks, ask each referee if they are aware of any compliance action under the National Law or any other law in relation to the candidate. Record referee responses and keep this information on file.
- If, after taking reasonable steps, there is a concern about the candidate's compliance history, contact the ACT Regulatory Authority and enquire if the person is subject to a prohibition notice in any state or territory.

### Removal of a Nominated Supervisor

- If a matter/incident occurs which affects the ability of the Nominated Supervisor to meet the minimum requirements, the Management Committee will consider removing them as Nominated Supervisor.<sup>2</sup>

### Annual Performance Review for Nominated Supervisor

- To ensure the Nominated Supervisor continues to meet the minimum requirements, a performance review occurs annually, prior to the AGM in March.
- The review may be in the form of a meeting between the Chairperson and the Director to review Key Performance Indicators<sup>3</sup> and audit the service's compliance with regulations.

### **Criteria for Placing a Person in Day-to-Day Charge**

- To meet the prescribed minimum requirements for nomination of a person as Person in Day-to-Day Charge under [r117B](#), the Management Committee or Nominated Supervisor (as required) must ensure the candidate is:
  - Over 18 years of age.
  - Has adequate knowledge and understanding of the provision of education and care to children and an ability to effectively supervise and manage the service.
- The person's qualifications, experience and age must also be considered when deciding whether they are suitable to be placed in day-to-day charge.
  - It is preferred though not compulsory that the person has completed an approved diploma level of education and care qualification or higher.
  - Employment references may be sought and kept on file.

### History of Compliance

- In addition, candidates will be asked to submit a [History of Compliance Check](#) and consideration will be given to:
  - The person's history of compliance with the National Law/other relevant laws in any State/Territory, and any compliance/disciplinary action.
  - Whether any decision has been made to refuse, suspend, refuse to renew, or cancel a license, approval, registration, certification or other authorisation granted to the person under the National Law and other relevant laws.

### Removal of a Responsible Person

- If a matter/incident occurs which affects the ability of the Person in Day-to-Day Charge to meet the minimum requirements, the Management Committee or Nominated Supervisor (as required) will consider removing them from the position.

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<sup>2</sup> Refer to: Employment and Recruitment Policy and Procedures

<sup>3</sup> Refer to: Director's Duty Statement in Employment and Recruitment Policy and Procedures



## Notification Requirements

### The Management Committee must:

Notify the ACT Regulatory Authority (CECA) through the [NQA IT System portal](#):

- When a Nominated Supervisor is appointed.
- 7 days prior to the Nominated Supervisor starting, or if that is not possible, within 14 days after the Nominated Supervisor has commenced in the role ([Section 173\(2\)\(b\)](#) and [regulation 174\(1\)](#)).
- If a Nominated Supervisor:
  - Changes their name or contact details.
  - Is no longer employed by the service.
  - Has been removed from the role.
  - Withdraws their nomination.

## Maintaining Records

- The Responsible Person on the services premises will be displayed at all times at the Main Entrance and recorded on the Staff Register at all times.
- All handovers during the day between designated Responsible Persons will be documented on the Staff Register.
- Records will be kept with sufficient evidence of the suitability of the Nominated Supervisor and Responsible Persons in Day-to-Day Charge in order to demonstrate to the ACT Regulatory Authority (CECA) that reasonable steps have been taken to comply with the relevant obligations under the National Law.
- These records will be reviewed annually by the Management Committee, such as during the Director's annual review and prior to the AGM. **Refer to:** Committee Handbook.
- A staff record will be kept in line r146 and r150, recording:
  - The full name, address and date of birth of the Responsible Person/Nominated Supervisor.
  - Evidence of relevant qualifications or working towards relevant qualifications.
  - and approved training including first aid and child protection.
  - A current WWVP Check including number and expiry date.
  - Written consent for the position of Nominated Supervisor or Responsible Person.

## Monitoring, Evaluation and Review

- This policy will be monitored to ensure compliance with its' aims and legislative requirements.
- This policy will be regularly reviewed as part of the service policy review cycle and when deemed necessary through the identification of practice gaps or legislative changes.
- Families and staff will be given opportunity and encouragement to be actively involved in the policy review process.
- In accordance with [Regulation 172](#), Heritage will ensure enrolled families are notified at least 14 days before making any change to a policy or procedure that may have significant impact on the provision of education and care to any child enrolled at the service; a family's ability to utilise the service; the fees charged, or the way fees are collected.



## Related Policies and Procedures

Name of Policy and Procedures Document	Location
Child Protection	Policy and Procedures Manual in Office, Main Entrance and Staff Programming Room.
Employment and Recruitment	
Heritage Code of Conduct/Ethics	
Interactions with Children	Members Area of Heritage Website
Privacy and Confidentiality	
Supervision	
Work Health and Safety	

## References and Further Reading

### Australian Children's Education and Care Quality Authority (ACECQA). (2023).

- [Guide to the National Quality Framework](#) (October 2023).
- [Identifying Persons with Management or Control of a Service](#) (July 2023)
- [Guide to Quality Area 4: Staffing Arrangements](#)
- [Information Sheet – Nominated Supervisors](#)
- [Compliance History Statement Template](#)
- [Prohibition Notice Declaration for Prospective Staff Members Template](#)

**Community Early Learning Australia (CELA).** (2023). *Sample Policy: Determining the Responsible Person.*

## Version Control and Change History

Version	Approval Date	Approved by	Author and Amendments
1	8 December 2020	Management Committee	Author: Julia Charters New policy to better meet requirements of the National Law and Regulations. Previously part of Employment and Staffing Policy.
2	14 May 2024	Management Committee	Updated Format. Updated all references and hyperlinks. Added Responsible Person Consent Form. Minor additions and word updates to better reflect National Law and Regulations and to clarify definitions and roles.





Responsible Person Consent Form	
<b>Approved Provider Number</b>	PR-
<b>Approved Provider Name</b>	
<b>Service Approval Number</b>	SE-
<b>Service Approval Name</b>	
Responsible Person Contact Details	
<b>First Name</b>	
<b>Last Name</b>	
<b>Address</b>	
<b>Email</b>	
<b>Mobile Number</b>	
<b>Phone Number</b>	
<b>Date of Birth</b>	
<b>Date of Commencement as Responsible Person</b>	___/___/_____
Responsible Person Declaration	
<p>I, _____</p> <p>Consent to being the Responsible Person for Heritage Early Childhood Centre.</p> <p>Signature _____ Date ___/___/_____</p>	
<p><b>Privacy Statement</b></p> <p>Heritage and the regulatory authorities are committed to protecting personal information in accordance with the Privacy Act 1988 and the Australian Privacy Principles contained in the Privacy Amendment (Enhancing Privacy Protection) Act 2012.</p> <p>Information provided is being collected for the purposes of assessing this application or notification and may be provided to other authorities or government agencies in accordance with the National Law.</p> <p>ACECQA, the regulatory authorities and the Australian Government may publish information about you in accordance with the National Law.</p>	