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# DETERMINING RESPONSIBLE PERSON POLICY

Mandatory – Quality Area 4

## AUTHORISATION

This policy was adopted by the Management Committee of Dawson Street Childcare Cooperative (DSCCC) at its meeting on 18 October 2017.

## REVIEW DATE

This policy will be reviewed in four years in October 2021 or sooner if required.

## PURPOSE

This policy will provide guidelines to assist in determining the Responsible Person at Dawson Street Childcare Cooperative.

## POLICY STATEMENT

### 1. VALUES

Dawson Street Childcare Cooperative (DSCCC) is committed to:

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

### 2. SCOPE

This policy applies to the Management Committee, Director, Certified Supervisor, educators, staff, students on placement, volunteers and parents/guardians of Dawson Street Childcare Cooperative.

### 3. BACKGROUND AND LEGISLATION

#### Background

A Responsible Person must be physically in attendance at all times that the DSCCC is educating and caring for children. The Responsible Person is either the Director or a Certified Supervisor who has been placed in day-to-day charge of the service. A Certified Supervisor is a person who is qualified to be in charge of the Centre when the Director is not present.

#### Legislation and standards

Relevant legislation and standards include but are not limited to:

- *Education and Care Services National Law Act 2010*: Sections 5, 44, 56, 106–109, 114, 115, 118, 161, 162, 172, 291(5)
  - *Education and Care Services National Regulations 2011*: Regulations 35, 46–49, 146, 168(2)(i)(ii), 173, 176(2)(c)
  - *National Quality Standard, Quality Area 4: Staffing Arrangements*
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- Standard 4.1: Staffing arrangements enhance children’s learning and development and ensure their safety and wellbeing
  - *National Quality Standard, Quality Area 7: Leadership and Service Management*
    - Standard 7.1: Effective leadership promotes a positive organisational culture and builds a professional learning community
      - Element 7.1.5: Adults working with children and those engaged in management of the service or residing on the premises are fit and proper
  - *Working with Children Act 2005 (Vic)*
  - *Working with Children Regulations 2006 (Vic)*

#### 4. DEFINITIONS

**Certified Supervisor:** An educator who is nominated by the director (in accordance with the National Regulations) who may consent to being placed in day-to-day charge of the education and care service. The designation must be made by the Management Committee or the Director and accepted in writing by the Certified Supervisor. A Certified Supervisor placed in day-to-day charge of a service **does not** have the same responsibilities under the National Law as the Director.

**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.

**Fit-and-proper person:** In determining whether an applicant is fit and proper, the Regulatory Authority must take into account the applicant’s history of involvement in education and care services, their compliance with current and prior law, criminal history record check and any bankruptcy or insolvency issues. Registered teachers and those who hold a current Working with Children Check card are considered to be fit-and-proper persons.

**Nominated Supervisor:** A person who is a Certified Supervisor and has been nominated by the Management Committee to be the Nominated Supervisor of that service, and who has consented to that nomination. In the case of DSCCC, it is the Director. The Nominated Supervisor has day-to-day responsibility for the service in accordance with the National Regulations. All services must have a Nominated Supervisor.

**Supervisor Certificate:** Allows a person to be placed in day-to-day charge of the DSCCC. Applicants must be 18 years or older, be assessed as a fit-and-proper person (refer to *Definitions* above) and meet the minimum requirements for qualifications, experience and management capability required under the Regulations (Regulations 46–49). Applicants for a Supervisor Certificate are assessed by the Regulatory Authority.

**Responsible Person:** The Director or Certified Supervisor who has been placed in day-to-day charge of the service in accordance with the National Regulations.

#### 5. SOURCES AND RELATED POLICIES

##### Sources

- Australian Children’s Education and Care Quality Authority (ACECQA), Information Sheets: [www.acecqa.gov.au/national-quality-framework/information-sheets/](http://www.acecqa.gov.au/national-quality-framework/information-sheets/)
- *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 Standard:* [www.acecqa.gov.au](http://www.acecqa.gov.au)

##### DSCCC policies

- *Staff Conduct Policy*
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- *Participation of Volunteers and Students Policy*
  - *Privacy and Confidentiality Policy*
  - *Staff Recruitment and Entitlements Policy*
  - *Supervision of Children Policy*

## PROCEDURES

### **The Management Committee is responsible for:**

- ensuring that the name and position of the Director 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, and that this person has given written consent. (refer to *Definitions*)
- ensuring that information about the Director, including name, address, date of birth, evidence of qualifications and approved training, and a Working with Children Check (refer to *Staff Recruitment and Entitlements Policy*) is kept on the staff record (Regulation 146)
- notifying the Regulatory Authority in writing if there is a change of person in the role of Director (Section 56, Regulation 35)
- ensuring that the Director and Certified Supervisors have a sound understanding of the role of Responsible Person
- ensuring details of Supervisor Certificates are recorded on the staff record
- notifying the Regulatory Authority in writing if there any changes to:
  - the name of the DSCCC
  - the appointment or removal of a person with management or control of the service operated by the DSCCC
  - the status of the DSCCC as fit and proper
- notifying the Regulatory Authority if the Director or Certified Supervisor has their Working with Children Check card or teacher registration suspended or cancelled, or if they are subject to any disciplinary proceedings under the law.

### **The Director is responsible for:**

- providing written consent to accept the role of Nominated Supervisor
- ensuring that, in their absence from the service premises, another person with a Supervisor Certificate (a Certified Supervisor – refer to *Definitions*) is placed in day-to-day charge of the service
- ensuring that, in their absence from the service premises, another person who is nominated as the certified supervisor (a Certified Supervisor – refer to *Definitions*) is placed in day-to-day charge of the service
- ensuring there are sufficient educators nominated as certified supervisor (refer to *Definitions*) to meet the legislative requirement for a Responsible Person at the service during periods of leave or illness
- ensuring they have a sound understanding of the role of Responsible Person
- developing rosters in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children
- notifying the Management Committee 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

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<sup>1</sup> The guidelines to the National Regulations state that, given the Responsible Person in charge may change throughout the day (for example, at a changeover of shifts), this requirement might be met on a whiteboard or interchangeable name plate at the entrance of the service premises.

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as fit and proper, such as the suspension or cancellation of a Working with Children Check card or teacher registration, or if they are subject to disciplinary proceedings

- notifying the Management Committee if the Regulatory Authority cancels their Supervisor Certificate for any reason.

**Certified Supervisors are responsible for:**

- providing written consent to accept the role of Certified Supervisor
- checking 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
- informing the Director in the event of absence from the service due to leave or illness so they can be replaced by another Responsible Person
- ensuring they have a sound understanding of the role of Responsible Person
- abiding by any conditions placed on the Certified Supervisor
- understanding that a Certified Supervisor placed in day-to-day charge of the Centre **does not** have the same responsibilities under the National Law as the Nominated Supervisor (ie: Director)
- notifying the Management Committee 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 Check card or teacher registration, or if they are subject to disciplinary proceedings
- notifying the Management Committee if the Regulatory Authority cancels their Supervisor Certificate for any reason.

**Educators are responsible for:**

- meeting the qualifications, experience and management requirements if they wish to be a nominated supervisor, as defined in the National Regulations (Regulations 46–49)
- ensuring they have a sound understanding of the role of Responsible Person
- providing written consent if accepting the nomination to be a Certified Supervisor.

**Parents/guardians are responsible for:**

- reading and understanding this policy
- being aware of the Responsible Person at the centre on the days they use the service.

**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 Management Committee will:

- monitor feedback from those 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.

## **ATTACHMENTS**

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Date Reviewed	Details of Changes (if any)	Date of Next Review
October 2017	Minor updates	October 2021
September 2013	New Policy	September 2017

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