

DETERMINING RESPONSIBLE PERSON

QUALITY AREA 4. | Version 1.1



PURPOSE

This policy will provide guidelines to assist in determining the responsible person at Leslie Moorhead Pre-School Centre Inc.



POLICY STATEMENT

VALUES

Leslie Moorhead Pre-School Centre Inc. 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.

SCOPE

This policy applies to the approved provider, persons with management or control, nominated supervisor, persons in day-to-day charge, early childhood teachers, educators, staff, students, volunteers, parents/guardians, children, and others attending the programs and activities of Leslie Moorhead Pre-School Centre Inc..

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 the approved provider notifies the regulatory authority of any appointment or removal of a PMC (<i>refer to Definitions</i>) within 14 days of the event (or within 14 days of becoming aware of it)	R				
Submitting the PA08 Notification of change to information about approved provider form (<i>refer to Sources</i>) through the NQA IT System	R				

Ensuring each identified PMC completes a PA02 – declaration of fitness and propriety form (<i>refer to Sources</i>)	R				
Ensuring the PCM's (<i>refer to Definitions</i>) remain a fit and proper person to be involved with children's education and care. If an existing PMC is no longer fit and proper for any reason, the regulatory authority must be notified within seven days	R				
At all times, approved providers must ensure their PMC information is kept current and accurate	R				
Ensuring the approved provider assesses if a person meets the minimum requirements before they nominate the person to be a nominated supervisor or places a person in day to day charge (<i>refer to Attachment 2</i>)	R	√			
Ensuring there is a responsible person (<i>refer to Definitions</i>) on the premises at all times the service is delivering education and care programs for children (<i>National Law: Section 162</i>)	R	√			
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 (<i>National Law: Section 161A</i>)	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 <i>National Law</i>, or any other children's services or education law, to refuse, refuse to renew, suspend, or cancel a licence, approval, registration, certification or other authorisation granted to the person has a history of compliance with the <i>National Law</i> and other relevant laws (<i>Regulations 117C and 117B</i>) 	R	R			
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 (<i>National Law: Section 161 Regulation 117A (b)</i>)	R	√			
Ensuring that an early childhood teacher/educator gives written consent to being a person in day-to-day charge (<i>Regulation 117A (b)</i>)	R	√	√		
Ensuring that the name of the nominated supervisor is displayed prominently at the service (<i>National Law: Section 172 Regulation 173</i>)	R	√			
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 (<i>Regulation 146</i>)	R	√			

<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 (<i>National Law: Section 56, Regulation 35</i>) 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	√			
<p>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.</p>	R	√			
<p>Ensuring that, when the nominated supervisor is absent from the premises, an alternative responsible person is on site (<i>National Law: Section 162</i>)</p>	R				
<p>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>)</p>	R				
<p>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 (<i>Regulation 150</i>)</p>	R	√			
<p>Ensuring that the nominated supervisors and person in day-to-day charge have successfully completed their mandatory child protection training and this is updated annually (<i>refer to Child Safe Environment and Wellbeing Policy</i>) (<i>National Law: Section 162A</i>)</p>	R	R	R		R
<p>Ensuring that information used to assess a person's suitability to be a nominated supervisor and in day-to-day charge is kept as evidence on file. This may include records of reference checks, declarations, copies of qualifications or course completion certificates (<i>Refer to Sources</i>)</p>	R	R			
<p>Developing rosters in accordance with the availability of responsible persons, hours of operations and the attendance patterns of children.</p>	R				
<p>Supporting the approved provider to develop rosters in accordance with the availability of responsible persons, hours of operations and the attendance patterns of children</p>		√			



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 at least one 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 at all times.

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)

The most current amendments to listed legislation can be found at:

- Victorian Legislation – Victorian Law Today: www.legislation.vic.gov.au
- Commonwealth Legislation – Federal Register of Legislation: www.legislation.gov.au



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. refer to the Definitions file of the PolicyWorks catalogue.

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. refer to the Definitions file of the PolicyWorks catalogue.

Person in day-to-day charge: A person is in day-to-day charge of an education and care service if:

- the person is placed in day-to-day charge by the approved provider or a nominated supervisor of the service; and
- the person consents to the placement in writing (*National Regulations*). There are minimum requirements for the person in day-to-day charge.

Person with management or control: a person who has authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of an education and care service. This includes people in an executive or management role of an approved provider entity who have such authority, responsibility or influence, such as:

- an officer of a body corporate
- each member of the management committee of an association
- each partner of a partnership

- a person in a management position of the business, with the authority or responsibility for, or significant influence over, decisions affecting the delivery of children’s education and care (such as a state/territory or area manager).

A nominated supervisor, person in day-to-day charge of a service, or a person who holds other operational management roles in a service (such as a centre manager) would not meet the PMC definition simply by holding these roles in the service. People holding these roles will only meet the PMC definition if they also participate in executive or financial decision-making or have authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the education and care service.

Responsible person: The responsible person is an individual who is physically present and is responsible for the operation of a centre-based service for an agreed period of time. A responsible person must be present at all times that the approved service operates and can be:

- the approved provider or a person with management or control of the service;
- a nominated supervisor of the service; or
- a person placed in day-to-day charge of the service in accordance with the *National Regulations and National Law*

Nominated supervisor: In relation to an education and care service, means a person who:

- is nominated by the approved provider of the service under Part 3 to be a nominated supervisor of that service; and
- unless the individual is the approved provider, has provided written consent to that nomination (*National Law*)

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.

SOURCES AND RELATED POLICIES



SOURCES

- Australian Children’s Education and Care Quality Authority (ACECQA), Information Sheets: www.acecqa.gov.au
- Compliance history statement for a person to be a person in day-to-day charge (PIDTDC) or a nominated supervisor form: www.acecqa.gov.au/resources
- Department of Education: [AP02 Declaration of Fitness And Propriety](#)
- Department of Education: [PA08 Notification of change to information about approved provider](#)
- Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011: www.acecqa.gov.au
- Guide to the National Quality Framework: www.acecqa.gov.au

RELATED POLICIES

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

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
- notifying all stakeholders affected by this policy at least 14 days before making any significant changes to this policy or its procedures, unless a lesser period is necessary due to risk ([Regulation 172 \(2\)](#)).



ATTACHMENTS

- Attachment 1: Responsibilities of a nominated supervisor
- Attachment 2: Guidance for approved providers in nominating a nominated supervisor and nominated supervisors for placing a person in day-to-day charge
- Attachment 3: Legislating and Regulations relating to this policy

AUTHORISATION



This policy was adopted by the approved provider of Leslie Moorhead Pre-School Centre Inc. on 12th November 2012

This review includes the reformat of the Policy style and updates.

Reviewed by: Sallie McCarthy

Ratified Date: 24th April 2025

REVIEW DATE: April 2025

ATTACHMENT 1: RESPONSIBILITIES OF A PERSON IN DAY-TO-DAY CHARGE

The below information has been adapted from the Australian Children’s Education and Care Quality Authority, National Quality Framework, [Nominated Supervisors Information Sheet](#)

As the person responsible for the day-to-day management of an approved service, nominated supervisors have a range of responsibilities under the [National Law and National Regulations](#) including:

Note: *If the nominated supervisor is not present, the allocated responsible person should be aware and enact these responsibilities*

Educational programs

- ensuring educational programs are:
 - based on and delivered in accordance with an approved learning framework
 - based on the developmental needs, interests and experiences of each child
 - designed to take into account the individual differences of each child ([National Law: Section 168](#))

Supervision and safety of children

- ensuring children are adequately supervised, are not subject to inappropriate discipline, and are protected from harms and hazards ([National Law: Sections 165-167](#))

Entry to and exit from the premises

- ensuring children do not leave the education and care service premises except in accordance with the [National Regulations](#) (for example, with a parent, on an authorised excursion, or for emergency medical treatment)
- ensuring that a parent of a child being educated and cared for by the service may enter the service premises at any time when the child is being educated and cared for by the service—except when:
 - permitting entry would pose a risk to the safety of the children and staff or conflict with the duty of the supervisor under the National Regulations, or
 - the supervisor is aware the parent is prohibited by a court order from having contact with the child ([Regulation 99](#))
- ensuring an unauthorised person (as defined in the National Law) is not at the service while children are present unless the person is under direct supervision ([National Law: Section 170](#))

Food and beverages

- ensuring adequate health and hygiene practices and safe practices for handling, preparing and storing food are implemented at the service to minimise risks to children ([Regulation 77](#))
- ensuring children being cared for by the service have access to safe drinking water at all times and are offered food and beverages on a regular basis throughout the day ([Regulation 78](#))
- ensuring that, where food and beverages are supplied by the service, they are:
 - nutritious and adequate in quantity
 - chosen with regard to the dietary requirements of individual children ([Regulation 79](#))
- ensuring that, where food and beverages are provided by the service, a weekly menu that accurately describes the food and beverages to be provided is displayed at the premises in a location accessible to parents ([Regulation 80](#))

Administration of medication

- ensuring that medication is not administered to a child being cared for by the service unless the administration is authorised (except in the case of anaphylaxis or asthma emergency) and is administered in accordance with the National Regulations ([Regulations 93-96](#))
- where medication is administered to a child without authorisation in a case of an anaphylaxis or asthma emergency, ensuring that a parent of the child and emergency services are notified as soon as practicable ([Regulation 94](#))

Prescription and non-prescription drugs and alcohol

that while educating and caring for children at the service, all staff must not consume alcohol or be affected by alcohol or drugs (including prescription medication) so as to impair their capacity to supervise or provide education and care to children ([Regulation 83](#))

Sleep and rest

- taking reasonable steps to ensure that the needs for sleep and rest of children are met, having regard to the ages, development stages and individual needs of children ([Regulation 81](#))

Excursions

- ensuring that a risk assessment is conducted before an excursion in accordance with the National Regulations ([Regulations 100-101](#)), and specifically that the risk assessment is conducted before authorisation is sought to take a child on the excursion ([Regulation 102](#))

Transportation of children other than part of an excursion (if applicable)

- ensuring that a risk assessment is carried out in accordance with [Regulation 102C](#) before an authorisation referred to in [Regulation 102D\(4\)](#) is sought to transport a child ([Regulation 102B](#))

Staffing

- ensuring the prescribed educator to child ratios are met and each educator at the service meets the qualification requirements relevant to the educator's role ([Regulations 123 - 128](#))

ATTACHMENT 2: GUIDANCE FOR APPROVED PROVIDERS IN NOMINATING A NOMINATED SUPERVISOR AND NOMINATED SUPERVISORS FOR PLACING A PERSON IN DAY-TO-DAY CHARGE

An approved provider must evaluate whether a person meets the minimum requirements before nominating them as a nominated supervisor and/or person in day-to-day charge. The approved provider should also consider if the individual possesses sufficient knowledge and understanding of education and care provisions, and the ability to effectively supervise and manage a service.

Adequate knowledge and understanding

The approved provider should consider the person's qualifications, skills and work experience in determining if the person has adequate knowledge and understanding of the provision of education and care of children this can include but not limited to:

- a supervisor certificate previously issued to the person under the *National Law*, including any conditions which were imposed on the supervisor certificate
- a resumé detailing the person's position, duties, duration of employment and their employer's details
- a written reference from an employer that addresses the person's knowledge and understanding of the provision of education and care to children
- transcripts demonstrating completion of an education and care qualification. For example, evidence of completing an approved diploma level education and care qualification may indicate that the person has adequate knowledge and understanding of the provision of education and care to children.

Approved providers may also consider any other type of evidence that satisfies them of the person's adequate knowledge and understanding of the provision of education and care to children.

Ability to effectively supervise and manage an education and care service

Under the *National Regulations* a nominated supervisor must have the ability to effectively supervise and manage a service. A person may meet the requirement even if they do not have experience managing a service. For example, the approved provider may determine the person has the required ability if they have management experience at other service types, or in related sectors.

The approved provider should consider how a person's skills and experience contribute to their ability to manage a service in accordance with the *National Law and Regulations*.

This may include consideration of a person's:

- knowledge of, and ability to apply, practices that help ensure the education and care needs of children are met
- knowledge of, and ability to apply, practices that help ensure a service complies with the *National Law and Regulations*
- skills in managing relationships with staff and families at the service.

Approved providers may consider the following types of evidence for this requirement, as well as any other type of evidence of a person's management ability:

- a supervisor certificate previously issued to the person under the *National Law* and any conditions which were imposed on the certificate
- a resumé detailing their position, duties, duration of employment and their employer's details
- a written reference from an employer that addresses the person's management ability
- transcripts or a certificate of attainment, demonstrating completion of units of study or professional development that are relevant to supervising or managing an education and care service. For example, courses or units that relate to staff management or managing an education and care service in accordance with the *National Law and Regulations*.

ATTACHMENT 3 – LEGISLATING AND REGULATIONS RELATING TO THIS POLICY

Education and Care Services National Law Act 2010:

Sections	5	<p>Exclusion of legislation of this jurisdiction</p> <p>(1) The following Acts of this jurisdiction do not apply to the Education and Care Services National Law (Victoria) or to the instruments made under that Law—</p> <ul style="list-style-type: none"> (a) the Freedom of Information Act 1982; (b) the Information Privacy Act 2000; (c) the Interpretation of Legislation Act 1984; (d) the Subordinate Legislation Act 1994. <p>(2) The following Acts of this jurisdiction do not apply to the Education and Care Services National Law (Victoria) or to the instruments made under that Law, except to the extent that that Law and those instruments apply to the Regulatory Authority and the employees, decisions, actions and records of the Regulatory Authority—</p> <ul style="list-style-type: none"> (a) the Audit Act 1994; (b) the Financial Management Act 1994; (c) the Ombudsman Act 1973; (d) the Public Administration Act 2004; (e) the Public Records Act 1973.
	44	<p>Form of application</p> <p>(1) An application for a service approval must—</p> <ul style="list-style-type: none"> (a) be made to the Regulatory Authority of the participating jurisdiction in which the service is to be located; and (b) be in writing; and (c) include the prescribed information; and (d) nominate a certified supervisor to be the nominated supervisor for the service and include that person's written consent to the nomination; and (e) include payment of the prescribed fee. <p>(2) An application for service approval may include an associated children's service.</p> <p>(3) The approved provider can be the nominated supervisor if he or she—</p> <ul style="list-style-type: none"> (a) is a certified supervisor; or (b) has applied for a supervisor certificate— however the Regulatory Authority must not grant the service approval unless the supervisor certificate has been granted.
	56	<p>Notice of change to nominated supervisor</p> <p>(1) The approved provider of an education and care service must give written notice to the Regulatory Authority in accordance with this section if the approved provider wishes to change the person nominated as the nominated supervisor of the education and care service.</p> <p>(2) The notice must—</p> <ul style="list-style-type: none"> (a) nominate a certified supervisor to be the nominated supervisor for the service and include that person's written consent to the nomination; and (b) include the prescribed information; and (c) be given— <ul style="list-style-type: none"> (i) at least 7 days before the new certified supervisor is to commence work as the nominated supervisor; or (ii) if that period of notice is not possible in the circumstances, as soon as practicable and not more than 14 days after the certified supervisor commences work as the nominated supervisor.
	106	<p>Application for supervisor certificate</p> <p>(1) A person may apply to the Regulatory Authority for a supervisor certificate.</p> <p>(2) An applicant must be an individual of or above the age of 18 years.</p> <p>(3) An application must be made to the Regulatory Authority of the participating jurisdiction in which the applicant is ordinarily resident or intending to reside.</p>
	107	<p>Form of application</p> <p>An application under section 106 must—</p> <ul style="list-style-type: none"> (a) be in writing signed by the applicant; and (b) include the prescribed information; and (c) include payment of the prescribed fee.
	108	<p>Applicant must satisfy Regulatory Authority of specified matters</p> <p>(1) An applicant must satisfy the Regulatory Authority that the applicant—</p> <ul style="list-style-type: none"> (a) is a fit and proper person to be a supervisor of an education and care service; and (b) meets the prescribed minimum requirements for qualifications, experience and management capability. <p>(2) The following persons are taken, in the absence of evidence to the contrary, to satisfy the requirements of subsection (1)(a)—</p> <ul style="list-style-type: none"> (a) a person who is a registered teacher under an education law of a participating jurisdiction; (b) a person who holds a current working with children card under the working with children law of a participating jurisdiction.
	109	<p>Matters to be taken into account in assessing whether fit and proper person</p>

		<p>(1) The Regulatory Authority, in determining whether it is satisfied that a person is a fit and proper person under this Division, must have regard to—</p> <ul style="list-style-type: none"> (a) the history of the person's compliance with— <ul style="list-style-type: none"> (i) this Law as applying in any participating jurisdiction; and (ii) a former education and care services law of a participating jurisdiction; and (iii) a children's services law of a participating jurisdiction; and (iv) an education law of a participating jurisdiction; and <p>Note If a person has been served with an infringement notice for an offence under this Law, and the person has paid the penalty, the Regulatory Authority cannot consider that conduct when determining whether the person is fit and proper. See section 291(5).</p> <ul style="list-style-type: none"> (b) any decision under a former education and care services law, a children's services law or an education law of a participating jurisdiction to refuse, refuse to renew, suspend or cancel a licence, approval, registration or certification or other authorisation granted to the person under that law; and (c) the working with children check for that person, or if there is no working with children check for that person, any prescribed matters relating to the criminal history of the person to the extent that that history may affect the person's suitability for the role of supervisor of an education and care service. <p>(2) Without limiting subsection (1), the Regulatory Authority may have regard to whether the person has a medical condition that may affect the person's capacity to be the supervisor of an education and care service.</p> <p>(3) Nothing in subsection (1) or (2) limits the circumstances in which a person may be considered not to satisfy the Regulatory Authority that he or she is a fit and proper person to be a supervisor of an education and care service.</p>
	114	<p>Grant of supervisor certificate to specified classes of persons</p> <p>(1) The Regulatory Authority may grant a supervisor certificate to a person in a prescribed class of persons.</p> <p>Note A supervisor certificate is granted subject to conditions in accordance with section 115.</p> <p>(2) Sections 106 to 113 do not apply to the grant of a supervisor certificate under this section.</p>
	115	<p>Conditions on certificate</p> <p>(1) A supervisor certificate is subject to any conditions imposed by—</p> <ul style="list-style-type: none"> (a) this Law; or (b) the Regulatory Authority. <p>(2) Without limiting subsection (1), a supervisor certificate is subject to the condition that the certified supervisor must, to the extent that a matter is within the supervisor's control, comply with this Law in relation to that matter.</p> <p>(3) Without limiting subsection (1), a supervisor certificate is subject to the condition that the certified supervisor must notify the Regulatory Authority of a change in his or her name or mailing address.</p> <p>(4) A certified supervisor must comply with the conditions of the supervisor certificate held by that person.</p>
	118	<p>Reassessment of suitability</p> <p>(1) The Regulatory Authority may at any time reassess whether a certified supervisor is a fit and proper person to be a supervisor of an education and care service.</p> <p>(2) Sections 108, 109 and 110 apply to the reassessment.</p>
	161	<p>Offence to operate education and care service without nominated supervisor</p> <p>(1) The approved provider of an education and care service must not operate the service unless there is a nominated supervisor for that service.</p>
	162	<p>Offence to operate education and care service unless responsible person is present</p> <p>(1) The approved provider of an education and care service must ensure that one of the following persons is present at all times that the service is educating and caring for children—</p> <ul style="list-style-type: none"> (a) the approved provider, if the approved provider is an individual or, in any other case, a person with management or control of an education and care service operated by the approved provider; (b) the nominated supervisor of the service; (c) a certified supervisor who has been placed in day to day charge of the service in accordance with the national regulations. <p>(2) This section does not apply to an approved family day care service.</p>
	164	<p>Offence relating to assistance to family day care educators</p> <p>(1) The approved provider of a family day care service must ensure that, at all times that a family day care educator is educating and caring for a child as part of the service, one of the following persons is available to provide support to the family day care educator—</p> <ul style="list-style-type: none"> (a) the approved provider, if the approved provider is an individual, or a person with management or control of the family day care service, in any other case; (b) the nominated supervisor of the service; (c) a certified supervisor who has been placed in day to day charge of the family day care service in accordance with the national regulations. <p>Penalty: \$5000, in the case of an individual. \$25 000, in any other case.</p> <p>(2) For the purposes of this section, the requirement to be available to provide support to a family day care educator includes being available to be contacted by telephone to provide advice and assistance to the family day care educator.</p>
	172	<p>Offence to fail to display prescribed information</p> <p>(1) An approved provider of an education and care service must ensure that the prescribed information about the following is positioned so that it is clearly visible to anyone from the main entrance to the education and care service premises—</p> <ul style="list-style-type: none"> (a) the provider approval; (b) the service approval; (c) the nominated supervisor or the prescribed class of persons to which the nominated supervisor belongs; (d) the rating of the service;

		(e) any service waivers or temporary waivers held by the service; (f) any other prescribed matters.
	291	Infringement offences (5) The payment of an infringement penalty expiates the offence and is not to be considered in— (a) assessing whether a person is a fit and proper person to be involved in the provision of, or to be a supervisor of, an education and care service; or (b) assessing an approved education and care service under Part 5.

Education and Care Services National Regulations 2011

Reg		Notice of change to nominated supervisor A notice under section 56 of the Law to change the person nominated as the nominated supervisor of an education and care service must include the following information— (a) the name of the education and care service; (b) the service approval number; (c) the name and contact details of the contact person for the purposes of the application; (d) the full name and contact details of the new nominated supervisor; (e) the nominated supervisor's written consent to the nomination; (f) the supervisor certificate number of the new nominated supervisor; (g) the date on which the new supervisor commences or commenced work as the nominated supervisor.
		Application for supervisor certificate (1) Subject to subregulation (2), an application under section 106 of the Law for a supervisor certificate must include the following information— (a) the applicant's full name, and any former name or other name the applicant may be known by; (b) the applicant's residential address and contact details; (c) proof of the applicant's identity; (d) proof that the applicant is aged 18 years or over; (e) details of the applicant's relevant skills, experience, training and qualifications, including— (i) evidence of the applicant's training and qualifications; and (ii) details of how the applicant meets the minimum requirements set out in regulation 47; (f) the following— (i) if the applicant holds a current working with children check, working with children card or working with vulnerable people check, a copy of the check or card; or (ii) if the applicant is a teacher registered under an education law of a participating jurisdiction, proof of current registration under that law; or (iii) in the case of an application to the New South Wales Regulatory Authority, a consent for the Regulatory Authority to obtain a working with children check in relation to the applicant; or (iv) in any other case— (A) a criminal history record check issued not more than 6 months before the date of the application; and (B) a criminal history statement made by the applicant in relation to the period after the date on which the criminal history record check was issued to the date of the application; and (C) if the individual lived and worked outside Australia at any time within the previous 3 years, an overseas criminal history statement about the applicant; and (D) a disciplinary proceedings statement regarding the applicant. (2) An application under section 106 of the Law for a supervisor certificate made by an individual who is an approved provider or a person with management and control of an education and care service must include the following information— (a) the applicant's full name; (b) the provider approval number; (c) the applicant's contact details; (d) proof that the applicant is aged 18 years or (e) details of the applicant's relevant skills, experience, training and qualifications, including— (i) evidence of the applicant's training and qualifications; and (ii) details of how the applicant meets the minimum requirements set out in regulation 47.
		Minimum requirements for qualifications, experience and management capability (1) The minimum requirements for qualifications, experience and management capability for the purposes of sections 108(1)(b) and 112(c) of the Law are— (a) the applicant must have— (i) adequate knowledge and understanding of the provision of education and care to children; and (ii) the ability to effectively supervise and manage an education and care service; and (b) subject to subregulation (2), the applicant must have at least one of the following— (i) at least 3 years' experience working as an educator in an education and care service or a children's service or a school or in a service regulated under a former education and care services law; (ii) an approved diploma level education and care qualification; (iii) an approved early childhood teaching qualification. (2) Subregulation (1)(b) does not apply in relation to a supervisor certificate that is subject to a condition that the holder may only be a nominated supervisor of, or placed in day to day charge of, an education and care service that primarily educates and cares for children over preschool age.

		<p>Matters relating to criminal history</p> <p>The matters relating to the criminal history of a person that the Regulatory Authority must have regard to under section 109(1)(c) of the Law are—</p> <ul style="list-style-type: none"> (a) if the jurisdiction has a working with vulnerable people law— <ul style="list-style-type: none"> (i) any check of that person under that law; or (ii) whether the person holds a current teacher registration under an education law of that jurisdiction; and (b) if the jurisdiction does not have a working with vulnerable people law— <ul style="list-style-type: none"> (i) any matters included in a criminal history record check; or (ii) whether the person holds a current teacher registration under an education law of that jurisdiction. <p>Note: This regulation applies if the applicant does not provide a working with children check.</p>
		<p>Prescribed classes of persons for grant of supervisor certificate</p> <p>The Regulatory Authority may grant a supervisor certificate under section 114 of the Law to a person in one of the following classes of persons—</p> <ul style="list-style-type: none"> (a) a principal of a school that provides an education and care service at the site of the school; (b) a person in charge of a campus of a school that provides an education and care service at that campus; (c) a teacher at an off-site government preschool (within the meaning of the <i>Education Act 2004</i> of the Australian Capital Territory); (d) a director of a pre-school education program (within the meaning of the <i>Education Act 1972</i> of South Australia) provided by either a Government school or a registered non-Government school (both within the meaning of that Act); (e) a director of a pre-school education program provided in a children's services centre registered under the <i>Children's Services Act 1985</i> of South Australia; (f) a registered teacher delivering a pre-preparatory learning program under an education law of Queensland; (g) a registered teacher (within the meaning of the <i>Teachers Registration Act 2000</i> of Tasmania) providing a preschool program at a school established or registered under the <i>Education Act 1994</i> of Tasmania; (h) a teacher registered under the <i>Western Australian College of Teaching Act 2004</i> providing education and care to children in their pre-compulsory education period (within the meaning of the <i>School Education Act 1999</i> of Western Australia) in a school or community kindergarten established or registered under that 1999 Act.
		<p>Notice of decision on application</p> <p>The Regulatory Authority must give written notice to the applicant of a decision under section 48 and the reasons for the decision within 7 days after the decision is made.</p>
		<p>Establishment of Ratings Review Panel</p> <ul style="list-style-type: none"> (1) The Board must establish a Ratings Review Panel for the purposes of conducting a review under this Division. (2) The Panel is to consist of up to 3 members appointed by the Board. (3) One of the members is to be appointed as chairperson. (4) The members are to be appointed from the Review Panel pool established under section 147.
		<p>Conduct of review</p> <ul style="list-style-type: none"> (1) In conducting a review, the Ratings Review Panel may consider— <ul style="list-style-type: none"> (a) any documents or other information or plans, photographs or video or other evidence available to the Regulatory Authority in carrying out the rating assessment; and (b) the approved provider's history of compliance with this Law as applying in any participating jurisdiction; and (c) the approved education and care service's history of compliance with this Law as applying in any participating jurisdiction; and (d) the application for review to the Regulatory Authority; and (e) any submissions made by the approved provider to the review by the Regulatory Authority; and (f) the written findings on the review by the Regulatory Authority; and (g) the application for review to the Ratings Review Panel; and (h) any written submissions or responses made to the Ratings Review Panel by the approved provider; and (i) any written submissions or responses made to the Ratings Review Panel by the Regulatory Authority relating to the stated grounds for review; and (j) any advice received from the National Authority, at the request of the Ratings Review Panel, about how the prescribed processes for rating assessments are intended to be applied that is relevant to the review. (2) The Ratings Review Panel is not required to hold an oral hearing for a review. (3) The Ratings Review Panel may ask the Regulatory Authority to provide in writing any information in relation to the assessment. (4) The Ratings Review Panel may ask the approved provider for further written information in relation to its application. (5) The Ratings Review Panel must ensure that the approved provider is provided with a copy of, and an opportunity to respond in writing to, any documents, information or evidence provided to the Panel by the Regulatory Authority.
		<p>Offence relating to required programs</p>

		<p>(2) A nominated supervisor of an education and care service must ensure that a program is delivered to all children being educated and cared for by the service that—</p> <p>(a) is based on an approved learning framework; and</p> <p>(b) is delivered in a manner that accords with the approved learning framework; and</p> <p>Penalty: \$4000.</p>
		<p>Prescribed information to be displayed</p> <p>(1) For the purposes of section 172 of the Law, the following information is prescribed in respect of the matters in paragraphs (a) to (e) of that section—</p> <p>(a) in relation to the provider approval—</p> <p>(i) the name of the approved provider;</p> <p>(ii) the provider approval number;</p> <p>(iii) any conditions on the provider approval;</p> <p>(b) in relation to the service approval—</p> <p>(i) the name of the education and care service;</p> <p>(ii) the service approval number;</p> <p>(iii) any conditions on the service approval;</p> <p>(c) in relation to the nominated supervisor or the prescribed class of persons to which the nominated supervisor belongs—</p> <p>(i) the name of the nominated supervisor; or</p> <p>(ii) if the nominated supervisor is a member of a prescribed class, the class;</p> <p>(d) in relation to the rating of the service—</p> <p>(i) the current rating levels for each quality area stated in the National Quality Standard; and</p> <p>(ii) the overall rating of the service;</p> <p>(e) in relation to any service waivers or temporary waivers held by the service, the details of the waivers including—</p> <p>(i) the elements of the National Quality Standard and the regulations that have been waived; and</p> <p>(ii) the duration of the waiver; and</p> <p>(iii) whether the waiver is a service waiver or a temporary waiver.</p> <p>(2) For the purposes of section 172(f) of the Law, the following matters and information are prescribed—</p> <p>(a) the hours and days of operation of the education and care service;</p> <p>(b) the name and telephone number of the person at the education and care service to whom complaints may be addressed;</p> <p>(c) except in the case of a family day care residence or approved family day care venue, the name and position of the responsible person in charge of the education and care service at any given time;</p> <p>(d) the name of the educational leader at the service;</p> <p>(e) the contact details of the Regulatory Authority;</p> <p>(f) if applicable, a notice stating that a child who has been diagnosed as at risk of anaphylaxis is enrolled at the education and care service;</p> <p>(g) if applicable, a notice of an occurrence of an infectious disease at the education and care service.</p>
		<p>Time to notify certain information to Regulatory Authority</p> <p>(2) For the purposes of section 174(4) of the Law, a notice must be provided—</p> <p>(c) within 7 days of the relevant event or within 7 days of the approved provider becoming aware of the relevant information.</p>

National Quality Standard, Quality Area 4: Staffing Arrangements

Standard 4.1	Staffing arrangements enhance children’s learning and development and ensure their safety and wellbeing.	
	Element 4.1.1	Educator-to-child ratios and qualification requirements are maintained at all times.

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.