

## **Management of Local Services**

- *Determining the Responsible Person*

### **Policy Statement**

Meerilinga as an organisation is the Approved Provider of the children's programs and aims to ensure all legal and financial requirements are implemented and recognised through effective governance practices that are based upon the principles and elements of the organisation.

Our organisation is committed to ensuring good governance and accountability to its stakeholders by:

- Conducting our affairs legally, ethically and with integrity, ensuring compliant with all funding, regulatory and legislative requirements placed on the organisation.
- Remaining solvent and comply with all our financial obligations.
- Identifying organisational risks and legal obligations and manage these.
- Ensuring mechanisms are in place for fair and transparent governance.

This Policy is to be read in conjunction with Meerilinga's Strategic and Business Planning – Governance Policy.

The Approved Provider appoints the Chief Executive Officer (CEO) as the person with management or control of the service. The CEO is responsible for guiding the direction of the children's programs, ensuring their goals and objectives are met in line with the philosophy, and all legal and regulatory requirements governing the operation of the service.

The CEO will appoint a Nominated Supervisor [Responsible Persons] for the day to day management and responsibility for the service. In the absence of the Nominated Supervisor, a person deemed responsible by the CEO is to be placed in charge as the Responsible Person.

A Responsible Person must be physically in attendance at all times the service is educating and caring for children.

### **Policy Purpose**

Our service recognises the importance of having a framework of rules, relationships, systems and processes within, and by which authority is exercised and controlled in the organisation. We view good governance and management as essential to our provision of quality education and care.

We are committed to meeting our duty of care obligations under the National Law and Regulations to ensure a Responsible Person is on the premises at all times to ensure the health, safety, wellbeing, learning and development of children at the service is maintained at all times.

## **Scope**

This Policy applies to the Approved Provider, Advisors, Nominated Supervisor [Responsible Persons], Educators and Staff of the organisation.

## **Exclusions**

## **Policy Review**

At least annually or from time to time the organisation may make changes to this policy to improve the effectiveness of its operation and customer service.

## **Implementation**

The Approved Provider and Nominated Supervisor of the service accept the legal responsibilities associated with establishing, administering, and maintaining the service.

The CEO must approve all appointments to Nominated Supervisor and Responsible Persons for the day to day management and responsibility of the service. This person will be aged 18 years or older, has adequate knowledge and understanding of the provision of education and care to children, and has an ability to effectively supervise and manage an education and care service.

Our service will have one Responsible Person present at all times when caring for and educating children. A responsible person is:

- An Approved Provider,
- A Nominated Supervisor, or
- A duly appointed person, 18 years or older, fit and proper, and have suitable skills.

The details of the Responsible Person will be readily available to families and visitors.

If the Responsible Person leaves the premises, they will 'hand over' obligations for the role to another duly appointed person at the service. It is vital that all hand-overs to a designated Responsible Person are documented when commencing this position throughout the day.

The Responsible Person will be clear to all educators and staff, and procedures will be followed at all times. Both the outgoing and incoming Responsible Persons will ensure the displayed name of the current Responsible Person at the service correctly reflects who presently holds the position.

***The Approved Provider is responsible for:***

- Complying with all other Western Australian and Australian Governments' legislation that impact upon the management and operations of a service.
- Developing and implementing ethical standards and a code of conduct which guide actions and decisions in a way that is consistent and reflective of the service's expectations.
- Approving all appointments of Advisors, Nominated Supervisor [Responsible Persons] and an Educational Leader for the service.
- Acting honestly and with due diligence.
- Ensuring there is a sound foundation of policies and processes that complies with all legislative and regulatory requirements, and that enables the daily operation of the service to be in line with the service's philosophy and goals.
- Being an employer, including all legal and ethical responsibilities that this entails.
- Managing control and accountability systems.
- Notifying the Regulatory Authority in writing if there is a change of person in the role of Nominated Supervisor (National law Section 56, Regulation 35).

***The Quality Advisor is responsible for:***

- Complying with the National Education and Care Services National Law and Regulations, the National Quality Standards and all other legislative requirements placed on the organisation.
- Ensuring the Nominated Supervisor and Responsible Persons meet the minimum requirements of age, qualification, experience and management capabilities to effectively manage the service.
- Ensuring the Nominated Supervisor [Responsible Persons] have a sound understanding of the position and have given written consent in acceptance of the role.
- Guiding the Nominated Supervisor [Responsible Persons] in their role, providing adequate training and resources to ensure effective management of the service.
- Providing clear guidelines on service processes in relation to ensuring a Responsible Person will be physically present at the service at all times the service is delivering education and care programs for children.
- Appointing staff and monitoring their performance and development.
- Ensuring all staff have a clear understanding of the hierarchy of management.
- Developing coherent aims and goals that reflect the interests, values and beliefs of all stakeholders of the service.
- Providing clear and direct written and verbal feedback and instruction that is suitable and appropriate to the task.
- Guiding the Quality Improvement Plan for the service and ensuring it's updated at least annually.

***The Nominated Supervisor or appointed Responsible Persons will:***

- Complying with the National Education and Care Services National Law and Regulations, the National Quality Standards and all other legislative requirements placed on the organisation.
- Manage all aspects of the day to day operation of the service.
- Ensure they have a sound understanding of the role and abide by any conditions placed on them as the Responsible Person at the service.
- Provide written consent to accept the role and this record is retained in personnel records.
- Establish a well-defined partnership between the CEO and Advisors. The partnership requires clear understanding of roles and responsibilities, and regular and open communication.
- Produce outcomes together with educators and staff. Educators must agree on their responsibilities and work according to current policies and procedures.
- Maintain the services Quality Improvement Plan in collaboration with all stakeholders.
- Developing rosters in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children.
- Sign their name and hours of responsibility on the Responsible Person Roster.
- Ensuring at all times, 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 for families, visitors and staff.
- Ensuring that, in their absence from the service premises, another Responsible Person is placed in day-to-day charge of the service.
- Inform the Directors/Advisor in a timely manner in the event of absence from the service due to leave or illness to ensure replacement by another Responsible Person.
- Undertake periodical planning and risk assessments. Having appropriate risk management strategies in place to manage risks faced by the service. Identifying and reporting if something significant occurs.
- Understand that a Responsible Person placed in day-to-day charge of the Service does not have the same responsibilities under the National Law as the Nominated Supervisor unless they hold both positions.
- Notify the Advisor/CEO and 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.

<b>Management of Local Services Process</b>	
<b>Process Owner</b>	<b>CEO</b>
<b>Effective Date</b>	<b>28 January 2019</b>
<b>Date of Last Revision</b>	<b>30 November 2018</b>

<b>Process Details</b>	
	<b>Description</b>
1.	<p><b>Processes for Advisor dealing with breaches</b>  <i>Determining the consequence of a legal or ethical breach</i></p> <p>The minimal requirements for a breach determination:</p> <ul style="list-style-type: none"> <li>• Must be determined from non-complying with policy, procedural, ethical and regulatory requirements set out in organisations or regulatory documentation; and</li> <li>• Must have due regard to procedural fairness; and</li> <li>• May be different for different categories of employees.</li> </ul> <p>The Advisor requires:</p> <ul style="list-style-type: none"> <li>• An employee to be given information, and a reasonable opportunity to make a statement, before a determination is reported or made in relation to a suspected breach;</li> <li>• The process for determining whether an employee has acted or contributed to a breach is carried out informally and expeditiously;</li> <li>• To take reasonable steps to ensure that the recommendation to the CEO enables a determination on whether an employee has acted or contributed to a breach appears to be, fair and unbiased; and is</li> <li>• Accompanied with documentation noting the allegations, determination, evidence, actions and outcome of internal/external investigation.</li> </ul> <p>An employee may be suspended or terminated from duties where the CEO is satisfied on reasonable grounds that the employee has, or may have, acted or contributed to a breach and it is in the public, or organisations interest to do so.</p> <p>This policy does not override or affect the CEO right to dismiss an Employee without notice for serious misconduct. ‘Serious misconduct’ includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Wilful or deliberate behaviour that is inconsistent with the continuation of employment;</li> <li>• Theft, fraud or assault in the course of employment;</li> <li>• Being unfit to perform duties due to intoxication by alcohol or other substance;</li> <li>• Refusing to carry out lawful and reasonable instructions;</li> <li>• Conduct that causes imminent and serious risk to the health or safety of a person; and</li> <li>• Conduct that causes imminent and serious risk to the reputation, viability or profitability of the Meerilinga’s business.</li> </ul>

## Process Details

	Description
2.	<p><b>Suspension of employment and reassignment of duties</b></p> <p>Suspension is subject to the findings, and may be with or without remuneration. Other than in exceptional circumstances, suspension without remuneration is to be for no longer than 26 weeks. The CEO must review the suspension at intervals of 30 days and the suspension must end if he or she no longer believes on reasonable grounds that the employee has, or may have, acted in or contributed to a breach.</p> <p>It might be appropriate not to accord procedural fairness in circumstances where there is urgency or some overriding public interest, for example, safety or health inspector prohibition notice (OSH Act) or suspension of service approval by the Regulatory Authority (National Law Section 70)</p> <p>Even in such cases, an opportunity to comment is provided after the initial suspension, and any comments taken into account on a review of the suspension.</p> <p>As an alternative to suspension, the CEO may temporarily re-assign an employee's duties while the employee is investigated for a suspected breach.</p>
3.	<p><b>Review of findings of breach</b></p> <p>An employee is entitled to seek review of a suspension other than where the employee's employment has been terminated by following the grievance procedure. Where a person's employment has been terminated, the employee may seek redress under the <i>Fair Work Act 2009</i> (Cth).</p>
4.	<p><b>An obligation to report misconduct?</b></p> <p>Employees are under an express obligation to report breaches and misconduct of which they are aware. The duty to act with integrity and with the highest ethical standards imposes a reporting obligation on all employees with regard to suspected misconduct. In some circumstances, particularly for employees with supervisory/managerial responsibilities, it could be a breach of the Code of Conduct for an employee not to report suspected misconduct.</p>

## Associated Documents

### Meerilinga Policy Manual

- Preface - Section 1 - Strategic and Business Planning Policies (Code of Ethics & Conduct)
- Section 2 - Human Resources Policies
- Section 3 - Finance, Assets and Administration Policies
- Section 7 - Workplace Health and Safety Policies
- Section 8 - Guidelines
- Section 6 - Children's Program Policies

- Service Philosophy
- Management Systems
- Quality Improvement Plan
- Management/Staff/Educator Structure
- Job Description Form
- Educator and Staff Orientation
- Educator and Staff Handbook
- Educator and Staff Performance Appraisal and Development Record
- Prescribed Information to be Displayed

### Guidelines for Quality Advisor

Oversee the operation of the service to ensure compliance with the National Education and Care Services National Law and Regulations, the National Quality Standards and all other legislative requirements placed on the organisation.

Consult with the CEO on the appointment of a suitably qualified Nominated Supervisor and Responsible Persons at the service.

Guide the Nominated Supervisor in their role, provide adequate training and resources to ensure effective management of the service.

The Supervisor must ensure that all appointments to Nominated Supervisor and Responsible Person are;

- 18 years or older, and
- Has adequate knowledge and understanding of the provision of education and care to children, and
- Has an ability to effectively supervise and manage an education and care service, and
- Has provided written consent to accept the role and
- All evidence of meeting these requirements are recorded and adhere to the Organisation and National Law & Regulations.

Educators who are considered appropriate for the role of Responsible Person;

- Must be over 18 years of age.
- Is a fit and proper person - mentally and physically fit, has a current WWC and can submit a compliance history statement.
- Hold a Diploma or Degree level qualification.
- Must have completed an approved Child Protection course.
- Have had a minimum of 3 years' experience working as an educator in an Education and Care Service.
- Demonstrate practical knowledge of the day-to-day responsibilities of being an educator at the service, including how to work through unexpected events.
- Have a sound understanding of:
  - Education and Care Services National Law (WA) Act 2012, the Education and Care Service Services National Regulations (WA) 2012 and the National Quality Standards.
  - Equal Opportunity Employment Conditions
  - Health and Safety, including Child Protection responsibilities
  - Privacy and Confidentiality, Recruitment and Employment policies and procedures; and
  - Our education and care service's policies and procedures.

A Responsible Person must be physically in attendance on the service premises at all times the service is delivering education and care programs for children.

The appointed Nominated Supervisor / Responsible Persons must be provided with relevant training to ensure there is clear understanding of the responsibilities of the position and they have given written consent in acceptance of the role.

In the absence of the Nominated Supervisor from the services premises, a duly appointed Responsible Person is placed in day-to-day charge of the service.

The staff roster has the name of the Responsible Person at the service for each time that children are being educated and cared for by the Service.

The name and position of the Nominated Supervisor / Responsible Person in charge of the service is displayed and easily visible from the main entrance of the service (National Law, Section 172).

The Nominated Supervisor/ Responsible Person must sign on or off with their name and hours of responsibility on the Responsible Service Record.

Manage legal or ethical breaches accordingly.

The Regulatory Authority must be notified in writing within 7 days if there is a change of person in the role of Nominated Supervisor (Section 56, Regulation 35).

## Records Management

Title	Location	Responsible Officer	Minimum Retention Period
Compliance History, Privacy & Consent Declaration	W/LEED	Director	3 years
Responsible Person Sign in and out Roster	CFC	Director	3 years
Employee/Worker Incident Record	W/LEED	Director	3 years
Employee Exit Survey	W/LEED	Director / Advisor/ CEO	3 years
Risk Assessment / Hazard Record	CFC W/LEED	Director / Advisor	3 years
Staff Individual/Volunteer/Student Record	W/LEED	Director / Executive Assistant	3 years
Complaints and Grievance Form / Record	CFC W/LEED	Director / Quality Advisor	3 years
Notification to Regulatory Authority	CFC W/LEED	Director / Quality Advisor	3 years
Child Incident, Injury, Trauma, Illness Record	CFC	Director	Until the Child is 25 years old
Medication Record	CFC	Director / Educator	3 years

## Reference

- Education and Care Services National Law Act (WA) 2012 - *October 2018*
- Education and Care Services National Regulations (WA) 2012 - *October 2018*
- ACECQA - National Quality Standards - *February 2018*
- ACECQA - Belonging, Being & Becoming - Early Years Learning Framework
- ACECQA - Responsible Person Requirements for Approved Providers – *Information Sheet 2017*
- Code of Ethics - *Meerilinga*
- Code of Conduct - *Meerilinga*
- Family Assistance Law
- Privacy Act 1988
- Children and Community Services Act 2004
- Occupational Safety and Health Act 1984 and the Occupational Safety and Health Regulations 1996.

## Definitions

Term	Definition
Advisor	A person who is part of the Advisory team, each having specialised skills and knowledge in specific areas. Their role is to provide guidance and advice to assist Directors.

Nominated Supervisor	A person (Director) with responsibility for the day to day management of an approved service. The Nominated Supervisor has a range of responsibilities under the Law and Regulations that govern the operation of education and care service.
Responsible Person	A person who is physically at the service and has the role of Nominated Supervisor or duly appointed person (Lead Educator). The Responsible Person has consented to be placed in day to day charge of the Service but does not take on the responsibilities of the Nominated Supervisor rather they ensure the consistency and continuity in practices.

## Mapping Policy and Processes

Education and Care Services National Law (WA) Act 2012	
<b>Section</b>	<i>Relating to Nominated Supervisor / Responsible Person - 44, 56, 161, 162, 172, 291(5)</i>

Education and Care Services National Regulations (WA) 2012	
<b>Regulations</b>	<p><b>Chapter 2 - Approvals</b> - Provider &amp; Service Approvals - <i>Regs 14 – 45</i>  <i>Regs specific to this Policy - 35.</i></p> <p><b>Chapter 3 - Assessment &amp; Rating &amp; Quality Improvement Plans</b> - <i>Regs 55 -72</i></p> <p><b>Chapter 4 - Operational Requirements - Parts 4.1- 4.7</b></p> <p>4.1 - Relating to Educational Program and Practice - <i>Regs 73 - 76</i></p> <p>4.2 - Relating to Children's Health and Safety - <i>Regs 77 - 102</i></p> <p>4.3 - Relating to Physical Environment - <i>Regs 103 - 117</i></p> <p>4.4 - Relating to Staffing Requirements - <i>Regs 118 - 152</i>  <i>Regs specific to this Policy - 146,150.</i></p> <p>4.5 - Relating to Relationships between Children &amp; Educators - <i>Regs 155 -156</i></p> <p>4.6 - Relating to Collaborative Relationships with Families - <i>Regs 157</i></p> <p>4.7 - Relating to Management and Leadership in Services - <i>Regs 158 - 185</i>  <i>Regs specific to this Policy - 168,173,176(2)(c),177,181,183,185.</i></p>

Policy Area	Standards for RTOs 2015	National Quality Standards Early Childhood	National Standards for Volunteering Involvement 2015	Standards to Community Services	Standards to Family Support
Children's Programs	Not Applicable	QA 1 - 1.1, 1.2, 1.3. QA 2 - 2.1, 2.2, 2.2.1, 2.2.2, 2.2.3. QA 3 - 3.1, 3.2. QA 4 - 4.1, 4.1.1, 4.2. QA 5 - 5.1, 5.2. QA 6 - 6.1, 6.2. QA 7 - 7.1, 7.1.1, 7.1.2, 7.1.3, 7.2, 7.2.1, 7.2.2, 7.2.3.	Not Applicable	Not Applicable	Not Applicable

