

Early Learning

Determining Responsible Person Policy

1. Policy Statement

The safety, rights and best interests of children are of paramount consideration for all decisions made by all Uniting (Victoria & Tasmania) staff.

Uniting (Victoria & Tasmania) has a duty of care for all children attending our early learning services.

Our practices safeguard children from child abuse and harm and prioritise their safety and wellbeing. Uniting has zero tolerance for child abuse and actively promotes the Victorian Child Safe Standards.

Uniting Early Learning is committed to:

- Meeting its duty of care (refer to *Glossary*) obligations under the law.
- Ensure staffing arrangements contribute to the health, safety, well-being, learning, and development of all children at the service.
- Meeting legislative requirements for a Responsible Person to be on the centre-based service premises at all times and the Responsible Person of family day care services to be available at all times.

2. Scope

This policy applies to the following persons:

- Approved provider and persons with management or control
- Nominated supervisor and persons in day-to-day charge.
- ECT, Educators, FDC educators and all other staff
- Parents/guardians
- Contractors, volunteers, and students.

3. Executive Summary

An Approved Provider must not operate a service unless there is a Nominated Supervisor appointed for that service to take on the role of Responsible Person. The *Uniting Early Learning Responsible Person* must be over the age of 18 years, be fit and proper, have suitable skills and a current *Working with Children and/or Working with Vulnerable Persons* check. *The Responsible Person* does not have to be in attendance at the service at all times, but in their absence, a Responsible person with day-to-day charge of the service must be placed in charge, ensure there is always someone on the service premises who has been assessed as fit and proper (refer to *Glossary*). Written consent must be provided to accept the role of a Responsible Person or Responsible person with day-to-day charge.

Staffing arrangements/rosters on a day-to-day basis must be developed in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children. The name and position of the Responsible Person in charge of the service must be displayed and be easily visible from the main entrance of the service and at the family day care office.

4. Current Environmental Context

It is an offence to operate an approved centre-based education and care service/ licensed service unless a Responsible Person is present.

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Legislation requires that a Responsible Person is always physically in attendance the centre-based service is educating and caring for children. The Responsible Person of a family day care service must always be available to provide support to the registered educators during the hours of operation that their individual service is educating and caring for children. The Responsible Person is the person in day-to-day charge at the service and can be either:

- The Approved Provider (or the person in management or control of the service),
- The Nominated Supervisor of the service, or
- A Responsible person who has been placed in day-to-day charge of the service.

The staff record/file must include the name of the Responsible Person each time children are being educated and cared for by the service.

A current *Working with Children* check must be held by the Responsible Person, or a Victorian Institute Teaching (VIT) registration.

For more information regarding these terms, (refer to *Glossary*)

Ensuring the safety and wellbeing of children in education and care is a shared national priority, and significant reforms are underway to strengthen protections across the sector.

These reforms reflect expectations by governments and community across Australia for the highest standards of safety and quality in children's education and care. A number of legislative changes documented below, came into effect on the 27 February 2026.

Paramount Consideration

Education and Care Services National Law Act 2010; S2A

The safety, rights and best interests of children will be the paramount consideration for all decision makers in the early childhood education and care (ECEC) system.

Paramount Consideration, upholding the safety, rights and best interests of children applies to all individuals involved in the operation and delivery of an education and care service. This includes:

- Approved providers
- Persons with management or control (PMCs)
- Persons in day-to-day charge
- Nominated supervisors
- Educators and teachers
- Staff members
- Volunteers, including students.

Paramount Consideration

Mandatory National Child Safety Training

Education and Care Services National Law Act 2010; S162B

From 27 February 2026, Mandatory Child Safety Foundation training is mandatory for any person who works or volunteers in an ECEC service regulated under the NQF. This includes:

- The approved provider of the service
- Each person with management or control of the service
- Each nominated supervisor of the service
- Each person in day-to-day charge of the service
- Each Family Day Care educator employed or engaged by the service.
- Each staff member of the service
- Each volunteer at the service

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- Each student who participates in the service.

This applies even to staff who do not work directly with children.

The requirement applies across all NQF-regulated service types, including:

- Centre Based Day Care
- Family Day Care
- Outside School Hours Care
- Preschools and kindergartens
- Occasional care.

While In Home Care and some Community Child Care Fund Restricted services are not regulated under the NQF, all staff/educators are encouraged to complete the training.

All existing staff must complete foundation training by 27 August 2026. Staff entering the sector from 14 August 2026 must complete foundation training by whichever occurs earlier:

- 27 August 2026, or
- 14 days from when they are employed by the service, or
- before they work directly with children.

Ongoing, staff must complete foundation training once every 2 years.

The training is being developed by the Queensland Government and the Australian Centre for Child Protection. It will be available on Geccco. Geccco is The Victorian Early Childhood Regulatory Authority online learning platform for the ECEC sector. Training is free.

There will be Foundation and Advanced training modules. The Foundation training will be available from 27 February 2026. Advanced modules will be available in July 2026.

Inappropriate Conduct

Education and Care Services National Law Act 2010; S166A

To strengthen child safety across Australia, in 2025 Education Ministers agreed to make new requirements under the **Education and Care Services National Law (National Law)** regarding inappropriate conduct.

Under section 166A of the National Law, a child at an education and care service must not be subjected to conduct that a reasonable person would consider inappropriate at an education and care service.

Definition of 'inappropriate conduct'

The National Law sets out the following circumstances to consider when determining if a person is subjecting a child or children to conduct that is inappropriate, while they are being educated or cared for at the education and care service.

Inappropriate conduct is conduct that a reasonable person would consider inappropriate in an education and care service, taking into account any of the following circumstances:

- Whether the conduct aligns with generally accepted education and care practice
- The child's age and developmental stage
- Whether the conduct is likely to cause or result in harm (including emotional, psychological or physical harm) or injury to a child or children
- Whether the conduct is sexual, aggressive or violent.

In deciding if the conduct is inappropriate, it does not matter if:

- The child consented (agreed to the conduct, either by directly expressing their consent or implying consent through their actions)

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- The person subjecting the child to the conduct believes the child has consented
- The person subjecting the child to the conduct is related to the child.

Subjecting a child to inappropriate conduct can occur in a number of ways including, but not limited to:

- In-person via words or behaviour, including both adult to child or between adults in the presence of a child/ren
- Filming and capturing images or recordings
- As a single occasion or as part of a pattern over time
- Either directly or indirectly (for example, exposure to inappropriate language or conversations, or leaving inappropriate material accessible to children)
- Online
- As an omission (for example, deliberately excluding a child).

It is important to note that while all of the matters set out above must be considered, not all of them would need to be met in order for the conduct to be considered inappropriate by a reasonable person.

Examples of inappropriate conduct towards children and young people

- Humiliating and threatening children and young people
- Using physical contact that could be construed as sexualised or intrusive
- Making physical threats
- Engaging in and using any touching that is intimate, sexualised or overly personal
- Initiating, requesting or encouraging kissing
- Using retaliatory, insulting or humiliating remarks (which could include shouting or yelling in a hostile tone)
- Force-feeding
- Photographing and recording children in a state of undress or during toileting and hygiene care routines
- Engaging in one-to-one personal direct online or digital messages to children and young people
- Following children's and young people's accounts and tagging in a social media post,
- Including online 'friend requests' and personal messaging (noting social media age restrictions).

Inappropriate conduct in the presence of children and young people

- Using disrespectful language and behaviours between adults, for example yelling and shouting in a hostile tone
- Using threatening or intimidating body language between adults, for example getting in someone's face or following them while continuing to yell at them
- Engaging in sexualised or racially charged conversations
- Engaging with inappropriate images, videos or written content
- Discussing children and young people in a derogatory manner
- Talking disrespectfully about children's and young people's families, culture or home environments
- Talking about or initiating experiences that are inappropriate for children's age and development and may negatively shape thoughts and behaviour.

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5. Responsibilities relating to the Determining Responsible Person Policy

Responsibilities	Approved provider and persons with management or control	Nominated supervisor and persons in day-to-day charge	ECT, Educators, FDC educators and all other staff	Parents/guardians	Agency Staff, Contractors, volunteers, and students
R indicates legislation requirement, and should not be deleted					
Ensure the safety, rights and best interests of children are of paramount consideration for all decision made by all Uniting staff <i>S2A</i>	R	✓	✓		✓
Ensure the following people involved in ECEC complete mandatory national child safety training: - The approved provider of the service - Each person with management or control of the service - Each nominated supervisor of the service - Each person in day-to-day charge of the service - Each Family Day Care educator employed or engaged by the service. - Each staff member of the service - Each volunteer at the service - Each student who participates in the service. <i>S162B</i>	R	✓	✓		✓
Ensure that no child is subjected to conduct that a reasonable person would consider to be inappropriate in an education and care service while that child is being educated and cared for by the service <i>S166A</i>	R	✓	✓		✓
Ensure that all educators have read and understood this policy and the centre's obligations in relation to responsible personnel. <i>R170</i>	R	✓	✓		
Ensure there is a <i>Nominated</i> Supervisor or Responsible Person in day-to-day charge, on the premises at all times the centre-based service is delivering education and care programs for children and that this person has given written consent to the role <i>S162& R117</i>	R	✓	✓		
Ensure there is a Responsible Person of a family day care service available to provide support to the registered educators during the hours of operation that their individual service is educating and caring for children <i>S162</i>	R	✓			

Responsibilities	Approved provider and persons with management or control	Nominated supervisor and persons in day-to-day charge	ECT, Educators, FDC educators and all other staff	Parents/guardians	Agency Staff, Contractors, volunteers, and students
R indicates legislation requirement, and should not be deleted					
Nominate sufficient Uniting Early Learning Responsible Persons to meet legislative requirements, to be at the service at all times, including during periods of leave or illness <i>S161</i>	R	✓	✓		
Ensure that a Nominated Supervisor or Responsible Person in day-to-day charge: - Is at least 18 years of age. - Has adequate knowledge and understanding of the provision of education and care to children - Has adequate knowledge and understanding of child safety - Has the ability to effectively supervise and manage an education and care service - Has not been subject to any decision under the National Law, or any other children's services or education law, to refuse, refuse to renew, suspect, or cancel a licence, approval, registration, certification, or other authorisation granted to the person <i>R117</i>	R	✓			
Ensure that nominated supervisors, person in day-to-day charge, all staff members, volunteers, including students complete the mandatory national child safety training within the timeframes prescribed in the National Regulations <i>S162</i>	R	✓	✓		✓
Ensure all new staff complete the mandatory national child safety training before working with children and within 14 days of employment <i>S162</i>	R	✓	✓		
Ensure that information about the Responsible Person/Nominated supervisor, including name, address, date of birth, evidence of qualifications, approved training, and a Working with Children Check/clearance or teaching registration, signed consent (<i>Consent-NS01-Nominated Supervisor form 24.4</i>) and other documentary evidence of fitness to be a responsible person/nominated supervisor is kept on the staff record <i>R146</i>	R	✓			
Ensure Nominated Supervisors, Responsible Persons in day-to-day charge of the service and Family Day Care Coordinators complete child protection training annually and National Mandatory Child Safety training bi-annually <i>S162</i>	R	✓			

Responsibilities	Approved provider and persons with management or control	Nominated supervisor and persons in day-to-day charge	ECT, Educators, FDC educators and all other staff	Parents/guardians	Agency Staff, Contractors, volunteers, and students
R indicates legislation requirement, and should not be deleted					
Ensure Nominated Supervisors, Responsible Persons in day-to-day charge of the service and Family Day Care Coordinators complete the 24.1 Responsible Person Assessment of Nomination annually	✓	✓			
Notify the Regulatory Authority in writing 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 <i>S56 & R35</i>	R	✓			
Ensure the name and position of the <i>Responsible Person</i> in charge of the service is displayed and easily visible from the main entrance of the service or family day care office <i>S172 & R173</i>	R	✓			
Develop rosters in accordance with the availability of <i>Responsible Persons</i> , hours of operations and the attendance patterns of children		✓	✓		
Inform the Approved Provider and/or Nominated Supervisor in the event of absence from the service due to leave or illness so you can be replaced by another Responsible Person as soon as practicable <i>S162</i>	R	✓			
Notify the Approved Provider and the Regulatory Authority within 2 days of any changes to your personal situation, including a change in mailing address, circumstances that affect your status as fit and proper, such as the suspension or cancellation of a Working with Children check/clearance/vulnerable children check or teacher registration, or if subject to disciplinary proceedings <i>S56 & R35</i>	R	✓			
Be aware of the <i>Responsible Person</i> at the service, family day care office on a daily basis.				✓	

6. Reference/Sources

This policy should be read in conjunction with:

Uniting Child Safety Policy – Uniting adopts the Uniting Church Australia National Child Safety Policy Framework, 2019 and the principles of this Policy Framework

- Child Safe Standards
- Code of Conduct
- Child Safe Code of Conduct
- Child Safe Environment and Wellbeing Policy
- Child Safety policy
- Participation of Volunteers and Students Policy
- Privacy and Confidentiality Policy
- Staffing Policy
- Supervision of Children Policy
- [Australian Children's Education and Care Quality Authority \(ACECQA\), supporting materials:](#)
- Children's Services amendment Act 2019
- Children's Services Regulations 2020
- 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, 150, 168(2)(i)(ii), 173, 176(2)(c)
- National Quality Standard, Quality Area 4: Staffing Arrangements
- National Quality Standard, Quality Area 7: Leadership and Service Management
- Tasmanian Licensing Standards for Centre Based Child Care Class 4 2014
- The Child Care Act 2001 (Tas)
- Child Wellbeing and Safety Act 2005 (Vic)
- Child Wellbeing and Safety Amendment Act 2021 (Vic)
- Worker Screening Act 2020
- Worker Screening Regulations 2021 (Vic)
- Child and Youth Safe Organisations Act 2023 (Tas)
- National Principles for Child Safe Organisations

Forms

Form - [Responsible Person Assessment Nomination](#)

Form - [Responsible Person Declaration Approval Form](#)

Form - [Assessment of nominated Responsible Person Answers](#)

[ACECQA NS01 - Nominated Supervisor Consent form](#)

Source - [ACECQA Information Sheet Inappropriate Conduct](#)

Review This policy is to be reviewed by April 2029

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Responsibilities of a Uniting Early Learning Nominated Supervisor and Responsible Person

The person with responsibility for the day-to-day management of an Approved Service, has a range of responsibilities including:

Supervision and safety of children

Ensure children are adequately supervised, are not subject to inappropriate conduct or discipline, and are protected from harms and hazards.

Notification requirements and reporting process

Any serious incident, complaint, circumstance at the service that contravenes the law or poses a risk to the health, safety or wellbeing of a child attending the service, or allegation that physical or sexual abuse has or is occurring must be reported to the Approved Provider as soon as practicable and uploaded into RiskMan, within 12 hours of the incident or complaint occurring.

Duty of Care

All Uniting staff have a moral obligation to protect any child under our care and supervision from foreseeable harm. As Uniting early childhood service staff members, we play an especially critical role in protecting children (including identifying, responding to, and reporting child abuse) and **must** meet a range of legal obligations to do so.

Duty of care is a common law concept that refers to your responsibility to adequately protect children in your care from harm and any hazard likely to cause injury within approved education and care services.

Staff within education and care services must also ensure no child being educated and cared for by the service is subjected to any form of inappropriate discipline or conduct that is unreasonable in the circumstances. Failure to meet this requirement can amount to a criminal offence. It applies to all work force members in an early childhood service.

Entry to and exit from premises

Ensure children do not leave the education and care service premises except in accordance with the legislative requirements (for example, with a parent on an authorised excursion, or for emergency medication treatment).

Ensure 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 legislative requirements, or
- The supervisor is aware the parent is prohibited by a court order from having contact with the child.

Ensure an unauthorised person is not at the service while children are present unless the person is under direct supervision. Refer to Safe arrival of children policy & Acceptance and Refusal of Authorisation.

Educational Programs

Ensure educational programs are:

- Based on and delivered in accordance with the relevant 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.

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Food and Beverage

- Ensure adequate health and hygiene practices and safe practices for handling, preparing, and storing food are implemented by all staff members and volunteers to minimise risk to children.
- Ensure 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.

Ensure 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.

Ensure 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.

Administration of medication

Ensure that medication is not administered to a child being cared for by the service unless the administration is authorised (except of anaphylaxis or asthma emergency) and is administered in accordance with any legislative requirements. (Refer to form Administration of Medication)

Where medication is administered to a child without authorisation in a case of an anaphylaxis or asthma emergency, ensure that a parent of the child and emergency services are notified as soon as practicable.

Prescription and non-prescription drugs and alcohol

Educators while educating and caring for children at the service, 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.

Sleep and rest

Taking reasonable steps to ensure that the needs for sleep and rest of children are met, having regard to the age's development stages, individual needs of children and child safety.

Excursions

Ensure that a risk assessment is conducted before an excursion in accordance with the legislative requirements, and specifically that the risk assessment is conducted before authorisation is provided to take a child on the excursion.

Staffing

Ensure the prescribed educator to child ratios are met, and each educator at the service meets the quality requirements relevant to the educator's role.

Guidance for approved providers in nominating a nominated supervisor and 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.

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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 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 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.

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Uniting Early Learning process for nominating a Responsible Person

Early Learning Process for Nominating a Responsible Person

