

Fact Sheet – Nominee Planned and Emergent Leave

Each licensed organisation has a Nominee for the licence who is responsible for ensuring certain obligations are met under the *Child Protection Act 1999* (the Act). This fact sheet outlines the options to manage Nominee responsibilities when a Nominee:

- will be taking long-term leave or is permanently ceasing in the nominee role
- will be taking short-term leave
- is on emergent (unplanned) leave

The Nominee’s role is to ensure that the Licensee complies with section 129A of the Act, so that:

- care services provided by a licensed care service operated under the licence comply with the standards of care stated in the statement of standards; and
- each person performing a risk-assessed role for a licensed care service operated under the licence is a suitable person; and
- for carrying on a regulated business or employing persons in regulated employment under the *Working with Children Act*—the Working with Children Act, chapter 7 is complied with.

Section 130 of the Act requires the Nominee to take reasonable steps to ensure the Licensee complies with the Act. The Act does not provide mechanisms to transfer these responsibilities, however licence condition 5 allows temporary transfer of relevant duties during periods of leave.

“The licensee must, where the nominee is on leave for a period of less than 6 weeks (including emergent and unplanned leave), notify the department of a proposed suitable person who may complete the relevant duties on a temporary basis until the nominee returns, using the Licensing of Care Services (LCS) Form-9A or 9B. The person must be deemed suitable by the department prior to being temporarily appointed to the role by the licensee. For periods of leave greater than 6 weeks the licensee must propose a new nominee using the Licensing of Care Services (LCS) Form-4A”

Long-term leave or ceasing in the Nominee role

If the Nominee is ceasing in the role or is taking long-term leave (greater than 6 weeks), then the licence should be amended.

The Licensee should propose a new Nominee by submitting an [LCS Form 4A application](#) along with the following screening forms for proposed Nominee:

- blue card application (if the person does not hold a current blue card), or blue card link to the department
- Child Safety and Personal History Screening application.

The Licensee must submit the application at least 28 days before the proposed change. The department will determine suitability of the proposed Nominee and issue an amended licence stating the name of the new Nominee if the amendment is approved. Should the Licensee decide that the former Nominee will return to the Nominee role upon returning from long-term leave, this process will need to be repeated 28 days prior to the planned return to enable a new suitability determination to be made, and the amended licence to be issued.

Short-term leave

There are 3 options available to ensure Nominee obligations are met whilst a Nominee is on short-term leave.

Option 1: The Nominee is willing and able to fulfil all responsibilities whilst on leave

If the Nominee is contactable and is able and willing to retain legal responsibility during their period of leave (including making decisions and signing necessary paperwork), there is no need to propose a new Nominee or propose a person to oversee their responsibilities. Where the Nominee authorises the use of their electronic signature for a decision they make whilst on leave, their email authorising the decision should be attached as evidence.

Option 2: The Nominee is not willing and/or able to fulfil all responsibilities whilst on leave and does not wish to propose a person to oversee their responsibilities.

If the Nominee will not be contactable or is unwilling to make decisions and sign necessary paperwork whilst on leave and is unable or unwilling to retain legal responsibility during their period of leave the Licensee will need to propose a new Nominee to be appointed during the period that they will be on short-term leave.

The Licensee should propose a new Nominee by submitting an [LCS Form 4A application](#) along with the following screening forms for proposed Nominee:

- blue card application (if the person does not hold a current blue card), or blue card link to the department
- Child Safety and Personal History Screening application.

The Licensee must submit the application at least 28 days before the proposed change. The department will determine suitability of the proposed Nominee and issue an amended licence stating the name of the new Nominee if the amendment is approved.

Option 3: The Nominee proposes a person to oversee their responsibilities whilst on leave

If a Nominee will be on short-term leave (less than 6 weeks), and they have ensured that processes are in place to ensure the Licensee continues to meet section 129A of the Act during their absence, there may not be a need to propose a new Nominee. The Nominee may propose a person to support the Licensee to meet section 129A of the Act, sign any necessary paperwork, and respond to any departmental queries on behalf of the Nominee during the leave period.

The Nominee will retain legal responsibility for meeting section 130 whilst on leave. The person overseeing the Nominee's responsibilities does not have legal responsibility for ensuring section 130 is complied with.

This option provides a more efficient approach than proposing a change of Nominee, especially if the proposed person already has required screening in place. Under this option there is no requirement to change Nominee, rescreen the proposed person if they have current screening in place, or link the person's blue card to the department. The proposed person is considered to be performing a risk-assessed role, and as such the Licensee will need to ensure the person has a current blue card and Child Safety and Personal History Screening recommendation and that these remain current whilst the person is overseeing the Nominee responsibilities.

A form must be submitted by the Nominee or Licensee to formally propose a person to oversee the Nominee's responsibilities. The form is available [here](#). Once the department's delegate has approved the proposed person, they can assume the overseer role.



Emergent (unplanned) leave

If the Nominee's leave is emergent, (expected to potentially return within 6 weeks) such as illness, carers leave, or another urgent and unavoidable matter, the Licensee can propose a new person to support the Licensee to meet section 129A of the Act, sign any necessary paperwork, and respond to any departmental queries on behalf of the Nominee whilst the Nominee is unavailable.

A form must be submitted by the Licensee as soon as possible to formally propose a person to oversee the Nominee's responsibilities. The form is available [here](#). The proposal form must be signed by a Director of the Licensee (Director means - if the Licensee is a company under the *Corporations Act 2001 (Cwlth)*, a person appointed as a Director, or if not incorporated under the *Corporations Act 2001 (Cwlth)* a person who is or is a member of the executive or management entity). Once the department's delegate has approved the proposed person, they can assume the overseer role.

The person overseeing the Nominee's responsibilities does not have legal responsibility for ensuring section 130 is complied with. This option provides more efficient approach than proposing a change of Nominee, especially if the proposed person already has required screening in place. Under this option there is no requirement to change Nominee, rescreen the proposed person if they have current screening in place, or link the person's blue card to the department. The proposed person is considered to be performing a risk-assessed role, and as such the Licensee will need to ensure the person has a current blue card and Child Safety and Personal History Screening recommendation and that these remain current whilst the person is overseeing the Nominee responsibilities.

If the Nominee is not able to carry out their Nominee responsibilities, they may not be legally responsible for meeting the section 130 requirements to ensure Licensee compliance with the Act whilst the Nominee is unavailable. The Licensee will still be responsible for meeting section 129A.

If the emergent leave has or is likely to extend beyond a 6-week period, the Licensee should submit an LCS4A application proposing a new Nominee. The person overseeing the Nominees responsibilities can continue to do so until the new Nominee is appointed.

Proposed person declaration

The person proposed to oversee Nominee responsibilities during emergent or short-term leave will need to make a declaration in the proposal form that they are:

- 18 years or older
- in a position to support the Licensee complies with section 129A
- willing to ensure the submission of necessary forms, including LCS forms 4A, 4B, 6, 2 and 7
- willing to receive, act on, and respond to correspondence and communication from the department on behalf of the Nominee.

Where to get more information

Please contact the Child Safety Licensing team for advice about a change to Nominee or Nominee leave.

The team can be reached by email at Child Safety Licensing Mail-Box CS_Licensing@cyjma.qld.gov.au or by calling Child Safety Licensing on 07 3097 5905 for support.