

# NQF REVIEW 2019

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## Demographics

A. In which state or territory are you or your members involved in education and care services? *(Select all that apply).*

- Australian Capital Territory
- New South Wales
- Northern Territory
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia

B. In what capacity are you completing this survey? *(Select all that apply)*

- Approved provider / Person with management or control
- Nominated supervisor
- Educator
- Sector peak group or representative body
- Other

C. If applicable, what is the nature of care provided by your service(s)?

- Long day care
- Preschool / Kindergarten
- Outside school hours care
- Family day care
- Out of scope of the NQF
- School
- N/A
- Other

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## Issues paper questions

### Scope of services regulated under the NQF

1. In your view, are there issues not covered in the NQF Review 2019 Issues Paper that significantly impact on the National Quality Framework being able to meet its objectives?

2. To what extent do you agree or disagree with the following statement about service types that are currently out of scope of the National Law?

2. To what extent do you agree or disagree with the following statement about service types that are currently out of scope of the National Law?	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
Service types that are currently out of scope of the National Law but which provide a substantially similar education and care service to those that are in scope should be brought under the NQF	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

3. If out of scope services were to be included in the NQF in the future, in order of priority, what things do you think should be considered? (Rank the below in order of priority from 1 to 5, where 1 is the highest priority)

Whether the benefits to children will outweigh any costs associated with NQF compliance

Applicability of NQF requirements to out of scope service models

Feasibility of out of scope services to meet the requirements of the NQF

Cost implications for users of out of scope services

Cost implications for providers of out of scope services

4. Considering the range of contexts for the provision of overnight care, how do you think the supervision and ratio requirements in the NQF should apply?

- Requirements should be the same overnight as during the day
- Requirements should be more stringent overnight than during the day
- Requirements should be less stringent overnight than during the day
- Don't know

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5. Considering the range of contexts where regular transport is provided by a service, how do you think the supervision and ratio requirements in the NQF should apply?

Requirements...

- should be the same on transport provided by a service as supervision and ratio requirements at the service, with the driver of the transport *included within* supervision and ratio requirements
- should be the same on transport provided by a service as supervision and ratio requirements at the service, with the driver of the transport *excluded from* supervision and ratio requirements
- should be less stringent than at the service, as risks to children being transported are lower and more readily controlled
- should be more stringent than at the service, as risks to children being transported are higher than at the service
- Don't know

6. Is there anything further you would like to add in relation to scope of services regulated under the NQF?

## Scope of Services - General

ACA NSW believes that any service attracting the Child Care Subsidy (CCS) and the Additional Child Care Subsidy (ACCS) funding should comply with the National Quality Framework (NQF) to ensure consistent quality of early learning services Australia-wide, along with positive learning outcomes for our young children.

Having said this, many of the more targeted service types (eg former Budget Based Funding services, as well as Mobile services) will need a supported transition as they are bought in to scope. This support needs to be structural, as well as in terms of funding, to ensure that they don't fail, and families continue to receive the benefits of Early Childhood Education and Care.

Notwithstanding, out-of-scope services for example Occasional Care should be regulated at least in terms of the fit-and-proper persons approved to operate as well as their staff who have direct interactions with children.

## Transport to and from an early learning service or OSHC service

Such transport can enhance affordability and accessibility of early learning services.

It is vital in some areas where there are no public transport options or they are cost prohibitive and families don't have their own mode of transport. It is also required for school children who may attend an Outside School Hours Care (OOSH) service that is not on their school site.

This type of transport does not include education. And to ensure that the children are under adequate adult supervision for their health and safety, particularly during some sort of medical emergency, ACA NSW believes that the usual NQF ratios should not apply to this type of transport, on the condition that a risk assessment and consideration of the driver's capabilities are completed, including appropriate insurances and first aid certification are in place.

## Transport to allow for excursions to external locations

This type of transport may take the children to external locations such as parks or playgrounds, sporting facilities, the post office, art galleries, museums and so on.

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ACA NSW believes that the NQF ratios should apply to this type of transport, as the children are being taken to an external destination in the context of their learning experience, and require the recommended ratios on order for the quality of play-based learning to take place.

The provision of both types of transport should be assessed with a thorough Risk Assessment undertaken by the service, taking into account the risks against the probability of an accident or emergency scenario taking place.

## Provision of overnight care

As overnight care is an area with limited research or literature exist about the issues affecting quality outcomes, ACA NSW believes that appropriate research needs to be undertaken to explore what “best practice” would look like and contrasted against operational feasibility in offering such a service in order to ensure the safety and well-being of the children in care.

This research should include consideration to emergency situations wherein children need temporary care in overnight facilities.

## Application efficiency

7 (a). To what extent do you agree or disagree with the following statements about the experiences of providers in navigating approval under the NQF?

7 (a). To what extent do you agree or disagree with the following statements about the experiences of providers in navigating approval under the NQF?	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Don't know
Provider and service approval processes are clear and straightforward	<input type="radio"/> Strongly disagree	<input checked="" type="radio"/> Disagree	<input type="radio"/> Neutral	<input type="radio"/> Agree	<input type="radio"/> Strongly agree	<input type="radio"/> Don't know
Providers have sufficient guidance and understand what information is being requested	<input type="radio"/> Strongly disagree	<input checked="" type="radio"/> Disagree	<input type="radio"/> Neutral	<input type="radio"/> Agree	<input type="radio"/> Strongly agree	<input type="radio"/> Don't know
Departments/authorities successfully coordinate and collaborate throughout the approval process (e.g. state / local / federal government, and DHS / ACECQA / Regulatory Authorities)	<input checked="" type="radio"/> Strongly disagree	<input type="radio"/> Disagree	<input type="radio"/> Neutral	<input type="radio"/> Agree	<input type="radio"/> Strongly agree	<input type="radio"/> Don't know

7 (b). To what extent do you agree or disagree with the following statements about the experiences of providers in making applications for approval under the Family Assistance Law?

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7 (b). To what extent do you agree or disagree with the following statements about the experiences of providers in making applications for approval under the Family Assistance Law?	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
Provider and service approval processes are clear and straightforward	<input checked="" type="radio"/> Strongly disagree	<input type="radio"/> Disagree	<input type="radio"/> Neither agree nor disagree	<input type="radio"/> Agree	<input type="radio"/> Strongly agree	<input type="radio"/> Don't know
Providers have sufficient guidance and understand what information is being requested	<input checked="" type="radio"/> Strongly disagree	<input type="radio"/> Disagree	<input type="radio"/> Neither agree nor disagree	<input type="radio"/> Agree	<input type="radio"/> Strongly agree	<input type="radio"/> Don't know
Departments/authorities successfully coordinate and collaborate throughout the approval process (e.g. state / local / federal government, and DHS / ACECQA / Regulatory Authorities)	<input checked="" type="radio"/> Strongly disagree	<input type="radio"/> Disagree	<input type="radio"/> Neither agree nor disagree	<input type="radio"/> Agree	<input type="radio"/> Strongly agree	<input type="radio"/> Don't know

8. In your view, what, if any, are the main difficulties encountered in the application process for service approval under the NQF? (Select up to three)

- Complexity of the process
- Cost associated with the process
- Time involved in preparing an application
- Time involved in the Regulatory Authority processing the application and finding out the outcome of the application
- Having to apply for approvals from multiple levels of government
- Requirements set by different authorities/departments that do not align
- Requirements set by different authorities/departments that require providing the same information on multiple occasions
- Other

Select up to three

9. In your view, what, if anything, would improve the service approval application process under the NQF? (Select all that apply)

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- More information about what is required in an approval application
- Greater flexibility in types of evidence that could support an approval application
- Better information sharing between departments to reduce paperwork burden
- Other

Select all that apply

10. In your view, how, if at all, can the assessment of whether an individual is 'fit and proper' be improved?

ACA NSW believes that the existing assessment process for providers is flawed as it is jurisdiction-specific (ie the relevant documentation is administered by state/territory government and does not adequately interface with other jurisdictions' systems) and particularly does not interface with the Commonwealth's processes in approving Child Care Subsidy enrolments for services. ACA NSW believes that a nation-wide review should be conducted of the various state and Commonwealth processes, and the most efficient and effective process be implemented across the country.

11. Is there anything further you would like to add in relation to application efficiency?

ACA NSW believes the National Quality Agenda IT System (NQAITS) is intended to achieve its purpose in terms of offering providers a secure and direct online communication process with the relevant regulatory authorities to reduce paperwork.

However, seeking approval under the Family Assistance Law is convoluted, and should be streamlined by leveraging the NQAITS as the central hub connecting CCS enrolments, approved provider applications, service provider applications, as well as breach notification and records.

## Provider approval

This process requires data cross over from various departments – the NQAITS system, the federal and state-based Departments of Education (DET) and also the Australian Securities and Investments Commission (ASIC).

The application process across the states is not consistent, with varying application procedures in place.

For example in Western Australia the process can all be done electronically. In Queensland a potential approved provider is required to undertake face to face interviews with Departmental staff, while in New South Wales potential approved providers are required to be queued to be allocated to attend a one day information session and then sit a test, despite already existing centre-based approved providers operating for years or decades and not being disavowed.

There is an enormous problem in terms of data management for approved providers with complex company structures. eg. a service provider may have more than one ABN, and each ABN may have a different trading location. Under these circumstances, the system will pick up any one of these, without letting the service provider know which ABN is being used. Approved providers are left with the only option of guessing which ABN has been used, and if their guess is incorrect, the process is recommenced from the beginning.

## Service approval

Across the board this has been described as awful – services can't get approval without an occupation certificate and the department is unable to discuss the site with you until this has been

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issued, ie after the service bought/built. This means that providers can go through the processes, over a period of 3-4 years and during this time the state department will not make any comment as to whether or not the final service will be approved.

The approval process is convoluted, not transparent and the various timelines for elements don't accommodate each other eg. Often documents are demanded within 1 working day from one Department, and the other department simply won't turn around a request in that timeframe. If the process fails on these grounds, it must be started again from scratch.

This process urgently needs streamlining, with systems that talk to each other, and a case manager that works across departments and can see the relevant data so providers don't have to keep guessing.

The ability to troubleshoot rather than re-start the process and the ability to combine service approval (state-based) and CCS approval (federally based) would streamline this for government and providers alike.

Early Childhood Education could be the 'poster child' for regulatory streamlining. The National Regulatory Review, and the transition to 'Services Australia' would have a series of quick wins should government focus on simplifying and streamlining these processes.

## What could make the application process easier?

Quite simply: consistency, transparency and systems that talk to each other.

## Maintaining current information about service delivery

12. To what extent do you agree or disagree with the following statements about changes to the age range of children approved to be educated and care for by a service?

12. To what extent do you agree or disagree with the following statements about changes to the age range of children approved to be educated and care for by a service?	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Don't know
Service providers should be required to notify the Regulatory Authority when there is a change to the age range of children for whom they provide education and care	<input checked="" type="radio"/> Strongly disagree	<input type="radio"/> Disagree	<input type="radio"/> Neutral	<input type="radio"/> Agree	<input type="radio"/> Strongly agree	<input type="radio"/> Don't know
Service providers should be encouraged to be flexible and responsive to changing family need, and should not	<input type="radio"/> Strongly disagree	<input type="radio"/> Disagree	<input type="radio"/> Neutral	<input checked="" type="radio"/> Agree	<input type="radio"/> Strongly agree	<input type="radio"/> Don't know

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12. To what extent do you agree or disagree with the following statements about changes to the age range of children approved to be educated and care for by a service?	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Don't know
be required to notify the Regulatory Authority as long as they comply with all relevant conditions of their approval						

13. Are there other changes to the nature of the service being provided which should require notification to the Regulatory Authority?

14. Is there anything further you would like to add in relation to maintaining current information about service delivery?

If a service changes the type of service offering (eg preschool to incorporate babies) and this change would have an impact on the requirements under the NQF such a ratios or amenities required, then ACA NSW believes the service should be required to notify the Regulatory Authority. ACA NSW believes a notification is sufficient, rather than having to apply for an approval.

Changes to operational hours or nominated supervisor/coordinator should require notification to the relevant Regulatory Authority. Again, we recommend consistency of process across all jurisdictions.

## Physical environment

15. In your view, under what circumstances, if any, is it acceptable for new premises to be eligible for waivers to the physical environment requirements of the NQF? *(Please select all that apply)*

- Only when the benefits to children of a quality physical environment are not compromised
- A service is providing care in a multi-storey building, and has alternative arrangements for outdoor play and physical exercise
- In areas where there is a shortage of, or high demand for, services
- When the waiver will be temporary
- I don't think waivers to the physical environment requirements are ever appropriate
- Other



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16. In your view, how can governments streamline service approvals to ensure new builds meet the requirements of the NQF early in the build process?

Currently, service approval is jurisdiction based and often dependent on other state/territory authorities.

Plans are to be submitted to the Regulatory Authority to be assessed against the NQF requirements. If such plans meet the NQF requirements, the Regulatory Authority is to stamp as such so that the approved provider can submit such plans to the local government for development assessment and in advance of construction and leases to be signed.

Service providers would need to provide evidence to their state department that the building design was compliant with the NQF requirements.

Please see our response to the section on service approval applications. ACA NSW is very keen to work with government and departments to streamline this process and ensure positive outcomes for children, particularly in areas of need.

17. To what extent do you agree or disagree with the following statements about the NQF's physical space requirements for school age children?

17. To what extent do you agree or disagree with the following statements about the NQF's physical space requirements for school age children?	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Don't know
The NQF's current indoor space requirements (i.e. square metres per child) are suitable for school age children's wellbeing, learning and development	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The NQF's current outdoor space requirements (i.e. square metres per child) are suitable for school age children's wellbeing, learning and development	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

18. Is there anything further you would like to add in relation to physical environments for school age children?

## Sustainability of the NQF

19. In your view, what fee model(s) (e.g. a sliding scale of fines based on history of non compliance) might be appropriate for ensuring the continued operation of the NQF and improving outcomes for children and families by encouraging improvement in service quality?

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ACA NSW recognises the need for the minority of persistently non-compliant services to bear their own responsibilities for compliance costs. That said, we are concerned of the need to ensure valid notifications of non-compliances are addressed than the perception that any increases or changes to compliance costs are primarily revenue raising.

As such, the Regulatory Authority will need to consider:

- (a) how breaches are defined through the Education and Care Services National Regulations;
- (b) would there be grace time limits for rectification, and would they also be defined in Regulations;
- (c) to ensure accountability and transparency, how will Authorised Officers document their evidences of such breaches, where will such records be kept, and how can services have access to those records;
- (d) how will compliance fees be paid if there is a dispute about the validity of the breach; and
- (e) can breaches and fees be challenged by the service through a third party (eg Civil Administrative Tribunal)?

ACA NSW does not support any additional compliance fees or prescribed penalties than those already in existing legislation and regulation. Should a sliding scale of fees, fines and penalties be implemented in NSW, assessment of potential repeat offenders must be conducted independently of the Regulatory Authority so as to ensure that increases in fees, fines and penalties based on Regulation are not seen as primarily revenue raising motivated.

That said, there should also be a scale of fees, fines and penalties (based on Regulation) depending on the size of the non-complying services. Larger services who are non-compliant also have a greater financial capacity than smaller services.

In so doing, compliant services save costs, and those services who require significant resources from the Regulatory Authorities will be covering those costs themselves, rather than all services bearing this cost.

## Regulatory approach

20. In your view, what are the best ways that service providers, particularly high quality service providers, can be encouraged to sustain and grow quality services?

ACA NSW believes that quality needs to be clearly defined. Given the lack of consistency across jurisdictions, the NQF assessment ratings are not adequately standardised for this purpose.

We believe the provision of consistent quality early learning services Australia-wide is a fundamental goal that Australian government should be striving for.

However, in the context of sustaining and growing new quality services, to date, different levels of government (local, state and federal) have failed to intervene in the proliferation of new early learning services being introduced in areas of adequate or oversupply.

This is a serious concern for existing service providers and for the families in these local areas who may experience higher fees and poorer quality as a result.

ACA nationally have been closely monitoring the relationship between low occupancy levels and the oversupply of early learning services in certain geographic areas over the last couple of years. Evidence suggests that increased supply does not bring costs down for families.

A recent report commissioned by the Australian Childcare Alliance (ACA), the Early Learning and Care Council of Australia (ELACCA) and Australian Community Children's Services (ACCS) explores the

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factors that influence the demand for, and supply of, childcare services across Australia. This independent analysis, prepared by Urban Economics, examines the results of a recent national survey of childcare operators, looking at available places, enrolment, performance and key issues influencing individual centres and the sector more broadly.

The report reveals that the nett increase in long day care centres in 2017 was roughly 2-3 times the estimated number of new centres needed per annum to meet future demand.

If the same growth is to be continued in the coming years, there is likely to be an enormous impact on the viability of all services and service types. This is an important issue affecting the affordability of early learning for Australian families, which government intervention could influence.

ACA NSW believes that federal, state and territory governments have a role to play in influencing responsible investment in the early learning sector that can satisfy demand with appropriate supply – particularly given the funding and subsidies currently in place. In addition, all levels of government have a role to play in the planning of new services to ensure that they are only built or introduced in areas of genuine demand, and that they will meet the requirements of the NQF.

The current oversupply of services in many parts of NSW is instead putting upward pressure on fees and therefore eroding affordability for families because of those affected services' inability to adequately reduce their fixed operational costs.

An appropriate planning and approval model for consideration is the existing Pharmacy Location Rules where new pharmacies' locations are approved by the Federal Department of Health on the basis of demonstrable need. Moreover, the Pharmacy Location Rules attempts to ensure reasonable supply while protecting taxpayers' investment through the Pharmaceutical Benefits Scheme. This model has many parallels with and can have many benefits to the early childhood education and care sector as well as the Commonwealth's Child Care Subsidy System.

21. In your view, what are the best ways for Regulatory Authorities to engage with approved providers to achieve the objectives of the NQF?

ACA NSW believes that in the context of ensuring that Australian families have access to consistent quality early learning services Australia-wide, the Regulatory Authorities (ie. the state government Departments of Education) should be consistently assisting and supporting service providers toward achieving the objectives of the NQF, rather than taking a subjective, inconsistent, punitive and judgemental approach.

The assessment of service providers should be a transparent and predictable process, with Regulatory Authorities providing adequate support and constructive feedback which explains to service providers where their service needs work to meet the NQF requirements, and how they can address these issues in a practical sense. Consultative engagement is vital, rather than a punitive 'error seeking' approach that can also be inconsistent and subjective from Authorised Officer to Authorised Officer.

To this end, ACA NSW believes an overhaul of the assessment process should consider other models that work for example the Australian Council on Healthcare Standards assessing Australia's public and private hospitals whereby:

- the date(s) of when the service's assessment and rating would take place is known at least 12-24 months in advance;
- the service is given one opportunity only to change the date(s) for each assessment and rating for any reasonable reason; and
- after the assessment and rating, the service is given 6 months to restore itself to at least its former rating via a second assessment.

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ACA NSW believes that there are inconsistencies across the states and even within states, in terms of the assessments and the approach that the individual assessors take. We believe that the assessors should be adequately trained and qualified through a nationally delivered program to ensure consistency.

ACA NSW believes that the existing training process for NQF assessors is inadequate and doesn't provide the individuals (who may have little or no experience in the early learning sector) with a basic understanding of the work involved in running an early learning centre and the regulatory context.

ACA NSW recommends that service providers should also have access to the same training, in the interests of transparency, to provide service providers and Authorised Officers with clarity, common understanding and expectations in terms of what the assessment and rating process. This could also be a revenue raising exercise for the state departments.

Other options worth exploring include:

- (a) a minimum system where the Regulatory Authority administers the assessment and rating system for Significant Improvement Required, Working Towards and Meeting ratings on the basis of empirical and quantitative measures; and
- (b) the availability of independently accredited third party assessors.

Again, that said, the training of assessors must also be available to services so that both parties can ensure consistent understanding of the process and expectations.

22. Is there anything further you would like to add in relation to regulatory approach?

ACA NSW believes the assessment and rating of services that are ultimately rated as Significant Improvements Required, Working Toward and Meeting the NQS ought to be on empirical terms. In other words, the service either meets or does not meet the NQS using quantitative measures. Such measures should also be publicly available so that it can be consistently and transparently administered.

Given the experiences of the NQF since 2012, ACA NSW believes the current 5 tiers of ratings has not lived up to the original aspirations. Instead, it has caused unnecessary confusion, jurisdictional inconsistencies, and a loss of confidence in the quality rating system by the sector.

Hence with the benefit of hindsight, a suggestion would be to overhaul the quality rating to have only 3 tiers:

- Exceeding
- Meeting
- Working Towards

In simplifying these tiers, and ensuring that the majority of criteria to meet those ratings must be on the basis of empirical and quantitative minimum measures, the Regulatory Authority would save a significant amount of resources in its administration and there would also be a restoration of faith in the quality rating process because of such consistencies of application.

## Qualification requirements

23. To what extent do you agree or disagree with the following statement?

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23. To what extent do you agree or disagree with the following statement?	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
Recognising educators who are 'actively working towards' a qualification continues to be a practical approach to balancing workforce needs and the NQF goals of service quality and child outcomes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

24. Is there anything further you would like to add in relation to qualification requirements?

## Professional Development

The former Long Day Care Professional Development Program (LDCPDP), which concluded on 30 June 2017, allowed early learning service providers to meet their specific professional development needs to support the National Quality Framework, adhere to the National Quality Standard and deliver the Early Years Learning Framework or other approved learning framework.

## Need for national consistency for teacher registration

There is a need for a nationally consistent approach to how each jurisdiction recognises qualified early childhood teachers. Each state has its own independent Teacher Registration Board, who do not necessarily align with ACECQA qualification approvals. This means that when a qualified teacher relocates inter-state, their degree qualification may not be recognised by the new state's Teacher Registration Board. Whilst service providers can apply for waivers, these are provided on a case by case basis and require substantial paperwork from both the candidate and the service provider. These waivers also render affected service providers to be non-compliant to the NQF, thereby potentially downgrading their services' ratings.

ACA NSW also recommends that each state Teacher Registration Board should automatically adopt the ACECQA qualification approvals for inter-state and overseas qualifications regarding qualified early childhood teachers, to create a nationally consistent approach.

## Funding a national early learning workforce strategy

ACA NSW recommends that the Federal Government allocates funding to a national early learning workforce strategy that aims to ensure an adequate supply of quality early childhood educators and teachers for the sector.

## Inconsistencies across jurisdictions for teacher:children ratios

The Federal Department of Employment Report (April 2017) and the NSW Department of Education's Early Childhood Education Workforce Review (October 2017) have both confirmed labour shortages for both Certificate III, Diploma and Degree qualified educators and teachers.

ACA NSW is concerned that, to date, the government has not put in place an effective workforce strategy to address the growing demand of vocationally trained educators and tertiary trained teachers in the early learning sector.

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Sourcing Early Childhood Teachers (ECT) is a significant problem Australia-wide and especially so in NSW because of the higher qualification requirements.

Under Regulation 272, the NSW jurisdiction is markedly different to other states where, for example, an 80 place service based in NSW requires 4 degree qualified early childhood teachers, compared to 1-2 in all other states. Moreover, all other states can now recruit a suitably qualified teacher but not NSW. Consultation with NSW services should be but have not yet been conducted to explore whether other suitably qualified teachers in NSW could be capitalised above the first degree qualified early childhood teacher.

ACA NSW also believes that the current guidelines around 'other suitably qualified' teachers could be enhanced. Having someone with a degree in a complementary field, coupled with a Diploma in Early Childhood Education, not only helps meet requirements, but also enhances a services' program by adding to the diversity of voices within the pedagogical conversation. Degrees and courses in psychology, behavioural studies, occupational therapy, social / community services should also be deemed appropriate to couple with a diploma in order to fulfil that legal requirement.

There is a clear need to ensure a steady flow of qualified, job-ready candidates into the sector. It is vitally important that the quality of candidates and their job readiness at all qualification levels is consistent and at a high level.

## Actively Working Towards

ACA NSW fully supports recognising educators who are 'actively working towards' a qualification. This approach allows service providers to take on staff who are not yet qualified but committed to the early learning sector and their professional development.

Some services including OSHC need the 'actively working towards' provision to allow for a pool of staff which are available at particular hours across the week. Fully qualified staff generally seek regular working hours (full time or part time) rather than morning and afternoon shifts work with unpaid hours in the middle of the day. Students, however, often find these hours suit their study timetables.

Furthermore, Regulation 242 is due to expire in 6 months' time on 1 January 2020. Consequently, this has negative consequences for NSW given the current labour shortages. An urgent regulatory amendment is needed from the NSW Minister for Education and Early Childhood Learning whereby Regulation 242 is given an additional 2 year extension to instead expire on 1 January 2022.

Should Regulation 242 (ie "actively working toward") provisions be extinguished by 1 January 2020, thousands of NSW services would have extreme difficulties in meeting staffing requirements in relation to existing NQF ratios as there are grossly insufficient labour supply. All staff currently recognised as "actively working towards" at whatever level would lose their employment.

## Protecting children and staff in an emergency

25. To what extent do you agree or disagree with the following statement about service emergency and evacuation procedures?

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25. To what extent do you agree or disagree with the following statement about service emergency and evacuation procedures?	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
The current requirements for service emergency and evacuation procedures are effective and proportionate to the risks to children and staff	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

26. If in your view changes are required to the current requirements, how effective do you think the following options would be in strengthening service emergency and evacuation procedures?

26. If in your view changes are required to the current requirements, how effective do you think the following options would be in strengthening service emergency and evacuation procedures?	Not at all effective	Not very effective	Neutral	Somewhat effective	Very effective	Don't know
Changes to rehearsal schedule (allow to indicate more or less frequent emergency and evacuation rehearsals)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Separate requirements for different types of procedures (e.g. lock down, bushfire, evacuation)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Separate requirements for different types of premises (e.g. multi-story, services in shopping centres, etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

27. Is there anything further you would like to add in relation to protecting children and staff in an emergency?

ACA NSW is concerned about the existing disconnect between local fire and emergency experts and the Regulatory Authority's interpretation of the NQF requirements.

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Service providers normally consult with their local recognised authority to obtain an evacuation plan, and then submit this to their Regulatory Authority.

The local authority is asked to take into account any non-mobile people (ie babies and toddlers), but does not take into account the NQF when developing their proposed evacuation plan.

The Regulatory Authority has the power to override the proposed evacuation plan, if there are any elements that breach the NQF as long as it is aligned with the recommendation of the emergency authority.

As a result, service providers sometimes receive conflicting advice from their local fire and emergency authority and their Regulatory Authority.

In this challenging predicament, service providers may moderate their centre set up to comply with the relevant visiting authority. This is a disappointing outcome as it means the service provider is being asked to comply with two conflicting demands.

ACA NSW recommends that the local fire and emergency authority's proposed evacuation plan should be recognised by the Regulatory Authority, to ensure that service providers are not put in this difficult situation, and that the safety of the children and staff is put first.

## Access to appropriate Emergency Assembly Locations relative to the services' number of places, proximity and traffic conditions

ACA NSW has also noticed that there is also a disconnect between the Regulatory Authority and local councils in the service approvals process for where they can be located. Particularly in dense metropolitan environments, services of varying sizes have been approved by the Regulatory Authority and the local council without regard as to where the children, educators and support staff can be safely evacuated. And this problem is further heightened by services with a larger number of places relative to the proximity of an appropriate emergency assembly area that can safely accommodate and be reached given the distance and the surrounding traffic conditions.

## Evacuation requirements and access to appropriate Emergency Assembly Locations for services in multi-storey residential and/or commercial buildings

For some years now, ACA NSW has been pointing to a growing concern about services that operate in multi-storey residential and/or commercial buildings with respect to the speed and ease of evacuations as well as access to suitable Emergency Assembly Locations.

Furthermore, there are also greater concerns for services in multi-storey commercial buildings that have a large number of places that increases the difficulties and time for evacuation, let alone after they are able to evacuate to the street level, are the pedestrian pavements suitable as Emergency Assembly Locations for such large number of children, educators and support staff who are now also competing for space with other individuals who have also just evacuated from the same building.

ACA NSW would recommend appropriate sector and public consultation regarding the speed of evacuation required for future services as well as where appropriate Emergency Evacuation Locations must be before service approvals can be made.

## Education and care in OSHC

28. How can the requirements of the NQF better reflect the unique operating context of OSHC?



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- More distinction between OSHC and other centre-based service types in the regulations to better recognise the different needs for children in OSHC services
- National list of approved qualifications/qualification requirements for OSHC
- More nationally consistent expectations for the documentation of children's learning in OSHC services
- Specific assessment and rating criteria for OSHC services (e.g. a tailored version of the NQS)
- Nationally consistent definition of 'actively working towards' requirements for OSHC qualifications
- Other

29. Is there anything further you would like to add in relation to education and care in OSHC?

ACA NSW believes that the NQF needs to be flexible and relevant to the various different service types.

The existing motherhood statements under the NQF aim to apply to all service types, ACA NSW believes they should be tailored for each service type and their unique requirements.

In particular there are huge differences in terms of the needs of the children, between running a long day care service and running an OSHC service.

In some cases OSHC services are being assessed under 2 different frameworks – the EYLF and MYOP (My Time Our Place).

The documentation required to introduce new activities is overly burdensome or complex, with the end result being that educators simply won't introduce new activities, and instead revert to the same activities provided day in/ day out.

Children in OSHC are often there for a very limited amount of time and ACA NSW believes that meeting their most important needs of nutrition, relaxation and socialisation should take priority over complex documentation, regulation and educational requirement that ignores the same children's daily school education activities.

## Education and care in FDC

The National Regulations permit an FDC educator to care for a maximum of seven children at any one time, of which no more than four can be preschool age and under. An approved provider can give permission for an educator to operate over ratios in 'exceptional circumstances' which are prescribed in the National Regulations.

30. To what extent do you agree or disagree with the following statement about reporting the presence of additional children in exceptional circumstances (e.g. all children are siblings, a child is in need of protection under a child protection law, no other services are available in a rural or remote area) in FDC?

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30. To what extent do you agree or disagree with the following statement about reporting the presence of additional children in exceptional circumstances (e.g. all children are siblings, a child is in need of protection under a child protection law, no other services are available in a rural or remote area) in FDC?						
	Strongly disagree	Disagree	Neither agree not disagree	Agree	Strongly agree	Don't know
The education and care of additional children during emergency placements in FDC should be notified to the Regulatory Authority	<input type="radio"/> Strongly disagree	<input type="radio"/> Disagree	<input type="radio"/> Neither agree not disagree	<input type="radio"/> Agree	<input checked="" type="radio"/> Strongly agree	<input type="radio"/> Don't know

31. What do you consider to be an appropriate amount of time for an FDC educator to provide care for additional children in exceptional circumstances? What do you consider to be an appropriate amount of time for an FDC educator to provide care for additional children in exceptional circumstances

No timeframe – I do not think it should be allowed at all

32. Is further guidance on the role of FDC co-ordinators needed? If yes, what form should this take? (e.g. in regulation, online guidance materials)

ACA NSW would support the Regulatory Authority in efforts to increase the legislative and regulatory knowledge and compliance of FDC co-ordinators and their Nominated Supervisors based on anecdotal interactions with such personnel.

33. To what extent do you agree or disagree with the following statement about child protection obligations for FDC co-ordinators?

33. To what extent do you agree or disagree with the following statement about child protection obligations for FDC co-ordinators?						
	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
The child protection training obligations that apply to Nominated Supervisors should also apply to FDC co-ordinators	<input type="radio"/> Strongly disagree	<input type="radio"/> Disagree	<input type="radio"/> Neither agree nor disagree	<input type="radio"/> Agree	<input checked="" type="radio"/> Strongly agree	<input type="radio"/> Don't know

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34. Is there anything further you would like to add in relation to education and care in FDC?

ACA NSW recommends that the NSW Government consider removing Family Daycare from the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, thereby enabling local councils to regulate where such home operations can and cannot be established in consideration with neighbouring residents' amenities.

There is also the concern that FDC services that operate in multi-storey residential buildings can have increasing difficulty with respect to the speed and ease of evacuations as well as access to suitable Emergency Assembly Locations as their buildings are taller and more densely populated.

And even after they are able to evacuate to the street level, are the pedestrian pavements or ground level amenities suitable as Emergency Assembly Locations for children and their carers who may now be competing for space with other individuals who have also just evacuated from the same building.

ACA NSW also believes that during emergency situations, if services have to take on children which means they are exceeding their licenced number of places, the Regulatory Authority should be notified, to ensure that they are aware of the temporary ratio breach and the reasons for the breach. This would also allow the Regulatory Authority to assist the service provider in finding alternative complying, long term arrangements for the families as soon as possible.

## Value of quality rating for families

35. To what extent do you agree or disagree with the following statements about knowledge and understanding of the quality rating system?

35. To what extent do you agree or disagree with the following statements about knowledge and understanding of the quality rating system?	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
The quality ratings are easy to understand	<input checked="" type="radio"/> Strongly disagree	<input type="radio"/> Disagree	<input type="radio"/> Neither agree nor disagree	<input type="radio"/> Agree	<input type="radio"/> Strongly agree	<input type="radio"/> Don't know
The quality ratings provide useful information to me	<input checked="" type="radio"/> Strongly disagree	<input type="radio"/> Disagree	<input type="radio"/> Neither agree nor disagree	<input type="radio"/> Agree	<input type="radio"/> Strongly agree	<input type="radio"/> Don't know

36. Do you have any suggestions for how public knowledge and understanding about quality ratings of education and care services can be improved?

ACA NSW is concerned that the assessment process is inconsistent across the states as well as within some states, and therefore does not believe there is merit in using these ratings as a way to educate families about the quality of a particular early learning service.

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Additionally, based on member feedback, ACA NSW believes that the quality ratings are not well recognised or understood by families, and they are more concerned with their own judgement of an early learning/OSHC service and their child’s interaction with it than an external rating process.

Furthermore, for the first 12 months following the introduction of the “streamlined” NQF beginning 1 February 2018, 57.1% of NSW-based services that were previously Exceeding and were re-assessed and re-rated to Meeting or Working Towards. Also, 21.6% of NSW services in that same period that were re-assessed and re-rated were downgraded, and 22.1% of NSW services were upgraded. Such statistics are extremely poor compared to other jurisdictions.

Ironically, this makes a mockery of the quality rating system, making it to up to 3 different understandings for each quality rating, that is:

- those that were rated prior to 1 February 2018;
- those that were rated soon after 1 February 2018 (ie the transition period); and
- those that were rated after say 1 May 2018 onwards.

So depending on when they were rated as Working Towards, Meeting, Exceeding and Excellent, such ratings now have different meanings and values subject to when they were rated, let alone which Regulatory Authority they were assessed and rated by.

With now hundreds if not thousands of services’ personnel confused and dispirited from their latest assessment and rating experiences, far too many approved providers and services’ teachers and educators would have lost their confidence in the quality rating system.

The fastest way in which faith can be restored is primarily ensuring there is consistency and transparency of requirements and standards that are all measurable and non-subjective, and a single organisation that is separate to the Regulatory Authority to conduct future assessments and ratings.

## Appropriateness of sanctions

37. To what extent do you agree or disagree with the following statements about sanctions against approved providers or individuals?

37. To what extent do you agree or disagree with the following statements about sanctions against approved providers or individuals?	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
Current sanctions are properly matched to offences under the National Law, and prove an effective deterrent to non-compliance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Offences are targeted at the correct person/group (i.e. Approved Provider,	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

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37. To what extent do you agree or disagree with the following statements about sanctions against approved providers or individuals?	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
Nominated Supervisor, Educator)			nor disagree			

38. Is there anything further you would like to add in relation to appropriateness of sanctions?

## Protected disclosures

The National Law ensures protection from reprisal where a person has made a protected disclosure. This aims to ensure that non compliance, and in particular risks to the safety, health and wellbeing of children, is brought to the attention of Regulatory Authorities. This protection, if interpreted strictly, only protects employees of services.

39. Should persons besides employees be protected from serious detrimental action when making a protected disclosure?

40. Is there anything further you would like to add in relation to protected disclosures?

Regardless of the source of disclosures, and whether or not such disclosures are protected, the concern emanates from how innocent individuals can be equally protected from false, unwarranted and/or vexatious allegations.

Based on anecdotal experiences thus far, there appears to be a lack of understanding of the Regulatory Authority's due process, independence of assessment and application of natural justice.

While the protection of children must always be paramount, perhaps the Regulatory Authority should conduct all disclosures independently of itself.

## Prohibition notices

The Regulatory Authority may give a prohibition notice to a person who is in any way involved in the provision of an approved education and care service if it considers that there may be an unacceptable risk of harm to a child or children if the person were allowed to remain on the premises or provide education and care to children.

41. What other factors should be considered when the Regulatory Authority is determining whether a person is unsuitable to be involved in the provision of education and care?

"an unacceptable risk of harm to a child or children" as is currently under Section 182 of the National Law is sufficient

Other factors should also be considered

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42. Are there roles besides the nominated supervisor where a prohibition notice based on not being fit and proper should apply?

- None
- Approved provider
- Educator/Family day care educator
- Employee
- Contractor
- Volunteer
- Other

43. Is there anything further you would like to add in relation to prohibition notices?

Similar to protected disclosures, regardless of the source of the allegation(s), and whether or not such allegations are protected, the concern emanates from how innocent individuals can be equally protected from false, unwarranted and/or vexatious claims.

Based on anecdotal experiences thus far, there appears to be a lack of understanding of the Regulatory Authority's due process, independence of assessment and application of natural justice.

While the protection of children must always be paramount, perhaps the Regulatory Authority should conduct all disclosures independently of itself.