

# Review of Child Safety Arrangements under the National Quality Framework

**Final Report – Findings and recommendations for the NQF and inter-related child safety mechanisms**

**December 2023**



Australian Children's  
Education & Care  
Quality Authority





ACECQA acknowledges Aboriginal and Torres Strait Islander peoples as the Traditional Owners and Custodians of the Lands on which we work and across Australia, and we also extend our respects to Elders, past and present.

We recognise and celebrate the contributions of Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia, including their role in the education and care of children. We recognise the rich and diverse cultures of Aboriginal and Torres Strait Islander peoples, and the valuable contribution this diversity brings.



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The Australian Government Department of Education engaged the Australian Children's Education and Care Quality Authority (ACECQA) to undertake a comprehensive independent review of the child safety provisions under the NQF and related jurisdictional arrangements.

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## EXECUTIVE SUMMARY

In December 2007, the nine governments of Australia, through the Council of Australian Governments, agreed to work together for *substantial reforms in the areas of education, skills and early childhood development to deliver significant improvements in human capital outcomes for all Australians*. The National Quality Framework (NQF) was one of the major national improvement reforms for the Early Childhood Education and Care (ECEC) and Outside School Hours Care (OSHC) sector<sup>1</sup>.

The NQF commenced in 2012 and replaced a complex system of nine overlapping regulatory and quality assurance schemes and introduced a comprehensive, evidence-based, consistent national regulatory system with six objectives to deliver high-quality educational and developmental outcomes for children. The first and foremost objective of the NQF is to ensure the safety, health and wellbeing of all children attending an approved<sup>2</sup> education and care service.

The NQF is jointly governed by the Australian Government and all state and territory governments, supported by the Australian Children's Education and Care Quality Authority (ACECQA), the independent national authority that assists governments in administering the NQF. It is an internationally recognised framework for setting and achieving a high national benchmark for quality. In addition to mandatory minimum requirements that services must meet to operate, all services are quality assessed and rated against the National Quality Standard (NQS): the proportion of services Meeting or Exceeding the NQS has increased from 56% in 2013 to 90% today.

While the 2014 and 2019 reviews have supported the NQF to improve, it is timely to consider what reforms could and should be made to further protect more than 1.4 million children and growing, who annually attend over 17,000 approved services, with attendance ranging from a handful of irregular hours through to more than 50 hours every week.

At the request of the Australian Government Minister for Education and Minister for Early Childhood Education, and supported by all state and territory Education Ministers, the Review of the Child Safety Arrangements under the NQF ('CSA Review') commenced in May 2023 to identify new or refined systemic safeguards needed to support Approved Providers of education and care services to protect children, with a focus on reducing harm, abuse and neglect. In recognition that the NQF does not exist in a vacuum, the Terms of Reference for the CSA Review ([Attachment 1](#)) enabled consideration of inter-related child safety mechanisms operating in each jurisdiction, such as working with children checks (WWCC)<sup>3</sup>/vulnerable people checks, teacher registration, mandatory reporting and reportable conduct schemes.

While the CSA Review does not address the facts of any particular alleged incident, its need and urgency are highlighted by reported critical incidents and allegations<sup>4</sup> emerging as the CSA Review was being undertaken. None more so than the very alarming and distressing 1 August 2023 announcement about Operation Tenterfield. An Australian Federal Police (AFP) investigation with Queensland and New South Wales police, Operation Tenterfield led to a former childcare worker being charged with 1623 child abuse offences against 91 children, alleged to have been committed in Brisbane, Sydney and overseas between 2007 and 2022. In addition, there have been recent findings<sup>5</sup> that child maltreatment in Australian society is associated with early and persistent harm.

1 Collectively referred to as 'children's education and care' under the NQF and in this report.

2 Approved service means an approved education and care service under the National Quality Framework.

3 WWCC is used to represent working with children checks and working with vulnerable people checks throughout the rest of the report.

4 ABC News. (2 August 2023). [Man charged with child sex offences known to be involved with photography at a childcare centre, ABC confirms](#), accessed 2 August 2023.

5 Haslam, D., Mathews, B., Pacella, R., Scott, J.G., Finkelhor, D., Higgins, D.J., Meinck, F., Erskine, H.E., Thomas, H.J., Lawrence, D., Malacova, E. (2023). *The prevalence and impact of child maltreatment in Australia: Findings from the Australian Child Maltreatment Study: Brief Report*. Australian Child Maltreatment Study, Queensland University of Technology, accessed 8 June 2023.

This Report confirms that the NQF is a robust regulatory scheme with a strong focus on continuous quality improvement to ensure children are safe, healthy and thriving in approved education and care services. Since 2012, comprehensive and targeted reviews have been undertaken to increase safeguards. The most recent 2019 NQF Review, for example, included changes to the NQF to strengthen alignment with the National Principles for Child Safe Organisations (National Principles) ([Attachment 2](#)) where some gaps were identified. This was in recognition of the importance of building protective factors and supporting a child safe culture in every service.

However, monitoring the effectiveness of a regulatory scheme like the NQF – which is vital to ensuring the safety, health and wellbeing of children – will always require constant vigilance to respond to rapidly evolving societal change.

As this Report outlines, the NQF exists in the context of a broader, inter-related child protection landscape with numerous child safety mechanisms, often at the jurisdictional level, that can result in overlap and be confusing to navigate. This is particularly relevant in the context of a sector where many Approved Providers are operating across state and territory borders and/or facing the challenges of high demand and an undersupply of teachers and educators.

### Targeted Stakeholder Consultation

It was vital to work with a number of child safety organisations as well as Regulatory Authorities in this review of child safety provisions and arrangements, with a particular focus on reducing harm, including abuse and neglect, in approved education and care services.

Through targeted consultation with Regulatory Authorities, the National Office for Child Safety (NOCS) within the Commonwealth Attorney-General's Department, the Department of Social Services and the eSafety Commissioner, it is clear that, although the NQF is aligned with child protection mechanisms and principles, there are opportunities to address emerging issues, close loopholes, strengthen policies and practices, support staff capabilities and improve the protection of children in the face of new online technologies.

These can be achieved through regulatory changes, national innovation, alignment of current complex child safety schemes and the development of professional guidance and high-quality resources.

Regardless of the maturation of related child safe mechanisms and the experience of service staff, there is complexity in navigating state/territory child safety requirements alongside the NQF. For example, the current inability to share information across borders and between related schemes, particularly in regard to individuals and unsubstantiated allegations or concerns (an early warning system). Other emerging concerns are:

- **Increase in the number of reported incidents and allegations** occurring in services with additional support required to improve educators' ability to identify, respond to and understand differences between developmentally expected sexual behaviour and concerning or harmful sexual behaviour by children or between children.
- **Increase in reported use of inappropriate discipline or interactions by educators**, often in relation to children with additional needs and in situations where multiple educators may be present.
- **The absence of a consistent and coherent national framework to manage risks of 'persons of interest'**<sup>6</sup> including knowledge about how and when to share information about these persons both within and across jurisdictions.
- Educators and staff working with children having **difficulty in understanding and navigating different thresholds of obligations and reporting requirements** across jurisdictional schemes, such as WWCC and mandatory reporting.

6 While work would be needed to agree a definition of 'persons of interest', for the purposes of this report and in a children's education and care context, this refers to a service staff member against whom an allegation(s) has been made, but there is insufficient evidence to confirm a breach of the National Law or other schemes has occurred. This may assist regulators and relevant agencies to identify, and provide appropriate disclosure to Approved Providers about patterns of behaviour that are of potential concern for the health, safety and wellbeing of children and young people.

- Approved Providers and staff working with children **do not always understand their respective responsibilities to create and maintain a child safe culture and environment**. This includes their understanding of the requirements to identify, respond to, and appropriately report suspicion of child maltreatment.
- **Some Approved Providers do not understand the importance of undertaking thorough and comprehensive due diligence when hiring or engaging staff**, including:
  - » use of the Prohibited Person Register and WWCCs
  - » understanding the WWCC is only one element of protective screening
  - » the potential for time lags for information to be updated in systems
  - » adequate induction and training of staff, including accountability for their actions at a service specific level, particularly important given increased usage of agency staff.

Furthermore, with rapidly evolving technologies, including the risks associated with artificial intelligence (AI), **Approved Providers and educators are not always confident and proficient about online safety** and their roles and responsibilities in creating and maintaining a child safe environment.

### **Children's Protection First and Foremost**

A significant feature of Aboriginal and Torres Strait Islander cultures, one of the oldest cultures in the world, is the belief that it is vital for the health of the entire community to place children at the centre of decision-making within society, government systems and frameworks. The intent of the NQF is to mirror this belief and place children - their safety, rights and best interests - at the heart of decision making by the sector's system guardians: Approved Providers, educators, governments, Regulatory Authorities and ACECQA.

This intent needs to be refreshed and bolstered, with the protection and safety of children as the central priority. To this end, the CSA Review provides 16 recommendations which focus on what needs to be done within the NQF and more broadly. Enhancing the NQF alone and in isolation is insufficient to enhance child safety and support the teachers and educators who devote their careers to children and young people. The recommendations need to deliver the best outcomes through the most effective contemporary safeguards expected by parents/carers and communities.

Finally, these findings and recommendations are made in the context that ongoing workforce pressures, with challenges exacerbated by the prolonged effects of COVID-19, continue to impact the implementation of effective child safe requirements while meeting the growing demand for a stable, well qualified and professional workforce.

## Recommendations

Based on the evidence gained through this desktop Review and targeted consultation, the 16 recommendations are grouped into two inter-related categories – Additional Safeguards under the NQF and Inter-related Child Protection Mechanisms.

**A. NQF Additional Safeguards** recommends improvements within the NQF as outlined in Chapters 2, 3 and 4. Under the *Education and Care Services National Law 2010* (National Law), Education Ministers have the power to agree and approve implementation of the ‘NQF Additional Safeguards’ recommendations. There are also a small number of recommendations outside of the NQF where they directly relate to the NQF recommendations, for example, the National Construction Code structural safety recommendation outlined below.

**B. Inter-related Child Protection Mechanisms** recommends improvements in areas across broader child safe systems that complement the proposed child safety improvements under the NQF as outlined in Chapter 5. These mechanisms already interface with the NQF, or should do so, with many improvements being considered through broader national policy platforms, such as the National Care and Support Economy Workforce agenda.

### A. NQF Additional Safeguards

Recommendations to strengthen safeguards within the NQF are structured under three aims:

- Strengthening Child Safe Governance, Leadership and Culture
- Embedding Prevention and Early Intervention
- Building and Sustaining Child Safe Capabilities

#### **Strengthening Child Safe Governance, Leadership and Culture**

Governance and leadership are pivotal to improving the overall quality and safety of approved education and care services. The collective commitment by governments and the education and care sector – including service providers and leaders – is paramount to achieving child safe environments.

Approved Providers are responsible for fostering a child safe culture, building staff capacity for responsive relationships, and supporting staff/child engaging experiences within a safe and healthy environment. To ensure there is transparency and accountability across these responsibilities, Approved Providers need to be aware of, and continually monitor the impact of, these child protection and safety obligations. Creating and maintaining a child safe culture in education and care cannot be a ‘set and forget’ approach.

In this context this report recommends the following NQF regulatory changes, including working with relevant experts to make modest adjustments to the National Quality Standard, with a focus on broadening existing elements or standards, rather than creating new ones.

1. Amend the National Quality Standard to:

- 1.1 enshrine ‘Child Safe Culture’ in *Quality Area 7: Governance and Leadership* to authorise and promote the importance of the role played by, and responsibilities of, Approved Providers and their service leaders in fostering a child safe culture, responsive relationships, engaging experiences and a safe and healthy environment;
- 1.2 reflect the inclusion of the safe online environment provisions in the Education and Care Services National Regulations (National Regulations) by strengthening:
  - *Quality Area 2 – Children’s health and safety* at the element level, to make explicit mention of online safety when using technologies.

- *Quality Area 3 – Physical environment* to cover physical and online environments and reflect this across relevant standards and elements. This will ensure the use of technology is risk-assessed and monitored, including that devices are child-safe and have age-appropriate features enabled.

### **Embedding Prevention and Early Intervention**

Regulatory Authorities use contemporary risk-based regulatory approaches to develop tailored and evidence-based solutions for identified risks in the sector. Prevention and early intervention are essential for creating a child safe environment for children at all times. The recent changes to strengthen and ‘join up’ approval processes for Approved Providers across the NQF and Family Assistance Law have been another important step in ensuring the fitness and propriety of those seeking to enter our ECEC system.

Additional strategies for embedding child safety practices across all staff roles and levels of the organisational structure will minimise the risk of harm and hazard to children attending approved services.

#### 2. Amend the National Regulations to:

- 2.1 remove the ability to apply for a waiver, except in exceptional circumstances, under regulation 115 which requires the Approved Provider to ensure the approved service premises (including toilets and nappy change facilities) are designed and maintained in a way that facilitates supervision of children at all times, having regard to the need to maintain the rights and dignity of children and to strengthen the requirements of the child safe environment policy;
- 2.2 to support this for new services, outside of the NQF, review structural building requirements under the National Construction Code (NCC) with the Australian Building Codes Board (ABCB) to ensure building design facilitates unimpeded supervision of children at all times;
- 2.3 mandate that only service-issued/approved devices may be used in centre-based services when taking images or videos of children, with further requirements for Approved Providers to have strict controls in place for the appropriate storage and retention of images;
- 2.4 further to this, anyone who is working or engaged in a centre-based service in any capacity is prohibited from having personal electronic devices that can take images or video, such as tablets and phones, on their person whilst with children;
- 2.5 require parental authority to record children, including images and videos, and to clearly state the purpose for which they are to be used, including on any social media platforms;
- 2.6 with respect to the use of closed-circuit television (CCTV) in an education and care service, require an Approved Provider to have a policy and procedure in place if they intend using CCTV in an education and care service (regulation 168) to:
  - inform families of the use of the CCTV, including the purpose of its use and require permissions
  - explain how data are stored, kept secure and accessed
  - ensure timely access to CCTV footage for Authorised Officers and other authorised persons such as police, when requested.

3. In the immediate period, while the above legislative changes are being made, Regulatory Authorities could consider alternative strategies such as encouraging voluntary compliance and inserting additional conditions on service approvals for centre-based services relating to recommendations 2.3 and 2.4.

4. Further amend the National Regulations to:
  - 4.1 reduce notification reporting timeframes for any physical and sexual abuse complaints, allegations or incidents to 24 hours (currently 7 days), with consideration being given to incorporating educators in the scope of the penalty provisions for failures to report;
  - 4.2 require Approved Providers of family day care (FDC) services, during the initial assessment of the residence or venue and all subsequent annual visits, to conduct an assessment (including a risk assessment) and approvals of all areas of the residence and place, not just the area being used as part of the approved service (expanding regulation 116);
  - 4.3 require the service environment to be free from e-cigarettes, for example, vaping (expanding regulation 82 which requires the environment to be free from the use of tobacco, illicit drugs and alcohol).
5. Amend the powers of entry in Division 2 in the National Law to enable authorised officers' access to all areas of a FDC residence and venue, not just the area that is being used as part of the approved service (service premises), noting in recognition of privacy concerns the threshold for entry into an FDC residence would need to be determined, for example, conditional on reasonable belief of risk of harm.

### ***Educator Safeguards and Teacher Registration/Accreditation***

The ECEC sector is experiencing persistent and increasingly acute shortages of appropriately qualified early childhood teachers and educators. This shortage has been exacerbated by a long period of lower completion rates in ECEC qualifications and the lingering effects of the COVID-19 pandemic. This has resulted in concerns about the screening and monitoring of behaviour of people seeking to work with children and young people. With the increased use of casual and agency relief staff, concerns have also been raised about the level of vetting being undertaken pre-employment.

Although not within the NQF, teacher registration/accreditation schemes are an important aspect to ensure only qualified and 'fit and proper' people are *in loco parentis* and responsible for children's safety and educational development.

Whilst enabling early childhood teacher registration is an already committed action in *Shaping our Future – the National Children's Education and Care Workforce Strategy 2022–2031*, where possible, consideration should be given to support the Teacher Regulatory Authority (TRA) in each jurisdiction to fast-track **mandatory** registration for early childhood teachers regardless of the setting in which they work. The requirement to mandate will ensure that reliance is not on the individual to choose to be registered/accredited.

To ensure mandatory registration/accreditation operates effectively, it has been a longstanding challenge for teachers in non-school settings to demonstrate their practice against, and move through the career stages under, the Australian Professional Standards for Teachers (APST) not the least of which is that the APST were designed for a teacher's practice in a classroom setting. To address these challenges, consideration could be given to either reviewing the APST or developing equivalent standards aligned with the National Quality Standard to enable monitoring of teachers' practice across their career stages when they work in an approved service in a non-school setting.

Accordingly, it is recommended that consideration be given to:

6. Accelerating Action FA1-2 *Shaping Our Future 2022-2031*, where possible, to enable the mandatory registration of all early childhood teachers, including those working in non-school settings, in Queensland, Australian Capital Territory (ACT), Tasmania and Northern Territory to ensure the safeguards provided by teacher registration/accreditation schemes apply to all teachers regardless of workplace setting or personal accountability.

7. In the interim, authorising and supporting work underway with TRAs to strengthen safeguards for protecting children and young people to enable Automatic Mutual Recognition (AMR) to be in place as quickly as possible for all jurisdictions.
8. Assisting teachers in non-school settings to be registered and to successfully progress through their career stages by considering how the APST may be adapted or equivalent standards be developed in the longer term.

The majority of the sector's workforce are certificate and diploma qualified educators who are not eligible to be registered or accredited under jurisdictional teacher registration/accreditation schemes. As such, the safeguards for entry into the sector and for monitoring behaviours and professional practice are not applicable to them. Instead, Approved Providers must rely on the jurisdictional WWCC mechanisms. While these mechanisms provide an important scrutiny for anyone wishing to work with children, they have their limitations not least of which is that they do not easily enable sharing of consistent and up to date information across borders.

Approved Providers have obligations when recruiting staff and meeting these obligations effectively is a vital control mechanism. When not exercised with due diligence and care, or when information may not be current or complete, there may be unacceptable risks about a person's suitability to work with children and young people. For example, there can be issues with the timeliness of changes to a person's WWCC suitability status and referee checks can be ambiguous/uninformative, particularly if the person has unsubstantiated allegations or has moved between services and/or across jurisdictions. The WWCC may not be successful in identifying issues or patterns of inappropriate behaviour that fall below mandatory reporting levels or in another jurisdiction. WWCC issues are outlined in [Attachment 4b](#), including a number of opportunities to strengthen and reduce complexity on the WWCC requirements within the NQF which are outlined below.

This Review provides options for strengthening safeguards at both the pre-service (screening) and in-service phases of employment (monitoring and reporting) for all educators, similar to those safeguards afforded by teacher registration/accreditation schemes as outlined in Chapter 3. A successful and effective system/mechanism will:

- enable Approved Providers and Regulatory Authorities to efficiently undertake due diligence through a one stop mechanism for the validation of qualifications, relevant child safety checks and mandatory training completions;
- enhance information recording regardless of the jurisdiction or type of service in which an educator is employed;
- provide a secure mechanism for Regulatory Authorities to appropriately record, and share with other regulators, information about 'persons of interest' who may be the subject of unsubstantiated allegations/potential concerns for the safety, health and wellbeing of children and young people (aligning with fit and proper checks of Approved Providers);
- enable more effective sharing of information between the early childhood and the school sectors within jurisdictions and across borders.

Whichever option is considered, its implementation should enable a co-design approach with Approved Providers, Regulatory Authorities and key stakeholders to ensure the maximum protection of children's right to be in a safe environment while reducing complexity and regulatory burden for the sector.

9. Accelerating these options are being considered, amendments to the National Law/Regulations could be considered to reduce complexity, provide clarity and consistency with WWCCs, while taking into account existing jurisdictional legislation, noting where these arrangements are already in place the intent is not to duplicate requirements:

- 9.1 clarifying beyond doubt that an Approved Provider cannot allow a person to commence work, or work as a volunteer, in an approved education and care service without a current WWCC or confirmed teacher registration/accreditation;
  - 9.2 requiring all staff regardless of roles/service types to notify their Approved Provider of a change in status to their WWCC or teacher registration/accreditation obligations and the Approved Provider to notify the Regularity Authority;
  - 9.3 requiring all centre-based staff to notify the Approved Provider of any circumstance that may affect whether someone is fit and proper to be in the company of children (mirroring the obligations for FDC educators introduced in 2023).
10. In addition, to support pre-service vetting and in-service safeguarding and monitoring, section 166 of the National Law (inappropriate discipline – corporal punishment and unreasonable discipline) could be expanded to include inappropriate interactions as an offence (definition and guidance to be developed with relevant experts, including the Commonwealth Attorney-General’s Department) which will clarify what criteria applies to inappropriate interactions.
11. Consideration could also be given to enhancing the ability to prohibit and share information, for example, enabling the Regulatory Authority to share information about a prohibition with a prospective educator’s Approved Provider, without a request being received from the Approved Provider. Additionally, potential expansion of the use of enforceable undertakings with educators, including in situations where the threshold for prohibition is not met, could be used as another risk management strategy.

### ***Building and Sustaining Child Safe Capabilities***

Extending the 2019 NQF Review amendments, the following recommendations aim to ensure Approved Providers and staff working with children are well informed and prepared to respond to children’s disclosures, be attuned to risks, and be ready and able to effectively manage those risks to further safeguard children (such as identifying grooming behaviours). Approved Providers and their staff need to be supported to report child safety concerns appropriately and in a timely manner for children who may be at risk of, or who are experiencing, maltreatment.

12. Building on regulation 84 which requires the Approved Provider to ensure that nominated supervisors and staff members who work with children are advised of the existence and application of the current child protection law and any obligations that they may have under that law, amend section 162A of the National Law to require mandatory child safe training for any Approved Providers, Persons with Management or Control (PMCs), nominated supervisors and staff *who work with children*, including volunteers. Mandatory child safety training must include:
- identifying, reporting and responding to child maltreatment through trauma informed practice;
  - differences in behaviour and responding appropriately, along with identifying grooming behaviour in children and adults around them;
  - understanding the difference between developmentally expected sexual behaviour and concerning or harmful behaviour by children or between children;
  - effective supervision and behaviour guidance, including the offence of using inappropriate discipline.

This training program should be made available through a combination of pre-service qualifications and in-service professional development (microcredentials) with a refresher course required every two years. Changes to pre-service formal qualifications may take time but the development of a high-quality national child safety and mandatory reporting training program should be progressed as a priority.

## B. Inter-related Child Protection Mechanisms – Recommendations outside NQF

The NQF sits in a broader context of child protection mechanisms such as WWCC, reportable conduct and mandatory reporting schemes. The [Australian Child Maltreatment Study \(ACMS\)](#) results underscore the importance of strengthening relevant child safety arrangements within and across jurisdictions, for example, there is parallel work to strengthen national child safety safeguards across the Australian Government and in partnership with state and territory governments.

To further support the NQF safeguards, governments could consider the following recommendations:

13. Continuing to support the Commonwealth Attorney-General's Department to help organisations understand and further embed the National Principles into legislation, policies and practices.
14. Exploring the requirement for mandatory training on child safe standards, principles and practices as part of the application process for a WWCC.
15. Enabling information sharing and streamlining reporting within jurisdictions and nationally to reduce complexity and over-reporting, enabling appropriate agencies to receive and effectively respond to reports by exploring:
  - 15.1 nationally consistent WWCC schemes;
  - 15.2 the alignment of thresholds for what constitutes reportable conduct, mandatory reporting and information sharing;
  - 15.3 harmonising each of these reporting schemes to minimise gaps and simplify interactions with the Additional Child Care Subsidy (ACCS) (Child Wellbeing);
  - 15.4 the establishment of a single, central and holistic point of referral ('one-stop shop') to access resources and referrals to targeted and broad support services for children, families and educators impacted by sexual abuse;
  - 15.5 national consistency in relation to obligations of jurisdictional legislation for failure to report and protect children, and offences, with greater promotion of these laws to increase awareness that it is an offence to fail to report or protect children;
  - 15.6 links between relevant agencies with statutory obligations and disclosure provisions to support understanding, information sharing and to enhance risk assessment, with continuous monitoring. For example:
    - A coordinated national website that explains all intersecting statutory obligations and disclosure provisions that relate to child safety, to better support understanding about information sharing and identify any barriers;
    - A national, centralised mechanism to appropriately record and share national intelligence/record keeping between authorised agencies to more effectively monitor and respond to suspected misconduct and allegations about a 'person of interest' who has unsubstantiated allegations. Such a mechanism would need to long-term link with other data systems, such as teacher registration/accreditation, WWCC and to an NQF secure mechanism, with one option being an educator register; and
    - Promulgating a risk-based approach to the monitoring of, and taking action in the interests of, the health, safety and well-being of children that does not wait for an offence to occur, noting that supporting the right to safety of the child takes precedence, whilst maintaining natural justice principles including the right of reply for a 'person of interest'.

The 2019 NQF Review amendments set a baseline from which further improvements can be made to strengthen and close loopholes in the NQF through this CSA Review. Given the critical importance of vigilance in the protection of children, the final recommendation (Recommendation 16) is to undertake a supplementary child safety review within two years informed by an AFP intelligence analysis of Operation Tenterfield.

### **Next steps**

In developing the above recommendations, primary consideration was given to further strengthening children's protection and safety, while being mindful of the associated requirements for swift change that will inevitably impact services, their staff and Regulatory Authorities. To this end, implementation of recommendations will require a significant commitment of governments to act decisively:

- to undertake any required consultation and regulatory impact analysis to enact legislative changes to the Education and Care Services National Law and Regulations, and corresponding legislation in Western Australia;
- to fast-track mandatory teacher registration/accreditation where possible and consider improvements to the APST or the development of equivalent standards;
- to work with stakeholders to co-design, adapt or develop an effective mechanism by which information about persons of interest can be shared across sectors and borders as an early warning system for the protection of children such as national WWCC, reportable conduct, or a mandatory registration system for educators similar to the registration/accreditation schemes for teachers;
- to commission a cohort of experts to refine and update relevant aspects of the NQS.

All of the recommendations are based on the premise that generous change management support will be given to the sector and Regulatory Authorities including clear communications about why changes are needed; timely guidance and resources for effective implementation; quality professional development for practice improvements; and assistance with technology infrastructure.

## BACKGROUND

It is well understood that quality early education and care shapes a child's future and lays the foundation for optimal development and learning. The National Quality Framework (NQF) was established over a decade ago by all nine governments under the Council of Australian Governments (COAG) to provide a comprehensive national regulatory framework with a shared responsibility for, and commitment to, high-quality for the safety, health and wellbeing of children and their optimal development and education, while they attend approved education and care services.

Accordingly, the NQF expects and drives continuous quality improvement and better practice. It is an outcomes-based framework which works to enable a contemporary and fit for purpose system through regular reviews. It was developed based on evidence that quality early education and care leads to better health, education and employment outcomes later in life, that is, the early years are critical for establishing children's self-esteem, resilience, healthy growth and capacity to learn. For children who are vulnerable, at risk or living in circumstances of disadvantage, attending an approved service is also a protective factor supporting them and their families to navigate complex support systems and to prepare for a successful transition to school.

Implementation of the NQF from 2012 was underpinned by hallmarks of evidence-based quality internationally referred to as the *Iron Triangle* which include qualifications, ratios and group size<sup>7</sup>. These structural elements enable respectful relationships between educator, child and family which are the foundation for a child's safety, wellbeing and improved developmental and educational outcomes. They have been reviewed internationally and in Australia<sup>8</sup> with the consistent finding that quality learning environments depend on all three elements.

As the NQF progresses into its second decade and given the critical importance of child safety, on 29 March 2023, the Australian Government Minister for Education and the Minister for Early Childhood Education wrote to their state and territory counterparts advising that, at their request, the Department of Education had engaged ACECQA to undertake this Review. The correspondence emphasised that the safety and wellbeing of children attending services is a key priority for all governments.

Following consultation with state and territory governments, the final endorsed Terms of Reference for the CSA Review ([Attachment 1](#)) were agreed in early June 2023, and the continuing shared commitment to children's safety and wellbeing recognised in the Education Ministers Meeting (EMM) Communique of 6 July 2023.

While this Review does not address the facts of any particular alleged incident, its need and urgency are highlighted by reported critical incidents and allegations<sup>9</sup> emerging as this Review was being undertaken. In particular, this includes the extremely alarming and distressing announcement of Operation Tenterfield by the AFP on 1 August 2023, as well as the results of wave one of the ACMS in April this year.

While the ACMS is a broader examination of child abuse across Australian society, its findings are relevant to the children's education and care context. The ACMS found that child maltreatment (physical abuse, sexual abuse, emotional abuse, neglect and exposure to domestic violence) is widespread with two thirds of children having experienced one or more forms of child maltreatment before the age of 18 years. The study found child sexual abuse and emotional abuse is a gendered problem with girls experiencing double the rate of sexual abuse (37.3% vs 18.8%) and significantly

7 ACECQA. [Education, Skills, Training and Early Childhood Development](#), accessed 9 May 2023 and New Zealand Government, Office of Early Childhood Education. [Structural Indicators of Quality Early Childhood Education and Childcare](#), accessed 9 May 2023.

8 Connell, M., Fox, S., Hinz, B., Cole, H. (2016). Mitchell Institute Report No.01/2016 [Quality Early Education for All](#), accessed 29 May 2023.

9 ABC News. (2 August 2023). [Man charged with child sex offences known to be involved with photography at a childcare centre, ABC confirms](#), accessed 2 August 2023.

higher rates of emotional abuse (35.6% vs 25.4%), when compared with boys. The study also found that child sexual abuse and emotional abuse is particularly harmful, has longer term affects and is much more damaging than society has previously understood.

### Targeted Stakeholder Consultation

It was vital to work with a number of child safety organisations as well as Regulatory Authorities to understand the most effective ways to address gaps and strengthen child protection and safety for children attending approved services. This Review has been informed by extensive targeted consultations with Regulatory Authorities, the Commonwealth Attorney-General's Department, the Department of Social Services (DSS) and the Office of the eSafety Commissioner to consider how the NQF interacts with the National Principles, the Commonwealth Child Safe Framework, the *National Strategy to Prevent and Respond to Child Sexual Abuse 2021–2030* and *Safe and Supported: the National Framework for Protecting Australia's Children 2021–2031*.

The National Office for Child Safety (NOCS) sits in the Commonwealth Attorney-General's Department and was established on 1 July 2018 in response to the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission). NOCS is charged with the responsibility for leading the co-ordination of the National Principles and works with state and territory governments as well as the National Children's Commissioner and the non-government sector to lead the development and implementation of several national priorities recommended by the Royal Commission. These include implementing the measures under the *National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030*, the National Principles, the Commonwealth Child Safe Framework, and making improvements to information sharing arrangements to strengthen child safety and wellbeing. [Attachment 3](#) provides a historical timeline of policy responses related to children's safety and rights, and the Royal Commission.

DSS has a key role in leading the implementation of *Safe and Supported: The National Framework to Protect Australia's Children 2021-2031* and the *National Plan to End Violence Against Women and Children 2022-2032* and *Australia's Disability Strategy 2031-2031*. DSS has also worked with the Australian Government Department of Education on the development of the Early Years Strategy.

Australia's first eSafety Commissioner was established in 2015 as an independent regulator and educator for online safety. The eSafety Commissioner co-ordinates efforts across government departments, authorities and agencies to educate Australians about online safety risks and to remove harmful content such as cyber abuse and illegal and restricted content from the internet. The eSafety Commissioner undertakes a variety of prevention, protection and systemic change activities, for example, the Commissioner conducts research, provides education, undertakes prevention and awareness raising initiatives, and delivers stakeholder engagement strategies<sup>10</sup>.

### Children's Protection First and Foremost

Through consultation with these agencies, this Review has identified that, although the NQF is aligned with child protection schemes and principles, there are opportunities to refresh and bolster the intent of the framework, address emerging issues, close loopholes, strengthen policies and practices, support staff capabilities and improve the protection of children in the face of new online technologies.

Central to the NQF is the intent to place children – their safety, rights and best interests – at the heart of decision-making by the sector's system guardians which includes Approved Providers, educators, governments, Regulatory Authorities and ACECQA. This approach aligns with a significant feature of Aboriginal and Torres Strait Islander cultures, the oldest continuing living cultures across the world, a belief that it is vital for the health of the entire community to place children at the centre of decision-making within society, government systems and frameworks.

<sup>10</sup> Australian Government, [eSafety Commissioner](#), accessed 19 August 2023.

To this end, the CSA Review provides 16 recommendations which focus on what needs to be done within the NQF and more broadly. Enhancing the NQF alone and in isolation is insufficient to enhance child safety and support the teachers and educators who devote their careers to children and young people. The recommendations need to deliver the best outcomes through the most effective contemporary safeguards expected by parents/carers and communities. These can be possible through regulatory changes, national innovation, alignment of current complex child safety mechanisms and provision of high-quality professional guidance and sector resources.

## INTRODUCTION

This Review has considered existing NQF strategies, action plans or system reviews/reforms designed to further support and enhance the safety and wellbeing of children. For example, *Shaping our Future – the National Children’s Education and Care Workforce Strategy (2022–2031)* is important to address the undersupply of qualified and experienced teachers and educators. It also has endorsed actions that could be accelerated to provide for more effective assessment, and monitoring, of suitability for people seeking to work with children and to sustainably build capability, such as the development of microcredentials to address skill gaps.

The NQF and its components, the children’s education and care sector context and workforce and system performance are explained in **Chapter 1: NQF Overview and Sector Context**.

The three inter-related focus areas of the NQF: physical and online environments, staffing and supervision, and child protection requirements are covered in the next three chapters:

- **Chapter 2: Physical and online environments**
- **Chapter 3: Staffing and supervision**
- **Chapter 4: Child protection requirements**

**Chapter 5: Inter-related Child Protection Mechanisms** explores how the NQF provisions interact with, and are supported by, broader child safety and protection mechanisms in each state and territory, many of which were set up in response to the Royal Commission. The state and territory mechanisms for WWCC, mandatory reporting and child safety obligations, teacher registration/accreditation, reportable conduct schemes and child safe standards are at different stages of maturity and have different obligations, requirements, thresholds and information sharing mechanisms.

Contemporary best practice international standards for child safe environments in ECEC settings have also been considered, with research undertaken across the Organisation for Economic Cooperation and Development (OECD) countries.

In summary, whilst child protection related work is covered in laws and regulations in OECD countries comparable to Australia (UK, USA, Canada, Japan, Ireland), there are no public reports addressing significant work completed in these countries within the past five years. Notably, the OECD often recognises the work of the Australian eSafety Commissioner as leading the way internationally in the online space for children, including for example, advice released this year on how to develop policy for young children using online devices.

The European Union has set child safe principles which are comparable to Australia’s National Principles. In Wales through their 10-year vision *Childcare, Play and Early Years Workforce Plan* December 2017<sup>11</sup>, the Welsh Government has committed to introducing professional registration for educators to recognise educators’ continuous professional development and to provide public assurance of their suitability to work with children. Israel is advanced in the area of research into CCTV in ECEC settings. England, since 2017, has provided legal requirements that emphasise effective safeguarding is achieved by putting children at the centre of the system and by every individual and agency playing their full part. This means agencies and individuals within them keep the focus on children at all times when making decisions that impact them.

Through targeted consultations with Regulatory Authorities, governments and relevant statutory bodies including the Commonwealth Attorney-General’s Department, the DSS and the Office of the eSafety Commissioner, this Review shines a light on how the NQF interacts with the complex suite of national and jurisdictional mechanisms and reforms underway in response to the recommendations from the Royal Commission. These include the development of the Australian Government’s Early Years

11 Welsh Government, Childcare, Play and Early Years Division. (2017). [Childcare, Play and Early Years Workforce Plan December 2017](#), accessed 28 June 2023.

Strategy<sup>12</sup>, the National Vision for Early Childhood Education and Care<sup>13</sup>, the Australian Competition and Consumer Commission's (ACCC) Early Childhood Education and Care Price Inquiry<sup>14</sup>, and the Productivity Commission's Early Childhood Education and Care Inquiry.<sup>15</sup>

In addition, the South Australian Royal Commission into Early Childhood Education and Care's Final Report<sup>16</sup> and the Commission of Inquiry into the Tasmanian Government's responses to Child Sexual Abuse in Institutional Settings<sup>17</sup> (Commission of Inquiry Tasmania) were considered.

The scope of this Review does not provide a comprehensive review from a disability perspective, as this work was undertaken through the 2020 Review of the Disability Standards for Education, the outcomes of which continue to be implemented.

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12 Australian Government, Department of Social Services. [Early Years Strategy](#), accessed 24 July 2023.

13 Australian Government, Department of Education. [National vision for early childhood education and care](#), accessed 5 September 2023.

14 Australian Competition and Consumer Commission. (2023). [Childcare inquiry 2023](#), accessed 15 June 2023.

15 Productivity Commission. [Early childhood education and care – Public inquiry](#), accessed 5 September 2023.

16 South Australian Government. (2023). [Final Report: Royal Commission into Early Childhood Education and Care](#), accessed 30 August 2023.

17 Tasmanian Government. (2023). [Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Settings](#), accessed 28 September 2023.

## CHAPTER 1: NQF OVERVIEW AND SECTOR CONTEXT

The NQF is the national system for regulating over 17,000 education and care services, setting standards for safety and quality so that all children who attend approved long day care, preschool/ kindergarten, OSHC and FDC services are supported to have high-quality early learning and care. It comprises the National Law and the National Regulations, the NQS and its quality assessment process, the Approved Learning Frameworks (ALF) and the independent national body, ACECQA.

The NQF operates under an applied law system, which means the same law is applied in each state and territory, but with some varied provisions as applicable to the needs of each state or territory, such as application of jurisdictional legislation for working with children laws and tribunals. Western Australia has corresponding legislation that has a separate legislative approach but achieves the same intent.

The NQF is jointly governed by the Australian Government and state and territory governments through EMM as a means of realising the efficiency benefits and cost effectiveness of a unified national system, with shared stewardship and accountability between governments, Approved Providers and ACECQA.

Each state and territory’s Regulatory Authority is responsible for the approval, monitoring, compliance actions and quality assessment of services. Authorised officers are employed by Regulatory Authorities, with their responsibilities set out under the National Law, including monitoring education and care services, enforcing compliance, conducting assessment and rating visits, investigating incidents and complaints, and providing advice and guidance.

The legal obligations and responsibilities of Approved Providers, their nominated supervisors and educators are defined in the National Law and National Regulations.

ACECQA guides the administration of the NQF, hosts the NQA ITS (online regulatory technology system) and monitors the impact of the NQF. ACECQA works with Regulatory Authorities and Approved Providers to raise quality and drive continuous improvement and consistency through the integrated framework outlined in the diagram below.

### The National Quality Framework



## National Law and National Regulations

The National Law outlines the legal obligations and responsibilities of Approved Providers, their nominated supervisors and educators, and explains the powers and functions of the state and territory Regulatory Authorities, Education Ministers and ACECQA.

It is supported by the National Regulations which operationalise these requirements by prescribing relevant aspects such as:

- the application process for provider and service approvals;
- the NQS, which is located in Schedule 1;
- setting out the rating scale and process for the rating and assessment against the NQS;
- minimum requirements relating to the operation of services organised around each of the seven quality areas;
- staffing arrangements and qualifications.

A provider approval is granted following robust assessment by the relevant Regulatory Authority and is recognised nationally. This allows an Approved Provider to apply for service approval to operate a service(s), which is site or premise specific. Service approvals are assessed and granted by Regulatory Authorities, with all approvals granted subject to the condition that the service must be operated in a manner that ensures the safety, health and wellbeing of the children being educated and cared for by the service under section 51(1)(a) of the National Law. The National Regulations require Approved Providers to have, and effectively implement, policies and procedures to inform their operational practice at a service context level.

All of these components of the NQF work together to support services and enable a child safe culture and environment through three inter-related areas: physical and online environments, staffing and supervision, and child protection.

## National Quality Standard (NQS)

The NQS sets a high benchmark for services and includes seven quality areas, outlined on the previous page. Services are assessed and rated by their Regulatory Authority against the NQS and given a rating for each of the seven quality areas and an overall rating. The highest rating, the Excellent rating, is assessed and awarded by ACECQA, with only services that receive Exceeding in all quality areas able to apply.

All quality areas are inter-related and important for children's safety, with some key areas highlighted below:

- **Quality Area 2 – Children's Health and Safety** safeguards and promotes children's health and safety, minimises risks and protects children from harm and hazard by maintaining adequate supervision of children; configuring groupings of children to minimise the risk of overcrowding, injury and illness; monitoring and minimising hazards and safety risks in the environment; effectively managing illness and injuries; and understanding obligations under state or territory child protection legislation.
- **Quality Area 3 – Physical Environment** reflects the principle that the physical environment is safe, suitable and provides a rich and diverse range of experiences that promote children's learning and development.
- **Quality Area 4 – Staffing Arrangements** contributes to child safe environments through qualified, skilled and experienced professionals developing warm, respectful relationships with children to create safe and predictable environments.

- **Quality Area 5 – Relationships with children** reflects the importance of relationships with children that are responsive, consistent, respectful and promote children’s sense of security and belonging and maintain their dignity and rights.
- **Quality Area 7 – Governance and Leadership** is important to creating a child safe culture through effective leadership and governance of the service that contributes to quality environments.

### Approved Learning Frameworks (ALFs)

The National Law requires that Approved Providers and nominated supervisors of an approved service must ensure that the learning program is based on an ALF<sup>18</sup>, and delivered in a manner that accords with the ALF.

The two national ALFs *Belonging, Being and Becoming: The Early Years Learning Framework for Australia (EYLF V2.0)* and *My Time, Our Place: Framework for School Age Care in Australia (MTOF V2.0)* were refreshed and released in early 2023 and reflect the importance of the United Nations Convention on the Rights of the Child (the Convention)<sup>19</sup>. The Convention states that all children have the right to an education that lays a foundation for the rest of their lives, maximises their ability, and respects their family, cultural and other identities and languages. The Convention also recognises children’s right to play and be active participants in all matters affecting their lives. Underpinned by a child-rights approach, the ALFs also support implementation of the National Principles.

Interwoven throughout all of the learning outcomes is the importance of child safe environments in supporting and promoting educational experiences. *“Children’s wellbeing can be affected by all their experiences within and outside of their early childhood settings. Educators are uniquely positioned to observe children’s development, interactions and behaviour, to identify any issues of concern, and to take action to support all children’s safety and wellbeing.”*<sup>20</sup>

As a result of the refresh, the national ALFs were expanded to strengthen teaching and learning about personal safety, assisting children and families with e-safety, and engaging with other professionals to enhance the learning of children affected by trauma.

The following topics in the national ALFs are focused on services providing a child safe environment through quality pedagogy and practice:

- Provide clear, accessible information for families and communities about the service’s policies, including child safety and wellbeing, Code of Conduct, record keeping practices, and complaints and investigation processes.
- Promote body safety awareness with children and young people.
- Create culturally safe and secure environments and work in intercultural ways, in particular, Aboriginal and Torres Strait Islander ways of being, knowing and doing.
- Discuss health and safety issues with children and involve them in developing guidelines to keep the environment safe for all.
- Encourage and teach children about personal safety including strategies to support children’s and families’ awareness of boundaries.
- Enact/adopt trauma-informed practices to enhance the safety and wellbeing of children who have experienced or are experiencing adversity.
- Support children to learn about and recognise safe and unsafe situations.
- Use digital technologies and media safely.

<sup>18</sup> In Victoria, approved services may also use the [Victorian Early Years Learning and Development Framework](#).

<sup>19</sup> United Nations. (1989). [United Conventions on the Rights of the Child](#), accessed 13 June 2023.

<sup>20</sup> Australian Government, Department of Education. (2022). [Belonging, Being and Becoming: The Early Years Learning Framework for Australia V2.0](#), accessed 27 June 2023.

## Children’s Education and Care Sector

The benefits to all children, families and society of high-quality early education and care are well understood nationally and internationally. The benefits are particularly significant for children from disadvantaged or vulnerable backgrounds: demonstrating gains in cognitive function, language and social-emotional development as well as improved long-term outcomes. Increasing the proportion of Aboriginal and Torres Strait Islander children engaged in high-quality, culturally appropriate early childhood education is a specific socio-economic target of the National Agreement on Closing the Gap, recognising the importance of quality education and care for improving outcomes and reducing disadvantage<sup>21</sup>.

Quality early education and outside school hours care (OSHC) also provide children and young people with protective factors which are vital to their wellbeing: being able to communicate, addressing any safety concerns and preparing them for success, including higher levels of educational attainment, reduced dependence on social services and lower rates of criminality<sup>22</sup>.

Accordingly, the early education and OSHC sector is complex and growing to meet demand, with a growth from 14,335 services in 2014 to over 17,000 services, a steady increase of 20% in the last 10 years. Nationally, four-fifths (80%) of services are currently located in the three most populous states, with more than a third (34%) in New South Wales, more than a quarter (27%) in Victoria and just under a fifth (19%) in Queensland. Almost three-quarters (71%) of services are located in major cities, with just over a quarter (26%) in inner and outer regional Australia, and 2% in remote and very remote Australia.

### Service type and growth

Long day care and OSHC services, and preschools/kindergartens are collectively referred to as centre-based services. Tasmanian preschools/kindergartens and most preschools/kindergartens in Western Australia are outside the scope of the NQF, as are other services that are not regulated under the National Law, for example, occasional care services and the majority of the Community Child Care Fund Restricted (CCCCFR) services. The CCCCCFR services are predominantly located in regional and remote First Nations’ communities and were historically known as Budget Based Funded (BBF) services.

Table 1 provides a national and jurisdictional breakdown of service types:

- 8924 long day care services (51% of approved services)
- 4998 outside school hours care services (29%)
- 3062 preschools/kindergartens (18%)
- 437 family day care services (2.5%).

21 ACECQA., (2023). [Submission on the Productivity Commission inquiry into Early Childhood Education and Care](#), accessed 11 September 2023.

22 Heckman, J. (2012). [Invest in Early Childhood Development: Reduce Deficits, Strengthen the Economy](#), accessed 2 September 2023.

**Table 1: Approved services under the NQF by jurisdiction and service sub-type as at 1 October 2023**

Jurisdiction	Family day care	Long day care	Preschool/Kindergarten	Outside school hours care	Other	Total
ACT	5	178	85	103	0	371
NSW	119	3480	762	1585	0	5946
NT	4	95	75	53	1	228
QLD	106	1831	499	794	0	3230
SA	14	467	414	387	0	1282
TAS	6	137	0	94	0	237
VIC	152	1915	1212	1489	0	4768
WA	31	821	15	493	2	1362
<b>National</b>	<b>437</b>	<b>8924</b>	<b>3062</b>	<b>4998</b>	<b>3</b>	<b>17424</b>

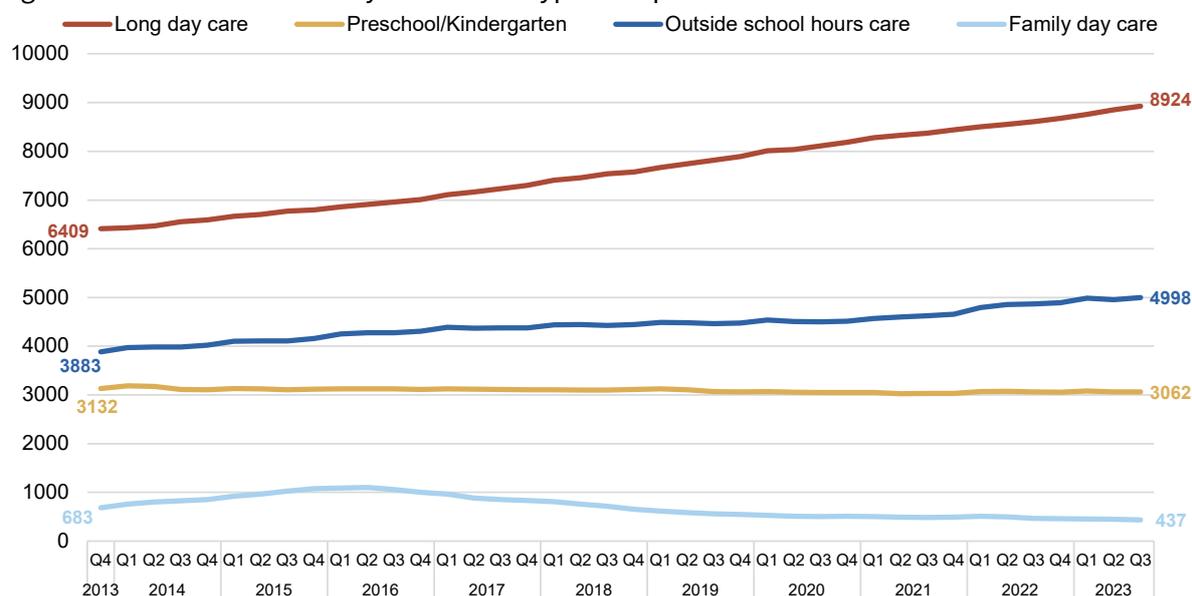
Source: ACECQA [NQF Quarterly Snapshot](#) – data as at 1 October 2023.

The number of FDC services has reduced since 2012 as outlined in Figure 1 below, mainly due to collaborative government and AFP compliance efforts around 2015 to address pockets of fraudulent practice and safety risks to children. As a result, there was ongoing movement of FDC educators across FDC schemes and a consolidation of Approved Providers.

It is important to note that FDC provides a viable, quality education and care option for families and carers in many contexts, as evidenced during the COVID-19 pandemic, particularly for non-standard hours care for essential workers, children entering the child protection system and in rural and remote communities where centre-based services may not be sustainable. Attracting and retaining high-quality providers of FDC is an important option to best meet many family needs in all communities.

There has been ongoing demand driven growth in LDC and OSHC, noting NSW and NT only started regulating OSHC in 2012 and OSHC services have also grown in service size to meet working parents’ needs. Changing policy settings under the Australian Government’s Cheaper Childcare initiative and state and territory reforms relating to 3- and 4-year-old provision will continue to drive increased demand across long day care and preschool/kindergarten, with likely OSHC flow on impacts.

**Figure 1: Number of services by service sub-type and quarter**



Source: ACECQA [NQF Quarterly Snapshot](#) – data as at 1 October 2023.

## Sector Workforce

Skilled and experienced teachers and educators are integral to the delivery of high-quality education and care. Over the last 10 years, the sector workforce has been impacted by diverging trends: requirements for staffing and qualifications have progressively increased; enrolments in vocational and tertiary courses have declined; steady growth in the number of services continues; and competitive demand for teachers in schools continues to increase. Additionally, as the realisation of the critical importance of quality education and care for young children expands across all governments, there is an international demand for, and shortage of, early childhood teachers and educators.

These trends and other workforce challenges informed the development of the co-designed *Shaping Our Future 2022-2031*. Over half of the 21 actions are due to be completed by 2024, having been fast tracked in recognition of the magnitude of issues. A number of actions are designed to provide for more effective assessment and monitoring of suitability for people seeking to work with children including harmonised early childhood teacher registration/accreditation, improved access to the development of options for an educator register, improved induction processes and capability building in prioritised areas.

There remains a high turnover of staff at some services due to ongoing effects of the COVID-19 pandemic, with the number of casual staff increasing and a heightened reliance on recruitment agency staff in most jurisdictions. This is resulting in teachers and educators who may need greater induction and onboarding support to work within a service's policies and procedures. For example, a lack of continuity and inconsistency in a primary relationship makes it challenging to identify and respond quickly to a child's needs including identifying behaviours associated with abuse or maltreatment.

The Review of NQF Staffing and Qualifications is one of the actions under [Shaping Our Future 2022-2031](#) and has highlighted the sector's views on the importance of qualifications, whilst also acknowledging acute workforce challenges, particularly in some remote and very remote communities.

## NQF Quality Improvement

Over the last 10 years, the sector has demonstrated sustained improvement in all quality areas, with 90% of services rated Meeting NQS or above as at 1 October 2023, as outlined in Figure 2 below. There has been steady year-on-year improvement in the proportion of approved services rated Meeting NQS or above in the most disadvantaged areas of Australia, from 76% in 2019 to 86% in 2023. However, there remain marked socioeconomic differences in the proportions of services rated Meeting and particularly Exceeding NQS, with 21% of services in Australia's most disadvantaged areas rated Exceeding NQS or above, compared with 29% in the most advantaged areas. This gap has remained consistent over the last seven years.

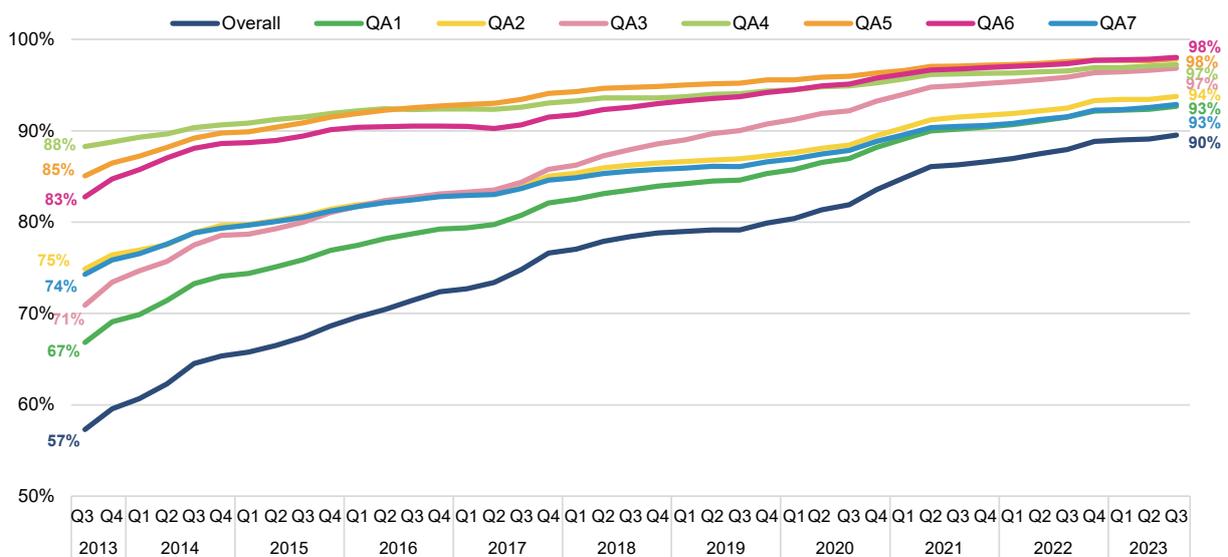
The NQF has been reviewed twice to ensure it is fit for purpose and continues to meet its objectives. The first review of the National Quality Agenda took place in 2014 to evaluate the efficacy of the new system and to address identified areas for change. The 2019 NQF Review recommended changes to the National Law and National Regulations, as well as producing and making available additional guidance for the sector to enhance children's safety, health and wellbeing. Safeguards have been increased, with additional requirements for child safe policies, transporting children, emergency evacuation from multi-storey buildings during fire related events, sleep and rest guidance, and ensuring all National Principles ([Attachment 2](#)) are covered in the NQF.

An Approved Provider is the legal entity and legally responsible for managing the service. Persons with Management or Control (PMCs) are the persons within or outside of the Approved Provider who are responsible for managing the delivery of the provider's service(s), or who have significant influence over the activities or delivery of the service. From 1 July 2023, the legislated definition of who constitutes a PMC under the National Law was expanded (except in WA), to better enable Regulatory Authorities to assess the suitability of all persons who have significant influence, responsibility or

authority over the delivery of the provider’s service(s) making decisions on matters which can impact the safety, health and wellbeing of children at their service, which reflects the evolving structures of service management and governance.

Provider and service approval applications can now be assessed simultaneously by Regulatory Authorities and the Australian Government with a combined NQA ITS application process. This new solution provides stronger and more nationally consistent controls on market entry using a shared risk framework to assess fitness and propriety, to share intelligence and to increase the checks and balances on Approved Providers.

Figure 2: Proportion of services rated Meeting NQS or above by overall rating and quality area<sup>23</sup>



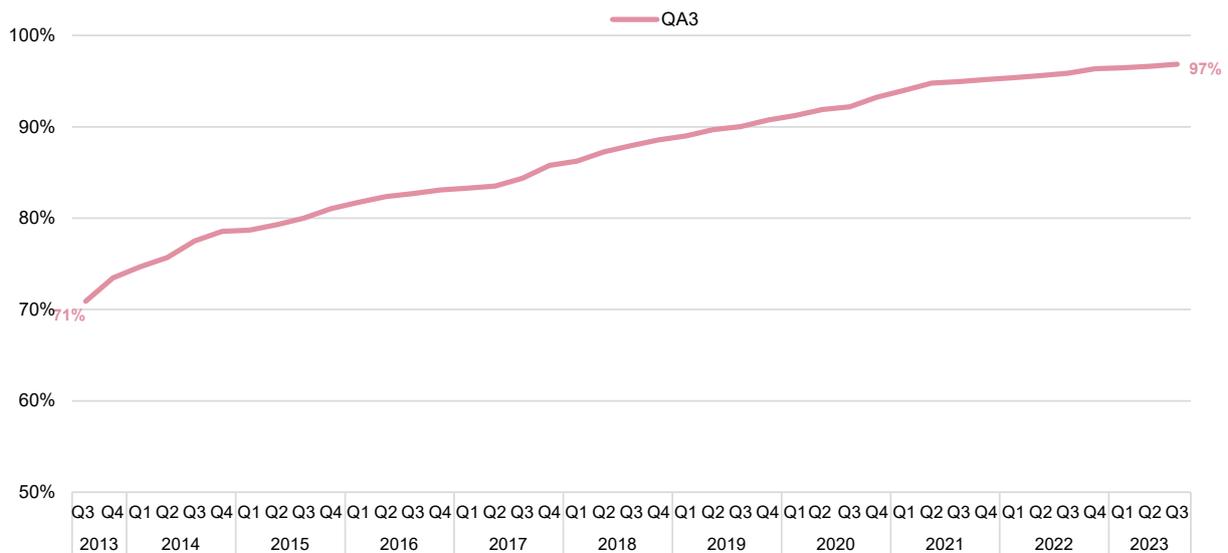
Source: ACECQA [NQF Quarterly Snapshot](#) – data as at 1 October 2023.

23 QA1 - Educational program and practice; QA2 - Children’s health and safety; QA3 - Physical environment; QA4 - Staffing arrangements; QA5 - Relationships with children; QA6 - Collaborative partnerships with families and communities; QA7 - Governance and leadership.

## CHAPTER 2: PHYSICAL AND ONLINE ENVIRONMENTS

*Quality Area 3 (QA3) Physical Environment* in the NQS ensures the physical environment is safe, suitable and provides a rich and diverse range of experiences that promote children’s learning, development and wellbeing. The way Approved Providers and their staff design, equip and organise the environment significantly influences the way children use, engage and are kept safe within the space and resources available. The environment can and should maximise children’s engagement and foster positive experiences and inclusive relationships. Figure 3 below evidences the significant improvement in QA3, with 71% of services Meeting the NQS or above in 2013, to 97% in 2023.

**Figure 3: Proportion of services rated Meeting NQS or above for Quality Area 3**



Source: ACECQA [NQF Quarterly Snapshot](#) – data as at 1 October 2023.

Children have the right to experience quality education and care in a safe and healthy physical and online environment. Whilst the physical environment has always been reflected in the NQF, the importance of a safe online environment has been evolving over recent years as services, educators and children increasingly use digital technology as part of the learning landscape.

The 2019 NQF Review amended regulation 168 to require Approved Providers and their staff to develop and implement a policy and procedure that includes the safe use of online environments. This amendment reflects the reality of changing opportunities and risks, and the promotion of safety and wellbeing by the minimisation of harm to children and young people in relation to physical and online environments (National Principles).

### Online Safety

In recent years, the digital landscape has dramatically changed. Australian and international research shows that children are increasingly connected to the digital environment from a younger age<sup>24</sup> and are spending more time online<sup>25</sup>. The number of mobile devices (tablets and smartphones) children use to access the internet has increased<sup>26</sup> as children and young people use the digital environment to connect with each other, expressing themselves and their identity through the creation of digital content, maintaining links to culture, and for leisure. While there are opportunities for enhanced

24 Burns, T and F. Gottschalk (eds.). (2020). [Education in the Digital Age: Healthy and Happy Children](#), accessed 5 July 2023 and eSafety Commissioner. (2018). [Digital families](#), accessed 20 August 2023.

25 eSafety Commissioner. (2018). [Digital families](#), accessed 20 August 2023.

26 OECD. (2021). [Recommendation of the Council on Children in the Digital Environment](#), accessed 4 July 2023.

learning within a digital environment, it also comes with risks that continue to evolve alongside technology advancements<sup>27</sup>.

The importance of online safety was recognised with the establishment of Australia’s first eSafety Commissioner in 2015 as an independent regulator and educator. The eSafety Commissioner co-ordinates efforts across government departments, authorities and agencies to educate Australians about online safety risks and to remove harmful content such as cyber abuse and illegal and restricted content from the internet. The eSafety Commissioner undertakes a variety of prevention, protection and systemic change activities, for example, the Commissioner conducts research, provides education, undertakes prevention and awareness raising initiatives, and stakeholder engagement strategies<sup>28</sup>.

The eSafety Commissioner provides a place to report serious cyberbullying, image-based abuse and illegal online content, including child sexual abuse material. The *Online Safety Act 2021* provides the eSafety Commissioner powers to develop the Basic Online Safety Expectations for the technology industry, setting out the Australian Government’s expectations of technology companies that operate online services. The Commissioner also has the power to request technology providers to remove seriously harmful content within 24 hours. In relation to children, the eSafety Commissioner’s powers cover:

- serious cyberbullying directed at Australian children 18 years and under;
- image-based abuse, which is sharing or threatening to share intimate images or videos of a person without their consent;
- illegal online content, such as Child Sexual Abuse Material and Abhorrent Violent Material which includes content that promotes, incites or instructs terrorist acts or other violent crimes.

The eSafety Commissioner has worked with Early Childhood Australia to design the eSafety Early Years program to deliver a series of online professional learning modules specifically for early childhood educators. The program was launched in 2020 with 63,126 users accessing the modules since it launched until July 2023. There are three modules for educators and one for service leaders that provide comprehensive, competency-based learning in the ever-evolving area of online safety. A fourth module, for Directors and Managers, is focused on policies and processes designed to ensure a safe online environment in ECEC services. This module was created in consultation with ACECQA and aligns with the EYLF V2.0 for Australia.

Artificial intelligence (AI) is an emerging issue. With the abundance of personal information collected, processed and shared through advanced analytics such as AI, there is an increased risk of children’s data being used for profiling and grooming. AI applications include text-based chatbots or programs designed to simulate conversations with humans, image or video generators and voice generators. The eSafety Commissioner has recently released a Generative AI position statement to advise on, and minimise the harms of, generative AI<sup>29</sup>.

The OECD often recognises the work of the eSafety Commissioner as leading the way internationally in the online space for children<sup>30</sup>. There is also online guidance for children being developed internationally, such as the Committee of Ministers of the Council of Europe’s Guidelines to respect, protect and fulfil the rights of the child in the digital environment – Recommendation CM/Rec(2018)<sup>31</sup> of the Committee of Ministers, the OECD Council at Ministerial level’s Recommendation of the Council

27 OECD. (2021). [Recommendation of the Council on Children in the Digital Environment](#), accessed 4 July 2023.

28 Australian Government, [eSafety Commissioner](#), accessed 19 August 2023.

29 eSafety Commissioner. (2023). [Generative AI – position statement | eSafety Commissioner](#), accessed 16 August 2023.

30 OECD. (2021). [Children in the digital environment: Revised typology of risks](#), OECD Digital Economy Papers, No. 302, OECD Publishing, Paris, accessed 5 July 2023.

31 OECD Committee of Ministers. (2018). [Guidelines to respect, protect and fulfil the rights of the child in the digital environment – Recommendation CM/Rec\(2018\)7 of the Committee of Ministers \(2018\)](#), accessed 4 July 2023.

on Children in the Digital Environment<sup>32</sup>, the UK's Age Appropriate Design Code<sup>33</sup> and their Children's Code<sup>34</sup>, and the Eight Recommendations to Enhance the Protection of Children Online<sup>35</sup> from the Commission Nationale de l'Informatique et des Libertés (CNIL) in France.

### What is the issue?

The eSafety Commissioner has used the OECD's Typology of Risks, which was revised in 2021, to provide a contemporary overview of the different risks that children may face in the digital environment, including content, contact, conduct and consumer risks<sup>36</sup>. The eSafety Commissioner identified risk categories which can have wide ranging impacts on children's lives:

- privacy risks;
- advanced technology risks; and
- health and wellbeing risks<sup>37</sup>.

Children are more likely to face increased privacy risks and be exposed to hateful, harmful or offensive content online as they spend more time in the digital environment. The OECD and Australia's eSafety Commissioner have identified an increase in cyberbullying of children and young people in recent years and risks that existed previously, such as exposure to harmful content and cyberbullying, have changed in nature but are still persistent issues<sup>38</sup>. They also identified that issues that did not exist (or were not highly visible) in 2011, such as peer to peer sexting or sextortion, are increasingly a concern.

According to research by the eSafety Commissioner in 2018<sup>39</sup>, 81% of Australian parents reported that their 2 to 5-year-old child used the internet, with other research finding that 89% of 4-year-olds would click on a pop-up, even if they could not read it and did not know what it was about. Also, 73% of 4-year-olds surveyed said they would tell someone their name and address online, and 70% would tell them their age.

Approved Providers and their educators must play an important role in ensuring that children can identify risks of the digital environment, as well as safeguarding them from harm. The refresh of the national ALFs in 2022 addressed the significance of the online environment to support educators to develop quality practices to deliver a child safe culture and environment that aligns with the National Principles. Both updated ALFs emphasised the role educators have to discuss and model appropriate use of digital technologies to keep children safe online.

Hasse (2019, in OECD, 2022<sup>40</sup>) has identified that, whilst advanced technologies such as AI, Internet of Things, predictive analytics and biometrics, can have benefits, they can also create new and/or amplify existing risks. The OECD<sup>41</sup> has emphasised the importance of transparency in the way children's data

32 OECD. (2021). [Recommendation of the Council on Children in the Digital Environment](#), accessed 4 July 2023.

33 Information Commissioner's Office. [Age Appropriate Design Code](#), accessed 5 July 2023.

34 Information Commissioner's Office. [Children's Code](#), accessed 5 July 2023.

35 Commission Nationale de l'Informatique et des Libertés. (2021). [Eight Recommendations to Enhance the Protection of Children Online](#), accessed 6 July 2023.

36 OECD. (2021). [Children in the digital environment: Revised typology of risks](#), OECD Digital Economy Papers, No. 302, OECD Publishing, Paris, accessed 5 July 2023.

37 OECD. (2021). [Children in the digital environment: Revised typology of risks](#), OECD Digital Economy Papers, No. 302, OECD Publishing, Paris, accessed 5 July 2023.

38 OECD. (2021). [Children in the digital environment: Revised typology of risks](#), OECD Digital Economy Papers, No. 302, OECD Publishing, Paris, accessed 5 July 2023.

39 eSafety Commissioner. (2018). [Digital families](#), accessed 20 August 2023.

40 OECD. (2022). [Companion Document to the OECD Recommendation on Children in the Digital Environment](#), accessed 1 July 2023.

41 OECD. (2022). [Companion Document to the OECD Recommendation on Children in the Digital Environment](#), accessed 1 July 2023.

are collected and processed through AI based technologies. Educators are increasingly using AI to create documentation of children’s learning. This increase in AI to interpret and document children’s experiences can reduce opportunities for educators to make connections about how the play intersects with, and reflects, specific areas of the ALFs. Both the use of AI and the trend to take multiple daily images of children distance the educator from drawing on their deep knowledge and experience in child development, maximising learning opportunities and strengthening their knowledge of each child’s interests and needs.

### What needs to be done?

It is clear that more needs to be done in providing additional guidance and direction for Approved Providers and their staff in the use of online technologies, including the use of personal devices to take images or videos of children. There is a delicate trade-off between enabling opportunities that the digital environment can bring to enhancing and recording children’s learning and protecting them from risks. Whilst the ALFs do this from a pedagogical position, more is required in the regulatory settings and associated requirements to clarify acceptable practices and to protect children’s images, their privacy and safety.

Specifically, there is a need to improve practice and better understand effective ways to empower staff, children and young people to use devices safely, and to upskill and increase an understanding of digital safety environments. Approved Providers and educators can establish a safer digital environment, for example, through improving children’s digital literacy<sup>42</sup>. Internationally, the OECD research has shown that teachers consistently rate ICT skills for teaching as the second highest professional development need<sup>43</sup> as there is often limited knowledge of and skills in online safety<sup>44</sup>.

The NQS should have a modest update to reflect the inclusion of the online environment and provisions updated in the National Regulations to provide internal consistency and alignment practices with the NQS, with a preference for broadening existing elements or standards, rather than creating new ones.

Specifically, this can be achieved by amending the NQS to:

- enshrine ‘Child Safe Culture’ in *Quality Area 7: Governance and Leadership* to recognise and promote the importance of the role played by, and responsibilities of, Approved Providers and service leaders in fostering a child safe culture, responsive relationships, engaging experiences and a safe and healthy environment;
- reflect the inclusion of the online environment provisions in the National Regulations by strengthening:
  - » *Quality Area 2 – Children’s health and safety* at the element level, to make explicit mention of online safety when using technologies.
  - » *Quality Area 3 – Physical environment* to cover physical and online environments and reflect this across relevant standards and elements. This will ensure the use of technology is risk-assessed and monitored, including that devices are child-safe and have age-appropriate features enabled.

Additionally, procedural guidance should be included in the ‘[Providing a Child Safe Environment](#)’ national policy guidelines on the use of electronic devices.

At present, the NQF policy guidance, which sets out the main components to be included in all services’ policies and procedures to support compliance with the National Law, encourages Approved

42 OECD. (2021). [Children in the digital environment: Revised typology of risks](#), OECD Digital Economy Papers, No. 302, OECD Publishing, Paris, accessed 5 July 2023.

43 OECD, 2018, within OECD, 2022, [Companion Document to the OECD Recommendation on Children in the Digital Environment](#), accessed 1 July 2023.

44 OECD. (2021). [Children in the digital environment: Revised typology of risks](#), OECD Digital Economy Papers, No. 302, OECD Publishing, Paris, accessed 5 July 2023.

Providers to consider “how you will set up learning environments to support the safety and wellbeing of children, including in physical and online learning environments”. However, there is no specific advice about what should be considered in the safe use of electronic devices.

It will be important to work with experts such as the eSafety Commissioner to update the NQS and provide contemporary procedural guidance. The NQF is based on the guiding principle of best practice and, given the OECD highlights that legal and policy responses have been failing to keep pace with the evolution of the digital environment<sup>45</sup>, the NQF needs to better reflect:

- safeguards for children’s privacy and protecting their personal data for children’s wellbeing and autonomy, and for meeting their needs in the digital environment;
- children’s capabilities vary by age, maturity and circumstances so actions for the digital environment should be age-appropriate, tailored to accommodate developmental differences, and reflect that children may experience different kinds of access to digital technologies based on their socio-cultural and socio-economic backgrounds and the level of parental, guardian and family engagement;
- policies and regulation which empower children to become confident and competent users of digital technology, foster their resilience, reduce harm and establish a safer digital environment by design.

## CCTV

There is increasing use of CCTV equipment and monitoring within children’s education and care services. Whilst no data has yet been collected on the number of services using CCTV equipment, Regulatory Authorities are reporting an increase in usage and growing concerns about placements, storage and intent.

Recent research undertaken in Israel on the implications of CCTV cameras in an early childhood context considered whether they are an effective means of maintaining a secure environment. Israel supported early findings of other researchers of CCTVs in educational institutions<sup>46</sup> that found they provide the **perception of preventing harm** to children but, in reality, they do not stop harm, and educators and parents were concerned about the violation of children’s and their own privacy<sup>47</sup>. Furthermore, in Australia the Quality and Safeguards Commission in their guide of practice considerations and safeguards when using surveillance technology of people with disability, identified that “*while CCTV may ‘capture’ abuse and neglect; it does not prevent it*”<sup>48</sup>.

Regulatory Authorities noted that some providers are randomly reviewing their CCTV footage to ensure their educators are interacting appropriately and, if they identify inappropriate discipline, they are self-reporting this to the Regulatory Authority. Regulatory Authorities have acknowledged that when undertaking investigations at a service, if CCTV footage is available, they will request this as part of their investigation as it provides evidence of the events as they occurred. It has been identified as helpful evidence in investigations, enabling the Regulatory Authority to take proportionate action.

CCTV footage or photos or videos of an individual are treated as personal information under the *Privacy Act 1988* (Cth) if the identity of the person is clear or could reasonably be worked out. An organisation

45 OECD. (2021). [Children in the digital environment: Revised typology of risks](#), OECD Digital Economy Papers, No. 302, OECD Publishing, Paris, accessed 5 July 2023.

46 Taylor, E. (2010). [I spy with my little eye: The use of CCTV in schools and the impact of privacy](#). *Sociological Review*, 58(3), 381–405, and Amos, P., White, J., & Trader, B. (2015). Will cameras in classrooms make schools safer? TASH position statement on camera surveillance in self-contained classrooms, accessed on 9 November 2023.

47 Hagit Meishar Tal, A., Forkosh Baruch, L., Levy and Shenkar, T. (2022). [Implications of CCTV cameras on child care centres’ routines, peer relationships, and parent–teacher relationships: child care educators](#), 16:9 *International Journal of Child Care and Education Policy*, accessed 2 June 2023.

48 Quality and Safeguards Commission. (August 2022). [Surveillance Technology Practice Guide \(2022\)](#). Penrith, Australia: NDIS Quality and Safeguards Commission, accessed 10 November 2023, page 11.

must tell the person their image may be captured before they are recorded and make sure recorded personal information is secure and destroyed or de-identified when it is no longer needed. The *Privacy Act 1988* (Cth) applies to participating jurisdictions as a law for the purposes of the NQF. Within each state and territory, there is also jurisdiction-specific legislation about the collection, management and storage of personal information, by government agencies and businesses. Approved Providers need to know about, understand and comply with these various laws.

The *Privacy Act 1988* (Cth) does not specifically cover surveillance in the workplace, however, there are comprehensive laws which specifically regulate workplace surveillance in New South Wales (NSW) and the Australian Capital Territory (ACT). In NSW, this is the *Workplace Surveillance Act 2005* and in the ACT, it is the *Workplace Privacy Act 2011*, with the disclosure and use of surveillance records in the workplace specifically regulated. Other jurisdictions such as Western Australia, South Australia, Northern Territory and Victoria have surveillance devices legislation which covers the use of surveillance devices in the workplace.

### What is the issue?

Approved Providers are not typically aware of the relevant Commonwealth and/or jurisdiction specific legislation for the use and storage of CCTV footage and data at their service(s). There is also no current guidance on the use of CCTV cameras in relation to children's privacy and ensuring their consent is recorded. Whilst most services known to be using CCTV do not have cameras positioned into areas such as bathrooms and nappy change facilities, there is no best practice guidance to support the appropriate use of CCTV in education and care services.

There are also considerations to be made for the use of CCTV in FDC settings, including how Approved Providers would monitor appropriate use, storage of data and the security of the systems given CCTV footage has the potential to be accessed by other residents or hackers if stored inappropriately.

Approved Providers could assume that installing CCTV cameras will deter staff from undertaking inappropriate behaviour and may therefore become complacent about creating effective practices that support the creation of a child safe culture. Regulatory Authorities have observed that CCTV does not necessarily deter inappropriate behaviour, and as such, evidence from CCTV footage has been used to aid some regulatory investigations.

Further, some Regulatory Authorities have been contacted by parents requesting assistance to access CCTV footage if they have a complaint or issue. Regulatory Authorities also need to understand and comply with their jurisdiction-specific legislation, where relevant, about how they should receive, manage and store CCTV footage during an investigation.

### What needs to be done?

Approved Providers need clear guidance about the development of policies covering communications with families, educators and all staff about the use of CCTV and how CCTV footage is collected, used and stored. This needs to be underpinned by appropriate approvals, permissions and processes and align with the *Privacy Act 1988* (Cth) or the relevant jurisdiction's legislation for collection, use, storage and retention of images of individuals. The following amendments to the National Regulations should be made to require an Approved Provider to have a policy and procedure in place if they intend using CCTV in an education and care service to:

- inform families of the use of the CCTV including the purpose of its use and require permissions;
- explain how data are stored, kept secure and accessed;
- ensure timely access to CCTV footage for Authorised Officers and other authorised persons such as police, when requested.

## Digital Photos and Videos of Children

Documentation of children's learning is a requirement of the National Regulations (regulation 74, 177(1)(a) and 178(1)(a)). The ALFs are fundamental to the planning, delivery and evaluation of the educational program for children's learning, development and wellbeing.

Digital photos and videos have become the most common tools used to document children's learning and engagement. Many education and care services provide this documentation to families through social media applications (often restricted for use by authorised persons such as parents) to allow them to view their child's participation in experiences by regular posts and updates.

In a school age education and care context, it is up to each Approved Provider of OSHC or FDC to implement policies around the use of personal devices such as smart watches, mobile phones or tablets by children. Some have chosen to prohibit their use or may allow monitored use. A number of jurisdictions have moved to ban mobile phones in school settings, whilst others are set to do so in the near future. This may lead to similar policy positions in states and territories around the use of devices in OSHC services and government preschool settings.

### What is the issue?

There is a trend of putting increasing pressure on educators to use photos and videos of children in the name of documenting children's learning and participation. In reality, this pressure and the widespread use of personal devices seem to be in response to parental expectation to receive photos, videos and updates of their child regularly throughout the day. There have also been reports of educators becoming so focused on taking a photograph of the child that they forget to put the rights of the child first, for example, placing a child into a certain position to get a group photograph on an excursion, rather than respecting the child's choice to not participate in the photograph.

This type of documentation is not a requirement of the NQF and it challenges educators to provide frequent updates in the place of more descriptive and meaningful documentation. It also reduces educators' abilities to effectively supervise, interact with and engage with children in their learning. In these circumstances, educators may be present with children but not providing adequate supervision or utilising important 'teachable moments' to extend the child's interests, learning and development of skills.

Approved Providers need to be vigilant and have oversight and control of who has access to images of children. This includes:

- accessing images within the service, for example, staff accessing digital and hardcopy files;
- images, videos and content posted online, for example through an application to share with a child's family;
- files inappropriately posted online or shared through other applications, not for the purpose of sharing with a child's family;
- use of devices at the service, including educators using personal devices for taking photos and communicating with families.

There is a very real risk that unscrupulous persons within a service could use their own personal device to take images of a child and share these images inappropriately with others who are not educators or parents. This risk includes taking inappropriate images, in particular where physical or sexual abuse is occurring to the child or sexualised images of the child are produced. In these circumstances, an Approved Provider has no way of managing and monitoring what images are being taken and where or to whom they are being sent.

An additional risk to children's safety is the possession and use of personal devices by children and young people, particularly at OSHC services. Regulatory Authorities report incidents of children using

these devices to take inappropriate images of other children, often where unsupervised in the toilet facilities. In addition, children are at risk of being groomed or engaging in activities such as bullying or the sharing of inappropriate material whilst in the OSHC setting via applications on the device.

Services often request parents to approve the use of personal devices at OSHC and to sign consent forms, but it is difficult for the Approved Provider and educators to monitor the use of children's personal devices so strict controls and adequate supervision must be in place.

### **What needs to be done?**

Documentation of children's learning including their images must only occur on devices owned, monitored and secured by the Approved Provider. Approved Providers need to work with families to identify risks and develop mitigation processes for children and young people's use of devices, including clear policies to ensure children are not getting access to, or distributing, inappropriate content online.

The National Regulations need to be amended to:

- mandate that only service-issued/approved devices may be used when taking images of children, with further requirements for Approved Providers to have strict controls in place for the appropriate storage and retention of images;
- require parental authority to record children, including images and videos, and to clearly state the purpose for which they are to be used, including on any social media platforms.

In the immediate period before legislative changes are made, Regulatory Authorities could consider encouraging voluntary compliance or issuing conditions on existing service approvals to ensure only service-owned and approved electronic devices, such as tablets and phones, are used by anyone to take images of children. Additionally, these conditions could require strict controls to instead be in place to ensure the appropriate access to, storage, retention and disposal of such images. Further to this, the condition could also require anyone who is working or engaged at a centre-based service in any capacity should be prohibited from having personal electronic devices that can take images or videos, such as tablets, phones and smart watches on their person whilst with the children.

There are also opportunities to strengthen educators' understanding and practice around gaining informed consent from children of all ages for the use of photos, video and other media. Changes in educators' knowledge and practice in this area would provide educators with a foundation for engaging in conversations with children about consent more broadly, including identifying feeling safe and unsafe and where to seek help. These concepts could be addressed in content such as the Guide to the NQF and guidance materials.

### **Tobacco, Drug and Alcohol-free Environment**

An environment is only safe if it is free from all hazards. The Approved Provider and FDC educator must ensure that children are provided with an environment that is free from the use of tobacco, illicit drugs and alcohol (regulation 82).

The Approved Provider also has the obligation to ensure that their nominated supervisor, staff member or volunteer is not affected by alcohol or drugs (including prescription medication) so as to impair the person's capacity to supervise or provide education and care to children being educated and cared for by the service (regulation 83 (1)).

In addition, the nominated supervisor or FDC educator 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 (regulation 83 (2) and (3)).

### What is the issue?

Vaping has become an emerging trend globally. Vaping<sup>49</sup> refers to a vapour that is produced by e-cigarettes which are battery-operated devices that look and feel like cigarettes, cigars, pens or other common items. They do not burn tobacco, they heat liquids to produce a vapour that looks like smoke that is then inhaled. Some e-cigarettes contain nicotine and others contain chemicals and flavourings, like chocolate flavour.

The use of e-cigarettes by an adult on the premises of an education and care service is an emerging risk. From 1 October 2021, nicotine vaping products can only be purchased with a doctor's prescription under state and territory laws. Possession or use without a prescription is illegal in all states and territories except South Australia. It is also against the law, in all states and territories, except Western Australia, to use e-cigarettes in legislated smoke-free areas<sup>50</sup>. Whilst most e-cigarettes do not contain tobacco, hazardous substances have been found in e-cigarette liquids and the toxic chemicals and flavourings could be very harmful to children<sup>51</sup>.

### What needs to be done?

Given the complexity of e-cigarettes and their use of nicotine/other chemicals, and Australian Government advice that the long-term safety and health effects associated with e-cigarettes and exposure to second-hand vapour are still unknown<sup>52</sup>, a ban to prohibit e-cigarettes from education and care settings would put beyond doubt that they are not to be used and/or individuals should not be under their influence. This would also safeguard against circumstances where, for example, an older child in OSHC was vaping. A ban would also reduce the likelihood of children inadvertently accessing them and using the device or ingesting the contents.

It is recommended that the National Regulations be amended to require the service environment to be free from e-cigarettes, for example, vaping (expanding regulation 82 which requires the environment to be free from the use of tobacco, illicit drugs and alcohol).

### Family Day Care (FDC) Physical Environments

To ensure a residence is safe and suitable, the Approved Provider of a FDC service must conduct an assessment (including a risk assessment) of each proposed residence and venue before education and care is provided, and annually to ensure they are suitable and the health, safety and wellbeing of child/ren is protected (regulation 116).

From 1 October 2023, the physical environment requirements for FDC service provision have been strengthened by:

- requiring monthly inspections at FDC residences and venues that have swimming pools, water features and other potential water hazards;
- mandating nationally consistent requirements for safety glass used in FDC residences and venues; and
- requiring Approved Providers to display a diagram of areas of residences and venues that have been assessed by the Approved Provider to be suitable for education and care, so that families can clearly identify the spaces in which their child/ren will be cared for.

49 Australian Government. [Healthdirect](#), accessed 10 June 2023.

50 Australian Government. [Healthdirect](#), accessed 10 June 2023.

51 Australian Government. [Healthdirect](#), accessed 10 June 2023.

52 Australian Government. [Healthdirect](#), accessed 10 June 2023.

### **What is the issue?**

An Approved Provider of a FDC service must undertake an assessment of each proposed residence or venue before education and care is provided and then annually, enabling the Approved Provider to access all areas of the residence or venue at this initial assessment. However, it is not well understood by Approved Providers that they must enter areas of the residence or venue that are not part of the approved service (i.e. the residence/venue in its entirety).

The Approved Provider needs to check all areas of the residence or venue of a FDC service when undertaking an initial or annual risk assessment, given a child may inadvertently access unsuitable areas, for example nearby farming sheds, outdoor areas with gas bottles or where another room may be being used for inappropriate or illegal activity.

In addition, FDC educators may conduct a regular outing to a part of the residence that is not used to provide the FDC service and therefore not assessed by the Approved Provider or accessed by an authorised officer, however parental authorisation would need to be sought.

Currently, there is no provision for an authorised officer to access, inspect or assess any areas of the residence or venue that are not part of the approved service.

### **What needs to be done?**

The legislation needs to clearly allow and require the Approved Provider to enter areas of the residence or venue that are not part of the approved service following the first assessment and risk assessment, and for authorised officers to access, inspect or assess any areas of the residence or venue that are not part of the approved service.

Regulation 116 should be expanded to require FDC providers, during the initial assessment of the residence or venue and all subsequent annual visits, to conduct an assessment (including a risk assessment) of all areas of the residence and place, not just the area that is being used as part of the approved service.

Amend regulation 116 to formalise an approval process for the service premises to require approval from the Approved Provider before being used as a FDC service and this approval is confirmed or amended at the annual assessment. Currently, there is a technicality in the regulation that prevents an Approved Provider from deeming a residence as approved, rather, areas assessed by the Approved Provider are deemed as being appropriate for the use of education and care.

The powers of entry in Division 2 in the National Law should be amended to enable authorised officers to access all areas of a FDC residence and venue, not just the area that is being used as part of the approved service (service premises). The authorised officer powers of entry in Division 2 of the National Law are for the purposes of an authorised officer performing their functions of assessing and rating, monitoring compliance, obtaining information or investigating. In recognition of privacy concerns, the threshold for entry into a residence would need to be determined, for example, to be conditional on reasonable belief of risk of harm.

## CHAPTER 3: STAFFING AND SUPERVISION

Since its introduction on 1 January 2012, the NQF has progressively introduced higher qualification requirements, improved educator-to-child ratios and early childhood teacher requirements in accordance with international evidence that these elements are necessary for high-quality early education and care.

The professionalisation of the ECEC workforce has led to almost 220,000 early childhood teachers and educators working in the children's education and care sector<sup>53</sup>, with the majority being certificate III and diploma qualified educators, and an increasing proportion being degree qualified early childhood teachers. The 2021 National Early Childhood Education and Care Workforce Census<sup>54</sup> reported that 85% of the sector workforce hold an education and care qualification. This is an increase from 80% in 2016 and 69% in 2013. More than half (54%) are qualified at diploma level or higher, with 14% holding early childhood teaching degrees.

Quality Area 4 of the NQS recognises the importance of qualified and experienced educators who develop consistent and respectful relationships with children. There has been a sustained increase in service quality across Quality Area 4, with 88% of services Meeting or Exceeding the NQS in 2013, to 97% in 2023. The Approved Provider, educational leader, nominated supervisor, FDC coordinators and educators all play a vital role in ensuring educators act effectively and ethically, and the careful organisation of staff contributes to the quality of children's experiences and outcomes in an effectively supervised environment<sup>55</sup>.

Responsive, respectful relationships which promote children's sense of security and belonging are made explicit in Quality Area 5, reflecting that continuity of close relationships enable children to be confident in exploring their environment and engaging in play-based learning. Importantly, continuity of relationships means educators are able to identify changes in behaviour that may be concerning.

The National Principles are embedded in the NQF with Quality Area 7 highlighting the importance of organisational leadership, governance and culture in building and sustaining a professional and well-supported workforce. This Chapter explores these components of quality through key topics of recruitment and ongoing suitability, minimum qualifications and professional development whilst unpacking three practice issues relating to trauma informed practice, effective supervision and inappropriate discipline.

### Suitability to Work With Children

The Approved Provider's role is fundamental in providing a child safe environment by ensuring all staff are appropriately qualified and 'fit and proper' to work with children. [Attachment 4a](#) outlines the fitness and propriety requirements for all positions. During the recruitment process, careful screening helps to prevent people with a known history of criminal and inappropriate behaviour from gaining access to children and young people. This is undertaken through ensuring they have the relevant WWCC or teacher registration/accreditation. In each state or territory, a WWCC involves a review of the applicant's criminal history and assessments of professional misconduct.

In October 2023, amendments were made to staff records for centre-based services to require that if the service is located within a jurisdiction where they are required or permitted to obtain a WWCC under that jurisdictional law, a record of the identifying number of the student's or volunteer's current working with children check conducted under that law and the expiry date of that check, or proof of teacher registration, where this satisfies WWCC requirements, must be kept.

53 Australian Government, Department of Education. (2021). [Early Childhood Education and Care National Workforce Census](#), accessed 3 July 2023.

54 Australian Government, Department of Education. (2021). [Early Childhood Education and Care National Workforce Census](#), accessed 3 July 2023.

55 ACECQA. (July 2023). [Guide to the National Quality Framework](#), accessed 1 August 2023.

Teacher registration/accreditation is an important screening and monitoring safeguard and satisfies the WWCC requirement, except in New South Wales, Queensland and Tasmania. However, early childhood teachers working in non-school settings are not required to be registered in all jurisdictions. The ACT, Northern Territory, Queensland and Tasmania have committed to require all early childhood teachers, regardless of setting, to be registered (agreed action under *Shaping our Future 2022-2031*). Early childhood teachers in South Australia, Western Australia, Victoria and New South Wales regardless of their employment setting are already subject to the mandatory safeguards of teacher registration/accreditation schemes

The Royal Commission and the 2018 National Review of Teacher Registration<sup>56</sup> (National Review) recognised everyone has a responsibility to ensure children are safe and that nationally consistent high standards for suitability to enter and remain in the teaching profession are in the public interest. Both found that responsibility should not cease where a teacher moves between employers, sectors or jurisdictions, and does not cease where conduct that puts a child at risk occurs in another location. The role an employer or Teacher Regulatory Authority (TRA) plays in ensuring child safety will depend on the circumstances, however, complexity of circumstances should never be an excuse for denial of responsibility to ensure child safety.

The Royal Commission and the National Review also emphasised the need for national consistency of legislation, approaches and standards for ensuring child safety through teacher registration/accreditation, given the highly mobile nature of the Australian workforce.

Teacher registration/accreditation only applies to degree qualified educators. As the majority of the ECEC workforce are certificate and diploma qualified educators, they are not subject to the screening and monitoring safeguards afforded by teacher registration/accreditation. As similar safeguards for suitability to enter and remain in the ECEC sector as educators are not required, Approved Providers must rely on WWCC which have limitations for Australia's mobile workforce. Approved Providers must undertake further due diligence by using additional recruitment activities such as interviews and thorough reference checks. The Approved Provider must also undertake further legislated actions to ensure the suitability of a nominated supervisor prior to their appointment.

For FDC, the Approved Provider must keep a register that contains information about each FDC educator, coordinator and assistant engaged, employed or registered by the service (section 269 of the National Law). Regulation 153 prescribes the information to be held on the register about educators, coordinators and assistants, while regulation 154 prescribes information required to be kept about other staff engaged or employed by the service, including volunteers. FDC Approved Providers have 24 hours to provide the FDC register if requested by the Regulatory Authority. Given the importance of accurate information, failure to keep the register, ensure it is accurate and to provide details to the Regulatory Authority when requested, are all offences.

The 2019 NQF Review explored proposals to improve the timeliness of access to FDC register information in the interests of child safety, health and wellbeing and in line with risk-based proactive approaches to regulation. The benefits of access to **online** educator information include the ability for Regulatory Authorities to identify and provide time-critical information and support directly to educators during emergency situations to ensure the safety of children. The Decision Regulation Impact Statement committed to further work to improve such access, for example, by creating an online portal for provider information storage about educators and for improved regulator access to relevant educator information. This work is currently being considered.

In regard to professional conduct, the National Law enables sanctions related to unacceptable risk of harm to a child or failure to demonstrate fitness and propriety. Section 182 provides Regulatory Authorities the ability to issue a prohibition notice to an educator prohibiting that person from

<sup>56</sup> Australian Institute for Teaching and School Leadership. (2018). [National Review of Teacher Registration](#), accessed 21 August 2023.

providing education and care, from being engaged as a nominated supervisor, educator, FDC educator or volunteer, or any other activity relating to an education and care service. A Regulatory Authority may give a prohibition notice to a person in the following circumstances:

- If the Regulatory Authority considers there may be an unacceptable risk of harm to a child or children, if the person were allowed to remain on the education and care service premises, or to provide education and care to children (section 182(1)).
- To prohibit a person from being nominated as a nominated supervisor, if the Regulatory Authority considers the person is not a fit and proper person to be a nominated supervisor (section 182(3)(a)).
- To impose one or more conditions on the nomination of a nominated supervisor if the Regulatory Authority considers the person is a fit and proper person to be a nominated supervisor of a service, subject to those conditions (section 182(3)(b)).

Changes have been made to the NQA ITS public portal so that Approved Providers are able to verify whether a person is a prohibited person or a suspended FDC educator, drawing on the register of prohibited persons and suspended educators held within the NQA ITS. The *Guide to the NQF*<sup>57</sup> also provides a sample form for an educator to complete and provide to their employer stating they are not subject to a prohibition notice. This is another way for Approved Providers to ensure they exercise due diligence as required under section 188 by not engaging or employing a prohibited person.

The Regulatory Authority may use enforceable undertakings rather than prohibiting a person (sections 179A, 179B, 180 and 181) if they have concerns about their behaviour in relation to child safety. Enforceable undertakings can be placed on an Approved Provider or an educator: the Regulatory Authority may accept a written undertaking from the person, under which the person undertakes to take certain actions, or refrain from taking certain actions, to comply with the National Law. The person has to have willingly undertaken the requirements which, for example, could be to undertake professional development in behaviour guidance or review the code of ethics. If a person does not agree to an enforceable undertaking, the Regulatory Authority can move to show cause to prohibit the person. Some enforceable undertakings require that a copy must be given to any service at which the person may apply to work.

### What is the issue?

The sector is experiencing persistent and increasingly pressing shortages of appropriately qualified early childhood teachers and educators. This shortage has been exacerbated by a long period of lower completion rates in ECEC qualifications and the lingering effects of the COVID-19 pandemic. According to the 2021 National Workforce Census<sup>58</sup>, 59% of services reported having no capacity for additional places to meet demand and may be operating at reduced capacity due to the workforce shortage, particularly in areas where rooms and/or services are having to close due to the lack of staff.

This workforce shortage has resulted in concerns about the screening and monitoring of people seeking to work with children and young people. In the first instance, with the increased use of casual and agency relief staff as reported by all jurisdictions to meet parental demand (except Tasmania and South Australia), Regulatory Authorities have reported a concern with the level of vetting being undertaken pre-employment. Approved Providers have obligations when recruiting staff and meeting these obligations effectively is a vital control mechanism. When not exercised with due diligence and care, or where information is not accurate, there may be unacceptable risks about a person's suitability to work with children. For example, there can be issues with the timeliness of changes to a person's WWCC suitability status and referee checks can be ambiguous/uninformative, particularly if the applicant has unsubstantiated allegations. Where a person has a history of moving between

57 ACECQA. (July 2023). [Guide to the National Quality Framework](#), accessed 1 August 2023.

58 Australian Government, Department of Education. (2021). [Early Childhood Education and Care National Workforce Census](#), accessed 3 July 2023.

services and/or across jurisdictions, the WWCC may not be successful in identifying issues or patterns of inappropriate behaviour that fall below mandatory reporting levels.

In addition, in some jurisdictions a WWCC is not required to commence work or be engaged in an approved service, for example, for volunteers or students it is not required (see Chapter 5 for more details on inconsistencies across jurisdictions with the application and implementation of WWCCs).

An analysis of each jurisdiction's teacher registration/accreditation laws in relation to thresholds when making an application, criminal history checking (including overseas checks where relevant) and what information is available on a register was undertaken. Of particular importance is the conduct required to be reported by the early childhood teacher or employer in relation to child safety, and the thresholds of when the TRA engages disciplinary action. This revealed differences across jurisdictions including, for example, the ability to share information within and between jurisdictions and whether there is a Memorandum of Understanding or mutual recognition of registration between TRAs.

It is noted that automatic mutual recognition (AMR) for teachers is being implemented but not in all jurisdictions, subject to child safety requirements being addressed; this is explored further in Chapter 5.

The National Review identified that registration/accreditation is one of the most important mechanisms to assure the safety, competency and quality of a profession. It also noted that the profession of teaching is strongly committed to advocating for child safety and protecting children from harm. It is in the interest of the professional standing of, and community confidence in teachers to ensure that sufficient measures are taken to ensure only people who are safe, suitable, fit and proper are allowed to enter the profession.

The National Law does not define unacceptable risk of harm on the basis that the nature and degree of risk to children will vary depending on the particular circumstances. The risk of harm may be direct (for example, causing harm to children) or indirect (for example, wilful failure to act to prevent harm to children), but it must be unacceptable. In addition, the National Law does not give Regulatory Authorities the power to publish information which discloses who is the subject of a prohibition notice. The limitation is that, if asked by an Approved Provider, the Regulatory Authority can advise whether the person named in the request is the subject of a prohibition notice.

Whilst the teacher registration/accreditation process in some jurisdictions is able to effectively screen, monitor, record and share disciplinary action about early childhood teachers, it is not nationally consistent and does not apply to all teachers (not mandatory). Further, given the majority of the sector are vocationally trained educators, combined with the national inconsistencies and lack of harmonisation with WWCC, additional safeguards at a national level should be considered. WWCC issues in the NQF are outlined in [Attachment 4b](#), including a number of gaps and opportunities to strengthen and reduce complexity on the WWCC requirements within the NQF. It should be noted where other schemes already cover these recommended amendments, it should not be duplicated in these jurisdictions.

Regulatory Authorities have also identified that Approved Providers may have a lack of awareness/understanding about, and inconsistently use, the Prohibited Person Register referred to above.

### **What needs to be done?**

Legislation which **mandates the requirement for registration/accreditation** is a particularly important screening and monitoring tool for all teachers as well as being important in recognising their professional status. For example, when registration is not mandated, TRAs and employers in approved services are not legally enabled or obligated to report or respond to disciplinary matters. In contrast, under the relevant state laws, school authorities are obligated to report any disciplinary matters: the employing authority in schools has to report allegations of harm caused, or likely to be caused, to a child because of conduct and dismissals based on circumstances that call into question the teacher's competency.

For the four states and territories that do not currently require degree-qualified teachers working in non-school settings to be registered, it is recommended that they consider accelerating Action FA1-2 *Shaping Our Future 2022-2031*, where possible, to enable the mandatory registration of all early childhood teachers. This project needs the safeguards provided by teacher registration/accreditation schemes legally apply to all teachers, regardless of workplace setting or personal accountability.

To amend legislation to enable mandatory registration will take time. In the interim, it is recommended that TRAs be authorised and supported to strengthen safeguards for protecting children and young people, **enabling AMR** to be in place as quickly as possible for all jurisdictions.

Although not directly linked to the protection of children and young people, an important component of effective teacher registration/accreditation schemes is the application of the APST. The APST are used to underpin processes for full and continuing registration as a teacher and are intended to support the requirements of nationally consistent teacher registration. The National Review articulated the specific challenges for early childhood teachers working in non-school settings to work within the APST.

Consideration should be given to the application of the APST to teachers in non-school settings to ensure their relevance and applicability to these teachers and other teachers not working in school classrooms (recommendation 6), acknowledging their important role in supporting a nationally consistent approach and commitment to early childhood teacher registration/accreditation (recommendation 5). Accordingly, it is recommended that consideration be given to how **the APST may be adapted or equivalent standards be developed** to assist teachers in non-school settings to be registered and to successfully progress through their career stages, which is an important part of monitoring their professional practice.

For certificate and diploma qualified educators, there is a need to enhance the safeguards for both screening entry into the sector and monitoring and reporting behaviour that may fall below the standards required for mandatory reporting under WWCC systems and to police, particularly across state and territory borders. The Commission of Inquiry Tasmania recognised that waiting until a suspicion or concern becomes undeniable will sometimes allow abuse to continue and worsen, placing other children at risk. It also recognised that individuals can make mistakes such as minor boundary breaches due to the inexperience of individuals, which can be quickly resolved through conversation and education. But, in other instances, these early warning signs may point to a bigger problem that will require more serious and careful intervention. Accordingly, there are a number of options that could be considered.

**Option A** is to support a national information sharing pilot scheme through related and mature child protection scheme/s, such as between a WWCC or a reportable conduct scheme, leveraging the concept that these capture all sectors working with children to ensure that relevant information is effectively shared and available across jurisdictions. This work could be commissioned by governments and led by NOCS to enable a pilot for the education and care sector to be part of while work is underway on progressing a national consistent WWCC or national roll out of reportable conduct schemes across all states and territories using a consistent approach to thresholds of information that are collected, recorded and shared between regulatory agencies.

A pilot would need to occur in and between jurisdictions that have mature schemes and legislation that enables a pilot to be undertaken. Should the approach be successful, it could be upscaled as more jurisdictions progress implementation of their child safety schemes. Ideally, it would have a focus on an information technology solution to be able share real time data to enable informed decision-making across relevant agencies which is in the best interest of children. This approach would require information from the NQA ITS to be able to be shared, where permitted with other agencies, in jurisdictions based on agreed thresholds across the schemes and NQF Regulatory Authorities.

There is currently work underway progressing a national model for WWCCs outlined in [Chapter 5](#) focused particularly on WWCC and information sharing which may be able to be used in some capacity to inform this pilot, noting this project needs to take into account the sharing of information about patterns of inappropriate behaviour that fall below mandatory reporting levels, and may also fall under a Reportable Conduct Scheme, depending on jurisdictional thresholds.

**Option B** is to consider the feasibility of expanding the criteria for teacher registration/accreditation schemes so that certificate and diploma educators are subject to the same mandatory screening and monitoring regimes as degree-qualified teachers. Teacher registration/accreditation schemes are already well established in each state and territory and it may be a cost-effective option to establish parallel schemes under the authority of TRAs. If agreement was reached to enable AMR to be in place for all jurisdictions, sharing of key information across borders for a contemporary mobile workforce could be achieved.

If the approach was supported by all TRAs, a pilot could also be undertaken in a state or territory that has mandatory registration/accreditation and could modify their existing platform to be able to share real time data to enable informed decision-making and utilisation of expanded public registers which would include teachers and also educators. Further register detail could be accessible to employing authorities, such as Approved Providers and across relevant regulatory agencies, such as the NQF Regulatory Authorities.

This model could be upscaled and made national should a TRA integrated ICT solution be developed, which is being considered by governments and outlined in [Chapter 5](#) to progress increasing child safety safeguards to enable AMR and respond to Royal Commission recommendations.

**Option C** is to consider expanding the research into the development of a national registration system for educators who are not teachers. Education Ministers have agreed to Action FA1-6 *Shaping Our Future 2022-2031* which is to *develop options for a national registration system for educators on the basis that, just as teacher registration is lifting the professional recognition of early childhood teachers and supporting them to undertake in-service professional development each year, a national registration system for educators may also achieve the same desirable outcomes. A national registration system has the potential to provide real time workforce data, as well as benefits for employers, such as the need to undertake individual checks of qualifications.*

To this end, Action FA1-6 *Shaping Our Future 2022-2031* recommends *the commissioning of research to identify options for a national registration system for certificate III and diploma level educators, including considering any appropriate international examples of successful registration systems in similar sectors. The research will also consider the appropriate scope for the potential new system, including professional development requirements and supports, as well as the ongoing cost and burden.* This research could be expanded to include consideration of how the register would mirror the screening and monitoring safeguards of teacher registration/accreditation schemes.

While the original intent was to recognise educators' professional status, it makes sense to extend the purpose to fully include all the safeguards (high benchmarks for screening, assessing suitability and monitoring conduct) as well as the benefits of registration/accreditation (qualifications and ongoing professional development). The register may also have additional benefits such as reducing regulatory burden and the need for duplicative systems, for example, by replacing the need for FDC Approved Providers to maintain separate registers. With all centre-based and FDC educators registered, Approved Providers and regulators would have one system to validate qualifications (digital passport), and securely record histories of previous employment and any unsubstantiated allegations or patterns of inappropriate behaviour.

Noting that the research for Action FA1-6 is yet to commence, Wales has had a longstanding registration system for educators working in schools and other education settings such as vocational training. Since 2017, Wales has been working with the ECEC sector to consider mandatory

qualifications as well as professional registration to both recognise educators' continuous professional development and to provide public assurance of their suitability to work with children under the Government's Childcare, Play and Early Years Workforce Plan December 2017<sup>59</sup>. The Welsh Government, in 2022, commissioned an independent review of the childcare, play and early years (CPEY) workforce to inform actions and next steps for introducing a CPEY workforce registry<sup>60</sup>. This initiative may be of interest when considering an Australian educator register.

While these options are being considered, amendments to the National Law/Regulations could be made to reduce complexity, provide clarity and consistency, while taking into account existing jurisdictional legislation, noting where these arrangements are already in place the intent is not to duplicate requirements:

- clarifying beyond doubt that an Approved Provider cannot allow a person to commence work, or work as a volunteer, in an approved education and care service without a current WWCC or confirmed teacher registration/accreditation;
- requiring all staff regardless of roles/service types to notify their Approved Provider of a change in status to their WWCC or teacher registration/accreditation obligations and the Approved Provider to notify the Regularity Authority;
- requiring all centre-based staff to notify the Approved Provider of any circumstance that may affect whether someone is fit and proper to be in the company of children (mirroring the obligations for FDC educators introduced in 2023).

### Contemporary Knowledge and Skills for a Child Safe Environment

The NQF sets out the minimum qualifications to work in an approved education and care service. The Vocational Education and Training (VET) and Higher Education qualifications for the sector all require different levels of understanding about child safe environments and, in particular, may or may not include child protection, recognising harm, reporting requirements and behaviour guidance.

Skills Ministers are responsible for endorsing vocational training packages in line with the *Training Package Products Development and Endorsement Process Policy*<sup>61</sup> and the *Training Package Organising Framework*. It is now a requirement for an aspiring educator to have completed a Certificate III in Early Childhood Education and Care before commencing a Diploma in Early Childhood Education and Care unless the student completed the previous version of the current Certificate III or has received Recognition for Prior Learning (RPL).

Specifically, for the Certificate III in Early Childhood Education and Care, an updated unit *CHCPRT025 – Identify and report children and young people at risk*, was endorsed by Skills Ministers on 18 November 2022<sup>62</sup>. However, this did not reflect the specific skills and knowledge required for certificate III educators in children's education and care services, given it requires performance evidence in a child protection service. This resulted in *CHCPRT001 – Identify and respond to children and young people at risk* becoming the core subject and *CHCPRT025* becoming an elective.

59 Welsh Government, Childcare, Play and Early Years Division. (2017). [Childcare, Play and Early Years Workforce Plan December 2017](#), accessed 28 June 2023.

60 Bonetti, S. and Cooper, K. (Education Policy Institute). (July 2022). [Registration of the Childcare, Play and Early Years workforce in Wales: independent review \(summary\)](#), accessed 24 May 2023.

61 Australian Government, Department of Employment and Workplace Relations. (2023). [Training Package Products Development and Endorsement Process Policy](#), accessed 20 September 2023.

62 Australian Government. [CHCPRT025 – Identify and report children and young people at risk](#), accessed 2 August 2023.

In the Diploma of Early Childhood Education and Care, there is a core subject *CHCECE041 – Maintain a safe and healthy environment for children*<sup>63</sup> and an elective subject *CHCECE057 – Use collaborative practices to uphold child protection principles*<sup>64</sup>.

For initial teacher education for degree qualifications, it is not clear to what extent contemporary child protection, recognising and supporting children who have experienced maltreatment, and behaviour guidance are covered within compulsory subjects. This is due to the large number of courses offered across Australia and the grouping of these topics within a specific subject by the university.

### What is the issue?

Once educators and early childhood teachers are qualified, the only further requirement under the NQF is for the nominated supervisor, person in day-to-day charge and FDC coordinator to undertake child protection training, *if required in their jurisdiction* (section 162A). Requirements are not consistent across all jurisdictions. The only obligation an Approved Provider has is to ensure that nominated supervisors and educators who work with children are advised of the existence and application of the current child protection law and any obligations that they may have under that law (regulation 84).

Educators who are working towards a qualification while working in the sector may not be able to keep up to date with information and training to effectively implement a child safe environment. This can be the case particularly for educators who have moved from overseas or from another sector. For example, when educators studying a certificate III are working towards this qualification while working in the sector, the order of training and assessment of specific units of competencies are determined by the Registered Training Organisation (RTO) as part of their training and assessment strategy<sup>65</sup>. Depending on the training and assessment strategy implemented by the RTO, they may not undertake studies in child protection or behaviour guidance until later in their studies. There may also be students who receive RPL for child protection competencies but have not completed recent child protection training.

Where educators are studying their early childhood teaching degree and have completed more than 50% of their course, they are able to work in an approved service as a person taken to be an early childhood teacher (regulation 242 applies in NT, ACT, NSW, SA, TAS and WA until 31 December 2024). In this case they may not have undertaken child protection or any child maltreatment related subjects, as it may be a subject/s they are yet to complete.

Section 162A, which requires persons in day-to-day charge and nominated supervisors to have child protection training, is only required for these identified positions *where required under jurisdictional law, a government protocol or otherwise required by the jurisdiction*. The section does not mandate an expiry period on child protection training courses or require issued certificates to demonstrate currency.

### What needs to be done?

It is critical to have available contemporary high-quality information/training for pre-service higher education and vocational education courses and for professional development in-service. The training should include positive behaviour guidance and interactions with children, along with identifying, reporting and responding to child maltreatment through trauma informed practice.

Under Action FA5-2 in *Shaping our Future 2022-2031*, a comprehensive review of requirements for early childhood teaching programs under the NQF will be undertaken. The review will ensure that

63 Australian Government. [CHCECE041 – Maintain a safe and healthy environment for children](#), accessed 2 August 2023.

64 Australian Government. [CHC50121 – Diploma of Early Childhood Education and Care](#), accessed 2 August 2023.

65 Australian Government, Australian Skills Quality Authority. (2015). [Standards for RTOs \(2015\) Clause 1.1](#), accessed 21 September 2023.

early childhood teaching programs are contemporary, evidence-based and targeted to the skills and knowledge required for early childhood teaching. This review should consider to what extent early childhood teaching programs incorporate compulsory subjects for a child safe environment including behaviour guidance, mandatory reporting, recognising and responding to child maltreatment (trauma informed practice), and online learning environments.

The Certificate III core unit of competency *CHCPRT001 – Identify and respond to children and young people at risk* should be reviewed to ensure currency and made a pre-requisite unit for all children’s education and care qualifications in the CHC training package. Further, implementation advice should be provided in the CHC Implementation Guide Companion Volume to instruct RTOs to deliver *CHCPRT025 - Identify and report children and young people at risk* and *CHCECE033 – Develop positive and respectful relationships with children* competencies first. This will ensure this key information is provided to students who are also working and to those completing mandatory work placements.

Skills Ministers should request HumanAbility<sup>66</sup> (the Jobs and Skills Council) to review children’s education and care qualifications in the Community Services Training Package to require the diploma level qualification to have a core unit of competency about child protection, rather than an elective subject. This will support educators to understand the importance of this subject matter in their daily work and will build on the Certificate III unit of competency.

Regulation 84 requires the Approved Provider<sup>66</sup> to ensure that nominated supervisors and staff who work with children are advised of the existence and application of the current child protection law and any obligations that they may have under that law. To close any gaps, section 162A of the National Law should be amended to require mandatory child safe training for Approved Providers, PMCs, nominated supervisors and all staff who work with children, including volunteers. This is currently a requirement in Scotland in school-based services to ensure early childhood professionals have undertaken initial child protection training and refreshed annually<sup>67</sup>.

Mandatory child safety training must include:

- identifying, reporting and responding to child maltreatment through trauma informed practice;
- differences in behaviour and respond appropriately, along with identifying grooming behaviour in children and adults around them;
- understanding the difference between developmentally expected sexual behaviour and concerning or harmful sexual behaviours by children or between children;
- effective supervision and behaviour guidance, including the offence of using inappropriate discipline.

This training program should be made available through a combination of pre-service qualifications and in-service professional development (microcredentials) with a refresher course required every two years. Changes to pre-service formal qualifications may take time but the development of a high-quality national child safety and mandatory reporting training program should be progressed as a priority.

Regulation 84 should be strengthened to address other aspects of child protection that are additional to mandatory reporting, such as nominated supervisors’ and staff members’ ability to identify and respond to abuse and neglect, including child maltreatment.

<sup>66</sup> HumanAbility. (2023). [HumanAbility](#), accessed 21 September 2023.

<sup>67</sup> Scotland Government. (2023). [National Guidance for Child Protection in Scotland 2021- updated 2023](#), accessed 19 September 2023.

## Practice issues

This Review has found increasing incidents or reports that relate to three issues which include peer to peer incidents, effective supervision and inappropriate discipline. This section specifically focuses on these areas of professional practice and conduct that are integral to supporting child safe environments and identifies what improvements need to be made.

## Importance of Trauma Informed Practice

A feature of the NQF is that it is based on structural and process components of quality. Rather than just meeting minimum standards, the NQF sets the expectation of continuous quality improvement contextualised at the service level.

The ALFs support an ongoing cycle of review and reflective practice. Underpinned by a child-rights approach, the ALFs support implementation of the National Principles and promote children's safety, wellbeing and responsibilities as active citizens. The importance of educators supporting children who have experienced trauma is also reflected in the ALFs, through providing secure and predictable environments.

Educators are uniquely positioned to observe children's development, interactions and behaviour, to identify any issues of concern, and to take action to support all children's safety and wellbeing. They adopt trauma-informed practices to enhance the safety and wellbeing of children who have experienced adversity. They teach children about body safety awareness using strategies that are age appropriate, respectful of children's cultural backgrounds, and accessible for all children, including those who have already experienced adversity. To fulfil this role, educators adopt a holistic approach to teaching and learning through enabling child voice and agency.

The ALFs reflect the importance of cultural safety, trauma informed practice, promoting body safety awareness and supporting children to be strong in their physical learning and wellbeing, which all work together collaboratively to support children and young people to be confident and involved learners. The ALFs are recognised internationally as enabling a voice for children's agency in the way they provide guidance for educators to work collaboratively with children.

Part of an educator's role in delivering trauma informed practice is recognising and responding to harmful sexual behaviour. Harmful sexual behaviours are displayed by children and young people that fall outside what may be developmentally expected or socially appropriate, cause harm to themselves and occur either face to face and/or via technology. When these behaviours involve others, they may include a lack of consent, reciprocity, mutuality and may involve the use of coercion, force or misuse of power.

The ACMS identifies the importance of listening and responding to all safety concerns, including harmful or concerning sexual behaviour from other children. In the USA, studies are showing that it is also important to ensure that educators understand and implement trauma-informed practices, as children displaying challenging behaviours are often channelling trauma or stress they are experiencing in other aspects of their lives<sup>68</sup>.

Through the *Set up for Success: An Early Childhood Strategy*<sup>69</sup> the ACT Education Department in 2020 launched the Trauma Responsive Professional Support Champions Network, which is a group of 25 leading early childhood practitioners who use the champion network sessions to extend their learning, skills and capability in supporting children and families who have experienced trauma. They also have professional support networks which are groups of educators in the early childhood sector who use collective inquiry into trauma responsive approaches to ground research and theory into practice.

68 Lieberman, A. (2021). [Discipline needs an overhaul](#). *The Learning Professional*, 42(2), 44-47, accessed 20 June 2023.

69 ACT Government, [Set up for Success: An Early Childhood Strategy for the ACT – Education](#), accessed 8 September 2023.

These trauma informed communities of practice were initially facilitated by the ACT Regulatory Authority, Children's Education and Care Assurance, but are now facilitated and sustained by sector leaders. The Strategy includes training to educators to support children affected by trauma by partnering with the Australian Childhood Foundation, to delivering 11 modules covering trauma informed practice. It is provided at minimal cost and designed to build understanding, strengthen existing practices, and create networks to enhance the learning, development and wellbeing of all children<sup>70</sup>.

### What is the issue?

There is a need to help Approved Providers and their staff to understand and improve trauma informed practice in response to a growing number of children who have been exposed to child maltreatment.

Regulatory Authorities have indicated an increase in the number of peer-to-peer incidents occurring in services. They advise this is likely a combination of a gap in educators' knowledge about how to identify and respond to harmful behaviour, as well as misunderstanding the differences between developmentally expected sexual behaviour and concerning inappropriate harmful sexual behaviour by children or between children. The South Australian Royal Commission into Early Childhood Education and Care acknowledged that educators themselves believe ECEC services need to have access to training on trauma informed practice.

The Council of Europe has identified that, internationally, there is a lack of evidence-based treatment for addressing harmful sexual behaviour displayed by children and young people, especially regarding low-risk behaviour<sup>71</sup>.

### What needs to be done?

In Australia, the Commonwealth Attorney-General's Department has formed an interjurisdictional Children with Harmful Sexual Behaviours – Prevention and Response Working Group and a National Clinical Reference Group to progress measures under the National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030, relating to children and young people who have displayed concerning or harmful sexual behaviour.

NOCS is also drafting national principles and key terms for understanding and responding to behaviours displayed by children and young people. The key terms and principles will ultimately provide the basis for all of the measures relating to harmful sexual behaviour in the National Strategy by providing a common language and approach to understanding sexual behaviours and responding to concerning and harmful sexual behaviour.

Targeted sector consultation with key stakeholders on the draft national principles and key terminology is occurring throughout October 2023 with the aim to support embedding these into effective best practice in NQF services.

The Commission of Inquiry Tasmania as one of their key reforms recognised that harmful sexual behaviours need to be better understood and addressed and provided a number of recommendations including a whole of government framework for preventing, identifying and responding to harmful sexual behaviours to guide responses across all Tasmanian government institutions (Recommendation 21.8).

The ALFs acknowledge the importance and need to provide trauma informed practice, however educators would benefit from specialised professional development on trauma informed practice to improve their pedagogy. Increasing educators' awareness and understanding of developmentally

<sup>70</sup> ACT Government, [Trauma responsive practice – Education](#), accessed 8 September 2023.

<sup>71</sup> Committee of Ministers of the Council of Europe. (2018). [Guidelines to respect, protect and fulfil the rights of the child in the digital environment – Recommendation CM/Rec](#), accessed 21 June 2023.

appropriate sexualised behaviour will assist them to identify children who may themselves be victims of child maltreatment.

## Adequate Supervision

Supervision is a key aspect of ensuring that children's safety is protected at all times. The Approved Provider, nominated supervisor and FDC educator must ensure all children being educated and cared for by the service are adequately supervised at all times, including during excursions and on transportation provided or arranged by the service (section 165). Children have a right to be protected from potential hazards and dangers posed by products, plants, objects, animals and people in the immediate and wider environment. Educators need to be alert to, and aware of, the potential for accidents and injury throughout the service, not just within their immediate area.

Educators should balance supervision and engagement by drawing on a range of skills such as positioning, using peripheral vision and monitoring changes in noise and stress levels. Children of different ages and abilities need different levels of supervision and factors such as level of risk in the environment and very importantly educators' knowledge of each child, their abilities and individual needs of children and each group of children<sup>72</sup>. In general, the younger the children are, the more they need an adult close by to support and help them.

Adequate supervision is addressed through NQS Element 2.2.1, whereas staff requirements are described in Quality Area 4: Staffing Arrangements under Element 4.1.1 Organisation of educators. They are inter-related to enable the provision of a child safe environment.

To provide effective supervision, educators need to be conscious of the physical environment and be attuned to the needs of individual children. Supervision is facilitated by the physical design and maintenance of the premises (regulation 115), the supervision practices of educators (section 165), and educator-to-child ratios (regulations 122–124). Under the National Law, adequate supervision is recognised as one aspect for Approved Providers to address as part of their obligation to have a service level child safe environment policy (regulation 168(2)(h)). For example, the policy may outline that educators need to communicate and collaborate with one another to ensure children are supervised effectively. This is necessary to ensure educators know where their colleagues are in the service and how this may affect the supervision of children.

Educator-to-child ratios are a key component of adequate supervision, with the NQF prescribing the minimum ratio requirements for children's education and care services. Services must maintain at least prescribed [educator-to-child ratios](#) at all times based on the ages and number of children being educated and cared for at the service (section 169). Educator-to-child ratios must be maintained during excursions.

FDC educators also need to consider that children of different ages will need different supervision levels and may also be in different parts of the FDC premise.

OSHC services may also need to consider the following:

- organisation of the environment to balance supervision and children's growing need for privacy and autonomy;
- the location of children's toilets and how children will be supervised when visiting and returning from the toilets;
- supervision during the transition between school to the OSHC service.

<sup>72</sup> ACECQA. (July 2023). [Guide to the NQF, Section 4 Operational Requirements](#), accessed 4 August 2023.

The influence of educator-to-child ratios on quality is inextricably linked to other elements of the education and care environment including staff education and training (see formal qualifications section above), and group size. The foundation of quality in ECEC is what is internationally referred to as the 'Iron Triangle: qualifications, ratios and group size'<sup>73</sup>. These structural elements enable the close relationships between educator, child and family needed for safety, wellbeing and improved outcomes including the essential development of language in babies and young children. Research has highlighted the importance of ratios for all children, with this being most significant for young children and children with additional needs.

The Iron Triangle has been reviewed internationally and in Australia a number of times (including the Mitchell Institute Report<sup>74</sup>) with the finding that high-quality learning environments depend on these three elements to facilitate respectful interactions and enhance learning activities.

Research into the impact of smaller educator-to-child ratios has found they can be supportive of child-staff and family relationships across different types of education and care services<sup>75</sup>. The OECD acknowledges that smaller ratios are beneficial because they allow educators to focus more on the needs of individual children and they reduce the amount of time spent addressing disruptions<sup>76</sup>. Thus, the regulation of these measures can be used to improve the quality of ECEC<sup>77</sup>. Smaller educator-to-child ratios are particularly important for high-quality interactions with children under three years of age<sup>78</sup>.

Australia's educator-to-child ratios contribute to ensuring adequate supervision, noting they are a minimum; that physical, online and child-specific factors must be taken into account; and that peer-to-peer support, professional learning and effective leadership are also necessary to ensure a child safe environment in every service.

### What is the issue?

Educator-to-child ratios alone do not achieve adequate supervision. Adequate supervision means:

- that an educator can respond immediately, particularly when a child is distressed or in a hazardous situation;
- knowing where children are at all times and monitoring their activities actively and diligently.

While adequate supervision is necessary for a child safe environment, in 2022-2023, the second most frequently breached section of the National Law was inadequate supervision of children (section 165) at 22% of all confirmed breaches (see Table 2 below). In 2022-23, the most frequently breached section of the National Law was the requirement that the Approved Provider, nominated supervisor and FDC educator must ensure that every reasonable precaution is taken to protect children from any harm and any hazard likely to cause injury (section 167), at 33% of confirmed breaches.

73 Early Childhood Development Sub-group of the Productivity Agenda Working Group. (2008). [A national quality framework for early childhood education and care: A discussion paper](#), accessed 9 May 2023 and New Zealand Government, Office of Early Childhood Education, [Structural Indicators of Quality Early Childhood Education and Childcare](#), accessed 9 May 2023.

74 Connell, M., Fox, S., Hinz, B., Cole, H. (2016). Mitchell Institute Report No.01/2016 [Quality Early Education for All](#), accessed 29 May 2023.

75 OECD. (2022). [Education at a Glance 2022: OECD Indicators](#), OECD Publishing, Paris, accessed 15 May 2023.

76 OECD. (2022). [OECD Regional Database – Education](#), OECD Publishing, Paris, accessed 15 May 2023.

77 OECD. (2022). [Education at a Glance 2022: OECD Indicators](#), OECD Publishing, Paris, accessed 15 May 2023.

78 OECD. (2018). [OECD Handbook for Internationally Comparative Education Statistics: Concepts, Standards, Definitions and Classifications](#), OECD Publishing, Paris, accessed 15 May 2023.

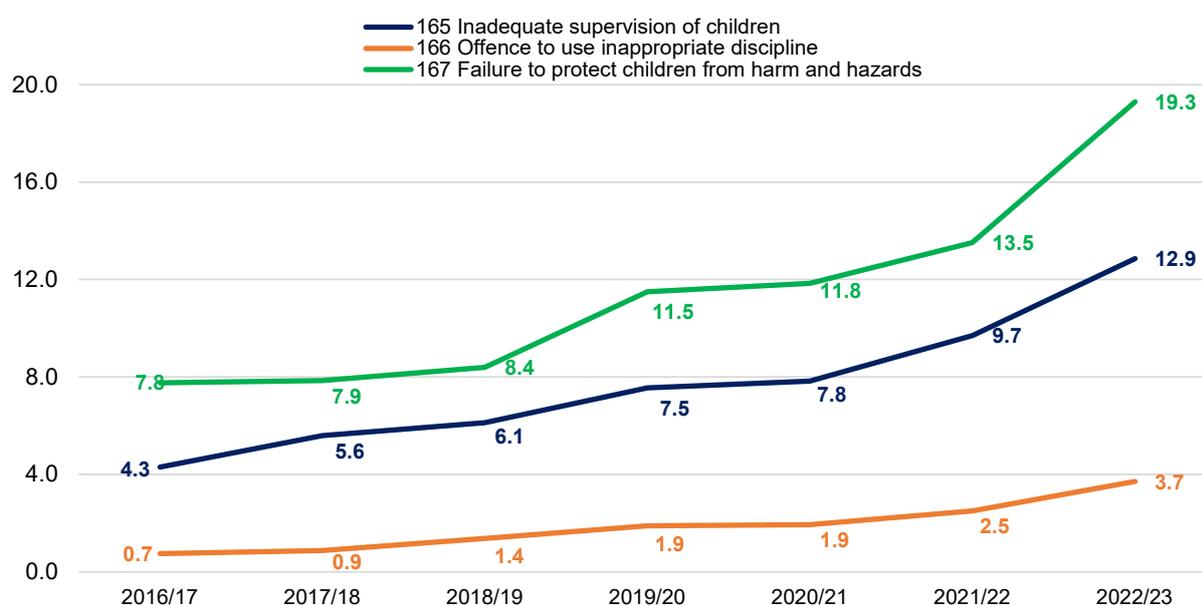
Table 2: Proportion of all confirmed breaches of the National Law<sup>79</sup>

Section	Offence	% of all confirmed breaches of the National Law						
		2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
167	Failure to protect children from harm and hazards	30%	29%	28%	29%	29%	31%	33%
165	Inadequate supervision of children	16%	21%	20%	19%	19%	22%	22%
166	Inappropriate discipline	3%	3%	5%	5%	5%	6%	6%

ACECQA. (2023). [NQF Annual Performance Report 2023](#).

Further to this, Figure 4 below shows the rate per 100 services for confirmed breaches for inadequate supervision has increased from 4.3 to 12.9 and for failure to protect children from harm and hazard has increased from 7.8 to 19.3 per 100 services.

Figure 4: Confirmed breaches by law section and financial year (rate per 100 services)<sup>80</sup>



Source: Unpublished data, ACECQA, NQA ITS.

Of the 40 elements of the NQS, as at 1 October 2023, the sixth highest element which services were assessed as not meeting was in relation to supervision (Element 2.2.1)<sup>81</sup>.

Regulatory Authorities have reported an increase in children being left outside for long periods of time with no supervision, as well as children being left behind in stairwells and lifts when transitioning to another space in a multi-storey building.

Several different regulatory systems work together to promote safety in buildings. The National Construction Code (NCC) provides the minimum technical requirements for the design and construction of buildings, such as structural and fire safety and accessibility, whilst the NQF considers

79 Data is only a selection of sections of the National Law.

80 Rate is calculated by dividing the number of confirmed breaches by law section during the financial year by the number of approved services as at 30 June (the final day of that financial year), multiplied by 100.

81 ACECQA. (2022). ACECQA [NQF Quarterly Snapshot](#) – data as at 1 October 2023, accessed 24 October 2023.

a range of aspects such as the design of the physical environment. The design of the building and outdoor play structures may impact on the ability to be able to supervise children at all times, for example, the height of door handles has been cited as a safety risk as children may be able to access them to exit supervised areas.

The National Regulations enable centre-based services to apply for a waiver under regulation 115 which requires the Approved Provider to ensure the education and care service premises (including toilets and nappy change facilities) are designed and maintained in a way that facilitates supervision of children at all times, having regard to the need to maintain the rights and dignity of the children.

### What needs to be done?

Approved Providers need to continually strengthen their understanding of the different elements of supervision and reflect these in their child safe environment policy. Approved Providers must ensure their educators understand their policy, in particular, supervision elements and how to put them into practice. Regular engagement as a team to discuss how implementation is going and reflect upon practices is essential to ensure all educators understand the importance of adequate supervision.

Given the importance of adequate supervision, the ability to waive regulation 115 under the National Regulations should be removed, unless in exceptional circumstances where there is potential to mitigate risk effectively and all staff working with children should be supported to undertake regular professional development about effective supervision practices.

In addition to the removal of the ability to waive regulation 115, it should be explored with the ABCB as to whether further changes are required under the NCC to facilitate supervision of children at all times. Changes were made to the NCC in May 2023 to strengthen requirements relating to fire safety and emergency evacuation for services in multi-storey buildings to complement the 2019 NQF Review increased requirements to strengthen safeguards for children.

### Inappropriate Discipline

Positive interactions between educators and children involve educators viewing each child as capable and competent, with a right to a voice and able to contribute to decisions that affect them. This enables educators to focus their education and care practices on children's strengths and inclusion in the group environment<sup>82</sup>. Element 5.1.1 of the NQS outlines the importance of building responsive and meaningful interaction to build trusting relationships to engage with and support each child to feel secure.

The NQF (regulations 155 and 156) requires Approved Providers to take reasonable steps to ensure that their educators:

- encourage children to express themselves and their opinions;
- allow children to undertake experiences that develop self-reliance and self-esteem;
- maintain children's dignity and rights;
- give each child positive guidance and encouragement towards acceptable behaviour;
- have regard to children's family and cultural values, age, physical and intellectual development and abilities; and
- provide children with opportunities to interact and develop respectful and positive relationships with each other, staff members and volunteers at the service.

<sup>82</sup> ACECQA. (July 2023). [Guide to the National Quality Framework](#), accessed 1 August 2023.

The National Law (section 167) requires Approved Providers, nominated supervisors and FDC educators to ensure every reasonable precaution is taken to protect children from harm and from any hazard likely to cause injury. There is a requirement to have policies and procedures for staffing, including a code of conduct (regulation 168(2)(h)), as well as interactions with children (regulation 168(2)(j)) where services should outline a clear process for guiding children's behaviour based upon current recognised approaches where the focus is on maintaining the dignity and rights of each child.

'Discipline' is not defined in the National Law, however, it can be understood as action taken by adults towards children to stop or change behaviour that is inappropriate or not desired. A national [inappropriate discipline information sheet](#) provides examples of inappropriate discipline and practice which may constitute a serious breach of the National Law (section 166) and National Regulations (regulation 155) and possibly result in criminal matters. Approved Providers, nominated supervisors, FDC coordinators, educators and volunteers must ensure that no child being educated and cared for by the education and care service is subject to any form of corporal punishment, or any discipline that is unreasonable or inappropriate<sup>83</sup>.

Under the National Regulations, an Approved Provider must also ensure that policies and procedures are in place for interactions with children (regulation 168) and take reasonable steps to ensure those policies and procedures are followed (regulation 170). National guidance has been developed about what reasonable steps look like to support understanding and provide transparency about expectations and to always maintain the rights and dignity of each child – [Interactions with Children Policy Guidelines](#).

Educators play an important role in supporting children to regulate their own behaviour. ACECQA has developed a [Supporting children to regulate their own behaviour information sheet](#).

### What is the issue?

When children's developmental needs are not adequately understood and appropriate adaptations made, behaviour problems may emerge, for example, due to child frustration with the developmentally inappropriate expectations of educators. Similarly, experiences of trauma can diminish executive function skills, and the child may be less ready to engage in learning than their peers, especially in the absence of adequate supports.

Regulatory Authorities have reported an increase in inappropriate discipline with confirmed breaches in Table 2 above showing that, between 2016 and 2023, such breaches have increased from 3% to 6%, with a concerning aspect that educators are witnessing inappropriate discipline by another educator.

Regulatory Authorities are finding that educators are struggling, in particular, to provide positive behaviour guidance for children with additional or complex needs. Educators can become overwhelmed if they have several children with additional needs in their group.

It may be the case that an act of an educator will constitute both inappropriate discipline and harm and/or hazard, or an act that does not constitute inappropriate discipline may constitute harm or hazard. For example, if a child with additional needs is known to be at risk of absconding, but there is no behaviour plan in place or staff have not been supported to manage these behaviours, then this is a failure of the Approved Provider to take reasonable steps to prevent harm or hazard to that child (or other children in instances where a child is known to have violent outbursts).

Regulatory Authorities have reported that, during an investigation, inappropriate behaviour by an educator can occur due to cultural differences, where the educator believes through their own cultural experiences their own behaviour is acceptable.

83 ACECQA. (2023). [Guide to the National Quality Framework](#), accessed 4 August 2023.

Exacerbating the issue, it can be difficult to substantiate that inappropriate behaviour occurred if the primary available evidence is a child's word against an educator. This often leads to unsubstantiated claims, where no further action is taken. A lower-level sanction of appropriate interactions with children may be used (regulation 155), as compared to inappropriate discipline. Staff who could be deemed as 'Persons of interest', that is they may have been the subject of an unsubstantiated claim, provide a unique challenge from a regulatory monitoring point of view.

It is important that 'persons of interest' who may display a pattern of potentially concerning behaviour are monitored and a risk assessment plan put in place. In some instances, it is often preferable for an educator with an unsubstantiated claim against them to stay at their existing service and be monitored and supported by the Approved Provider, often through a risk management plan. Often however, the educator will leave the service after an unsubstantiated claim and a new employer will be unaware of the prior allegation.

Whilst some information is being recorded in the NQA ITS with respect to unsubstantiated claims, there is no nationally consistent protocol and any such protocol would need to consider the legal principle of natural justice, weighed against the rights of the child to be safe. The Royal Commission aligns strongly with this, having recommended that paramount consideration must always be the best interests of the child, having regard to their safety and protection<sup>84</sup>.

### What needs to be done?

Research has shown that most behavioural issues can be resolved through building an effective workforce, fostering nurturing and responsive relationships, and implementing high-quality supportive early learning environments that focus on teaching social and emotional skills<sup>85</sup>.

Approved Providers need to support all staff to be proactive in implementing positive child behaviour guidance strategies and to create a culture where educators feel confident to intervene when a colleague is struggling or acting inappropriately. The National Law does not stipulate any requirements for behaviour guidance plans for children with additional or complex needs. However, high-quality services use behaviour plans as a 'reasonable step' to prevent harm and hazard for children who have additional needs. Educators need support to be more proactively creating guidance plans within their pedagogy and regularly reviewing them.

Approved Providers, nominated supervisors, FDC coordinators and educational leaders have a responsibility to support their educators to gain this additional support when needed, for example, through the Australian Government's Inclusion Support Program<sup>86</sup>, where eligible.

Section 166 of the National Law (inappropriate discipline – corporal punishment and unreasonable discipline) could be broadened to include other inappropriate behaviour. This would require further consideration of what criteria applies to inappropriate interactions and would need to be supported by appropriate training, with the definition and guidance to be developed with relevant experts, including the Commonwealth Attorney-General's Department. Given the interactions, consideration could also be given to enhancing the ability to prohibit and share information, for example enabling the Regulatory Authority the ability to share information about a prohibition with a prospective educator's Approved Provider, without a request being received from the Approved Provider. Additionally, potential expansion of the use of enforceable undertakings with educators, including in situations where the threshold for prohibition is not met, could be used as another risk management strategy.

84 Royal Commission into Institutional Response to Child Sexual Abuse. (2018). [Final Report Recommendations](#), accessed 1 June 2023.

85 Zinsser, K. M., Silver, H. C., Shenberger, E. R., & Jackson, V. (2022). [A Systematic Review of Early Childhood Exclusionary Discipline](#). *Review of Educational Research*, 92(5), 743–785, accessed 20 June 2023.

86 Australian Government, Department of Education. [Inclusion Support Program](#), accessed 27 July 2023.

## Professional Development

Under Standard 7.1 of the NQS, the Approved Provider must ensure there are effective systems, procedures and processes in place to support the service to operate effectively and ethically. These include the development of effective leaders at the service, processes for making decisions, how to address complaints, systems to regularly check the currency and validity of WWCC/teacher registration (where required), and how policies and procedures are used to inform practice.

The Approved Provider is responsible for ensuring that each staff member's role and responsibilities are clearly defined, performance is regularly evaluated, and individualised learning and development plans are in place (Element 7.2.3). These are essential to building a cohesive team in which every member values and supports one another and works professionally towards collective goals. This will, in turn, lead to the effective operation of the service and positive outcomes for children and families.

As an important part of the education sector, early education teachers and educators are required to hold a standard of professional qualifications. Once an educator has completed their formal qualifications, undertaking ongoing professional development is essential to ensure their pedagogy is reflective of implementing a child safe environment. Given a guiding principle of the NQF is 'best practice is expected in the provision of education and care services, it is inherent within the NQF that this includes a commitment to continuous improvement.

Continuing professional learning is vital for educators to broaden and deepen their knowledge, keep up with new research, tools and practices and respond to children and young people's changing needs. It also plays a key role in building child safe cultures. While the importance of continuing teacher learning is widely recognised, building efficient, equitable and sustainable professional learning systems is often complicated<sup>87</sup>.

Recent research in Australia about high performing services under the NQF found that those in successful leadership positions undertook regular professional development and had longer tenures in these positions. Findings also showed that specific conditions within exemplary services enabled professional development beyond the completion of qualifications. One key condition for effective professional development was that a discourse about professional learning, growth and development existed within the service, alongside a willingness to individualise professional learning and growth planning, and assistance in implementing learning<sup>88</sup>.

Internationally, professional development is often a part of the statutory framework. In England, professional development is expected of all early years staff. The Early Years Foundation Stage (EYFS) requires providers to support staff to undertake appropriate training and professional development opportunities to ensure they offer quality learning and development experiences for children that continually improves. This includes that providers must ensure that all staff receive induction training, which includes safeguarding, child protection and health and safety<sup>89</sup>.

In Wales, the *Childcare, Play and Early Years Workforce Plan* December 2017<sup>90</sup>, identifies continuous professional development as important for the workforce to be proactive learners, taking responsibility for their own professional development. It is developing a national framework of qualifications and

87 Boeskens, L., Nusche, D., and Yurita, M. (2020). [Policies to support teachers' continuing professional learning: A conceptual framework and mapping of OECD data](#), OECD Education Working Papers, No. 235, OECD Publishing, Paris, accessed 24 May 2023.

88 Gibson, M., Press, F., Harrison, L., Wong, S., Cumming, T., Ryan, S., Crisp, K., Richardson, S., Gibbs, L., Cooke, M., & Brown, J. (2023). [Shining a light on early childhood educators' work. A report from the Australian study Exemplary Early Childhood Educators at Work: A multi-level investigation](#). Queensland University of Technology, accessed 30 August 2023.

89 United Kingdom Government, Department of Education (2021) [Statutory framework for the early years foundation stage: setting the standards for learning, development and care for children from birth to five](#), accessed 14 May 2023.

90 Welsh Government, Childcare, Play and Early Years Division. (2017). [Childcare, Play and Early Years Workforce Plan December 2017](#), accessed 28 June 2023.

training which will outline the required sector standards to practice, along with recommendations for continued professional development.

Wales is also creating a professional register for all educators, having surveyed the ECEC sector to inform development. Through this research, participants recognised the child safety protections the register would create, and the opportunity to support educators' upskilling and continuing professional development. The register could be used as a simple tool for logging and keeping track of professional development hours, which would benefit both employees and employers. At a more advanced level, the register could facilitate access to professional development directly and lead to a more efficient provision of professional development by matching supply and demand<sup>91</sup>.

Several jurisdictions provide a comprehensive training program for the early childhood sector on child protection that could be further explored to contribute to a wider ranging training program.

### What is the issue?

There are current sector workforce challenges including a high turn-over of teachers and educators at some services with well recognised challenges in growing, attracting, retaining and recognising a well-qualified, professional and stable workforce (refer to *Shaping our Future 2022-2031*). High-quality education and care is dependent upon a high-quality workforce and, while teachers' and educators' pre-service education is key to ensuring they are prepared for their work, it is only one piece in the continuum of professional growth and capacity building<sup>92</sup>.

However, there is no requirement in the NQF for teachers and educators to undertake professional development for example, in child protection, identifying and responding to maltreatment or behaviour guidance: child protection is dependent on whether there are child protection laws in the jurisdiction.

Educators, when surveyed for the development of *Shaping our Future 2022-2031* in 2021,<sup>93</sup> identified that they wanted more professional recognition and support from their employer to undertake professional development within their work environment rather than only in their own time. In addition, Action FA1-6 of *Shaping Our Future 2022-2031* which is 'to develop options for a national registration system for educators who are not teachers' was strongly supported through consultation with 87% of survey respondents supporting this objective. This was for the purpose of lifting the professional recognition of early childhood teachers and providing a supporting mechanism to undertake in-service professional development each year consistent with teacher registration/ accreditation.

For early childhood teachers, some teacher registration requirements have guidelines for the minimum amount of annual professional development but not all jurisdictions require early childhood teachers in non-school settings to be registered. There is nothing like this approach for educators.

### What needs to be done?

Given the potential for serious harm to children occurring inside and outside of the service, and the complexity of issues children may face, requirements for annual professional development would improve teachers' and educators' awareness of, and response to, child maltreatment. They would also create a child safe organisation that reflects the National Principles (specifically, Principle 1: Child safety and wellbeing is embedded in organisational leadership, governance and culture, Principle 5:

91 Bonetti, S., and Cooper, K., (Education Policy Institute). (July 2022). [Registration of the Childcare, Play and Early Years workforce in Wales: independent review \(summary\)](#), accessed 24 May 2023.

92 Boeskens, L., Nusche, D. and Yurita, M. (2020). [Policies to support teachers' continuing professional learning: A conceptual framework and mapping of OECD data](#), *OECD Education Working Papers, No. 235*, OECD Publishing, Paris, accessed 24 May 2023.

93 ACECQA. (2021). [National Workforce Survey Public Consultations Findings](#), accessed 10 July 2023.

People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice and Principle 7: Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training).

For early childhood teachers, mandatory registration/accreditation will automatically fulfil the requirement to undertake annual professional development.

For educators who make up the majority of service staff, an NQF Educator Register would provide a tool to support them to record and have acknowledged their professional development, along with being the catalyst to ensure Approved Providers are supporting them as a condition of their registration.

By requiring educators to undertake a set minimum number of hours of professional development each year and to record it, educators would have a tool/ the opportunity to further demonstrate their professionalism as an educator.

Emphasising child safe culture in Quality Area 7 of the NQS would recognise the importance of the role that Approved Providers and other leaders hold, and their responsibilities in fostering a child safe culture, responsive relationships, engaging experiences and a safe and healthy environment. It would also enable structural alignment with the National Regulations, including relevant requirements for policies and procedures.

Approved Providers need to ensure that staff are properly inducted at their service and understand policies and practices. They need to ensure that staff who may be only working short-term also have an appropriate induction. Given that each service is different, it is the Approved Provider's responsibility to ensure that casual staff, particularly from employment agencies, understand the specific policies of their service.

Child safety and mandatory reporting training needs to become compulsory for all educators, and any other staff, nominated supervisors, PMCs or Approved Providers *who work directly with children*, refreshed every two years.

The development of high-quality national programs is required, noting it would need to be tailored to accommodate state and territory differences, be culturally appropriate and could be developed as part of the microcredential work endorsed under *Shaping Our Future 2022- 2031*.

## CHAPTER 4: CHILD PROTECTION REQUIREMENTS

This Chapter focuses on the child protection obligations that services are required to meet to be able to achieve a child safe environment. This chapter includes analysis of NQA ITS data regarding prescribed notifications to Regulatory Authorities about:

- serious incidents
- complaints
- circumstances at the service which pose a risk to the health, safety or wellbeing of children; and
- any incident or allegation that abuse, including physical or sexual, of a child/children has occurred or is occurring while the child/children are being educated and cared for by the service.

It also includes the management of complaints and the effectiveness and adequacy of record-keeping and information sharing arrangements between jurisdictions and within the NQA ITS.

### Prescribed Notifications

Approved Providers are required to notify of incidents or allegations of physical and sexual abuse under regulation 175(2)(d) and 175(2)(e) within seven days. However, where the matter meets the threshold of a serious incident (r176(2)(a)(ii)) or is a complaint alleging that a serious incident has occurred or is occurring (r176(2)(b)), or the National Law has been contravened, the notification period is within 24 hours of the incident.

Anecdotally, Regulatory Authorities have advised of an increase in peer-to-peer incidents and allegations of physical and sexual abuse. NQA ITS functionality to identify these notifications as compared to adult-to-child notifications has only been available since December 2021, which limits meaningful trend analysis at this time and caution needs to be exercised in making any judgements until further work is completed in relation to sector reporting and recording of notifications.

Regulatory Authorities and ACECQA conduct awareness-raising and educative targeted campaigns to inform the sector of their obligations to report, as well as to encourage compliance and provide guidance to improve practice and assist in mitigating risk. For example, working with Regulatory Authorities and service providers, ACECQA released an information sheet [Managing and responding to injury, trauma and illness incidents](#) and [Occasional paper 9 – Serious incidents \(injury, trauma or illness\)](#). The information sheet and paper highlight the trends in notifications of serious incidents resulting in injury, trauma or illness in children’s education and care services during a two-year period. They identify the volume, characteristics and causes of these incidents, including the times and locations within a service that they are more likely to happen.

Regarding the obligations to notify, section 174 of the National Law, which relates to failures to notify certain information to the Regulatory Authority, was the third most frequent breach of the National Law by Approved Providers in 2022-23, with 7% of all confirmed breaches. Data indicate that services with a high-quality rating are notifying more often<sup>94</sup>. However, more notifications do not necessarily correlate with a higher level of incidents: it may be attributed to a greater understanding of responsibilities to notify and the prescribed notification requirements.

### What is the issue?

The timeframe to notify within seven days for incidents or allegations of physical and sexual abuse, unless it falls into the serious incident or complaint category, is not consistent with the serious nature of the notification. Other serious incidents require notifications to be made within 24 hours of the incident or the Approved Provider becoming aware of the incident. The seven-day timeframe does not enable effective regulatory oversight and intervention at the earliest opportunity (168 and 170),

94 ACECQA. (June 2023). [Occasional Paper 9: Serious incidents- injury, trauma or illness](#), accessed 20 August 2023.

including actions to protect more children. This is particularly significant in consideration of the increasing number of notifications that are being made. [Attachment 5](#) outlines all notifications that are required to be made and their timeframes.

Underreporting of incidents can occur when educators are not confident in recognising the signs of child maltreatment. This can result in cases not being notified with no appropriate actions or risk mitigation strategies in place within the service. In the same vein, a lack of understanding behaviours or confidence in how to make appropriate notifications may lead to overreporting when a behaviour does not meet the threshold for notification.

There are barriers to accessing more information about notifications as recorded within NQA ITS. For example, there is a large amount of free text in case records within NQA ITS, which makes it challenging to analyse the data. Collating data of this type at present requires files where this section of the National Law has been breached to be extracted and then analysed to determine if the file relates to inappropriate discipline if it has been notified and categorised as a complaint or serious incident.

### What needs to be done?

Notification periods for incidents or allegations of physical and sexual abuse under regulation 175(2)(d) and 175(2)(e) should be reduced to within 24 hours of the incident to reflect the serious nature of the notification to align with other serious incidents, to reduce complexity and to avoid confusion for Approved Providers about their obligations. Consideration could also be given to incorporate educators in the scope of the penalty provisions for failures to report.

Approved Providers, nominated supervisors, FDC coordinators and educators need regular and clear information about what to notify, when to do so and who to report to for different matters, for example:

- eLearning induction modules on child protection to support staff to understand what is required to be notified to Regulatory Authorities to reduce underreporting and overreporting of incidents.
- a 'decision tree' to better understand notification requirement thresholds for making notifications about complaints, serious incidents and allegations (currently under development).

Initially these supporting resources and tools could be focused on requirements under the NQF, and in the future expand to cover child protection related reporting obligations outside the NQF, subject to increased consistency being achieved.

### Complaint Handling

The NQF recognises that children, families, educators, other staff and the community need to feel confident that any concerns or issues they may raise will be handled promptly and professionally by an Approved Provider. Complaints are one type of notification that needs to be reported to the Regulatory Authority, with section 174(2) stepping out the types of complaints required to be notified.

Effective systems for dealing with complaints confirm to children, educators, other staff, families and the community that complaints and grievances are taken seriously and investigated promptly, fairly and thoroughly. Effective complaints management is an efficient way to consider and act on feedback from families and inform quality improvement, which is reflected in NQS Element 7.1.2: Management systems as outlined in [guidance](#) to the sector.

Complaints are one of the indicators in the NQF Evaluation Framework to promote the safety, health and wellbeing of children attending education and care services. Between 1 October 2019 and 31 March 2023 there was a total of almost 30,000 complaints lodged in the NQA ITS, including around 18,000 notified complaints from service providers and around 11,500 direct complaints to state and territory Regulatory Authorities. Under the National Regulations, an Approved Provider must ensure that policies and procedures are in place for dealing with complaints and they must take reasonable steps to ensure those policies and procedures are followed (regulation 168 and 170). From 1 October

2023, regulation 168 has been strengthened to include how services respond to complaints to reflect the National Principles, requiring that services must have policies and procedures in relation to dealing with complaints, including matters relating to:

- the provision of a complaint handling system at the service that is child focused (regulation 168(2)(o(i)); and
- the management of a complaint that alleges a child is exhibiting harmful sexual behaviours (regulation 168(2)(o)(ii)).

Approved Providers must notify the Regulatory Authority in writing within 24 hours of any complaints alleging that a serious incident has occurred at the service or that the National Law has been breached. FDC educators are required to notify the Approved Provider to enable them to fulfil their responsibilities to notify a Regulatory Authority within 24 hours (regulation 176(2)(b)). ACECQA has developed [Dealing with complaints policy guidance](#).

### **What is the issue?**

The Approved Provider has the primary role in addressing complaints to ensure sustainable improvement at the service. Regulatory Authorities, however, have identified that during an investigation, services' complaint handling policies are often not up to date and some staff have little knowledge or understanding of how to put the policy into practice.

### **What needs to be done?**

Chapter 3 of this report covers Staffing and Supervision and focuses on strengthening workforce capability to build educators' understanding about developmentally expected sexual behaviour and inappropriate harmful sexual behaviour by children.

There may be opportunities to provide further guidance to the sector around considerations for continuous improvement to practice as part of their complaint handling processes, such as:

- improving sector knowledge about how to identify differences in behaviour and respond appropriately, along with identifying grooming behaviour;
- increasing educators' knowledge relating to the grooming of children and the grooming of adults around them, to enable services to respond to complaints in an informed, timely manner with the child at the centre of decision-making;
- supporting educators to have a clear understanding of their role in protecting children and steps they can take to keep children safe;
- considering access and use of devices and technology at the service when thinking about child safe environments; and
- improving sector practices around adequate supervision, including managing supervision requirements and children's growing independence in OSHC settings, could be considered in continuous improvement strategies in complaint handling.

### **Record keeping**

Accurate record keeping assists in the management of the service, ensures the safety of children and provides a level of transparency and accountability for services, Regulatory Authorities and families. By establishing effective administrative and records management systems and implementing documented policies and procedures, the service can focus on delivering quality education and care for children and families. Approved Providers, FDC educators and Regulatory Authorities need to keep accurate records.

[Attachment 6](#) outlines the requirements of all records to be kept in relation to child protection, safety and child safe environments. In some cases, penalties apply if the Approved Provider or FDC educator does not maintain the confidentiality and accuracy of records. Under the National Regulations, Approved Providers must:

- keep and maintain certain records;
- ensure confidentiality and secure storage of records; and
- have the records available for inspection by an authorised officer and, in some cases, parents of enrolled children.

Effective and efficient record management is important in identifying and responding to the risks and incidents of child sexual abuse. It can also reduce distress and trauma for survivors who may seek documentation and information about abuse that occurred at an education and care service. The Royal Commission recommended that records identified as relevant to child safety and wellbeing (including child sexual abuse) be kept for 45 years. The recommendation set out that such records should be:

- clear;
- objective;
- thorough;
- maintained in an indexed, logical, and secure manner; and
- retained and disposed of in a consistent manner.

From 1 October 2023, record keeping requirements have been strengthened by:

- Requiring WWCC details on volunteer staff records (regulation 149 (1)); and
- Providing new guidance material to support Approved Providers to improve their understanding of record keeping (see [Updating record keeping requirements to support child protection](#)).

This national guidance incorporates existing best practice instructions developed by relevant Commonwealth, State and Territory Archive Authorities, for example, the National Archives of Australia General Records Authority. The guidance has been developed as per Royal Commission Recommendations 8.3 and 8.4, aligned with the five high-level record keeping principles. The changes will strengthen safeguards by addressing gaps in current requirements and requiring the maintenance of records for all employees and volunteers. This whole service approach to appropriate record keeping practices will ensure relevant records and information will be easily accessible to survivors of child sexual abuse.

### What is the issue?

Regulatory Authorities report that there are opportunities to improve record keeping across the sector as identified in circumstances such as investigations and the transfer of a service to another Approved Provider. Regulatory Authorities have observed that Approved Providers do not always realise the importance of record keeping and this can impact their service's ability to be a child safe organisation. In 2022-2023, the regulation requiring Approved Providers to keep staff records including records of WWCC (regulation 145 for centre-based services) was the seventh most frequently breached national regulation<sup>95</sup>. The requirement to keep a record of a WWCC is integral to a child safe environment.

Approved Providers do not have a clear system or mechanism in which they can record 'persons of interest' with unsubstantiated allegations. They have no way to share this information with another Approved Provider considering employing that person unless they are contacted as a referee, which

<sup>95</sup> ACECQA. (2023). [NQF Annual Performance Report 2023](#), accessed 30 November 2023.

may not be the case. Approved Providers are also unsure of their ability to share information about a 'person of interest' when there is an unsubstantiated allegation, however, this concern about speaking inappropriately about a person can lead to patterns of behaviour being missed and risk assessments not being undertaken to consider the actions of such persons.

Regulatory Authorities can record in the case file on the NQA ITS a 'person of interest' but this cannot be accessed or shared with other Regulatory Authorities because settings do not allow sensitive information to be shared or searched and a consistent approach is also required to record information.

### **What needs to be done?**

There needs to be a continued focus on promoting the importance of record keeping and the obligations of the Approved Provider to maintain appropriate record keeping. In addition, there are opportunities for significant improvements to the monitoring of staff records to ensure staff are fit and proper. Improvements include monitoring of criminal history screening, confirming qualifications are appropriate and keeping accurate records of previous behaviours that flag an individual as a 'person of interest' to an Approved Provider and Regulatory Authority. Further work in this area could be undertaken to determine the thresholds required to be deemed a 'person of interest' and how this would work in practice.

Consistent with the section on notifications, record keeping in the NQA ITS could be enhanced through a consistent framework enabling further categorisation of notifications, to enable better analysis and more granular data reporting.

Other options include to consider a national WWCC system, a national Reportable Conduct Scheme or an NQF educator registration scheme which mirrors the registration/accreditation schemes for degree qualified teachers. The most effective option would support Approved Providers to know and use a formal, appropriately controlled tool to record a 'person of interest' which requires a lower burden of proof to that currently required for the WWCCs and reportable conduct schemes (where they exist). It would support the NQF as a system to further embed the National Principles, in particular *Principle 5 – People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice*. It would also provide significant support to Approved Providers for assurance that appropriate checks and up to date information on educators can be accessed during recruitment, including knowing where an educator is working or has been working.

Finally, an effective option would provide a mechanism for Approved Providers to work with Regulatory Authorities to record any concerns they have about an educator in a responsible manner, respecting the rights of the educator while putting children's safety as the priority.

Until a national information system is in place it is recommended that Regulatory Authorities and ACECQA consider how information sharing about 'persons of interest', including any required legislative changes or further protocol arrangements, can be enhanced. This may include a framework to consistently assess and categorise notifications and complaints in the NQA ITS, and enable enhanced analysis and granular reporting (supported by subsequent technical enhancements to the NQA ITS, as required). This work will also inform any broader national work focused on information sharing across related child protection schemes.

## CHAPTER 5: INTER-RELATED CHILD PROTECTION MECHANISMS

A key component of this Review is the interaction of the NQF with Inter-related child protection mechanisms which provide protections either by their direct interaction with the legislation or through the obligations they impose on Approved Providers and/or those early childhood teachers and educators who work with children and maintain a connection with families. [Attachment 7](#) provides an overview of these Inter-related mechanisms and their interactions with the NQF.

The final report of the Royal Commission noted the importance of information sharing in identifying, preventing and responding to incidents and risks of child sexual abuse. For example, the inability to share information in a timely and effective manner can enable perpetrators to move from one organisation to another, or from one jurisdiction to another, continuing to work with and pose ongoing risks to children<sup>96</sup>.

WWCC, mandatory reporting and child protection training, where required by law, instrument or protocol in the jurisdiction, directly relates to obligations under the NQF. Comparatively, there are differing levels of interaction with mechanisms and policies relating to early childhood teacher registration/accreditation, reportable conduct schemes and child safe standards. This recognises that they are all at different stages of maturity and are inconsistent across obligation, thresholds and information sharing mechanisms across jurisdictions.

It is clear there is a degree of confusion with the level of understanding across the many different child safe mechanisms and government bodies. This results in either inadequate or over-reporting. For example, the perception can be to report everything, which makes it difficult for regulators to assess and determine appropriate regulatory responses. There can also be underreporting because the Approved Provider may think that if they report to one government agency, it will be automatically shared with other relevant agencies.

While provisions under the National Law allow for the Regulatory Authority to share information with relevant authorities, many of them report formal agreements are still needed to ensure a more collaborative approach. Some Regulatory Authorities also report that other agencies are not entirely across information sharing requirements under the National Law, including what information can be provided or shared to enable an appropriate and timely response.

In Victoria, the Child Information Sharing Scheme<sup>97</sup> allows authorised organisations to share information to support child wellbeing and safety. The Scheme has expanded legal permissions for professionals to share and request information from other professionals, including education and care services. As a part of this Scheme, there has been a trial of a digital tool called Child Link<sup>98</sup> which is a platform that displays high-level information about a child to authorised key professionals who have responsibility for child wellbeing and safety.

The South Australian Royal Commission into Early Childhood Education and Care<sup>99</sup> noted the experience of Victoria with Child Link as an example of a system established to share necessary information between a range of government and non-government early years services. Child Link shows limited but critical information, such as a child's participation in key early childhood and education services. Child Link helps authorised key professionals to collaborate with other services and professionals working with the child, identify needs, issues and vulnerabilities that may be present earlier and provide the support necessary to prevent an escalation of harm, and make more informed decisions about the wellbeing, safety and support needs of a child.

96 Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). [Final Report – Volume 8, Recordkeeping and information sharing](#), accessed 4 July 2023.

97 Victoria Government. [Child Information Sharing Scheme](#), accessed 8 September 2023.

98 Victorian Government. [Child Link](#), accessed 8 September 2023.

99 South Australian Government. (August 2023). [Royal Commission into Early Childhood Education and Care](#), accessed 6 September 2023.

Recently a national child protection mechanism was fully realised between child protection agencies which is called 'Connect for Safety'<sup>100</sup> which allows the secure sharing of vital information of at-risk children and families between child protection agencies across jurisdictions to be able to assess risk and respond. This was an action under the previous *National Framework for Protecting Australia's Children* and was led by NSW Department of Communities and Justice on behalf of all Australian State and Territory child protection agencies utilising DSS establishment funding.

### **Mandatory Reporting and Child Protection**

All jurisdictions have mandatory reporting schemes but there are inconsistencies between who is captured, terminology of who it applies to and thresholds for reporting. The roles which are captured vary between jurisdictions: sometimes educators and Approved Providers, sometimes not, and sometimes they include volunteers.

In the Northern Territory, everyone is a mandatory reporter, compared to Victoria where it is linked to whether a person is the Approved Provider or nominated supervisor, or whether a post-secondary qualification in the care, education or minding of children is held. Western Australia is currently limited to registered early childhood teachers but from 1 November 2024 this will extend to cover early childhood educators.

Terminology also differs with "early childhood professionals" being used, as are more outdated terms such as a "person who provides child care". Sometimes the legislation covers more roles in the education and care sector than what is expressed in guidance because of confusion around terminology, for example, defining mandatory reporters in a way that would include Approved Providers, however, the guidance often only refers to 'child care workers and family day carers'.

In addition, across jurisdictions there are inconsistencies within their various legislation in relation to whether or not it is a criminal offence for adults to fail to report child sexual abuse and fail to protect children (see [Attachment 7](#)). The offence applies where there is a substantial risk that a child under the care, supervision or authority of a relevant organisation will become a victim of a sexual offence committed by an adult associated with that organisation. A person in a position of authority in the organisation will commit the offence if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk, but negligently fail to do so.

These offences encourage organisations to actively manage the risks of sexual offences being committed against children in their care to protect them from harm. Comparatively, in the NQF, the National Law identifies that failure to protect children from harm and hazards (section 167) is an offence for the Approved Provider, nominated supervisor and FDC educator.

Some jurisdictions require reporting of a wide range of harms, compared to Western Australia, which only requires reporting of sexual abuse. Tasmania has the lowest threshold with a broad approach of abuse or neglect and also prior to birth, which aligns to reporting thresholds in their Reportable Conduct Scheme.

Under the NQF, there are requirements about awareness with all child protection laws and training but only where required by the jurisdiction. The Approved Provider must ensure all nominated supervisors and staff members who work with children are aware of child protection laws and obligations under regulation 84. From 1 October 2023, all volunteers must be aware of how to comply with all child protection laws and any obligations held under them.

The National Law requires nominated supervisors and persons in day-to-day charge of centre-based services to undergo child protection training, but only where that is required by other laws within their jurisdiction (section 162A). Each jurisdiction is at different stages of requiring and having available some form of child protection training for a wide range of sectors. It is difficult to confirm whether it is

<sup>100</sup> Objective Reach. [NSW Department of Communities and Justice Case Study](#), accessed 2 October 2023.

mandatory and access to quality training can be difficult in some jurisdictions. From 1 October 2023, all FDC coordinators must complete child protection training, but it is only where required by their jurisdiction.

The *Guide to the NQF* is designed to help Approved Providers, educators and authorised officers to understand and consistently apply the requirements of the NQF. NQS Element 2.2.3 Child protection, requires management, educators and staff to be aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect. The *Guide to the NQF* contains guidance for services to ask of their own practice to consider whether their service exceeds the related standard for element 2.2.3 of the NQS.

Given the importance of child protection, the practises outlined in the Guide to the NQF should not be only expected of services at the Exceeding practices NQS level. They should be requirements that are fundamental for all services to ensure they provide a child safe environment. The benchmark for meeting the NQS in this element needs to be raised.

Currently, across jurisdictions there do not appear to be many legislative requirements and/or formal requirements to complete mandatory child protection training required under section 162A of the National Law. There also isn't a nationally agreed approach about what the scope of the training includes to enable the identification and response to any incidents or allegations about child maltreatment (see [Attachment 7](#)).

### **WWCC and Criminal History Screening**

The NQF has a wide range of obligations relating to fitness and propriety for Approved Providers and those in managerial and supervisory capacities (see [Attachment 4a](#)) in addition to record keeping requirements for all staff working directly with children as outlined in [Attachment 6](#). The WWCC (also known as a working with vulnerable people check in some jurisdictions) assessment is an ongoing assessment of a person's eligibility to work or volunteer with children and young people and involves a check of a person's national criminal history (including all spent convictions, pending and non-conviction charges), other disciplinary action and police information.

Each jurisdiction has their own legislation to implement their WWCC. Some checks may draw from various databases that hold workplace records, sex offender history, or previous screening outcomes in other jurisdictions. Over time, the discrete operation of WWCC across jurisdictions has led to inconsistencies in policy requirements and checking processes. The requirements and checks involved for WWCC applications can vary substantially across the different programs in each jurisdiction with gaps across jurisdictions, which can increase risks for Approved Providers and, most importantly, children and young people.

Whilst all jurisdictions provided in-principle agreement with some minor caveats to the National Standards for Working with Children Checks<sup>101</sup> (Standards) through the Council of Attorneys-General and the Community Services Ministers Forum, committing to work towards full implementation of the policy in their respective jurisdictions, some are still working towards full implementation. The Standards are intended to establish nationally consistent parameters for the screening of persons who propose to engage in child-related work. The Standards were developed together by the Commonwealth, state and territory governments, with reference to the recommendations by the Royal Commission.

The system of design, verification and enforcement can be time consuming and costly for some applicants. Another consequence of each jurisdiction having their own WWCC scheme is the fragmented nature of the data on worker screening applicants. WWCCs are also assessed at a point in time. Once a WWCC screening check is complete, ongoing monitoring of the individual is core to the

101 Australian Government. (2019). [National Standards for Working with Children Checks](#), accessed 8 June 2023.

continued integrity of the check. While most jurisdictions' screening programs have some degree of ongoing monitoring, it is difficult to assess the extent of interoperability of monitoring across different programs.

A national model for WWCCs including a centralised, national database and consistent terminology for recording WWCC decisions in the database is the ideal outcome. While a national WWCC database has been established it is still a work in progress. The Commonwealth Department of Human Services and the Australian Criminal Intelligence Commission (ACIC) delivered a project in July 2019 that implemented a National Reference System (NRS) for WWCC decisions. The aim of the NRS is to receive, maintain and make available key decisions provided by jurisdictions as a result of WWCCs to assist other jurisdictions in the continuous monitoring of WWCC applicants and cardholders. However, all jurisdictions need to undertake the development work required to integrate their respective WWCC systems with the NRS, including both internal operation processes and legislative change to enable the sharing of information inter-jurisdictionally.

### **Teacher Registration**

TRAs have a significant role in protecting children and promoting and maintaining the integrity of the teaching profession. Currently, there are four jurisdictions that do not enable or have barriers for early childhood teacher registration/accreditation, with enabling registration across Australia being one of 21 actions under *Shaping Our Future 2022- 2031*.

In 2017, the Royal Commission noted better practice in information sharing about teachers amongst TRAs and schools is an essential component in mitigating child safety risks. Where teachers are moving more freely across jurisdictions, effective information sharing is required so that TRAs and employers are informed about potential child safety risks. The Royal Commission's recommendations were against facilitating mobility of teachers who could exploit these gaps and move between jurisdictions to evade findings of misconduct, until appropriate national information sharing arrangements are in place.

The national Automatic Mutual Recognition (AMR) scheme for a range of professions commenced in July 2021, with all jurisdictions except Queensland now participating in the scheme. Currently the teaching profession is exempt from participation in the AMR scheme. Once these exemptions expire in 2025 or 2027, depending on the jurisdiction, AMR will enable teachers registered in one state or territory (the first jurisdiction) to be deemed automatically registered to teach in another state or territory (the second jurisdiction) making it imperative that child safety aspects are harmonised.

To this end, further work was commissioned by governments exploring options for national information sharing that address concerns of the Royal Commission and builds on the recommendations in the *One Teaching Profession: Teacher Registration in Australia* report by the Australian Institute for Teaching and School Leadership (AITSL). In summary, the BDO report found that although good progress has been made on improving information sharing between jurisdictions since the Royal Commission findings, while not applying to all jurisdictions, potential gaps in information sharing were identified. Specifically for ECEC this includes there being no arrangements in place to share information with all the local NQF Regulatory Authorities and the inability to share information with other TRAs in a timely fashion, for example, via an integrated ICT solution, noting this would require funding.

Whilst all potential identified gaps would apply to all early childhood teachers, other significant information sharing issues include the absence of an agreed document to guide a nationally consistent approach to information sharing practices and a lack of agreement between TRAs about what information should be legislatively mandated to be shared and in what format. Governments are currently working through options to address these gaps for Ministerial consideration.

### **Reportable Conduct Scheme and Child Safe Standards**

The Royal Commission Report's recommendation 7.9 is that state and territory governments should establish nationally consistent legislative schemes, based on the approach adopted in New South Wales, which oblige heads of institutions to notify an oversight body of any reportable allegation, conduct or conviction involving any of the institution's employees.

Recommendation 7.10 outlined that these schemes should provide for a number of aspects such as an independent oversight body, obligatory reporting by heads of institutions, consistent definition of reportable conduct that covers any sexual offence, or sexual misconduct, committed against, with, or in the presence of, a child and historical conduct of a current employee, with the definition of employee that covers paid employees, volunteers and contractors, and protection for persons who make reports in good faith.

In addition, the Royal Commission recommended oversight body powers and functions that include scrutinising institutional systems for preventing reportable conduct for handling and responding to reportable allegations, or reportable convictions monitoring the progress of investigations and the handling of complaints by other powers such as public reporting, including annual reporting on the operation of the scheme, trends in reports and investigations, and the power to make special reports to parliaments.

In terms of scope of the Reportable Conduct Scheme, Recommendation 7.12 recommended that the scheme should apply to institutions that exercise a high degree of responsibility for children; engage in activities that involve a heightened risk of child sexual abuse due to institutional characteristics and the nature of the activities involving children, or the additional vulnerability of the children the institution engages. Approved education and care services under the NQF were specifically mentioned as one example that met this threshold.

Reportable conduct is intended to include all misconduct and abuse against children and conduct that falls below a criminal threshold and may not necessarily be reportable to police. This is to ensure that grooming and other inappropriate patterns of behaviour can be identified in the early stages, and the risks to children appropriately responded to. Currently, four jurisdictions have reportable conduct schemes – ACT, NSW, Victoria and WA, with Tasmania commencing January 2024. Queensland is consulting on these and a child safe scheme, whereas NT and SA have no current commitments.

Child safe standards have been enshrined in legislation in three jurisdictions (Tasmania, Victoria and NSW), with some other jurisdictions exploring this or they have something similar (South Australia). In Victoria, the National Law is used to require approved education and care services to meet their Child Safe Standards requirements under one piece of legislation, with conditions used as the mechanism to achieve this.

Approved Providers and educators can be unclear about what needs to be reported due to different thresholds between reportable conduct and mandatory reporting. There is no national standard for a reportable offence or incident, nor any standard approach to how these data can be routinely shared across jurisdictions. Reportable conduct may include but not always (jurisdictionally):

- sexual offences against, with or in the presence of a child;
- sexual misconduct against, with or in the presence of a child (including behaviour of a sexual nature, inappropriate touching, grooming and voyeurism);
- physical violence against, with or in the presence of a child;
- behaviour that causes significant emotional or psychological harm;
- significant neglect.

## Additional Child Care Subsidy (ACCS)

Another national child safety initiative is the ACCS, which results in Approved Providers receiving ACCS from the Australian Government on behalf of families. Families eligible through CCS may receive extra help with the cost of approved child care through ACCS (Child Wellbeing), if caring for a child who is vulnerable or at risk of harm, abuse or neglect. In most cases, the subsidy covers the full cost of child care. A child is considered at risk if they are exposed to:

- serious physical, emotional or psychological abuse;
- sexual abuse;
- domestic or family violence; or
- neglect.

A child is also considered at risk if they:

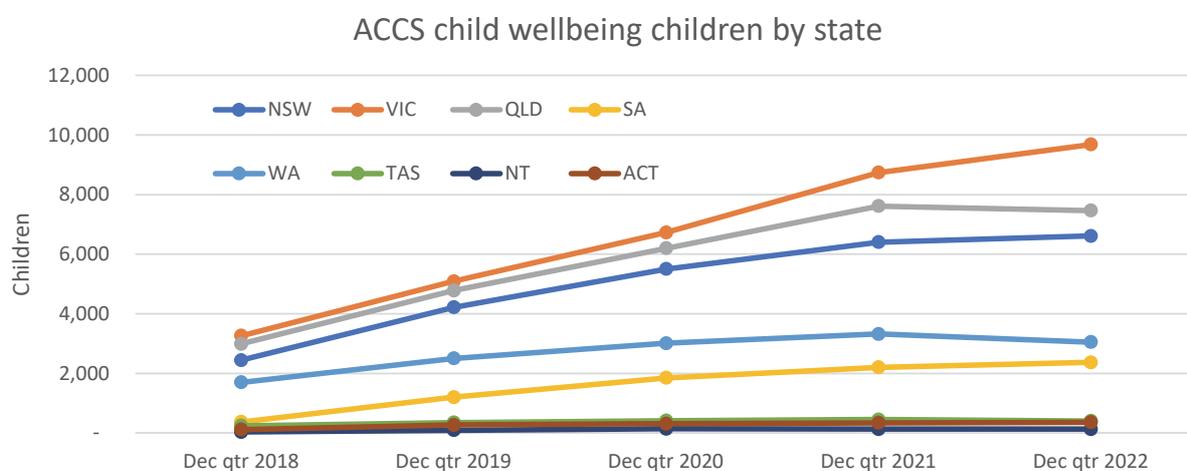
- are likely to experience any of the above in the future;
- are in formal foster care or formal kinship placement; or
- have been identified as being at risk under state or territory child protection law.

Although the ACCS (Child Wellbeing) is used extensively across Australia (see Figure 5 below) the Australian Government is considering how the ACCS (Child Wellbeing) can be made more appealing to all families, in particular, First Nations families.

The Australian Government, in 2022, reviewed and updated the Guide to ACCS (Child Wellbeing)<sup>102</sup> to provide clearer direction of steps to be taken by the Approved Provider within the process, as each state and territory has its own laws and procedures related to ECEC and child protection. These include requirements for mandatory reporting, and the process to refer a family to an appropriate support agency.

Applying for ACCS (Child Wellbeing) in respect of a child, whether through giving a certificate or applying for a determination, does not replace an Approved Provider's mandatory reporting responsibilities. It should be noted that Tasmania has a low threshold for mandatory reporting and therefore there are no requirements to refer a family to an appropriate support agency.

**Figure 5: Additional Child Care Subsidy (Child Wellbeing) children by state  
December 2018 – December 2022**



Source: Department of Education, administrative data, DR3754.

<sup>102</sup> Australian Government, Department of Education. [Guide to ACCs \(Child Wellbeing\)](#), accessed 8 June 2023.

Note: As children can use care in multiple services and due to rounding, the sum of component parts may not equal the Total.

Increased alignment of reportable conduct and particularly mandatory reporting thresholds would enable a simpler interaction with ACCS for the most vulnerable families and the many Approved Providers who operate across more than one jurisdiction.

### What needs to be done?

In summary, as would be expected in a Federation, governments have taken different approaches to the three main obligatory reporting models operating in Australia – mandatory reporting (to child protection authorities), the creation of ‘failure to report’ offences (to police) and reportable conduct schemes. Variations in obligatory reporting models mean that institutions have different obligations to externally report institutional child sexual abuse, depending on what sector and jurisdiction they operate in. These differences can result in varying levels of protection for children and the extent of potential underreporting.

The other key issue relates to information sharing both within many jurisdictions and across all jurisdictions which is required given mobility of the modern workforce and the increasing nature of larger providers to work across jurisdictions, with some of the largest working across five or more.

The Royal Commission recommended that the Australian, state and territory governments establish nationally consistent legislative and administrative arrangements to establish a National Scheme for exchange of child safety and wellbeing information (National Scheme) (recommendations 8.6-8.8) and that this be supported with education, training and guidelines. The Royal Commission emphasised that improving national information sharing arrangements is important for a number of reasons, including to:

- identify, prevent and respond to incidents and risks of child sexual abuse;
- support better child safety and wellbeing outcomes;
- prevent potential perpetrators moving undetected between institutions, sectors and jurisdictions;
- reduce complexity, confusion and fragmentation, and promote certainty and confidence;
- reduce the compliance burden on organisations providing services, which are currently subject to different and complex rules; and
- serve as a basis for consistent education and training.

Comparatively, England’s [Working together to safeguard children](#) is statutory guidance on inter-agency working together to safeguard and promote the welfare of children. The *Children Act 2004*, as amended by the *Children and Social Work Act 2017*, strengthens this already important relationship by placing new duties on key agencies in a local area. Specifically, the police, clinical commissioning groups and the local authority are under a duty to make arrangements to work together, and with other partners locally, to safeguard and promote the welfare of all children in their area.

This guidance focuses on the core legal requirements, making it clear what individuals, organisations and agencies must and should do to keep children safe. In doing so, it seeks to emphasise that effective safeguarding is achieved by putting children at the centre of the system and by every individual and agency playing their full part. They believe this child centred approach is fundamental to safeguarding and promoting the welfare of every child and keeping the child in focus when making decisions about their lives. All practitioners are required to follow the principles of their *Children Acts 1989* and *2004*, that state that the welfare of children is paramount. Whatever the form of abuse or neglect, practitioners should put the needs of children first when determining what action to take.

In England, there is also a focus on effective sharing of information between practitioners, local organisations and agencies as being essential for early identification to keep children safe. Their *Data*

*Protection Act 2018* and General Data Protection Regulations enable the sharing of information for the purposes of keeping children safe. For example, they are prepared to share information about persons of interest with an unsubstantiated allegation, if it is in the interest of keeping a child/ren safe. In Australia, similar legal protections should be considered, where required, to enable the sharing of all information in the promotion of children's safety. NOCS is currently leading the work for measure 3 under the *National Strategy to Prevent and Respond to Child Sexual Abuse 2021–2030's* First Action Plan to enhance national arrangements for sharing child safety and wellbeing information.

The Commission of Inquiry Tasmania found barriers to sharing information and coordinating a response to be primarily cultural, with individuals believing that the privacy of alleged abusers prevented them from sharing information. They also found legislative barriers were mostly perceived rather than actual. Importantly, they identified that when individual incidents or pieces of information about a person of interest were viewed in isolation they may not be considered as serious. However, when put together they can sometimes reveal a pattern of behaviour and a better basis for agencies to use their powers to act. They identified that prior complaints, allegations and disciplinary action, even if they do not culminate in a sanction, should also be considered when making a determination about an employee's conduct when concerns about child sexual abuse and related conduct have been raised.

The Commonwealth Attorney-General hosted a national Ministerial Forum in November 2023 on Child Safety to progress national reforms to prevent child sexual abuse in Australia which considered many of these issues raised and complement the findings in this Review. Whilst Australia has challenges as a federated model, there are a number of actions that could be pursued to place the child at the centre of decision-making and ensure that information is shared about 'persons of interest' who have patterns and history of unsubstantiated allegations. These include influencing broader systemic and structural reforms which relate to:

- further embed and enshrine the National Principles;
- harmonise screening, reporting and professional conduct systems which enable information sharing provisions;
- streamline reporting within a jurisdiction and nationally, to reduce complexity and increase understanding; and
- address issues of over-reporting or under-reporting, which then ensures the right agencies receive reports and can respond effectively.

## CONCLUDING REMARKS

### Fit for Purpose

The NQF remains fit for purpose as the national mechanism under which children's education and care providers and their staff ensure and promote the safety, health and wellbeing of children attending education and care services across Australia. That assurance to each child, their family and the community is cemented by the responsive support and compliance monitoring role played by governments and their Regulatory Authorities. The NQF is recognised internationally as setting a high benchmark for quality education and care practice. Its success to date is underpinned by a shared responsibility of, and commitment to, continuous quality improvement by Approved Providers, teachers and other educators, governments and their Regulatory Authorities, and ACECQA.

There has been a series of comprehensive and targeted reviews of the NQF undertaken since 2012 - the most recent of which further strengthened children's protection in education and care, including through increasing NQF alignment with the National Principles.

The overwhelming majority of Approved Providers and their staff are dedicated professionals who devote their careers to the protection of children and young people in their care. However, monitoring the effectiveness of a regulatory scheme like the NQF in a growing sector will always require constant vigilance to identify and respond to rapidly evolving societal change.

### Challenges

The increasing numbers of reported incidents of harm to children highlight that child facing sectors need to be vigilant in identifying and responding to early identification and notification of signs of child maltreatment. Approved Providers, teachers and educators play an integral role due to their relationships and unique positions of responsibility and trust with children, young people and their families.

As this Review has outlined, the NQF does not exist in a vacuum. There is a broader, inter-related child protection landscape with numerous child safety mechanisms, often at the jurisdictional level, which are intended to protect children and young people but can be complex to navigate resulting in overlap, confusion and silo reporting. This is particularly relevant for many Approved Providers who are operating services across state and territory borders while facing the challenges of high demand for ECEC places and an undersupply of experienced teachers and other educators.

### Opportunities

This Review has identified strengthening areas including relatively modest changes to the NQF to improve organisational child safe cultures and safer online environments, a coordinated approach to the prevention of child harm through a potential national system for sharing information about 'persons of interest', building workforce knowledge/capabilities in sustainable ways and further alignment of jurisdictional child safety mechanisms.

Recommendations also leverage Ministerial endorsed reforms in *Shaping our Future – the National Children's Education and Care Workforce Strategy (2022–2031)* and take account of the ongoing COVID-19 pandemic workforce impacts of staff fatigue, high workforce turnover and reliance on agency staff who may be inexperienced, and unfamiliar with children and service policies and procedures. All recommendations have been considered with a primary concern for benefits to children, while being mindful of the associated impact and burden noting that regulatory impact analysis is likely to be required for some of the proposals. While this Review was not the subject of a sector consultation process, the recommendations are expected to be strongly supported by stakeholders who have always committed to and expected high-quality services that strive to protect and promote the health, safety and wellbeing of each child and young person.

### **Children's Protection First and Foremost**

A significant feature of Aboriginal and Torres Strait Islander cultures, the oldest continuing living cultures across the world, is the belief that it is vital for the health of the entire community to place children at the centre of decision-making within society, government systems and frameworks. This is an opportunity to refresh and bolster the intent of the NQF to mirror this belief by placing children - their safety, rights and best interests - at the heart of decision-making by all governments when considering the Review's recommendations.

## ATTACHMENT 1: TERMS OF REFERENCE

### May 2023

The National Quality Framework (NQF) was established a decade ago to provide a comprehensive national regulatory system to ensure the safety, health and wellbeing of children attending approved early childhood education and care (ECEC) services. The NQF is designed to support ECEC services in meeting their obligations to provide a child safe environment to minimise the risk of harm and hazard to children attending ECEC services. These services include long day care, family day care, kindergarten, preschool and outside school hours care.

The safety and protection of children attending services is the highest priority for all governments.

There are numerous child protection safeguards nationally and within jurisdictions, including requirements for Working with Children Checks, reportable conduct schemes, child protection training, teacher registration processes, mandatory reporting and, under the NQF, requirements to report risks and serious incidents to Regulatory Authorities.

Given the critical importance of child safety and the numbers of reported critical incidents, it is timely and imperative that the NQF system remains contemporary and fit for purpose. This Review will take into account and build on the additional safeguards achieved through the 2019 NQF Review. To this end, at the request of the Federal Minister for Education and Minister for Early Childhood Education, the Department of Education has engaged the Australian Children's Education and Care Quality Authority (ACECQA) to undertake a comprehensive review of the child safety provisions under the NQF and related jurisdictional arrangements.

### Objectives

A review of child safety provisions and arrangements, with a particular focus on reducing harm, including abuse and neglect, in approved ECEC settings to identify:

- existing provisions for child safe environments under the NQF in relation to three key areas including:
  - » physical and online environment
  - » staffing and supervision
  - » child protection requirements
- how these provisions interact with, and are supported by, broader child safety and protection arrangements in each state and territory
- contemporary best practice international standards for child safe environments in ECEC settings
- any gaps within, and opportunities for strengthening, NQF provisions.

### Scope

#### 1. NQF and child protection

A review and analysis of how the NQF operates to ensure a child safe environment including what is covered, potential gaps and the upcoming changes to the NQF involving child protection training and obligations and mapping of the National Principles for Child Safe Organisations. This will be informed by analysis of National Quality Agenda Information Technology System (NQA ITS) data regarding prescribed notifications to Regulatory Authorities about:

- serious incidents
- complaints
- circumstances at the service which pose a risk to the health, safety or wellbeing of children; and

- any incident or allegation that abuse, including physical or sexual, of a child/children has occurred or is occurring while the child/children are being educated and cared for by the service.

The review will consider the effectiveness and adequacy of record-keeping and information sharing arrangements between jurisdictions and within the NQA ITS.

## **2. Inter-related child protection mechanisms**

Analysis of the child protection safeguards nationally and within states and territories including Working with Children Check processes, mandatory reporting and teacher registration processes. The review would identify the intersections with the NQF, areas for improvement and better alignment of these mechanisms. The review will be undertaken with consideration of the National Office for Child Safety's (NOCS) work with the States and Territories to improve national consistency of Working with Children Checks.

## **3. International best-practice**

A literature review and research of international best practice in systems and structures comparative to the NQF and its intersecting child protection regulatory frameworks. This would help inform the recommendations for the final comprehensive report, outlining any potential options and their impacts.

## **4. Targeted Stakeholder Consultation**

As part of the review, ACECQA will conduct targeted consultations with NQF regulatory authorities, governments and relevant statutory bodies. ACECQA will liaise with NOCS and the Department of Social Services (DSS) to consider how the NQF interacts with the National Principles for Child Safe Organisations, the Commonwealth Child Safe Framework, the *National Strategy to Prevent and Respond to Child Sexual Abuse 2021–2030* and *Safe and Supported: the National Framework for Protecting Australia's Children 2021–2031*.

## **5. Existing or proposed reforms**

ACECQA will examine existing strategies, action plans or system reviews/reforms designed to further support and enhance the safety and wellbeing of children. For example, [Shaping our Future – the National Children's Education and Care Workforce Strategy \(2022–2031\)](#) has a number of actions that will provide for more effective assessment, and monitoring, of suitability for people seeking to work with children, such as the development of an educator register.

Recommendations from the [Royal Commission into Institutional Responses to Child Sexual Abuse](#) will be considered, where relevant for example, NQF intersections with reportable conduct schemes established by state and territory governments.

## Deliverable

A comprehensive report on the effectiveness of the NQF and related national and jurisdictional systems and structures (laws, regulations, standards and practices) to safeguard children's safety while attending an approved ECEC service will be provided to the Australian Education Senior Officials Committee and the Education Ministers Meeting later this year.

The report will include an analysis of, and comparison with, international best practice systems and structures for the protection of children attending ECEC, and recommendations for improvements and opportunities for improved systems' alignment and/or integration.

### ***Governance arrangements***

It is proposed to use existing and targeted mechanisms across relevant portfolios and agencies to ensure that this project is both time and cost efficient. The NQF Regulatory Practice Committee, the Early Childhood Policy Group (ECPG), the Australian Education Senior Officials Committee (AESOC) and Education Ministers (EMM) will be briefed as the project progresses. A draft report will be provided by end of October 2023, along with any updated advice, to NOCS and DSS, ECPG, AESOC and EMM, with a final report due by end of 2023.

## ATTACHMENT 2: NATIONAL PRINCIPLES FOR CHILD SAFE ORGANISATIONS

1. Child safety and wellbeing is embedded in organisational leadership, governance and culture.
2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved in promoting child safety and wellbeing.
4. Equity is upheld and diverse needs respected in policy and practice.
5. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.
6. Processes for complaints and concerns are child focused.
7. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
8. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
9. Implementation of the national child safe principles is regularly reviewed and improved.
10. Policies and procedures document how the organisation is safe for children and young people.

## ATTACHMENT 3: NQF AND CHILD SAFETY TIMELINE



## ATTACHMENT 4a: NQF FITNESS AND PROPRIETY REQUIREMENTS UNDER THE NQF

Role	Working with Children Check (WWCC) considered	Fitness and propriety requirement
Approved provider (AP)/ Persons with Managements or Control	<p>As part of provider application approval and when considering fitness and propriety.</p> <p>Applications must include:</p> <ul style="list-style-type: none"> <li>• WWC card or WWCC or teacher registration of the jurisdiction applying to (except in NSW and Qld)</li> <li>• If applying in NSW – WWCC number, WWC card, or WWCC</li> <li>• If applying in Qld – WWC card or WWCC</li> <li>• If applying in Tas – WWVP registration</li> <li>• WWVP check or a criminal history record check issued within previous 6 months plus a criminal history statement covering the time between the check and the application for provider approval (except in Qld)</li> <li>• An overseas criminal history statement if the person lived outside Australia within the previous 3 years.</li> </ul>	<p>Must be fit and proper to be involved in education and care provision.</p> <p>When assessing fitness and propriety, the Regulatory Authority (RA) must consider:</p> <ul style="list-style-type: none"> <li>• compliance with the National Law</li> <li>• compliance with/decisions under related children’s services/education laws</li> <li>• criminal history (includes whether the person holds a current WWC card or check or is a registered teacher in the jurisdiction and a criminal history record check (except in Qld)), or a check of a WWVP law</li> <li>• bankruptcy/insolvency.</li> </ul> <p>Regulatory Authority (RA) may consider:</p> <ul style="list-style-type: none"> <li>• medical conditions</li> <li>• financial circumstances</li> <li>• management capability</li> <li>• actions under the Family Assistance Law</li> <li>• any other matter.</li> </ul>
Nominated supervisor	<p>As part of staff record requirements.</p> <p>The staff record must include:</p> <ul style="list-style-type: none"> <li>• current WWCC or WWVP check number and expiry date or</li> <li>• teacher registration number and expiry date.</li> <li>• in Tas, current WWVP registration and expiry date.</li> </ul> <p>Additional requirement in Vic: the AP must read a person’s WWCC or check the relevant teacher registration register.</p>	<p>AP nominates them after considering compliance with/decisions under the National Law and related children’s services/education laws. Nominated Supervisor (NS) must also be 18+, have adequate knowledge and understanding of education and care provision, and the ability to effectively supervise and manage a service.</p>

Role	Working with Children Check (WWCC) considered	Fitness and propriety requirement
Person in day-to-day charge (PIDTC)	No requirements for this role, but anyone holding this role would have WWCC requirements under the “staff member” requirements or “Family Day Care (FDC) register” requirements. Additional requirement in Vic: the AP or NS must read a person’s WWCC or check the relevant teacher registration register.	AP or NS appoints them after considering compliance with/decisions under the National Law and related children’s services/education laws. Persons in day-to-day charge must also be 18+, the AP/NS must have taken steps to ensure they have adequate knowledge and understanding of education and care provision, and an ability to effectively supervise and manage a service.
Staff members of centre-based services (includes educators but excludes nominated supervisors)	As part of staff record requirements (as above). Additional requirement in Tas: must hold WWVP registration. Additional requirement in Vic: the AP or NS must read a person’s WWCC or check the relevant teacher registration register.	
FDC coordinators	As part of FDC register requirements. The FDC register must include: <ul style="list-style-type: none"> <li>• current WWCC or WWVP check number and expiry date or</li> <li>• teacher registration number and expiry date (except in NSW, Qld and Tas)</li> <li>• in Tas, current WWVP registration and expiry date</li> <li>• the date the check or registration was sighted by the AP or NS.</li> </ul> Additional requirement in Tas: must hold WWVP registration. Additional requirement in Vic: the AP or NS or PIDTDC must read the person’s WWCC or check the relevant teacher registration register	
FDC educators	As part of FDC register requirements (as above). Additional requirement in Tas: must hold WWVP registration. Additional requirements in Vic: the AP or NS or PIDTDC must read the person’s WWCC or check the relevant teacher registration register. Must also read the person’s criminal history check	

Role	Working with Children Check (WWCC) considered	Fitness and propriety requirement
FDC educator assistants	<p>As part of FDC register requirements (as above).</p> <p>Additional requirement in Tas: must hold WWVP registration.</p> <p>Additional requirements in Vic: the AP or NS or PIDTDC must read the person's WWCC or check the relevant teacher registration register.</p>	<p>Must be fit and proper people to be in the company of children.</p> <p>When assessing fitness and propriety (except in NSW, Qld, Tas and Vic), the AP must consider one of the following:</p> <ul style="list-style-type: none"> <li>• a criminal history record check issued within the previous 6 months</li> <li>• a current WWCC or WWVP check or WWC card issued on the basis of a criminal history record check</li> <li>• current teacher registration</li> </ul> <p>In NSW or Qld, the AP must consider a current WWCC or card.</p> <p>In Vic, the AP must consider a current WWCC or current teacher registration.</p> <p>In Tas, the AP must consider current WWVP registration.</p>
FDC residents	<p>As part of FDC register requirements.</p> <p>For residents, the FDC register must include:</p> <ul style="list-style-type: none"> <li>• current WWCC, WWVP check, WWC card or</li> <li>• criminal history record check; or</li> <li>• current teacher registration; and</li> <li>• expiry dates if applicable; and</li> <li>• the date the check or registration was sighted by the AP or NS.</li> </ul>	<p>All adults must be fit and proper people to be in the company of children.</p> <p>When assessing fitness and propriety (except in NSW, Qld, Tas and Vic), the AP must consider one of the following:</p> <ul style="list-style-type: none"> <li>• a criminal history record check issued within the previous 6 months</li> <li>• a current WWCC or WWVP check or WWC card issued on the basis of a criminal history record check</li> <li>• current teacher registration</li> </ul> <p>In NSW or Qld, the AP must consider a current WWCC or card.</p> <p>In Vic, the AP must consider a current WWCC or current teacher registration.</p> <p>In Tas, the AP must consider current WWVP registration.</p> <p>From October 2023 and December 2023 in WA, AP must notify RA of circumstances that affect whether any resident is fit and proper to be in the company of children.</p>

Role	Working with Children Check (WWCC) considered	Fitness and propriety requirement
FDC residents, cont.		Circumstances that may affect fitness and propriety include: <ul style="list-style-type: none"> <li>the person is charged with or convicted of an offence of a sexual or violent nature, or an offence involving drugs or weapons</li> <li>rejection of an application, revocation or suspension of a WWCC or card, WWVP check or WWVP registration</li> <li>if the person is prohibited from working with children.</li> </ul>
Volunteers and students	From October 2023 and December 2023 in WA, for centre-based services, as part of staff record requirements. For volunteers, the staff record must include: <ul style="list-style-type: none"> <li>WWCC number and expiry (if they are required or permitted to obtain one) or</li> <li>teacher registration number and expiry date (except in NSW, Qld, SA and Tas).</li> </ul> Additional requirement in Tas: Must hold proof of WWVP registration (if aged 18+). Additional requirement in Vic: the AP or NS or PIDTDC must read the person's WWCC or check the relevant teacher registration register.	

## ATTACHMENT 4b: CRIMINAL HISTORY SCREENING UNDER THE NQF

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p><b>Approved providers (APs) and persons with management or control (PMC) of services</b></p> <p><b>Application to be an approved provider</b></p> <p>Application to be an AP must include working with children or vulnerable people check (WWCC) information and/or a criminal history record check, and if the person has lived outside Australian with the previous 3 years, an overseas criminal history statement (section 10 and regulation 14).</p> <p>Regulatory Authority (RA) must have regard to a person's criminal history when determining if a person is fit and proper to be an AP, including if the person holds a current WWCC or card, is a registered teacher and matters in a criminal history record check (section 13, regulation 16).</p> <p>Applicant must satisfy the RA they are fit and proper to provide education and care (section 12).</p>	<p>AP must notify the RA if there is any change relevant to the AP's fitness and propriety. Penalty \$4500 or \$22 900 (section 174).</p> <p>General notification requirements:</p> <p>AP must notify the RA of any circumstance arising at the service that poses a risk to the health, safety or wellbeing of a child or children attending the service, any incident where the AP reasonably believes that physical abuse or sexual abuse of a child or children has occurred or is occurring; allegations that physical or sexual abuse of a child or children has occurred or is occurring (regulation 175).</p> <p>AP must notify the RA of any serious incident, complaints alleging a serious incident has occurred or is occurring (section 174.)</p>	<p>RAs in all jurisdictions in which the provider operates may reassess fitness and propriety and suspend or cancel provider approvals (section 42).</p> <p>If the RA suspects an offence has or may have been committed against the National Law, they may require them to produce documents or evidence, including on oath or affirmation. Penalty \$9100 or \$45 900 (sections 215-217).</p>	<p>Other than being informed by the AP directly, it is unclear how the RA would become aware the provider has been charged with an offence, or may no longer be a fit and proper person.</p> <p>Recommendation: There could be an obligation on PMCs to notify the RA if they become aware other PMCs are not fit and proper.</p> <p>Recommendation: Opportunities for national consistency in WWCC and registration requirements.</p>

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p><b>Reassessment</b></p> <p>The RA may at any time reassess fitness and propriety (section 21).</p> <p><b>Suspension and cancellation of provider approval</b></p> <p>The RA may suspend a provider approval if the approved provider has been charged with an indictable offence, or may not be a fit and proper person to be involved in education and care service provision. A show cause notice must be given first (section 26), unless the RA is satisfied there is an immediate risk to the safety, health or wellbeing of a child or children being educated and cared for by a service operated by the provider (section 28).</p> <p>The RA may cancel a provider approval if the provider or a PMC is not a fit and proper person to be involved in providing education and care, or continued provision by the provider would constitute an unacceptable risk to the safety health or wellbeing of any child being educated and cared for, or the provider has been found guilty of an indictable offence or an offence under the National Law (section 31). A show cause notice must be given first (section 32).</p>			

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p><b>Prohibition notice</b></p> <p>The RA may give a prohibition notice if there is an unacceptable risk of harm to a child if the person were allowed to remain on the education and care premises, or provide education and care to children. Penalty \$22 900 (section 182).</p>			
<p><b>Nominated supervisors</b></p> <p>AP must nominate a nominated supervisor that meets prescribed requirements (section 161A). The prescribed requirements include the person's compliance with the National Law, a former education and care services law, a children's services law and an education law (regulation 117C).</p> <hr/> <p>Must have child protection training (if any) required in the jurisdiction (section 162A).</p> <hr/> <p>The staff record must include a record of the identifying number of the current WWCC or vulnerable people check/registration conducted under that law and the expiry date of that check, if applicable or if the nominated supervisor is a teacher registered under an education law of a participating jurisdiction and has provided proof of that registration, a record of the identifying number of the teacher registration and the expiry date of that registration (regulation 146).</p>	<p>AP must notify the RA if the nominated supervisor's WWCC card or teacher registration is suspended or cancelled, or if there are disciplinary proceedings under an education law. Penalty \$4500 or \$22 900 (section 173).</p> <hr/> <p>A person must not give false or misleading information about a prohibition notice they are subject to. Penalty \$6000 (Section 188A).</p>	<p>RAs must disclose to other RAs the suspension or cancellation of a WWCC, card or teacher registration of a nominated supervisor (section 271).</p> <hr/> <p>RAs may disclose to the department responsible for administering WWCC laws any prohibition notice given under the National Law (section 271).</p> <hr/> <p>At the request of an AP, RAs (and ACECQA) may disclose to an AP if a person is subject to a prohibition notice (section 272).</p>	<p>RAs must disclose to each other changes to a nominated supervisor's WWCC/teacher registration status, but this requirement does not apply to other positions, including APs.</p> <hr/> <p>The AP could be required to consider compliance with a child protection law/WWCC/registration when appointing a nominated supervisor.</p>

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p>The AP must ensure nominated supervisors are aware of child protection law and obligations (regulation 84).</p> <p><b>Prohibition notice</b></p> <p>The RA may give a prohibition notice if there is an unacceptable risk of harm to a child if the person were allowed to remain on the education and care premises, or provide education and care to children. Penalty \$22 900 (section 182). An AP must not nominate a prohibited person if they know or out to know a prohibition notice is in force. Penalty \$22 900 or \$114 900 (section 188).</p> <p><b>Vic provision</b></p> <p>In Vic, the AP must read a person’s WWCC before nominating that person as a nominated supervisor, or check the relevant teacher registration register if the person is a registered teacher (regulation 358).</p>		<p>If the RA suspects an offence has or may have been committed against the National Law, they may require them to produce documents or evidence, including on oath or affirmation. Penalty \$9100 or \$45 900 (sections 215-217).</p>	<p>APs to notify the RA if any staff member’s WWCC / Teacher registration status changes (if they are not already notified under other systems). As above, opportunities for national consistency in WWCC and registration requirements.</p>

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history <ul style="list-style-type: none"> <li>• Who to and what are their obligations, based on how they know about changes (i.e. own changes or another person)</li> <li>• Under what disclosure provisions, where relevant?</li> <li>• Any offence provisions?</li> </ul>		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p><b>Person in day-to-day charge</b></p> <p>Must have child protection training (if any) required in the jurisdiction (section 162A).</p> <hr/> <p>APs or nominated supervisors must only place someone in day-to-day charge if they have had regard to their history of compliance with the National Law, a former education and care services law, a children’s services law and an education law (regulation 117B).</p> <p><b>Vic provision</b></p> <p>In Vic, the AP must read, or ensure the nominated supervisor has read, a person’s WWCC before placing the person as a person in day-to-day charge, or check the relevant teacher registration register if the person is a registered teacher (regulation 358).</p>			<p>The AP and nominated supervisor could be required to consider compliance with a child protection law/ WWCC/registration when appointing someone in day-to-day charge.</p>

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p><b>Staff members of centre-based services (includes educators)</b></p> <p>The staff record must include a record of the identifying number of the current WWCC or vulnerable people check/registration conducted under that law and the expiry date of that check, if applicable or (in NSW, Qld, Tas) if the staff member has provided proof of teacher registration, a record of the identifying number of the teacher registration and the expiry date of that registration (regulation 147).</p> <hr/> <p>The AP must ensure staff members who work with children are aware of child protection law and obligations (regulation 84).</p> <hr/> <p>Only authorised persons are to be on the education and care service premises while children are being educated and cared for unless they are under direct supervision (section 170). Staff and educators are authorised through having a WWCC or card or being authorised by the WWCC law to be at the premises without a check or card (section 170).</p>	<p>A person must not give false or misleading information about a prohibition notice they are subject to. Penalty \$6800 (Section 188A).</p>	<p>RAs may disclose to the department responsible for administering WWCC laws any prohibition notice given under the National Law (section 271).</p> <hr/> <p>At the request of an AP, RAs (and ACECQA) may disclose to an AP if a person is subject to a prohibition notice (section 272).</p> <hr/> <p>If the RA suspects an offence has or may have been committed against the National Law, they may require them to produce documents or evidence, including on oath or affirmation. Penalty \$9100 or \$45 900 (sections 215-217).</p>	<p>As above, opportunities for national consistency in WWCC and registration requirements.</p> <hr/> <p>As above, if teacher registration or WWCC status changes, does the AP get notified? There is no requirement to update the AP about change to this.</p> <hr/> <p>The Tas/Vic provisions should be used across roles nationally – i.e. make it a requirement to consider the WWCC, or only allow the person to be engaged if they hold a current WWCC.</p>

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p><b>Prohibition notice</b></p> <p>The RA may give a prohibition notice if there is an unacceptable risk of harm to a child if the person were allowed to remain on the education and care premises, or provide education and care to children. Penalty \$22 900 (section 182). An AP must not engage a prohibited person if they know or out to know a prohibition notice is in force. Penalty \$22 900 or \$114 900 (section 188).</p> <p><b>Tasmanian requirement</b></p> <p>In Tas, the AP must not engage a person as a staff member unless the staff member holds a working with vulnerable people registration. Penalty \$2200 (regulation 344).</p> <p><b>Vic provision</b></p> <p>In Vic, the AP must read, or ensure the nominated supervisor or person in day-to-day charge has read, a WWCC before engaging or registering the person as an educator, or check the relevant teacher registration register if the person is a registered teacher (regulation 358).</p>			

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p><b>Family day care coordinators</b></p> <p>The register must include a record of the identifying number of the current WWCC or vulnerable people check/registration and the expiry date of that check, if applicable or (in NSW, Qld, Tas) if the educator has provided proof of teacher registration, the identifying number of the teacher registration and the expiry date, and the date the check or registration was sighted by the AP or nominated supervisor (regulation 153).</p>			<p>As above, opportunities for national consistency in WWCC and registration requirements.</p> <hr/> <p>Family day care (FDC) educators are not specifically mentioned as being roles that can be the subject of prohibition notices, although they are likely captured by the terms “employees” and “staff members”.</p> <hr/> <p>As above, if teacher registration or WWCC status changes, does the AP get notified? There is no requirement to update the AP about change to this.</p>

<b>Requirements about different roles, what screening, record keeping for different positions/roles?</b>	<b>Obligations to notify about changes to criminal history</b> <ul style="list-style-type: none"> <li>• Who to and what are their obligations, based on how they know about changes (i.e. own changes or another person)</li> <li>• Under what disclosure provisions, where relevant?</li> <li>• Any offence provisions?</li> </ul>		<b>Gaps or opportunities to strengthen?</b>
	<b>Sector</b>	<b>Regulatory Authorities</b>	
<p><b>Family day care educators</b></p> <p>The register must include a record of the identifying number of the current WWCC or vulnerable people check/registration and the expiry date of that check, if applicable or (in NSW, Qld, Tas) if the educator has provided proof of teacher registration, the identifying number of the teacher registration and the expiry date, and the date the check or registration was sighted by the AP or nominated supervisor (regulation 153)</p> <p>RA may give the AP a show cause notice directing them to suspend an FDC educator if there is a risk to the safety, health or wellbeing of children (section 178).</p> <p><b>Prohibition notice</b></p> <p>The RA may give a prohibition notice if there is an unacceptable risk of harm to a child if the person were allowed to remain on the education and care premises, or provide education and care to children. Penalty \$22 900 (section 182). An AP must not engage a prohibited person if they know or out to know a prohibition notice is in force. Penalty \$22 900 or \$114 900 (section 188).</p>	<p>A person must not give false or misleading information about a prohibition notice they are subject to. Penalty \$6800 (Section 188A).</p> <p>FDC educator must notify the AP of any serious incident, complaints alleging a serious incident or contravention of the National Law (section 174).</p>	<p>RAs may disclose to the department responsible for administering WWCC laws any prohibition notice given under the National Law (section 271).</p> <p>At the request of an AP, Ras (and ACECQA) may disclose to an AP if an FDC educator has been suspended (section 272).</p> <p>At the request of an AP, Ras (and ACECQA) may disclose to an AP if a person is subject to a prohibition notice (section 272).</p> <p>If the RA suspects an offence has or may have been committed against the National Law, they may require them to produce documents or evidence, including on oath or affirmation. Penalty \$9100 or \$45 900 (sections 215-217).</p>	<p>As above, opportunities for national consistency in WWCC and registration requirements.</p> <p>As above, if teacher registration or WWCC status changes, does the AP get notified? There is no requirement to update the AP about change to this.</p> <p>As above, the Vic provisions should be used across roles. Note the Vic requires the FDC educator's criminal history check to be <i>read and considered</i> while the WWCC only needs to be read.</p>

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p><b>Victoria provisions</b></p> <p>In Vic, the AP must read, or ensure the nominated supervisor or person in day-to-day charge has read a person's WWCC before engaging or registering the person as an FDC educator, or check the relevant teacher registration register if the person is a registered teacher.</p> <hr/> <p>In Vic, the AP must read and consider, or ensure the nominated supervisor or person in day-to-day charge has read and considered, a person's criminal history record check before engaging or registering the person as an FDC educator (regulation 358).</p>			

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history <ul style="list-style-type: none"> <li>• Who to and what are their obligations, based on how they know about changes (i.e. own changes or another person)</li> <li>• Under what disclosure provisions, where relevant?</li> <li>• Any offence provisions?</li> </ul>		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p><b>Family day care assistants</b></p> <p>The register must include a record of the identifying number of the current WWCC or vulnerable people check/registration and the expiry date of that check, if applicable or (in NSW, Qld, Tas) if the educator has provided proof of teacher registration, the identifying number of the teacher registration and the expiry date, and the date the check or registration was sighted by the AP or nominated supervisor (regulation 153).</p> <hr/> <p>The AP must take reasonable steps to ensure FDC assistants are fit and proper people to be in the company of children. Penalty \$2200 (regulation 163). In NSW, Qld this means considering the person’s WWCC or card. In Vic this means considering the person’s WWCC or teacher registration. In Tas this means considering the person’s working with vulnerable people registration. In other jurisdictions this means considering a criminal history record check issued not more than 6 months before it is considered, a current WWCC, card, vulnerable people check or teacher registration.</p>			<p>The requirement to ensure “fitness and propriety” is only for FDC assistants, not for other roles. Also, a criminal history record check is something that is considered in some jurisdictions for FDC assistants and FDC residents (and for FDC educators in Vic and AP fitness and propriety checks) but not for other roles.</p>

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history	Gaps or opportunities to strengthen?	
	Sector		Regulatory Authorities
<p><b>Residents at family day care</b></p> <p>The register must include a record of the identifying number of the current WWCC card, vulnerable people check or criminal history record check or teacher registration and the expiry of the check, card or registration, and the date the check, card, record or registration was sighted by the AP or nominated supervisor (regulation 153).</p> <hr/> <p>The AP must take reasonable steps to ensure all adults residing at FDC residences are fit and proper people to be in the company of children. Penalty \$2200 (regulation 163). In NSW, Qld this means considering the person’s WWCC or card. In Vic this means considering the person’s WWCC or teacher registration. In Tas this means considering the person’s working with vulnerable people registration. In other jurisdictions this means considering a criminal history record check issued not more than 6 months before it is considered, a current WWCC, card, vulnerable people check or teacher registration.</p>	<p>• <b>Who to and what are their obligations, based on how they know about changes (i.e. own changes or another person)</b></p> <p>• <b>Under what disclosure provisions, where relevant?</b></p> <p>• <b>Any offence provisions?</b></p> <hr/> <p>AP must require each FDC educator to notify, and the FDC educator must notify, of any new persons aged 18 or over who reside or intend to reside at the residence and any change in circumstance that may affect whether a person is fit and proper to be in the company of children (regulation 164).</p> <hr/> <p>From October 2023 and December 2023 in WA, the AP must require each FDC educator to notify, and the FDC educator must notify of any circumstance that may affect whether any person who resides or intends to reside at the residence that may affect whether they are fit and proper to be in the company of children. Penalty \$2200 (regulation 164) This includes if the person is charged with or convicted of an offence of a sexual or violent nature, involving drugs or a weapon, or if the person’s application for a WWCC, card or registration has been rejected, revoked or suspended or if they are prohibited from working with children (regulation 164).</p>		<p>As above, opportunities for national consistency in WWCC and registration requirements.</p> <hr/> <p>As above, if teacher registration or WWCC status changes, does the AP get notified? There is no requirement to update the AP about change to this.</p> <hr/> <p>There could be a requirement for centre-based staff that mirrors the new provision requiring FDC educators to notify of any circumstance that may affect whether someone is fit and proper to be in the company of children.</p>

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p><b>Volunteers (and students)</b></p> <p><b>Prohibition notice</b></p> <p>The RA may give a prohibition notice if there is an unacceptable risk of harm to a child if the person were allowed to remain on the education and care premises, or provide education and care to children. Penalty \$22 900 (section 182). An AP must not engage a prohibited person if they know or out to know a prohibition notice is in force. Penalty \$22 900 or \$114 900 (section 188).</p> <p><b>New requirements</b></p> <p>From October 2023 and December 2023 in WA, the AP must ensure volunteers and students who work with children are aware of child protection law and obligations (regulation 84).</p> <p>From October 2023 and December 2023 in WA, for centre-based services, the staff record must include a record of the identifying number of the current WWCC or vulnerable people check/registration conducted under that law and the expiry date of that check, or (in NSW, Qld, SA, Tas) if the student or volunteer has provided proof of teacher registration, a record of the identifying number of the teacher registration and the expiry date of that registration (regulation 149).</p>	<p>A person must not give false or misleading information about a prohibition notice they are subject to. Penalty \$6800 (Section 188A)</p>	<p>RAs may disclose to the department responsible for administering WWCC laws any prohibition notice given under the National Law (section 271).</p> <p>If the RA suspects an offence has or may have been committed against the National Law, they may require them to produce documents or evidence, including on oath or affirmation. Penalty \$9100 or \$45 900 (sections 215-217).</p>	<p>As above, opportunities for national consistency in WWCC and registration requirements.</p> <p>As above, if teacher registration or WWCC status changes, does the AP get notified? There is no requirement to update the AP about change to this.</p> <p>The Tas and Vic requirements highlight difficulties with WWCC only applying to those over 18 years.</p>

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p><b>Tasmanian requirement</b></p> <p>The AP must ensure volunteers and students on practicum placements that are over 18 years of age hold proof they hold a working with vulnerable people registration (regulation 344).</p> <p><b>Victorian provision</b></p> <p>In Vic, the AP must read, or ensure the nominated supervisor or person in day-to-day charge has read, a person's WWCC before permitting them to be a volunteer, or check the relevant teacher registration register if the person is a registered teacher (regulation 358).</p>			

Requirements about different roles, what screening, record keeping for different positions/roles?	Obligations to notify about changes to criminal history		Gaps or opportunities to strengthen?
	Sector	Regulatory Authorities	
<p><b>Authorised persons</b></p> <p>Only authorised persons are to be on the education and care service premises while children are being educated and cared for, unless they are under the direct supervision (section 170). Authorised persons are people with WWCCs or cards, a parent or family member of a child (not including a person whose access is prohibited or restricted or who is an inappropriate) or an authorized nominee of a parent or family member of a child, medical personnel or emergency services personnel, a person permitted under the WWCC law to remain without a check or card.</p> <p><b>Inappropriate persons</b></p> <p>The RA may direct an AP, nominated supervisor or FDC educator to exclude an inappropriate person from the service. This is someone who may pose a risk to the safety, health or wellbeing of a child or whose behaviour or state of mind or whose pattern of behaviour or common state of mind is inappropriate (section 171).</p>	N/A	N/A	N/A

## ATTACHMENT 5: NQF OBLIGATIONS TO MAKE NOTIFICATIONS

Type of notification	Responsible	Timeframe	Reference
The suspension or cancellation of a working with children card or teacher registration, or disciplinary proceedings under an education law of a participating jurisdiction in respect of a nominated supervisor engaged by the service.	Approved provider	Within 7 days of the approved provider being notified	Section 173(2)(a)
Any change relevant to approved provider's fitness and propriety.	Approved provider	Within 7 days	Section 174(1)(a)
Change of a nominated supervisor's name or contact details.	Approved provider	Not specified	Section 56A
Nominated supervisor ceases to be employed or engaged at the service, is removed from the role, or withdraws consent to the nomination.	Approved provider	Within 7 days	Section 173(2) (b)
Death of a child.	Approved provider	As soon as practicable, but within 24 hours	Section 174(2)(a) Regulation 12 Regulation 176(2) (a) (i)
Any incident involving serious illness of a child while being educated and cared for which the child attended or ought reasonably to have attended a hospital.	Approved provider	Within 24 hours of the incident	Section 174(2)(a) Regulation 12
Any incident involving serious injury or trauma to a child while being educated and cared for which the child attended or ought reasonably to have attended a hospital, or a reasonable person would consider that the child would require urgent attention from a registered medical practitioner.	Approved provider	Within 24 hours of the incident	Section 174(2)(a) Regulation 12
Any emergency for which emergency services attended.	Approved provider	Within 24 hours of the incident	Section 174(2)(a) Regulation 12
A child is missing or cannot be accounted for or appears to have been removed from the premises by a person not authorised by a parent.	Approved provider	Within 24 hours of the incident	Section 174(2)(a) Regulation 12
A child is mistakenly locked in or out of the premises or any part of the premises.	Approved provider	Within 24 hours of the incident	Section 174(2)(a) Regulation 12
Any complaint alleging that a serious incident has occurred or is occurring at an education and care service, or the National Law has been contravened.	Approved provider	Within 24 hours of the complaint	Section 174(2)(b) Regulation 12

Type of notification	Responsible	Timeframe	Reference
Any circumstance at the service that poses a risk to the health, safety or wellbeing of a child attending the service.	Approved provider	Within 7 days	Section 174(2)(c) Regulation 175(2)(c)
Any incident where the provider reasonably believes that physical or sexual abuse of a child or children has occurred or is occurring while the child is being educated and cared for by the service.	Approved provider	Within 7 days	Section 174(2)(c) Regulation 175 (2) (d)
Allegations that physical or sexual abuse of a child or children has occurred or is occurring while the child or children are being educated and cared for by the service.	Approved provider	Within 7 days	Section 174(2)(c) Regulation 175 (2) (e)
<b>Information for FDC Educators to report to their Approved Provider</b>			
Any serious incident while a child is being educated and cared for by the educator.	FDC Educator	None specified	Section 174A Regulation 12
Any complaint alleging that a serious incident has occurred or the National Law has been contravened while a child was being educated and cared for.	FDC Educator	None specified	Section 174A Regulation 12
Any new person over 18 years who resides at the FDC residence and any circumstance relevant to whether a resident who is over 18 years is fit and proper.	FDC Educator	None specified	Regulation 164
Renovations or other changes to the FDC residence or approved venue that create a serious risk to the health, safety and wellbeing of children attending the residence or venue.	FDC Educator	None specified	Regulation 176A
<b>Notification to parents</b>			
A parent of a child being educated and cared for by the service is to be notified if the child is involved in any incident, injury, trauma or illness while at the service.	Approved provider	As soon as practicable, no more than 24 hours	Regulation 86

## ATTACHMENT 6: NQF OBLIGATIONS TO RECORD INFORMATION

Type of information to be recorded	Responsible	Timeframe	Reference
For nominated supervisors, the staff record must include a record of the identifying number of the current WWCC conducted under that law and the expiry date of that check, if applicable or if the nominated supervisor is a teacher registered under an education law of a participating jurisdiction and has provided proof of that registration, a record of the identifying number of the teacher registration and the expiry date of that registration.	Approved provider	Ongoing	Regulation 146
For all educators, the staff record must include a record of the identifying number of the current WWCC conducted under that law and the expiry date of that check, if applicable or (in NSW, Qld, Tas) if the staff member has provided proof of teacher registration, a record of the identifying number of the teacher registration and the expiry date of that registration.	Approved provider	Ongoing	Regulation 147
From October 2023, for students and volunteers at centre-based services, the staff record must include a record of the identifying number of the current WWCC conducted under that law and the expiry date of that check, or (in NSW, Qld, SA, Tas) if the student or volunteer has provided proof of teacher registration, a record of the identifying number of the teacher registration and the expiry date of that registration.	Approved provider	Ongoing	Regulation 149
For family day care (FDC) coordinators, FDC educators, FDC assistants and residents at FDC, the register must include a record of the identifying number of the current WWCC and the expiry date of that check, if applicable or (in NSW, Qld, Tas) if the educator has provided proof of teacher registration, the identifying number of the teacher registration and the expiry date, and the date the check or registration was sighted by the approved provider or nominated supervisor.	Approved provider	Ongoing	Regulation 153
A record of assessments of FDC residences and approved FDC venues conducted under regulation 116.	Approved provider	Ongoing	Regulation 177 (d)
For centre-based service must ensure that a staff record is kept for that service.	Approved provider	Ongoing	Regulation 145

Type of information to be recorded	Responsible	Timeframe	Reference
A centre-based service must keep a record of educators working directly with children.	Approved provider	Ongoing	Regulation 151
Approved providers must keep an incident, injury, trauma and illness record.	Approved provider	Within 24 hours after the occurrence	Regulation 87 (1)
The incident, injury, trauma and illness record must be kept confidential and stored until the child is 25 years old.	Approved provider	25 years	Regulation 183 (2) (a)
Approved FDC educators must keep an incident, injury, trauma and illness record.	FDC educator	Within 24 hours after the occurrence	Regulation 87 (2)
In the case of a centre-based service, a staff record as set out in regulation 145.	Approved provider	Ongoing	Regulation 177 (e)
A record of volunteers and students as set out in regulation 149.	Approved provider	Ongoing	Regulation 177 (f)
The records of the responsible person at the service as set out in regulation 150.	Approved provider	Ongoing	Regulation 177 (g)
In the case of a centre-based service, a record of educators working directly with children as set out in regulation 151.	Approved provider	Ongoing	Regulation 177 (h)
In the case of a FDC service, a record of staff engaged or employed by the service kept under regulation 154.	Approved provider	Ongoing	Regulation 177 (j)
A record of each nominated supervisor and any person in day-to-day charge of the education and care service under section 162 of the Law.	Approved provider	Ongoing	Regulation 177 (n)
If a service approval is to be transferred, the transferring approved provider must obtain consent from parents to transfer their children's records listed to the new approved provider on the date the transfer takes effect.	Approved provider	Before taking possession of the records	Regulation 184 (2)
A FDC educator must provide all documents referred to in regulation 178(1) to the approved provider of the FDC service on ceasing to be engaged by or registered with the service.	FDC educator	Before ceasing as a FDC educator	Regulation 179

## ATTACHMENT 7: OVERVIEW OF NATIONAL AND JURISDICTIONAL CHILD SAFETY SCHEMES

QLD	Child Safe Standards/ Regulation	Reporting obligations			WWCC	Teacher Registration
		Mandatory Reporting and Child Protection training	Reportable Conduct Scheme	Failure to report/ protect		
	<p>Child Safe Standards (Consultation Regulation Impact Statement has been published)</p>	<p><b>Legislation:</b> <i>Child Protection Act 1999</i> (Qld)</p> <p><b>Mandatory reporters:</b> Early childhood professionals and teachers in schools, Approved providers, nominated supervisors, educators, family day care (FDC) coordinators, but not volunteers or people under 18 years.</p> <p><b>What must be reported:</b> reasonable suspicions about significant harm caused by physical or sexual abuse.</p> <p><b>Information sharing:</b> between colleagues and the Department of Child Safety, Seniors and Disability Services is supported.</p> <p><b>Child protection training:</b> Progressing a protocol.</p>	<p>Reportable Conduct Scheme (CRIS has been published).</p> <p><b>Information sharing:</b> supported under the <i>Child Protection Act 1999</i>. Cross-jurisdictional information sharing is not supported.</p>	<p><b>Legislation:</b> <i>Criminal Code Act 1899</i> (Qld)</p>	<p><b>Name:</b> Working with Children Check (Blue Card)</p> <p><b>Legislation:</b> <i>Working with children (Risk Management and Screening) Act 2000</i> (Qld)</p> <p><b>Validity:</b> 3 years</p> <p><b>Age:</b> 18+</p>	<p>Only mandatory for schools.</p> <p>Registration is enabled in other settings, such as kindergartens and long day care in certain circumstances and some employers require as a condition of employment. Voluntary registration does not have the same obligations and reporting on the employer as the employing authority in a school. For example, employers in NQF settings are not obligated to report any disciplinary matters to the Queensland College of Teachers.</p>

NSW	Child Safe Standards/ Regulation	Reporting obligations			WWCC	Teacher Registration
		Mandatory Reporting and Child Protection training	Reportable Conduct Scheme	Failure to report/ protect		
	<p><b>Name:</b> The Child Safe Scheme includes implementation of NSW Child Safe Standards (Consultation Regulation Impact Statement has been published)</p> <p><b>Legislation:</b> <i>Children's Guardian Act 2019</i> (NSW)</p> <p><b>Description:</b> Slightly different to the National Principles, however, if implementing National Principles aligns to NSW CSS. Came into effect 1 February 2022.</p>	<p><b>Legislation:</b> <i>Children and Young Persons (Care and Protection) Act 1998</i> (NSW)</p> <p><b>Mandatory reporters:</b> Professional work or paid employment, deliver education and care services under the National Quality Framework (NQF) and those in management positions with direct responsibility for, or direct supervision of the provision of these services i.e. educators, FDC coordinators, nominated supervisors, approved providers.</p> <p><b>What must be reported:</b> Suspicion on reasonable grounds that a child is at risk of significant harm which is prescribed.</p> <p><b>Information sharing:</b> is supported by protecting mandatory reporters.</p> <p><b>Child protection training:</b> NSW requires child protection training under s162A of the National Law.</p>	<p><b>Legislation:</b> <i>Children's Guardian Act 2019</i> (NSW)</p> <p><b>Reportable conduct:</b></p> <ul style="list-style-type: none"> <li>• A sexual offence</li> <li>• Sexual misconduct</li> <li>• Ill-treatment of a child</li> <li>• Neglect of a child</li> <li>• Assault against a child</li> <li>• An offence under section 43B or 316A of the Crimes Act 1900 (failure to reduce or remove risk of child becoming victim of child abuse; concealing child abuse)</li> <li>• Behaviour that causes significant emotional or psychological harm to a child.</li> </ul> <p>Information sharing: supported under the reportable conduct scheme and the <i>Children and Young Persons (Care and Protection) Act 1998</i> (NSW).</p>	<p><b>Legislation:</b> <i>Crime Act 1900</i> (NSW)</p> <p><b>Threshold:</b></p> <ul style="list-style-type: none"> <li>• Failure to <b>report</b> child <b>sexual abuse</b> applies to all adults.</li> <li>• Failure to <b>protect</b> a child <b>from sexual abuse</b> applies to all adults associated with an institution that provides services to children.</li> <li>• Failure to <b>protect</b> a child <b>from any other forms of harm</b> including any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing, whether temporary or permanent applies to a person having the lawful care or charge of a child.</li> </ul>	<p><b>Name:</b> Working with Children Check</p> <p><b>Legislation:</b> <i>Child Protection (Working with Children) Act 2012</i> (NSW)</p> <p><b>Validity:</b> 5 years</p> <p><b>Age:</b> 18+</p>	<p><b>Status:</b> Registration requirements for ECTs teaching in approved centre-based settings (excludes FDC and outside school hours care).</p>

ACT	Child Safe Standards/ Regulation	Reporting obligations			WWCC	Teacher Registration
		Mandatory Reporting and Child Protection training	Reportable Conduct Scheme	Failure to report/ protect		
	<p><b>Status:</b> ACT endorsed the Child Safe Principles in 2019. A Bill to introduce a Child Safe Standards Scheme was delayed due to COVID-19 and will be rescheduled for introduction later.</p>	<p><b>Legislation:</b> <i>Children and Young People Act 1998</i> (ACT)</p> <p><b>Mandatory reporters:</b> a person caring for a child at a child care centre (including paid assistants or aides), a person coordinating or monitoring home-based care for a FDC scheme proprietor, a teacher at a school (includes paid assistants and aides). Volunteers excluded. (i.e. under the NQF is educators, FDC coordinators but excludes approved providers and nominated supervisors (unless they are caring for children).</p> <p><b>What must be reported:</b> a belief, on reasonable grounds, that a child / young person has experienced or is experiencing sexual abuse or non-accidental physical injury.</p> <p><b>Child protection training:</b> Education and care staff are encouraged to complete free online training.</p>	<p><b>Legislation:</b> <i>Ombudsman Act 1989</i> (ACT)</p> <p><b>Reportable conduct:</b></p> <ul style="list-style-type: none"> <li>• Ill-treatment or neglect of the child</li> <li>• Psychological harm</li> <li>• Sexual misconduct and offences</li> <li>• Physical assault or harm</li> <li>• Offences under the NQF: offence to use inappropriate discipline and offence relating to protection of children from harm and hazards.</li> </ul> <p><b>Information sharing:</b> to the Ombudsman.</p>	<p><b>Legislation:</b> <i>Crime Act 1900</i> (ACT)</p> <p><b>Threshold:</b></p> <ul style="list-style-type: none"> <li>• Failure to <b>report</b> child <b>sexual abuse</b> applies to all adults.</li> <li>• Failure to <b>protect</b> a child <b>from sexual abuse</b> applies to all people in authority, including in child care centres.</li> </ul>	<p><b>Name:</b> Working with Vulnerable People Registration</p> <p><b>Legislation:</b> <i>Working with Vulnerable People (Background Screening) ACT 2011</i> (ACT)</p> <p><b>Validity:</b> 5 years</p> <p><b>Age:</b> 16+</p>	<p>Registration requirements for ECTs in NQF settings attached to a school.</p> <p>ACT is consulting on potential legislation changes that would allow ECTs in ECEC settings to voluntarily register.</p>

VIC	Child Safe Standards/ Regulation	Reporting obligations			WWCC	Teacher Registration
		Mandatory Reporting and Child Protection training	Reportable Conduct Scheme	Failure to report/ protect		
	<p><b>Name:</b> The 11 Child Safe Standards</p> <p><b>Legislation:</b> <i>Child Wellbeing and Safety Act 2005</i> (VIC)</p> <p><b>Description:</b> 11 standards with an additional one, as compared to the National Child Safe Standards which is establishing a culturally safe environment for Aboriginal and Torres Strait Islander children / young people. Minimum requirement and Regulatory Authority regulate these. Revised standards came into effect on 1 July 2022.</p>	<p><b>Legislation:</b> <i>Children, Youth and Families Act 2005</i> (VIC)</p> <p><b>Mandatory reporters:</b> approved provider, nominated supervisor of or a person with a post-secondary qualification who is employed or engaged by an education and care service, a school principal, or person who is registered as a teacher or an early childhood teacher.</p> <p><b>What must be reported:</b> : Belief on reasonable grounds that a child is in need of protection because the child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse and the child's parents have not protected, or are unlikely to protect, the child.</p> <p><b>Information sharing:</b> supported.</p> <p><b>Child protection training:</b> Early childhood professionals are encouraged to complete free online training.</p>	<p><b>Legislation:</b> <i>Child Wellbeing and Safety Act 2005</i> (VIC)</p> <p><b>Reportable conduct:</b></p> <ul style="list-style-type: none"> <li>• a sexual offence committed against, with, or in the presence of a child</li> <li>• sexual misconduct committed against, with, or in the presence of a child</li> <li>• physical violence committed against, with, or in the presence of a child.</li> <li>• any behaviour that causes significant emotional or psychological harm to a child</li> <li>• significant neglect of a child.</li> </ul> <p><b>Information sharing:</b> supported.</p>	<p><b>Legislation:</b> <i>Crimes Act 1958</i> (VIC)</p> <p><b>Threshold:</b></p> <ul style="list-style-type: none"> <li>• Failure to <b>report</b> child <b>sexual abuse</b> applies to all adults.</li> <li>• Failure to <b>protect</b> a child <b>from sexual abuse</b> applies to adults in authority within a relevant organisation, which is one that exercises care, supervision or authority over children.</li> </ul> <p><b>Legislation:</b> <i>Children Youth and Families Act 2005</i> (VIC)</p> <p><b>Threshold:</b> Failure to <b>protect</b> a child <b>from other forms of harm</b> applies to a person who has a duty in respect of a child who intentionally takes action that results in or is likely to result in a child suffering significant harm.</p>	<p><b>Name:</b> Working with Children Check</p> <p><b>Legislation:</b> <i>Worker Screening Act 2020</i> (Vic) (Replaces <i>Working with Children Act 2005</i>)</p> <p><b>Validity:</b> 5 years</p> <p><b>Age:</b> 18+</p>	<p><b>Status:</b> Registration requirements for all ECTs working or engaged in an ECT role.</p>

TAS	Child Safe Standards/ Regulation	Reporting obligations			WWCC	Teacher Registration
		Mandatory Reporting and Child Protection training	Reportable Conduct Scheme	Failure to report/ protect		
	<p><b>Name:</b> The Child and Youth Safe Organisations Framework includes the Child and Youth Safe Standards (commences 1 January 2024)</p> <p><b>Legislation:</b> <i>The Child and Youth Safe Organisations Act 2023</i> (TAS)</p> <p><b>Description:</b> The Standards align with the National Principles.</p>	<p><b>Legislation:</b> <i>Children, Young Persons and their Families Act 1997</i> (TAS)</p> <p><b>Mandatory reporters:</b> a teacher, a person who provides child care, management of an approved education and care service; employees and volunteers in government agencies that provide child care (i.e. approved providers, nominated supervisors, educators, and likely FDC coordinators, includes volunteers).</p> <p><b>What must be reported:</b> the person believes or suspects on reasonable grounds, or knows that: a child has been or is being abused or neglected or is an affected child (including family violence) and wide range of prescribed factors.</p> <p><b>Information sharing:</b> is supported.</p> <p><b>Child protection training:</b> nil.</p>	<p><b>Legislation:</b> <i>The Child and Youth Safe Organisations Act 2023</i> (TAS) commences 1 January 2024)</p> <p><b>Reportable conduct:</b></p> <ul style="list-style-type: none"> <li>an offence committed against, with or in the presence of a child</li> <li>sexual misconduct, that does not form part of a sexual offence, against, with or in the presence of a child</li> <li>physical violence against a child</li> <li>grooming of child</li> <li>conduct that causes, or is likely to cause, a significant emotional or psychological harm to a child</li> <li>significant neglect of a child.</li> </ul>	<p><b>Legislation:</b> <i>Criminal Code Act 1924</i> (TAS)</p> <p><b>Threshold:</b></p> <ul style="list-style-type: none"> <li>Failure to <b>report</b> child <b>sexual abuse</b> applies to all adults.</li> <li>Failure to <b>protect</b> a child <b>from sexual abuse</b> applies to a person with a duty of care, including early childhood teachers and early childhood educators.</li> </ul>	<p><b>Name:</b> Working with Vulnerable People Check</p> <p><b>Legislation:</b> <i>Registration to Work with Vulnerable People Act 2013</i> (TAS)</p> <p><b>Validity:</b> 5 years</p> <p><b>Age:</b> 16+</p>	<p><b>Status:</b> Registration requirements for ECTs working in NQF settings that are kindergartens or schools. (Fewer than 10 of these are in scope).</p>

SA	Child Safe Standards/ Regulation	Reporting obligations			WWCC	Teacher Registration
		Mandatory Reporting and Child Protection training	Reportable Conduct Scheme	Failure to report/ protect		
	<p><b>Legislation:</b> <i>Children and Young People (Safety) Act 2017 (SA)</i></p> <p><b>Description:</b> Prescribed organisations (including those who provide child care) must have policies and procedures to ensure safe environments for children and young people. These must align with the National Principles.</p>	<p><b>Legislation:</b> <i>Children and Young People (Safety) Act 2017 (SA)</i></p> <p><b>Mandatory reporters:</b> teachers in schools, pre-schools/ kindergartens; employees or volunteers in, an organisation that provides education/child care, a person who: provides services directly to children and young people/ holds a management position with direct responsibility or supervision of services (i.e. early childhood teachers, educators, approved providers, nominated supervisors, FDC coordinators/ volunteers).</p> <p><b>What must be reported:</b> If the person suspects on reasonable grounds that a child or young person is, or may be, at risk.</p> <p><b>Information sharing:</b> supported.</p> <p><b>Child protection training:</b> Early Childhood Teachers and educators complete <a href="#">Responding to Risks of Harm, Abuse and Neglect – education and care training</a> and maintain currency update certificate.</p>	<p>May not be required as existing mechanisms in place.</p> <p>Under the <i>Children and Young People (Safety) Act 2017 (SA)</i>, a prescribed person (including people in child care services) who suspect on reasonable grounds that a child or young person is or may be at risk must report that suspicion.</p>	<p><b>Legislation:</b> <i>Criminal Law Consolidation Act 1935 (SA)</i></p> <p><b>Threshold:</b></p> <ul style="list-style-type: none"> <li>Failure to <b>report</b> child <b>sexual abuse</b> or failure to <b>protect</b> a child from <b>sexual abuse</b> applies to all employees, contractors and volunteers of all organisations who operate facilities or provide services to children under their supervision.</li> <li>Failure to <b>protect</b> a child <b>from other forms of harm</b> where the child dies or suffers harm applies to a person who has a duty of care to the child.</li> </ul>	<p><b>Name:</b> Working With Children Check</p> <p><b>Legislation:</b> <i>Child and Young People Safety Act 2017 (SA)</i></p> <p><b>Validity:</b> 5 years</p> <p><b>Age:</b> 14+</p>	<p>All ECTs must be registered.</p>

WA	Child Safe Standards/ Regulation	Reporting obligations			WWCC	Teacher Registration
		Mandatory Reporting and Child Protection training	Reportable Conduct Scheme	Failure to report/ protect		
	<p><b>Status:</b> WA endorsed the Child Safe Principles in 2019. A Bill to introduce a Child Safe Standards Scheme was delayed due to COVID-19 and will be rescheduled for introduction later.</p>	<p><b>Legislation:</b> <i>Children and Community Services ACT (2004)</i> (WA)</p> <p><b>Mandatory reporters:</b> teachers (including registered early childhood teachers).</p> <p>From 1 November 2024, early childhood workers will be included. An early childhood worker will be an adult who is an approved provider, persons with management or control, nominated supervisor, educator, FDC coordinator, FDC assistant under the NQF. Volunteers are included.</p> <p><b>Information sharing:</b> is supported.</p> <p><b>Child protection training:</b> nil.</p>	<p><b>Legislation:</b> <i>Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022 (WA)</i> (commenced 1 January 2023)</p> <p><b>Reportable conduct:</b> (in the first year - 2023):</p> <ul style="list-style-type: none"> <li>• a sexual offence</li> <li>• sexual misconduct</li> <li>• a physical assault committed against, with or in the presence of, a child</li> <li>• prescribed offences.</li> </ul> <p>After 12 months (2024 onwards):</p> <ul style="list-style-type: none"> <li>• significant neglect of a child</li> <li>• any behaviour that causes significant emotional or psychological harm to a child.</li> </ul>	<p><b>Legislation:</b> <i>Children and Community Services Act 2004 (WA)</i></p> <p><b>Threshold:</b></p> <ul style="list-style-type: none"> <li>• Failure to <b>report</b> child <b>sexual abuse</b> or failure to <b>protect</b> a child <b>from sexual abuse</b> applies to all employees, contractors and volunteers of all organisations who operate facilities or provide services to children under their supervision.</li> <li>• Failure to <b>protect</b> a child <b>from other forms of harm</b> applies to a person with the care and control of a child who engages in a conduct, knowing that the conduct may result in the child suffering harm in the form of physical or emotional abuse or neglect.</li> </ul>	<p><b>Name:</b> Working with Children Check</p> <p><b>Legislation:</b> <i>Working with Children (Screening) ACT 2004</i></p> <p><b>Validity:</b> 3 years</p> <p><b>Age:</b> 13+</p>	<p><b>Status:</b> All ECTs must be registered.</p>

NT	Child Safe Standards/ Regulation	Reporting obligations			WWCC	Teacher Registration
		Mandatory Reporting and Child Protection training	Reportable Conduct Scheme	Failure to report/ protect		
	<p><b>Status:</b> Legislative reform is being considered as part of the development of a single Act to replace the <i>Youth Justice Act</i> and the <i>Care and Protection of Children Act</i>.</p>	<p><b>Legislation:</b> <i>Care and Protection of Children Act 2007</i> (NT)</p> <p><b>Mandatory reporters:</b> all adults.</p> <p><b>What must be reported:</b> If the person believes on reasonable grounds a child has suffered or is likely to suffer harm or exploitation; a child aged less than 14 years has been or is likely to be a victim of a sexual offence; a child has been or is likely to be a victim of an offence against section 128 of the Criminal Code (sexual intercourse or gross indecency involving child over 16 years under special care).</p> <p><b>Information sharing:</b> between information sharing authorities (including approved providers) is supported.</p> <p><b>Child protection training:</b> nil.</p>	<p><b>Status:</b> NT has not accepted the Royal Commission's recommendations regarding establishment of a reportable conduct scheme.</p>	<p><b>Legislation:</b> <i>Care and Protection of Children Act 2007</i> (NT)</p> <p><b>Criminal offence:</b></p> <ul style="list-style-type: none"> <li>Failure to <b>report</b> child <b>sexual abuse</b> applies to all adults.</li> </ul>	<p><b>Name:</b> Working with Children Clearance (Ochre Card)</p> <p><b>Legislation:</b> <i>Care and Protection of Children Act 2007</i></p> <p><b>Validity:</b> 2 years</p> <p><b>Age:</b> 15+</p>	<p><b>Status:</b> Registration requirements for ECTs working in preschools (attached to schools).</p>



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