



EARLY LEARNING AND CARE
COUNCIL OF AUSTRALIA

Early Learning and Care Council of Australia

**National Quality Framework (NQF) Review 2019: Consultation Regulatory Impact
Statement**

SUBMISSION

30 April 2021

Contact:

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SUBMISSION TO THE NQF REVIEW 2019, IN RESPONSE TO THE CONSULTATION REGULATORY IMPACT STATEMENT

Overview

The Early Learning and Care Council of Australia (ELACCA) welcomes the opportunity to provide feedback on the Consultation Regulatory Impact Statement (CRIS) for the National Quality Framework (NQF) Review 2019.

The sixteen members of ELACCA are strong supporters of the NQF and are committed to ensuring its ongoing effectiveness. Since 2012, the NQF has embedded important concepts and practices in the early childhood education and care (ECEC) sector, including:

- a clear focus on the needs and rights of every child
- a causal link between qualifications, professional knowledge, and outcomes for children; and
- a common language for professional conversations in all participating service types.

The consultation process for the NQF Review 2019 has identified a wide range of potential changes to the NQF, with a strong focus on the enterprise-borne costs of regulation. However, some of the options presented in the CRIS require consideration in a larger context, with particular reference to the principles underpinning the NQF and to current issues in the ECEC sector.

For this reason, the submission from ELACCA addresses the suggested regulatory changes and consultation questions in the CRIS, but also raises related issues that are not fully explored in the document. Our intent is to maintain a clear focus on the needs of children, and on the sector-wide and longer-term implications of any regulatory change.

Summary of recommendations

Recommendation 1: In regard to the safety of children during transitions between services, **adopt both Option C** (state and territory school authorities and non-government school sector organisations to develop policies and procedures to safely transfer children between schools and education and care services) **and Option D** (require that an education and care service has a policy and procedures for the transition period between education and care services, including a risk assessment process).

Recommendation 2: In regard to sleep and rest requirements, **adopt Option D** (amend the National Regulations to specify the matters that must be included in services' policies and procedures for sleep and rest).

Recommendation 3: In regard to improving children's safety during regular transportation, ensure that two adults are always present, with at least one adult a staff member of the ECEC service.

Recommendation 4: In regard to improving children's safety during emergency evacuations from multistorey buildings, **adopt both Option D** (amend service approval processes in Victoria and the ACT to require pre-approval of development and building plans) **and Option E** (enhance national guidance and communication strategies and reinforce existing emergency and evacuation requirements). Furthermore, **the scope of Option D should be expanded to all jurisdictions** (to afford certainty to all developers and providers) and **the scope of Option E should be expanded to include other issues** that affect service approvals in multistorey buildings (such as 'outdoor' play areas, access to light and real flora).

Recommendation 5: In regard to embedding the National Child Safe Principles, **adopt Option C** (amend the National Regulations so that the requirement for services to have in place policies and procedures for providing a child safe environment specifically refers to implementing the National Principles), **with a view to implementing Option D** (amend the National Regulations and associated guidance to address

identified gaps between the Child Safe Principles and the NQF) following further consultation and the preparation of appropriate information and training resources for ECEC services.

Recommendation 6: In regard to the assessment and rating of OSHC services, **adopt both Option B** (modify assessment and rating methodology for services whose main purpose is providing education and care to children over preschool age), with the scope for this modification extending beyond Standard 1.3 suggested in the CRIS **and Option C** (development of additional guidance to support the OSHC sector and regulatory authorities with assessment and rating). Furthermore, **the scope of Option B should be expanded** beyond Standard 1.3, to include elements relating to the physical environment.

Recommendation 7: In regard to restrictions on short term relief for early childhood educators, **adopt Option A** (No change).

Recommendation 8: In regard to educators who are ‘actively working towards’ a qualification, **adopt Option C** (develop guidance for providers to ensure staff who are ‘actively working towards’ qualifications are making satisfactory progress).

Recommendation 9: In regard to understanding of quality ratings by families, **adopt Option D** (develop guidance and advice on quality ratings) immediately, and then **consider adding Option B** (modify the terminology) to the work program.

Recommendation 10: In regard to fees for both regulatory authorities and for ACECQA functions, **adopt Option A** (No change).

Recommendation 11: In regard to fees for ACECQA functions, **do not adopt Option E** (application fee for Excellent rating).

Recommendation 12: Cap increases to fees for regulatory authorities and ACECQA functions to inflation, as measured by the Consumer Price Index.

Responses to options and questions in the CRIS

CHAPTER THREE: SAFETY, HEALTH AND WELLBEING

The physical safety of children in ECEC settings is paramount, and ECEC services and their staff have a critical duty of care towards children. Regulations can and do help the ECEC sector maintain high standards of physical safety, but good performance also relies on staff skills and workplace culture.

In the areas of physical safety highlighted in the CRIS, governments should make a commitment to supporting both regulation and education. This broader support could include producing or underwriting targeted, approved training in priority areas.

3.1 Safety of children during transitions between services

Even when they operate on the same plot of land, OSHC services and other education providers (such as schools) may suffer from poor communication and/or unreliable transfer processes, which are underpinned by regulatory gaps. The fact that these gaps can create real harm for children is unacceptable, and must be addressed via both regulation and education.

Clearly, only a joint effort can improve transitions between services. This means OSHC staff and school staff collaborating to ensure shared understanding of their operating context (including regulations) and shared commitment to agreed policies and processes. While this work can be tackled at any time, ELACCA suggests that changes to the NQF and a formal recommendation to all school sectors will provide the impetus required to ensure that the process starts without delay.

Recommendation 1: In regard to the safety of children during transitions between services, **adopt both Option C** (state and territory school authorities and non-government school sector organisations to

develop policies and procedures to safely transfer children between schools and education and care services) **and Option D** (require that an education and care service has a policy and procedures for the transition period between education and care services, including a risk assessment process).

3.2 Sleep and rest requirements

Australian researchers and advocacy bodies such as Red Nose Australia have worked for decades to produce clear, evidence-based advice for parents and carers on safe sleep practices. With a sound evidence base and guidance material, there is ample opportunity for ECEC services to develop safe sleep policies specific to their settings.

Given the central importance of children's physical safety in ECEC services, it is appropriate to amend the National Regulations to specify the matters that must be included in services' policies and procedures for sleep and rest. This step would ensure that every ECEC service is aware of, and is required to operate within, high standards of sleep safety.

Recommendation 2: In regard to sleep and rest requirements, **adopt Option D** (amend the National Regulations to specify the matters that must be included in services' policies and procedures for sleep and rest).

3.3 Improving children's safety during regular transportation.

New requirements for safe transportation in ECEC services came into effect in the National Regulations on 1 October 2020. While these changes make a contribution to promoting children's safety, they are only a starting point (particularly given their reliance on risk assessments – which may require some upskilling for the staff who undertake them.)

The focus in the CRIS on adequate supervision of children during transportation is a welcome next step. Guidelines on transportation are important for both children's safety and clarity among ECEC providers and their staff. For centre-based services transporting children regularly, there should always be at least two adults in the vehicle (including the driver). This should be considered a minimum requirement.

Recommendation 3: In regard to improving children's safety during regular transportation, ensure that two adults are always present, with at least one adult a staff member of the ECEC service.

3.4 Improving children's safety during emergency evacuations from multistorey buildings

Multistorey buildings may be a 'non-traditional' setting for ECEC services, but they have a legitimate role to play in ECEC service provision, particularly for parents working in CBD locations. It is therefore essential that developers, building owners and ECEC providers have certainty and clarity in planning and delivering ECEC services in these locations.

The safety of children is the preeminent consideration in all premises hosting ECEC services. Both the built environment and service policies must be robust and well-tested, including for evacuations. However, there is no 'one size fits all' approach. ELACCA urges regulators to apply consistent principles in assessing safety in multistorey buildings, while recognising that each setting is unique and will require safety plans that are tailored to particular circumstances.

Recommendation 4: In regard to improving children's safety during emergency evacuations from multistorey buildings, **adopt both Option D** (amend service approval processes in Victoria and the ACT to require pre-approval of development and building plans) **and Option E** (enhance national guidance and communication strategies and reinforce existing emergency and evacuation requirements). Furthermore, **the scope of Option D should be expanded to all jurisdictions** (to afford certainty to all developers and providers) and **the scope of Option E should be expanded to include other issues** that affect service approvals in multistorey buildings (such as 'outdoor' play areas, access to light and real flora).

CHAPTER FOUR: ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

4.1 Embedding the National Child Safe Principles

The Royal Commission into Institutional Responses to Child Sexual Abuse produced a powerful report, and recommendations that must be reflected in all structures and systems that support children, including the NQF.

As the Royal Commission noted, 'current approaches to child safety in institutions at the national, state and territory, and sector levels vary in scope and content. The differences create unequal and inadequate protection of children in institutions, as well as inefficiencies, additional costs and burdens.'¹

In 2019, all governments in Australia adopted the National Principles for Child Safe Organisations (National Child Safe Principles), which are based on the Royal Commission's recommended Child Safe Standards. ELACCA strongly supports the Child Safe Principles being made operational in all settings for children. As part of this reform work, the NQF must be updated to incorporate the Child Safe Principles.

The current work program of the NSW Office of the Children's Guardian demonstrates how regulation and education can be used in tandem to promote tangible changes in practice and culture regarding child safety.² ELACCA recommends that ACECQA take on a role in coordinating and/or providing resources and training to ECEC services and their staff on implementing the Child Safe Principles.

Recommendation 5: In regard to embedding the National Child Safe Principles, **adopt Option C** (amend the National Regulations so that the requirement for services to have in place policies and procedures for providing a child safe environment specifically refers to implementing the National Principles), **with a view to implementing Option D** (amend the National Regulations and associated guidance to address identified gaps between the Child Safe Principles and the NQF) following further consultation and the preparation of appropriate information and training resources for ECEC services.

CHAPTER SIX: CENTRE-BASED CARE - OUTSIDE SCHOOL HOURS CARE

6.1 Assessment and rating of OSHC services

ELACCA welcomes recognition in the CRIS of the unique role and context of outside school hours care (OSHC) services. Despite OSHC services making a genuine effort over several years to participate fully in the NQF, the 'square peg in a round hole' effect continues, as evidenced by skewed assessment and rating results.

ELACCA supports changes to the NQF assessment and rating system, in order to ensure that OSHC services experience a fair process that reflects their achievements and operating environments. For example, beyond the area of assessment and planning (Standard 1.3), OSHC services face challenges regarding their physical environment. The premises for OSHC services are considerably different from other centre-based services; OSHC providers are generally reliant on school infrastructure in relation to the suitability, size, upkeep, and modification of their operating space. This limited level of control can constrain the OSHC service's ability to meet and exceed Elements within Quality Area 3 (Physical environment) and Quality Area 2 (Children's health and safety).

Recommendation 6: In regard to the assessment and rating of OSHC services, **adopt both Option B** (modify assessment and rating methodology for services whose main purpose is providing education and care to children over preschool age), with the scope for this modification extending beyond Standard 1.3 suggested in the CRIS **and Option C** (development of additional guidance to support the OSHC sector and regulatory authorities with assessment and rating). Furthermore, **the scope of Option B should be expanded** beyond Standard 1.3, to include elements relating to the physical environment.

¹ Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final report, Volume 6, Making child institutions safe*. <https://www.childabuseroyalcommission.gov.au/making-institutions-child-safe>

² Office of the Children's Guardian (NSW). (2021). 'Training and resources'. <https://www.kidsguardian.nsw.gov.au/child-safe-organisations/training-and-resources>

CHAPTER SEVEN: WORKFORCE

ELACCA appreciates the difficulty of trying to balance the rights and interests of all those with a stake in the issue of the ECEC workforce: children, parents, educators and service providers. However, beyond the immediate and palpable challenge of ‘keeping the doors open’ at ECEC services, we are very aware of the far-reaching consequences of diluting existing regulations related to the educator workforce.

The CRIS correctly identifies three broad negative effects of the educator workforce shortage in ECEC services:

- Reduced quality of education and care for children
- Fewer places offered in ECEC services, to the detriment of children and families
- Increased administrative burden on ECEC providers, due to the heavy focus on recruitment.³

A key indicator of quality in education and care services is the stability of staffing, and the NQF must reflect and reinforce this fact. When children develop trusting relationships with educators and teachers they know well and who know them well, they are better able to fully engage in meaningful learning. When children arrive at their service and are greeted each day by different people, it affects children’s continuity of learning. This is particularly problematic for children under the age of two, who rely on educators and teachers forming a bond and being able to read their cues and tailor their engagement accordingly.

It is also important that the NQF Review aligns with work currently being led by the Australian Children’s Education and Care Quality Authority (ACECQA) to develop a National Workforce Strategy for the ECEC sector. While the final content of the National Workforce Strategy is not yet known, it may include measures that could, or should, be reflected in the NQF.

7.1 Restrictions on short term relief for early childhood educators

The link between educator quality, qualifications and the quality of ECEC service provision is undisputed. In considering how to deal with short-term absences of early childhood teachers (ECTs) and diploma-qualified educators from ECEC settings, governments must ensure they do not undermine existing qualification benchmarks and educator-to-child ratios. It would be highly unfortunate – and misleading – if regulatory changes created the implicit message that ‘ECTs are easily replaceable by people with lower/alternative qualifications’.

Before supporting any of the proposed changes in the CRIS, ELACCA would need to see evidence for some of the statements made in the document, including:

‘Diploma-qualified educators and primary teachers are likely to have sufficient professional knowledge and skills in education and care, so this option would not be expected to compromise the quality of education and care provided to children.’

‘However, using a lower qualified educator for a period of 80 days instead of 60 should have no significant impact on the overall quality of education provided at the service.’

‘Using lower-qualified educators could be expected to reduce the quality of education at the service in the long-term, but should have minimal impact to no impact in the short-term.’⁴

Without strong evidence, ELACCA cannot support changes to the NQF that would expand the scope for ECEC services to replace early childhood educators with primary school teachers. Governments must not assume that primary school teachers will, as a matter of course, have the necessary understanding of

³ Education Services Australia. (2020). *NQF Review 2019: Consultation Regulatory Impact Statement*. p.89.

⁴ Education Services Australia. (2020). *Op. cit.* pp. 91-92.

early childhood pedagogy and early childhood development that are prerequisites for delivering quality programs for children aged five and under.

In fact, some ELACCA members consider Birth-12 initial teacher education (ITE) degrees problematic, in terms of providing teachers with adequate pedagogical knowledge and skills related to children aged five and under.

Recommendation 7: In regard to restrictions on short term relief for early childhood educators, **adopt Option A** (No change).

7.2 Educators who are ‘actively working towards’ a qualification

Ideally, every ECEC provider should be aware of which of its employees is enrolled in an ECEC qualification. There may be scope for employers to take on a more active role in partnering with their staff to encourage or support qualification completion. However, the question of how an employee’s studies should be monitored and supported will depend on a range of factors, including whether the provider is providing financial or in-kind support for the qualification.

In all cases, ‘monitoring’ of an educator’s studies should be explicitly linked to ‘mentoring’ of the educator. The addition of mentoring may have multiple benefits: increased likelihood of course completion (for the educator); opportunity for honing leadership skills (for the mentor); and strengthened professional relationships and team cohesion (for the service). In small services (particularly in remote locations, standalone preschools/kindergartens and in family day care), both monitoring and mentoring of educators undertaking a qualification may need to be conducted via distance.

If ECEC providers require guidance on how to undertake monitoring and mentoring of educators undertaking a qualification, ACECQA would be well-placed to develop resources.

ELACCA supports the introduction of time limits for staff ‘actively working towards’ a qualification, for the benefit of educators and their employers alike. We recommend that the time limits align with rules set by education and training providers. For example, many universities have an upper limit of ten years for a four-year Bachelor degree; a limit of five years for a Diploma; and a limit of three years for a Certificate course.

Recommendation 8: In regard to educators who are ‘actively working towards’ a qualification, **adopt Option C** (develop guidance for providers to ensure staff who are ‘actively working towards’ qualifications are making satisfactory progress).

CHAPTER EIGHT: UNDERSTANDING OF QUALITY RATINGS BY FAMILIES

8.1 The quality rating system

Research demonstrates the limited understanding of the NQF quality rating system among families of young children.⁵ While ELACCA agrees that National Quality Standard (NQS) terminology may need improvement, we consider that the immediate priority is improving awareness of the NQS and the rating system among families.

The NQS ratings provide families with a highly valuable, highly transparent assessment tool, unmatched in any other segment of the Australian education system. However, the tool is underutilised, which means that high quality is not driving the market for ECEC services in the way that it should.

Among ELACCA members, there is not universal support for the introduction of visual representations of the ratings system (such as star ratings), given the potential for confusion if two parallel systems (visual

⁵ Hall & Partners. (2018). *Families qualitative research project – Stage 2*. Prepared for the Australian Children’s Education and Care Quality Authority. <https://www.acecqa.gov.au/sites/default/files/2018-11/FamiliesQualitativeResearchProject2018Report.PDF>

and written) are operating. ELACCA would therefore prefer to see ACECQA developing and promoting new information resources for families on the rating system.

Recommendation 9: In regard to understanding of quality ratings by families, **adopt Option D** (develop guidance and advice on quality ratings) immediately, and then **consider adding Option B** (modify the terminology) to the work program.

CHAPTER NINE: CHANGES IN FEES FOR THE NQF SYSTEM

9.1 Changes in fees for regulatory authorities

9.2 Changes in application fees for ACECQA functions

Increases in fees within the NQF system should be capped at the rate of inflation (Consumer Price Index (CPI)). This is for one simple reason: anything above CPI needs to be passed on to families via fee increases, or absorbed by providers (a less likely outcome, given existing cost pressures).

ELACCA does not support the reintroduction of a fee for *Excellent* applications, given the inequity in charging fees for access to the upper end of the ratings spectrum. If *Excellent* is a rating under the NQS, it should be treated in the same way as the other ratings. The exclusivity implicit in charging for an *Excellent* application is inconsistent with the NQF. An application fee would have a deterrent effect on ECEC services already struggling with high operational costs and community pressure to avoid fee increases for families, and may disadvantage services in low socioeconomic areas.

Nonetheless, ELACCA is acutely aware of the financial pressures on ACECQA and on the state and territory regulatory authorities, driven by growing demand for their services, scrutiny of their performance and the need for greater levels of collaboration with ECEC providers. We know that financial resources are hard-won in annual budgetary processes. ELACCA therefore urges Commonwealth, state and territory governments to prioritise expenditure on regulatory authorities in the ECEC sector, to ensure that 'commitment to quality' is more than a slogan.

Recommendation 10: In regard to fees for both regulatory authorities and for ACECQA functions, **adopt Option A** (No change).

Recommendation 11: In regard to fees for ACECQA functions, **do not adopt Option E** (application fee for Excellent rating).

Recommendation 12: Cap increases to fees for regulatory authorities and ACECQA functions to inflation, as measured by the Consumer Price Index.

About ELACCA

The Early Learning and Care Council of Australia (ELACCA) was incorporated in 2014 to promote the value of quality early learning and care as an integral part of Australia's education system. Our 16 CEO members include some of the largest early learning providers in the country from all parts of the sector, including long day care (for-profit and not-for-profit providers) and community preschools/kindergartens. ELACCA members provide around 25 per cent of all approved places in Australia for long day care and preschool/kindergarten, with its members operating nearly 2,200 services for 221,000 children.

As well as promoting the value of quality early learning and the need for greater public investment, ELACCA advocates for the right of all children to access quality early learning and care, particularly children facing disadvantage. We do this by drawing on the broad knowledge and practical experience of our members and representing their views and issues to decision makers in government, the media and the public. More information about ELACCA is available at: www.elacca.org.au



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