



**FAMILY DAY CARE ASSOCIATION QUEENSLAND**

**SUBMISSION TO THE 2019 REVIEW OF  
THE NATIONAL QUALITY FRAMEWORK**

Consultation Regulation Impact  
Statement

## 1. Introduction

Family Day Care Australia (FDCAQ) welcomes the opportunity to contribute to the 2019 National Quality Framework Review (“the Review”) through this submission to the Review’s Consultation Regulation Impact Statement (“the CRIS”).

### **About Family Day Care Association of Queensland**

The Family Day Care Association of Queensland (FDCAQ) is a not for profit organisation, peak body for family day care in Queensland. Since our first meeting in 1977, we have worked to support the quality of Family Day Care (FDC) services and the education and care of children.

We provide support to our members throughout Queensland in several ways, including education, training, resources, one-on-one support and consultancy services. We also provide professional development and networking opportunities and encourage services to reflect, share best practice and to innovate by leading and facilitating challenging and strategic conversations.

In our representative and advocacy role we act as a conduit between the sector and government, translating the experience of local services and communities into relevant policy and program design, while assisting services to better understand their regulatory and compliance obligations. Our expertise in FDC and the role of approved providers is respected and recognised within the jurisdiction of Queensland and at a national level.

FDCAQ is also an experienced, successful and trusted provider of early childhood education and care management. Under the ‘Enhance’ brand we have 12 approved services providing FDC and other child care service types. We operate throughout the state from Warwick in the South to Mareeba in the North. We support 300 educators providing early learning and care for 2000 children and 1700 families and are the largest provider of family day care in the state.

We also operate the In-Home Care Support Agency in Queensland and Victoria on behalf of the Department of Education, Skills and Employment. Our agencies match suitable families to approved In-Home Care services and also provide general support and professional development opportunities to In-Home Care educators.

## 2. Overview

**Section 2** provides a high level overview of FDCAQ's responses to the CRIS. Family Day Care Association Queensland works closely with Family Day Care Australia and are supporting and in agreement of all (except 4.1) of Family Day Care Australia's recommendations.

Our support of FDCA's recommendations has been formed from consultation from our membership, Qld FDC approved services and from our own experience operating 12 approved FDC services in Queensland.

Whilst not included in the NQF Review, it should be noted that FDC is at a significant economic disadvantage from its ability to invest into quality service provision given the family day care child care subsidy rate is lower than in centre based day care. The complex operating environment and arrangements in family day care often make meeting regulatory requirements significantly more complicated and result in increased regulatory burden and cost.

A summary of FDCAQ's position in relation to each of the selected options is presented in **Table 1** below.

**Section 3** of this submission elaborates FDCAQ's position in relation to the proposed options by providing relevant supporting detail.

For ease of reference, we have highlighted FDCAQ's additional supporting information in the yellow boxes which is additional to FDCA's feedback which we support and endorse throughout the document.

**Table 1: Summary of FDCAQ's responses**

**Safety, health and wellbeing (Chapter 3)**

Issue	Options	Support	Don't support	Neutral or Not applicable
3.1 Safety of children during transitions between services (including school)	Option A No Change		x	
	Option B Legislative change to require staff supervision			~
	Option C State and territory school authorities and non-government school sector organisations to develop policies and procedures			~
	Option D Amend national regulations to require policies and procedures for the transition period between education and care services	✓		
	Option E Develop further guidance to support policies and procedures, as well as guidance for parents and families	✓		
3.2 Sleep and rest arrangements	Option A No Change		x	
	Option B Compulsory sleep training	✓		
	Option C Further guidance to support development of policies and procedures	✓		
	Option D Specify matters that must be included in policies and procedures	✓		
	Option E Require conduct of a risk assessment, including matters that must be considered			x
	Option F Legislative change to require that sleeping and resting children in education and care services are within sight and hearing distance of an educator at all times			x
3.3 Improving	Option A No Change		x	

children's safety during regular transportation	Option B Legislative change to require specific transport ratio requirements for when children are being transported by, or are on transportation arranged by, an education and care service	✓		
	Option C Legislative change to specify in the case of vehicles transporting only school age children that ratio requirements would not apply in the vehicle			~
	Option D Legislative change to require the presence of a staff member of the service (other than the driver) when children are embarking and disembarking from the vehicle at the service			~
	Option E Legislative change to include new qualification and certification requirements where the driver is not a staff member of the education and care service			~
	Option F Further guidance around adequate supervision/risk assessment as it relates to transport	✓		
3.4 Improving children's safety during emergency evacuations from multistorey buildings	Option A No Change		x	
	Option B Amend emergency and evacuation requirements under Regulation 97 for multi-storey buildings			~
	Option C Strengthen service approval processes for multi-storey buildings	✓		
	Option D Pre-approval application process for service premises to be located in multistorey buildings (VIC and ACT only)			~
	Option E Enhance national guidance and communication strategies			~

## Royal Commission into Institutional Responses to Child Sexual Abuse (Chapter 4)

Issue	Options	Support	Don't support
4.1 Embedding the National Child Safe Principles	Option A No Change		<b>x</b>
	Option B Update the Guide to the NQF and align assessment with the National Child Safe Principles	✓*	
	Option C Require policies and procedures to address the National Child Safe Principles	✓	
	Option D Amend the National Regulations and associated guidance to address identified gaps between the Child Safe Principles and the NQF	✓	
4.2 Update Record keeping requirements	Option A Status Quo		<b>x</b>
	Option B Improved record keeping guidance	✓	
	Option C Amend legislation to increase record keeping requirements to 45 years	✓	
	Option D Require not-for-profit, community and for-profit providers to store records in accordance with recommended standards and timeframes of the Royal Commission	✓	

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## Family day care (Chapter 5)

Issue	Options	Support	Don't support
5.1 FDC Register and notification requirements	Option A No Change	✓	
	Option B Amend the requirements of the FDC Register		<b>x</b>
5.2 Exceptional circumstances	Option A Status Quo		<b>x</b>
	Option B Require Approved Providers to include details of FDC educators operating above ratio on the FDC register	✓	
5.3 Safety around swimming pools in FDC residences	Option A No Change		<b>x</b>
	Option B Swimming pools allowed with improved oversight	✓	
	Option C Do not allow the registration or engagement of new FDC educators at residences or venues with a swimming pool to operate from specified date		<b>x</b>

	Option D Regulatory authorities provide additional guidance and resources in relation to water safety	✓	
5.4 Safety of glass used by services in family day Care	Option A No Change		✗
	Option B All FDC services must comply with 0.75 m height requirement	✓	
	Option C New FDC services must comply with 1m height requirement		✗
	Option D New FDC residences and venues must comply with 1m height requirement and previously approved residences and venues be transitioned		✗
	Option E Regulatory Authorities provide additional guidance and resources in relation to glass safety requirements in FDC services	✓	

### Workforce (Chapter 7)

Issue	Options	Support	Don't support
7.3 Minimum qualification requirements for educators in FDC	Option A No Change		✗
	Option B FDC educators to hold an approved certificate III qualification		✗
	Option C Require the minimum qualification to be completed within 24 months of commencement (not applicable to South Australia)	✓	
	Option D Require at least 50% completion of qualifications (not applicable to South Australia)		✗

### Understanding of quality ratings by families (Chapter 8)

Issue	Options	Support	Don't support
8.1 The quality ratings system	Option A No change		✗
	Option B Modify the quality rating terminology	✓	
	Option C Introduce a visual representation of the quality ratings	✓	
	Option D Provide additional guidance and advice to the community	✓	

## Changes in fees within the NQF system (Chapter 9)

Issue	Options	Support	Don't support
9.1 Changes in fees for regulatory authorities	Option A No change	✓	
	Option B Create a fourth category of annual/application fee based on size		✗
	Option C Increase annual, application and notification fees		✗
	Option D Introduce a new fee for amendments to service approval		✗
	Option E Introduce an annual fee for Approved Providers		✗
	Option F Change legislation to allow states and territories to set their own fees (except for provider application fees)		✗

## Oversight and Governance of Services and Providers (Chapter 10)

Issue	Options	Support	Don't support
10.1 Assessing suitability of individuals to work directly or indirectly with children	Option A No change		✗
	Option B Align the National Law and the FAL in terms of matters to be assessed as part of a fitness and propriety check, and in defining who is a PMC	✓	
	Option C Regulatory authorities can administer questions to an applicant		✗
	Option D Require applicants to undertake an assessment	✓	
	Option E Include an explicit obligation for FDC educators to notify the Approved Provider of circumstances arising that pose a risk to the health, safety or wellbeing of children of the service and that APs use this information in a risk assessment	✓	✗
10.2 Cancellation of provider approval under Family Assistance Law	Option A No change		✗
	Option B FAL cancellation as grounds for cancellation of provider approval under NQF	✓	
	Option C FAL refusal as grounds for cancellation of provider approval under NQF	✓	

### 3.Supporting Detail

This section provides supporting detail to elaborate FDCAQ's responses in relation to the proposed options presented in the CRIS, as summarised in **Table 1**.

#### Safety, health and wellbeing (Chapter 3)

##### 3.1 Safety of children during transitions between services (including school)

<b>FDCAQ Position</b>
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<b>FDCAQ supports in principle a combination of Options D and E.</b>
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FDCAQ notes that under the NQF, regulation 168 of the National Regulations already requires that an Approved Provider of an education and care service must have policies and procedures in place relating to the delivery of children to and from education and care premises, but does not currently require service providers to include information around transition periods between schools and OSHC providers.

In our view, the risk of children going 'missing' or 'unaccounted for' during these periods of transition to or from OSHC is likely not to be as significant in family day care as may be the case for other ECEC service providers due to the limit on numbers of children able to be cared for before/after school in a family day care setting.

However, we consider the requirements put forward under **Option D** to address this risk to be reasonable, cost-effective and relatively non-burdensome, as long as the context of family day care is taken into account in the development of the amendments.

We also consider that **Option E** could work well in combination with **Option D**, as it would contribute to best practice and consistency in policies.

For the guidance to be adopted and it is critically important that any guidance and support that is developed best reflects the family day care operating environment and is contextualised to the various settings and situations (for example, but not limited to rural and remote vs city) or if misinterpreted could be overburdensome for family day care educators and services. The risks during transport are significantly different than in other settings and the treatments and guidance need to reflect the risks in the FDC context.

The Family Day Care Sector in Queensland has recently adapted services policies and procedures reflective of ensuring all children's safety during transport which also encompass transitions between early education and care services to and from school and or other services.

### 3.2 Sleep and rest arrangements

#### FDCAQ Position

**FDCAQ supports in principle a combination of Options B, C and D**

**FDCAQ strongly opposes Option F.**

FDCAQ acknowledges that despite policies and procedures relating to sleep and rest being introduced in October 2017, following the 2014 Review of the NQF, the management of serious risks to young children across education and care services may not be consistent with national safe sleep guidelines.

FDCAQ considers safe sleep and rest arrangements to be a high priority for family day care services and educators. A large proportion of family day care educators care for children under the age of five and the family day care sector is also a significant provider of overnight care, with 47.5% of family day care services offering overnight care, as compared with 0% of long day care services<sup>4</sup>. We therefore support, in principle, actions taken to strengthen the effective management of the risks during periods of sleep and rest.

Quality family day care services already ensure rigorous implementation of service policies related to sleep and rest, especially those who offer overnight care. For example, some services have voluntarily developed policies that specify certain requirements to address significant risks, such as reducing the number of children in care under the age of one. However, we accept there may be room for further training and guidance in this important area.

Consultation with our FDCAQ members pointed to solid support for **Option B** (*legislative change to require compulsory safe sleep practices training for all educators who care for sleeping children (birth to five years)*), **Option C** (*Further guidance around policies and procedures*) and **Option D** (*amend the national regulations to specify matters to include in service's policies and procedures*) as effective ways to strengthen existing policies and practices. These options could be implemented singly or in combination.

In addition, it is critical to bear in mind that the 'home' setting of family day care is unique to each educator and the way their family day care is set up, including sleep and rest areas. It is important that such variations need to be taken into account in the development of new guidance and/or regulations related to safe sleep practices.

FDCAQ strongly opposes the implementation of **Option F** (*legislative change to require that sleeping and resting children in education and care services are within sight and hearing distance of an educator at all times*), as it is impractical and unreasonable in a family day care setting.

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While FDCAQ recognises that the intent of **Option F** is to ensure maximum risk reduction during sleep and rest periods, family day care educators care for children in their own home, and so the physical environment, including sleep and rest setups, will necessarily vary from residence

<sup>4</sup> Baxter, J., Budinski, M., Carroll, M., Hand, K., Rogers, C., Smart, J., Bray, J.R., Gray, M., Blaxland, M., Katz, I., & Skattebol J. (2019) *Child Care Package Evaluation: Early monitoring report*. (Research Report). Melbourne: Australian Institute of Family Studies.

to residence, as mentioned above. Furthermore, family day care educators may have four children under five years of age in their care, all of varying ages, so children will inevitably be sleeping or resting at different times of the day according to their individual needs.

Most significantly, the implementation of **Option F** would ultimately lead to a reduction in unique family day care service offerings, especially overnight care. Provision of overnight care is not only critical to meeting the needs of essential workers, such as health care professionals, police, and paramedics, but also in the context of emergency care provision in the event of local emergencies and/or in response to vulnerable children at significant and immediate risk of abuse or neglect outside standard hours.

### 3.3 Improving children’s safety during regular transportation

#### FDCAQ Position

FDCAQ supports in principle a combination of **Options B and F**.

Regular transport of children is clearly needed by families as part of their child care arrangements, especially shift working parents. Family day care educators often provide such services to meet the demands of the families in their area and these additional services have become highly valued features of their business.

FDCAQ offers in principle support for **Option B** (*legislative change to require specific transport ratio requirements for when children are transported by , or are on transportation arranged by, an education and care service*) provided that there is no change to the existing regulations applying to transport of children by a family day care educator. As noted in the CRIS, **Option B** will have “no impact on FDC educators, who are not permitted to care for more than 7 children under the National Law and Regulations”.

It is important to note however, that, **Option B** may impact a small number of educators who may be approved by the Approved Provider under Regulation 124(5) to educate and care for more than seven children in exceptional circumstances. This is often, but not limited to, educators operating in rural and remote areas where there are no early education and care options available to families and children. It should be considered that adjustments to the regulations could still allow FDC educators to transport for their approved number of children.

Any further restrictions applying to family day care educators would adversely affect the capacity of educators to connect with the community and offer before and after school care, especially in regional areas.

FDCAQ would also support “*further guidance around adequate supervision/risk assessment as it relates to transportation* “ as detailed in **Option F**, in combination with **Option B**, in the interests of supporting best practice and greater consistency of practice by family day care services and educators.

For the guidance to be adopted it is critically important that any guidance and support that is development best reflects the family day care operating environment and is contextualised to the various settings and situations (for example, but not limited to rural and remote vs city) or if misinterpreted could be overburdensome for family day care educators and services. The risks during transport are significantly different than in other settings and the treatments and guidance need to reflect the risks in the FDC context.

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

#### **FDCAQ Position**

**FDCAQ supports in principle Option C.**

While the extent of the issue as it applies to family day care is unknown, FDCAQ offers in principle support for **Option C** (*Strengthen service approval processes ...*) as it would provide clarity for family day care Approved Providers regarding requirements for emergency evacuations, as well as increase general awareness about additional safety risks that need to be managed in the case of residences that are multi-storey dwellings.

Under the current regulations, the Approved Provider of a family day care service must conduct an assessment (including a risk assessment) of each proposed residence and approved family day care venue of the service before education and care is provided to children at the residence or venue, to ensure that the health, safety and wellbeing of children is protected.

However, additional safety risks posed by multi-storey dwellings are not specifically addressed in the regulation, and while this would likely be a consideration taken into account in suitability assessments of residences, FDCAQ considers that explicit inclusion requiring Approved Providers to assess the family day care residence as part of their approval processes where located in multi-storey buildings is reasonable and proportionate.

Any legislative changes should consider the limited options for FDC in some communities where two-storey and multistorey dwellings are common to the area e.g., flood prone regions, cities with medium and high density living. Consideration should be given to the services ability to provide conditions on educators in response to the assessment of their residence such as fewer numbers of children, ages or ability to safely evacuate rather than be prohibit any early education and care to be provided from the residence.

## Royal Commission into Institutional Responses to Child Sexual Abuse (Chapter 4)

### 4.1 Embedding the National Child Safe Principles

#### **FDCAQ Position**

**FDCAQ supports in principle either Options C or D, noting that these options are mutually exclusive.**

**FDCAQ supports in principle Option B.**

FDCAQ accepts there are a small number of gaps between the National Child Safe Principles and the National Quality Framework that require addressing and that maintaining the status quo is not an option going forward, if we are to uphold the rights of the child and act with the best interests of the child as a primary consideration. These identified gaps broadly comprise arrangements for volunteers in education and care services; how online environments, including video surveillance, are used and monitored in services; and the role of organisational culture in reducing children's exposure to the risk of abuse, including complaints handling processes and specifically in the case of family day care, child protection training for family day care coordinators.

From the options presented in the CRIS, we consider **Option D** will provide the greatest level of assurance that services operate consistently with the National Principles within the context of the NQF and thereby mitigate risks of child sexual abuse. This position was endorsed by a majority of FDCAQ members. However, it should be noted that the impact on smaller family day care services in implementing this option would be considerable given the prescriptive nature of the requirements. It will be essential that any specific amendments to the National Regulations are coupled with appropriate guidance, resources and transitional timeframes.

FDCAQ strongly supports the recommendations of the Royal Commission into the Institutional Responses to Child Sexual Abuse and the adoption of National Child Safe Principles. **Option B** will provide some assurance of the adoption of the National Child Principles and provide confidence for families.

**Option C** (*Require policies and procedures to address the National Child Safe Principles*) was also strongly preferred by a large proportion of our members, as it would allow services the greatest autonomy and flexibility in how they implemented the National Principles in their policies and procedures. Again, adequate time and training were emphasised as critical adjunct measures to ensure effective implementation.

#### 4.2 Update Record keeping requirements

##### FDCAQ Position

**FDCAQ supports Options B, C and D.**

FDCAQ is highly supportive of measures that raise awareness of child sexual abuse and maintain the highest standards of child protection in ECEC, including family day care.

We acknowledge that all governments have agreed to implement the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse and that there is therefore an expectation that the NQF needs to align with the National Principles recommended by the National Commission.

FDCAQ also notes that the current requirement for Approved Providers to keep records relating to incidents and/or allegations of potential child abuse in a safe and secure place until the child is aged 25 years, may in fact serve as an obstruction for some survivors seeking redress in their adult lives, given the average age of disclosure is 23.9 years of age.

FDCAQ supports implementation of **Option B** (*improve recording keeping guidance*), **Option C** (*Amend legislation to increase record keeping requirements to 45 years*) and **Option D** (*Require not-for-profit, community and for-profit providers to store records in accordance with the recommended standards and timeframes of the Royal Commission*).

FDCAQ support **Option C** to ensure the best interests of survivors to seek redress however our members have indicated that this requirement would be overly burdensome and costly particularly for small services. To ensure FDC services can continue to meet its obligations parity with CBDC childcare subsidies would assist and or a funded program to assist services to adopt modern technological solutions.

However, the financial impact of implementing these changes to record keeping practices will be significant for the family day care sector, especially for small-medium family day care services, and this needs to be taken into account if these options are implemented.. It will also be critical that the guidance developed under **Option B** is of a highly practical nature and is accessible to those from culturally and linguistically diverse communities.

## Family day care (Chapter 5)

### 5.1 FDC Register and notification requirements

#### FDCAQ Position

**FDCAQ strongly supports Option A.**

**FDCAQ strongly opposes Option B.**

FDCAQ's strong view is that the existing register arrangements are effective in addressing the risk of fraud, especially given that due to the compliance surge activities of both federal and state and territory governments, the number of fraudulent services has been decimated. We therefore strongly support **Option A (no change)**, a position that is overwhelmingly endorsed by our members.

We therefore do not support amendments to the requirements of the family day care register as outlined under **Option B**, nor do our members, due to the significant administration burden for Approved Providers to move the information from their register into the NQA ITS. The collection and maintenance of this data could be achieved more efficiently and effectively through information sharing between the Australian Government's Child Care Subsidy (CCSS) and the NQA ITS.

While the CRIS states that the undue administrative burden would be a 'one-off' task, and that the burden on Approved Providers would 'drop over time', FDCAQ believes the immediate negative impact on the financial viability of significant numbers of services, especially the small - medium services would be severe and extremely difficult for services to shoulder. These small – medium services already shoulder a significant administrative burden associated with compliance above and beyond what is required of centre-based services. FDCAQ also believes that the ongoing administrative burden is significantly downplayed in the CRIS, in particular regarding children's attendance data, which changes on a daily basis, and that such a task is clearly unnecessarily duplicative as this information is captured in the CCSS.

Furthermore, at a more fundamental level, implementing such a measure would be antithetical to two of the core objectives of the NQF, those being:

- *"to establish a system of national integration and shared responsibility between participating jurisdictions and the Commonwealth in the administration of the*

- national education and care services quality framework; and
- to reduce the regulatory and administrative burden for education and care services by enabling information to be shared between participating jurisdictions and the Commonwealth."<sup>5</sup>

The regulatory burden is further impacted by the limitations of third-party software (limited market choice of two providers for FDC) that don't meet the full requirements of the existing FDC register and other regulatory requirements. Many services utilise other software systems to maintain their FDC registers and already maintaining information in multiple systems. The addition of maintaining this information in third source is administrative burdensome but also compromise data integrity and assurance which could cause regulatory non-compliance if not managed well.

## 5.2 Exceptional circumstances

### FDCAQ Position

**FDCAQ supports Option B.**

FDCAQ notes that regulatory authorities do not have access to information on FDC educators caring for more than seven children due to exceptional circumstances, unless this is specifically requested from Approved Providers; and that this may present educational and developmental risks for children who attend services operating above ratio for extended periods of time.

FDCAQ therefore strongly supports this **Option B** (*Require Approved Providers to include details of FDC educators operating above ratio on the FDC register*). We consider it entirely appropriate and reasonable that Regulatory Authorities are notified in the event that additional children are cared for during emergency placements in exceptional circumstances. However for this to work efficiently, FDCAQ would also recommend further guidance to be developed.

Regarding an appropriate amount of time for a family day care educator to provide care for additional children in exceptional circumstances, FDCAQ maintains that this should depend on the individual case circumstances. In regional, rural and remote locations, there may be no other services available to assist and service providers should be able to remain flexible and responsive to families needs.

## 5.3 Safety around swimming pools in FDC residences

### FDCAQ Position

**FDCAQ supports Option B in principle and strongly supports Option D.**

**FDCAQ strongly opposes Option C.**

FDCAQ recognises the paramount importance of child safety in the delivery of ECEC and

support measures to ensure children remain safe when in family day care settings. However, in relation to the issue of pools in family day care settings a proportionate regulatory response is needed, as with other risks that are inherent in ECEC settings (e.g. transportation of children).

FDCAQ refers to FDCA previous submissions on the issue, that any policy response

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<sup>5</sup> ACECQA (2020) *The Guide to the National Quality Framework*. Retrieved:  
<https://www.acecqa.gov.au/sites/default/files/2020-09/Guide-to-the-NQF-September-2020.pdf>

involving a ban on future family day care residences with pools or spas (i.e. **Option C**) will ultimately have an extremely negative impact on the long-term viability of the family day care sector. Over time, services' ability to replenish or expand their supply of educators will be reduced by such a ban and potential new entrants into the family day care sector will face a significant barrier that will very likely deter them from following that career path. This, in turn, will lead to adverse labour market impacts and undermine the long-term viability of a sector, which is a key provider of flexible care sessions and out of hours care, ultimately leading to a reduction in the family day care "footprint" families have access to.

Furthermore, FDCAQ has maintained that effective risk management strategies are critical to mitigating the risks associated with pool. Despite the additional cost, FDCAQ would support appropriate additional physical safety and monitoring measures (such as motion sensor alarms) beyond those already proposed in the CRIS, as long as they are reasonable in their requirements. A minimum set of safety measures needs to be agreed and there should be a requirement to link these to a service's risk assessment, working closely with the regulator and informed by best practice guidelines.

FDCAQ's preferred option is therefore **Option D** (*Regulatory authorities provide additional guidance and resources in relation to water safety*). This option would likely improve overall awareness of the sector in relation to risks associated with water hazards and how to respond in an emergency.

However, there is also support among members for **Option B** in principle which allows family day care educators to continue to provide care for children under 5 with requirements for additional oversights and safety measures (such as fencing specifications and monthly monitoring).

*In Queensland, **Option C**, would significantly impact the ongoing viability of the sector and the ability to recruit educators as 20%\* of residences in Queensland have pools.*

\*Source: Roy Morgan Single Source (Australia), October 2017-September 2018 (n=15,009). Base: Australians 14+.

#### 5.4 Safety of glass used by services in family day care

##### **FDCAQ Position**

**FDCAQ supports Options B and E.**

**FDCAQ does not support C or D.**

FDCAQ accepts that an amendment to glass requirements in 2014 unintentionally lowered the height requirements for family day care residences by 0.25m (to 0.5m), superseding a previous requirement for a minimum 0.75 m requirement. We also note the lack of national consistency in these requirements.

FDCAQ's national incident reporting data, as well as the data presented in the CRIS, suggests the frequency of safety incidents involving glass is exceptionally low. FDCAQ is aware that many family day care educators currently use shatter proof window film as a risk mitigation measure against glass breakage.

Nevertheless, FDCAQ supports increased safety in family day care settings and would support a consistent national approach to glass safety in family day care. **Option B** will resolve the discrepancy in standards caused by the amendment that took place in June 2014. **Option E** (*Regulatory Authorities provide additional guidance and resources in relation to glass safety requirements for FDC services*) was strongly supported by FDCAQ members.

It is important to note that **Option C** (*FDC residences and venues approved on or after a date will be required to comply with 1 m height requirement*) and **Option D** (*all new family day care residences and venues to comply with 1 m height requirement from a specified date*) would both entail significant additional costs to family day care educators, as well as present a further barrier to workforce entry and for these reasons we do not support them.

## Workforce (Chapter 7)

### 7.3 Minimum qualification requirements for educators in FDC

FDCAQ Position
FDCAQ strongly supports Option C.
FDCAQ does not support B or D.

The “actively working towards Certificate III” provision is exceptionally important for many services, especially in rural, regional and remote areas where it continues to assist services to meet workforce demands, as acknowledged in the CRIS. For this reason, FDCAQ is strongly opposed to removal of this provision entirely as put forward in **Option B**.

While only a small percentage of FDC educators do not hold their Certificate III qualification at any given time<sup>6</sup>, the provision remains a very important mechanism by which to transition new educators into the sector. However, FDCAQ agrees that the provision to be working towards Certificate III should not be indefinite.

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<sup>6</sup>Attracting the next generation of family day care educators, Family Day Care Australia, 2019.

For the above reasons, FDCAQ supports **Option C**.

In contrast, we consider it highly impractical to require educators in family day care services who are 'actively working towards' their Certificate III qualification to have completed at least 50% of their qualification, including child protection elements, prior to commencing employment [sic] as proposed under **Option D**. This option act as a significant barrier to entry into the family day care sector, again, as acknowledged in the CRIS. Over and above the broader workforce challenges faced by the ECEC sector, the disproportionate impact on regional and remote areas of such a provision would result in a decrease in provision where there may be most need and where family day care may be the most appropriate care type to service the area.

*The most significant issue for the FDC sector relating to qualifications and quality of education and care is the delivery of the qualifications by Registered Training Organisations. Unless this is addressed and significant reform achieved the risks identified in the CRIS would remain current in many circumstances where educators have completed the qualification.*

*Additionally, in Queensland, there are no funding programs available for FDC educators to complete their qualifications whilst working which is in additional prohibitor to FDC educators commencing without running their business in tandem with completion of the qualification.*

*If these issues were resolved, FDCAQ would recommend an adjustment to Option D, instead of the requirement to complete 50% and there could be a requirement to complete a limited number of units prior to commencement (those relating to child safety and wellbeing), although we recognise that detailing this in regulations may be problematic in maintaining currency of units. That is the most important units relating to child safety should prioritised over the 50% completion.*

## Understanding of quality ratings by families (Chapter 8)

### FDCAQ Position

**FDCAQ supports Options B, C and D.**

### 8.1 The quality ratings system

As is clearly outlined in ACECQA's National Partnership Annual Performance Report: National Quality Agenda (December 2018), research conducted in 2014 and 2017 by the Australian Government and ACECQA suggested there was limited to moderate awareness of the NQF among families. Additionally, further research commissioned by ACECQA in 2018 found that parents placed a high degree of trust in the perceptions of other parents and many relied heavily on these subjective sources to inform their decision-making and that awareness of the NQF and function of NQS ratings remained low.

Given that one of the core objectives of the NQF is to "improve public knowledge, and access to information, about the quality of education and care services"<sup>7</sup>, the importance of work in this area should not be understated.

Our survey of FDCAQ's membership showed exceptionally strong support for modifying the quality rating terminology, introducing a visual representation of the quality ratings system and providing additional guidance and advice to the community, as proposed in **Options B, C and D** respectively.

*It should be noted, that service NQS rating can be problematic for families assessing the quality of an individual FDC educator. As the NQS rating is applied to the service as a whole and not at the individual educators, it does represent the quality of the individual educator. An exemplary, high quality, compliant educator and environment could be registered with a working towards service. Any further guidance and advice to the community should ensure that their appropriate contextualisation for the family day care sector.*

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<sup>7</sup> ACECQA (2020) *The Guide to the National Quality Framework*. Retrieved:  
<https://www.acecqa.gov.au/sites/default/files/2020-09/Guide-to-the-NQF-September-2020.pdf>

## Changes in fees within the NQF system (Chapter 9)

### FDCAQ Position

**FDCAQ supports Option A.**

**FDCAQ does not support Options B, C, D, E and F.**

#### 9.1 Changes in fees for regulatory authorities

The overwhelming majority of FDCAQ service members did not support any option proposing additional or increased fees (i.e. **Options B through F**), and as such, FDCAQ's position is to support **Option A** (no change).

It is also worth pointing out that **Option D** is, in fact, disproportionately biased against family day care as, in most instances, family day care services have more conditions of service approval, for which amendments may be sought, than centre-based services (for example, educator caps and coordinator ratios).

Given that from 1 July 2018 the Australian Government no longer provides funding to Regulatory Authorities for the administration of the NQF, FDCAQ certainly acknowledges that there is clearly a funding gap that needs to be filled as a result of the cessation of this funding. We also acknowledge that the cost of regulating the sector is increasing, due to sector growth and increased regulatory obligations.

However, FDCAQ's position is that the majority of the funding gap burden should not lie with the ECEC services being regulated in the form of increased prescribed fees, in particular for family day care services, as service viability is already under considerable threat due to factors such as funding restrictions and increased compliance obligations.

While FDCAQ believes that the current framework surrounding prescribed fees in Schedule 2 of the National Regulations adheres to the six principles underpinning charging fees for government activities under the Australian Government Charging Framework, FDCAQ does not support any significant wholesale increase in fees, particularly for smaller and/or regional and remote services, as this would further threaten the viability of family day care services and could lead to further reduction of service provision particularly in areas of need.

## Oversight and Governance of Services and Providers (Chapter 10)

### 10.1 Suitability of individuals to work directly or indirectly with children

#### FDCAQ Position

**FDCAQ supports Options B, D and E.**

**FDCAQ strongly opposes Option C.**

FDCAQ members showed strong support for aligning the National Law and the Family Assistance Law (FAL) in terms of matters to be assessed as part of a fitness and propriety check, and in defining who is a Person with Management or Control (PMC) (**Option B**); requiring applicants to undertake an assessment (**Option D**); and including an explicit obligation for family day care educators to notify the Approved Provider of circumstances arising that pose a risk to the health, safety or wellbeing of children of the service and that APs use this information in a risk assessment (**Option E**).

FDCAQ concurs with the general sentiment of the FDCAQ membership in relation to **Options B** as it represents a reasonable proposal to adequately and consistently define a PMC to further align legislative requirements relating to assessment of fitness and propriety under the NQF and FAL and the rationale outlined in the CRIS is sound. FDCAQ accepts the legislation could be strengthened to the regulatory authority applying the National Law to be required to consider the same factors. However, the appeals processes currently contained in the NQF that allow for regulatory decisions to be reviewed must be maintained, to ensure discretionary or unfair decision making is not upheld.

It is also reasonable that regulatory authorities are able to adequately assess the knowledge of applicants for provider approval under the NQF, as specified in **Option D**, provided there is consistency in the application of this process across jurisdictions.

FDCAQ also supports **Option E** as this measure would considerably strengthen the notification requirements of educators regarding matters that may pose a risk to the health, safety and/or wellbeing of children of the service, which is of paramount importance in all ECEC settings. This measure would, however, clearly require the development of guidance for educators in relation to what matters to consider and the notification process.

However, we strongly oppose **Option C** as it would provide for too much discretionary power for regulatory authorities, which could lead to inconsistency in implementation across jurisdictions and possibly create unreasonable barriers to entry into the sector.

## 10.2 Cancellation of provider approval under Family Assistance Law

### FDCAQ Position

**FDCAQ supports the intent Options B and C, though the parameters must be adjusted.**

FDCAQ concurs that, in some circumstances, cancellation of FAL approval *may* provide grounds for cancellation of provider approval under the National Law, such as in cases involving child safety and wellbeing. However it is important to bear in mind that these two legislative instruments have been created for different purposes. A person could be deemed 'fit and proper' under National Law but not 'fit and proper' to administer the CCS under FAL.

As such, while FDCAQ supports, in principle, the intent of **Option B** (FAL cancellation as grounds for cancellation of provider approval under NQF) and **Option C** (FAL refusal as grounds for cancellation of provider approval under NQF) we do not support any measure that would not allow for due process to take place.

Therefore we recommend that, rather than FAL approval cancellation providing explicit grounds for cancellation under the National Law, it should provide grounds for suspension under the National Law (within a reasonable timeframe to allow for transition of care of children) to allow the Approved Provider to make an application for review of the decision. Such a measure is necessary as if an internal and/or external review of the decision finds the decision to be invalid, then cancellation of provider approval under National Law would also be rendered invalid.

For the above reasons FDCAQ considers it critical to exercise extreme caution in the implementation of a process whereby cancellation or refusal of provider approval under one legislative instrument should automatically result in cancellation under another, as CCS approval cancellation allows for internal and external review processes. Time must be allowed for these processes to occur prior to cancellation of provider approval under the National Law.

**FOR MORE INFORMATION ABOUT THIS SUBMISSION PLEASE CONTACT:**

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