

2014 NQF Review – Consultation Regulation Impact Statement

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REGULATION IMPACT STATEMENT FOR PROPOSED OPTIONS FOR CHANGES TO THE NATIONAL QUALITY FRAMEWORK (2014)

Introduction

The IEU welcomes the opportunity to contribute to the *Regulation Impact Statement for Proposed Options for Changes to the National Quality Framework*.

The IEU is the federally registered union representing over 75,000 education professionals (teachers and other education staff) in the non-government education sector, many of whom work in kindergartens, preschools, and early child care centres, which may be either not for profit or profit corporations.

The IEU is responsible for negotiating collective agreements for members in these various early childhood education and care settings. The processes and outcomes of these negotiations as well as the experiences of our members have strongly formed the basis for our views regarding this sector.

The National Quality Agenda

The National Quality Agenda has achieved for the first time in Australia a clear focus on the importance of quality early childhood education and care. It gives practical effect to decades of research into the positive outcomes generated by high quality early childhood education settings.

The IEU supports the continued implementation of all agreed milestones under the National Quality Agenda for early childhood education and care to 2020.

The IEU has been active in the numerous inquiries relating to Early Childhood Education and Care and, in particular, to the following submissions:

- Productivity Commission 2011 Early Childhood Development Workforce Study;
- 2014 Senate Standing Committee on Education and Employment Inquiry into the Delivery of Quality and Affordable Early Childhood Education and Care;
- 2014 Productivity Commission Draft Report on Childcare and Early Learning Inquiry; and
- 2014 Review of the National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care.

3.1 Refining the National Quality Standard and assessment and rating process

3.1.1 Proposal 1.1 – Reducing the complexity of the National Quality Standard

Options for reducing the complexity of the National Quality Standard

Option number	Description
1.1A	No change
1.1B	Reduce the complexity of the National Quality Standard through a draft revised Standard

The IEU supports the National Quality Framework as it represents the significant first step towards professionalising the early childhood education and care workforce and ensures the provision of nationally consistent high quality early childhood education and care.

It is readily recognised that there have been some issues with implementation of the National Quality Framework.

Where IEU members have raised issues relating to the regulatory burden, it has been in an industrial context, that adequate face to face release time and administration time had not been provided; thus forcing members to add on to their already busy workload. Our members have raised issues of meeting attendance and completion of documentation outside the normal working hours without compensation. However, they have provided positive feedback on the National Quality Framework.

This remains a structural funding issue in the implementation of the National Quality Framework and not a fault within the framework. This issue should not be seen as a reason for diminishing the National Quality Framework. Rather it points to the necessity of proper resourcing of administration time for early childhood professionals and providing them with consistent professional development and support and advice.

The IEU supports amendment to areas where unnecessary regulatory repetition exists. However, the IEU seeks assurances that amendment to standards will not reduce expectations in regard to services providing quality early childhood education and care environments for children and families.

For this reason, IEU expresses concern regarding the proposed wording contained within revised Standard 4.A.i as it will diminish educator to child ratios.

The IEU rejects the proposed wording of Standard 4.Ai “*Educators are deployed across the service to support children’s learning*” and seeks the maintenance of the existing Standard “*Educator to child ratio and qualification requirements are maintained at all times*”.

3.1.2 Proposal 1.2 – Streamlining the process for quality assessments

Options for streamlining the process for quality assessments

Option number	Description
1.2A	No change
1.2B	Streamline the national approach to assessment and rating, including through supporting templates and documents and further rigorous training of authorised officers

The IEU acknowledges the Woolcott findings of inconsistencies regarding assessors' approaches.

The IEU supports Option 1.2B to streamline the national approach to assessment and rating through the development of supporting documents and templates for services.

Further, the IEU calls for more rigorous training of authorised officers and recommends the employment of early childhood education and care qualified staff as Compliance and Assessment Officers to ensure consistency of approach.

3.1.3 Proposal 1.3 – Reduction in documentation of child assessments or evaluations in OSHC services

Options for reduction in documentation of child assessments or evaluations in OSHC services

Option number	Description
1.3A	No change
1.3B	Amend Regulation 74 so that services that educate and care for children over preschool age must keep documentation about development of the program, rather than about individual children's development
1.3C	Do not amend Regulation 74 but retrain authorised officers to regulate and assess OSHC services in a manner that better recognises the context of OSHC services

The IEU supports option 1.3B as it recognises that children attending OSHC have already been assessed by qualified teachers during school hours.

3.1.4 Proposal 1.4 – Significant Improvement Required rating

Options for Significant Improvement Required rating

Option number	Description
1.4A	No change
1.4B	Remove the Significant Improvement Required rating, with the quality assessment rating process ceasing where it is determined that there is an unacceptable risk to children's health, safety or wellbeing
1.4C	Retain the Significant Improvement Required rating but amend its definition so that it refers to a rating that may be applied if there is significant non-compliance, rather than where there is unacceptable risk to children

The IEU supports option 1.4C.

The IEU believes that 1.4C is the preferred option as the Significant Improvement Required is retained in order to distinguish services with a history of significant non-compliance from those genuinely working towards the National Quality Standards.

Further, the IEU believes that services posing an unacceptable risk to children should not be permitted to continue to operate.

3.1.5 Proposal 1.5 – Exceeding the National Quality Standard rating

Options for Exceeding the National Quality Standard rating

Option number	Description
1.5A	No change
1.5B	To be rated Exceeding the National Quality Standard at the Quality Area level, all standards in the Quality Area need to be rated Exceeding the National Quality Standard <i>This option is linked to 1.1B</i>

The IEU supports proposal 1.5B in that for an individual Quality Area to be rated as Exceeding, all standards in the Quality Area need to be rated as *Exceeding the National Quality Standard*.

3.1.6 Proposal 1.6 – Excellent rating

Options for Excellent rating

Option number	Description
1.6A	No change
1.6B	Remove the Excellent rating

The IEU rejects option 1.6B.

The IEU believes that the Excellent rating should be maintained and that access to assessment of the Excellent rating should be made more affordable to all services

The IEU believe that removing the Excellent rating would undermine the achievement of those services that have achieved a rating of Excellent.

The IEU further recognises that “excellent rated” services can become sites for modelling high quality practice, as was the case with Centres of Excellence in New Zealand and thus there is a value in retaining the rating of Excellent.

Thus the IEU recommends that the application fee be removed and the paperwork required to apply for an Excellent rating be decreased.

The IEU believes that the Compliance and Assessment Officers should be able to identify services whose practices are likely to meet the criteria required for an Excellent rating during their A & R visit and such information can be collected at that time to support and assist the service’s application.

3.1.7 Proposal 1.7 – Ensuring ratings accurately reflect service quality

Options for ensuring ratings accurately reflect service quality

Option number	Description
1.7A	No change
1.7B	Remove the overall rating and rely on the seven quality area ratings to indicate service quality
1.7C	Retain the current requirement that all elements must be met to achieve an overall rating of Meeting National Quality Standard, on the basis that clarifying or streamlining the National Quality Standard will result in ratings that are a more accurate reflection of service quality <i>This option is linked to 1.1B</i>
1.7D	Broaden the application of the current Minor Adjustments Policy (but not extending to those areas of the National Quality Standard that are not able to be remedied quickly) <i>This option could be implemented together with 1.7B or 1.7C</i>

The IEU supports option 1.7C.

The IEU believes that an overall rating is important for parents to have a general gauge of service quality and that any changes made to streamline the process should be put into practice by services before any changes are made to the overall rating.

3.1.8 Proposal 1.8 – Length of time between assessments

Options for length of time between assessments

Option number	Description
1.8A	No change
1.8B	Remove the three year rating cycle policy and commit to more frequent re-rating of lower quality rated services, with no specified maximum period between ratings
1.8C	Remove the three year rating cycle policy and commit to re-rate all services at least once every five years, with more frequent re-rating of lower quality rated services

The IEU supports option 1.8A.

The IEU supports the current emphasis on quality and continuous improvement. Less-frequent rating cycles, particularly five years would result in a whole cohort of children being enrolled at a centre that is not rated for quality during the entire period they attend the centre. A significant number of changes can occur in a service over a three year period that has the potential to impact upon quality ratings.

The IEU believes that Government should increase funding to more appropriately resource the existing rating cycle, rather than seek extensions.

3.2.1 Proposal 2.1 – Removing supervisor certificates

Options for removing supervisor certificate requirements

Option number	Description
2.1A	No change
2.1B	Amend the National Law to remove the requirement for supervisor certificates

The IEU supports option 2.1B.

The IEU believes applying for Supervisor Certificates has been an unnecessary burden on services. The IEU agrees the Approved Provider and Nominated Supervisor are best placed to decide who amongst the staff should be the Responsible Person when the Nominated Supervisor is absent. However, we do consider that there should be minimum qualifications and/or level of experience specified to ensure that a suitable person is appointed. The Approved Provider or Nominated Supervisor must be able to demonstrate the Responsible Person is capable of taking on this additional responsibility.

3.3.1 Proposal 3.1 – Additional services to be included in the NQF

Options for additional services to be included in the NQF

Option number	Description
3.1A	No change
3.1B	Include BBF centre-based services, occasional care services (excluding those provided for parents attending conferences, sport and leisure activities or shopping), playschools and mobile services that are not currently regulated in the NQF
3.1C	Include BBF centre-based services, occasional care services (excluding those provided for parents attending conferences, sport and leisure activities or shopping), playschools and mobile services that are regulated under another children's services law in the NQF
3.1D	Include all BBF centre-based services, occasional care services (excluding those provided for parents attending conferences, sport and leisure activities or shopping), playschools and mobile services in the NQF.

The IEU supports option 3.1D and the inclusion of all early childhood education and care service types into the National Quality Framework.

The IEU supports the creation of a national system for early childhood education and care services.

The IEU recognises it was always envisaged under the National Partnership for National Quality Agenda that other early childhood education and care services types would be eventually brought into the National Quality Framework.

However, the IEU recognises that services such as BBF and mobile services will require support and resourcing to meet the requirements of the National Quality Framework and, as such, calls upon the Federal Government to provide additional funding to these services to support transition.

Further, the IEU calls for an adequate timeframe for transition for these services.

3.3.2 Proposal 3.2 – Application of assessment and rating processes to additional services

Options for application of assessment and rating processes to additional services

Option number	Description
3.2A	Additional services included in the NQF are assessed and rated in the same way as others currently covered by the NQF <i>This option is linked to 3.1B, C & D</i>
3.2B	Additional services included in the NQF are subject to compliance monitoring only, with assessment and rating processes to be considered further in the 2019 Review of the NP NQA <i>This option is linked to 3.1B, C & D</i>

Given the IEU's expectation that additional support and resources must be provided to services that are currently not included in the NQF and the need for an adequate timeframe to transition into the NQF, **the IEU supports option 3.2B** where these services are initially subject to compliance monitoring, with the assessment and rating process to be considered in the 2019 Review of the NP NQA.

3.4.1 Proposal 4.1 – Extending some liability to educators

Options for extending some liability to educators

Option number	Description
4.1A	No change
4.1B	Liability under Sections 165 and 167 of the National Law to be extended to all educators, for not adequately supervising children under their care or not taking every reasonable precaution to protect the children from harm or hazard that is likely to cause injury, in addition to approved providers, nominated supervisors and FDC educators

The IEU strongly rejects option 4.1B.

Further, the IEU rejects the argument that services are unable to discipline staff who do not take their responsibility seriously and do not provide adequate supervision of children in care, (RIS p49-50).

Industrial and civil law provides appropriate support to services in such a situation.

Teachers and educators are not in control of many of the quality factors such as physical environment or the number of staff employed or their qualifications and training. As such, direct liability cannot be placed upon all educators, should the services not comply with the National Regulations.

The IEU recommends that regular training of staff on duty of care responsibilities are undertaken by the services.

3.5.1 Proposal 5.1 – Introduce fee for extension of temporary waiver

Options for introducing fee for extension of temporary waiver

Option number	Description
5.1A	No change
5.1B	Introduce a fee for the extension of a temporary waiver

The IEU does not support the use of temporary waivers of up to 12 months.

Services must be forced to address the underlying reasons for seeking waivers.

The IEU supports all measures to discourage the use of waivers and the introduction of a fee for extension of a temporary waiver should have this impact.

Thus the IEU support option 5.1B.

Preferably, however, the IEU would seek the removal of extensions of temporary waivers entirely.

3.5.4 Proposal 5.4 – Increase in annual fee for approved services

Options for increasing the annual fee for approved services

Option number	Description
5.4A	No change
5.4B	Increase the annual fee for approved services by 100%
5.4C	Increase the annual fee for approved services by 50%

The IEU supports option 5.4A.

The IEU is aware that a significant number of community based preschool / kindergartens in rural and remote areas are struggling to remain viable. Without any additional funding from the Federal Government, the burden of paying increased annual fees would detrimentally affect the budget of rural and remote community based preschools and kindergartens.

3.6.1 Proposal 6.1 – National educator to child ratio for OSHC services

Options for a national educator to child ratio for OSHC services

Option number	Description
6.1A	No change
6.1B	Introduce a national educator to child ratio for OSHC services

The IEU supports option 6.1B.

The IEU believes it is appropriate to limit the number of children that can be supervised by an educator in OSHC services to ensure the safety of children in attendance and as ratios are regulated in the other services that come under the NQF.

3.7.1 Proposal 7.1 – Approval of FDC services across jurisdictions

Options for approval of FDC services across jurisdictions

Option number	Description
7.1A	No change
7.1B	Approved FDC providers be required to hold a service approval in each jurisdiction in which they operate (including paying all relevant fees in each jurisdiction in which they operate an FDC service)

The IEU supports option 7.1B.

3.7.4 Proposal 7.4 – Mandating a minimum Certificate III for FDC educators

Options for mandating a minimum Certificate III for FDC educators

Option number	Description
7.4A	No change
7.4B	Require all FDC educators to have an approved Certificate III (or equivalent) before being permitted to educate and care for children, rather than working towards the qualification, which is currently the requirement

The IEU supports option 7.4B.

The IEU considers it vital that FDC educators have adequate training prior to commencing work with children. Further, continued professional development opportunities should be provided by services to supplement the Certificate III qualification and ensure ongoing knowledge and skill development.

3.7.5 Proposal 7.5 – FDC educator assistants' activities

Options for FDC educator assistants' activities

Option number	Description
7.5A	No change
7.5B	Create an offence (with attached penalty) that an approved provider must ensure the assistant's activities are limited to the circumstances set out in Regulation 144(2) (as amended), with the penalty set at \$2,000

The IEU supports option 7.5A.

Financial penalties should not be created for educators.

3.8 Job sharing (Proposal 8.3.3)

Option number	Description
8.3.3A	No change
8.3.3B	Adopt proposed change

The IEU supports option 8.3.3B to amend the National Law to remove the limit on the number of nominated supervisors that may be appointed at one time for each service.

This amendment will provide greater access to flexible working arrangements for educators.

However, in order to ensure clarity of responsibilities of duties, it must be made clear which one person has been appointed in charge of the service. Other nominated supervisors should be able to fill in when the designated nominated supervisor is absent.

Child protection training (Proposal 8.3.8)

It is proposed that the National Law and National Regulations be amended to provide that nominated supervisors and persons in day to day charge of an education and care service must have undertaken child protection training.

The IEU supports proposal 8.3.8B to amend the National Regulations so that Nominated Supervisors and those in day-to-day charge of an ECEC service have undertaken child protection training.

Proposal 8.4.1 - 12 Weeks ECT Leave Provision - Extending the scope to include resignation

Educator leave (Proposal 8.4.1)

Regulation 135 states that if an early childhood teacher is absent because of short-term illness or leave (defined as less than 12 weeks), a person who holds an approved diploma level education and care qualification or a primary teaching qualification is taken to be an early childhood teacher during that period.

To provide further flexibility to providers, it is proposed that Regulation 135 is amended to allow providers to also use this provision after the resignation of an early childhood teacher. This would also apply to services that engage a full time or full time equivalent early childhood teacher.

However, this proposal would clarify that the leave is able to be taken accumulatively, up to a total of 12 weeks within a year.

It is also proposed that a savings provision for NSW be included so that this change would not apply.

The IEU rejects proposal 8.4.1.

Further, the IEU seeks the removal of the current provision that allows services to replace early childhood teachers with Diploma-qualified educators for 12 weeks due to absences due to illness and annual leave. Research has shown that qualifications and child:staff ratios to be the most significant influences on quality in ECEC.

The IEU does not support any proposal to reduce or water-down existing qualification requirements by extending the current provision to allow for the resignation of an early childhood teacher.

Educator breaks (Proposal 8.4.2)

It is proposed that guidance on educator breaks is amended to make clear that service providers must comply with their legal obligations and must meet prescribed ratio requirements at all times, subject to jurisdiction-specific transitional arrangements.

The IEU supports option 8.4.2B to clarify ambiguities regarding the maintenance of child: ratios during teachers' and educator's breaks.