



C&K's Response to National Quality Framework (NQF) Regulation Impact Statement (RIS)

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Crèche and Kindergarten Association Limited (C&K)

C&K is a leading, not-for-profit early childhood education and care provider with more than 107 years of experience. C&K is proud to support more than 20,000 children, 6,000 families and 2,000 staff through our long day care and kindergarten services, family day care schemes, limited hours care, in home care and outside school hours care programs. C&K ensures that children come first, in all of its activities.

Summary of C&K's key points regarding NQF changes

C&K strongly supports continual improvements to the National Quality Framework (NQF) and National Quality Standards (NQS). We are pleased to provide detailed comments on this important review.

We note, however, that at this time Queensland's early childhood education and care sector is under severe pressure. Over the last few years there has been much change and currently service providers, educators, families and children are facing a range of uncertainties due to funding changes and cuts.

The implementation of the NQF changes (currently planned for 2016) will be particularly challenging given the Australian Government's response to the Productivity Commission will not be announced until the first-quarter 2015.

C&K's key points are:

1. Hold the line on quality – and keep aspiring for excellence

Quality assurance is a long game that we must remain committed to in full: it will directly improve the future productivity of Australia. Three years into the implementation of the NQF, a major structural change to the regulation of the early childhood education and care sector, is very early days.

C&K acknowledges the immense effort already invested by services in the development and implementation of the NQF and we look forward to continuing this important journey.

- The RIS recognises that the full benefit of the NQF is yet to be realised. There is a risk, however, that the numerous current reforms in the ECEC sector could dilute the original intention of the NQF to provide a transparent and accountable framework for assessing the quality of services that will give children the best start in life.
- C&K does not support the removal of the excellent rating – we should keep the aspiration but address the inequity of its execution (the additional application process, and its cost).

2. Understand there is uncertainty in the ECEC sector

Championing a continual improvement agenda within an uncertain funding and program environment is difficult.

Quality assurance literature discusses the variability of organisations' readiness for participating in quality processes. A range of factors can affect their ability to receive and pass on benefit from the process at any given time, or for them to engage in a meaningful way. Continuity of adequate funding is recognised as one of these factors.

In Queensland, this is our greatest challenge:

- Universal Access funding for kindergartens has only been extended for 12 months until the end of 2015
- Funding for Budget Based Funding services such as mobile kindergartens could also end if recommendations from the Productivity Commission's draft report are followed
- Community Support Program that underpins Family Day Care coordination will be cut from June 2015; and
- Funding for Children and Family Centres for Aboriginal and Torres Strait Islander families by the Federal Government has also ended and ongoing funding through a new funding stream is uncertain.

3. Continue user-centred, agile & iterative improvement processes – more consistency needed in some areas, and less consistency needed in others

Regular reviews of the NQF and its processes are vital. C&K supports continuous improvements that are user-centred (educators and coordinators experiences are crucial), agile (recognising that consistency is vital in some areas, and problematic in others), and iterative (because we won't always get change right the first time).

- C&K supports any RIS options aimed at more consistency in practice and advice received through the assessment process to more fully realise the benefits of the NQF.

For example, C&K has experienced inconsistent advice from the regulatory authority across regions regarding notifiable incident reporting. This inconsistency is causing confusion and uncertainty amongst educators and service support personnel.

- Conversely, however, C&K supports RIS options (such as 1.3) that discuss variation (rather than consistency) when it relates to the different ECEC service delivery settings or contexts. We agree that these could be better understood by the authorised officers assessing them.

Family Day Care (FDC) settings or OSHC settings are different from Long Day Care settings. C&K considers that not all officers conducting assessment and ratings have this contextual understanding of different service types. For example, an authorised officer asked a Family Day Care Educator why a medication record was not witnessed by another educator.

- Continuous improvement is not linear. We welcome refinements that genuinely improve processes while still supporting the ultimate outcome for children. We recognise that some changes may be universally agreed, whereas other refinements may not work for everyone the first time around.

For example, the revised assessment and rating template (which changed in June 2014) has consolidated elements, however for C&K this has made it

harder for services to determine areas for improvement and which specific element we need to demonstrate additional evidence on when we respond to the Draft Report within 10 days. The revised report might have streamlined the reporting process for authorised officers, however has created some obscurity and an increase in workload for services. Services and providers, must now spend time trying to understand which element is being referred to, and appropriately respond to each element, from an overall comment on each Standard.

4. Expand the scope to additional services – requires investment to cover the regulatory compliance costs; and realistic expectations for implementing

C&K broadly supports the recommendations to bring all services that are educating and/or caring for young children under the NQF (Budget Based Funding, Occasional Care, Mobile services). Children and families have a right to access quality education and care regardless what service type they attend or where they live.

This transition, however, requires investment and realistic expectations for implementation.

The RIS cites benchmark costings that indicate the regulatory compliance costs that services would face. C&K supports further work being undertaken to quantify the ‘proportion of these costs’ that would be required, and encourages government to provide this investment into services as they are included in the NQF.

In addition to resourcing, C&K suggests that successful transition needs place-based support and flexibility. Some services may already be well-placed for a successful assessment and may in turn become mentors for others. Many services however will need a longer transition period.

In the pages, following, please find C&K’s response to the detailed recommendations.

1. Refining the National Quality Standard and assessment and rating process

Table A1: Refining the National Quality Standard and the assessment and rating process

No.	Proposal	Description
1.1	<i>Reducing the complexity of the National Quality Standard</i>	A draft revised National Quality Standard is included at Appendix B. It contains 15 standards and 40 elements and incorporates learning from administering the current National Quality Standard and feedback from a cross-section of sector experts.
<p>C&K supports 1.1B – “Reduce the complexity of the NQS” in principle. Please refer to additional comments at Table B1.</p> <p>Rationale: C&K considers the changes minimise cross-over and double-up. The new draft quality areas are better defined and so could reduce confusion and possibly reduce the time taken by services in completing Quality Improvement Plans (QIPs) and preparing for Assessment and Rating (A&R).</p>		
1.2	<i>Streamlining of quality assessments</i>	<p>It is recommended that the national approach to assessment and rating comprise processes that:</p> <ul style="list-style-type: none"> • meet the requirements of the National Law • meet the minimum requirements of all jurisdictions • default to the most streamlined approach first • can be supplemented as needed by jurisdictions to mitigate any ‘local’ characteristics and risks while maintaining the validity and reliability of quality ratings. <p>It is recommended that the following steps be noted as comprising the basic elements of a structured approach to assessment and rating:</p> <ul style="list-style-type: none"> • Stage 1 – pre-visit review of the Quality Improvement Plan <ul style="list-style-type: none"> – Desktop assessment of provider and service • Stage 2 – assessment of practice at service by observation, discussion with staff and sighting of documentation <ul style="list-style-type: none"> – Clarification of anomalies and minor adjustments • Stage 3 – Post visit review of evidence against requirements of the National Quality Standard <ul style="list-style-type: none"> – Consideration of feedback – Determination of rating <p>These steps are to be clearly defined through supporting templates and documents and rigorous training of authorised officers. They may also be supplemented as needed by jurisdictions, while maintaining the validity and reliability of quality ratings.</p>
<p>C&K supports 1.2B – “Streamline the national approach to assessment and rating, including through supporting templates and documents and further rigorous training of authorised officers”.</p> <p>Rationale: C&K considers the A&R process takes too long. This is not a negative comment on</p>		

No.	Proposal	Description
		<p>regulators, but rather a comment to highlight the de-motivating effect the time lag has on services and educators who continue to wait for their A&R.</p> <p>There are two issues, (a) Directors and Boards have needed to sustain the enthusiasm, readiness and expectations of their teams for a long period; and (b) there is potential for the “absence of a rating” to be perceived as negative by families, in the absence of any other messages.</p> <p>C&K agree to the articulated clear steps proposed (Stage 1 through Stage 3) – the Queensland regulatory authority is operating a similar approach.</p> <p>Regulatory authorities need to commit to timeframes as well as Stages. Often the draft report is provided to services well after the set time frames. Often there is no communication to services about when a draft report will be received and services have to contact the Regulator to ascertain when they will receive their draft report.</p> <p>C&K suggests consideration be given to service-specific operating / term times (such as kindergartens that operate over four terms per year). There have been occasions when kindergartens have received their notification of A&R during term break – thus providing them less time to submit their QIP and prepare for A&R. Notification to commence the A&R process should be given during service operating hours.</p> <p>C&K also suggests there be documented flexibility to negotiate with the regulatory authority to extend or postpone A&R in some circumstances. For example, when there is a new Director or Director being on long service leave. In our experience, the regulatory authority has been flexible, but formally documenting this would ensure all jurisdictions benefited from this consideration.</p>
1.3	<p><i>Reduction in documentation of child assessments or evaluations for delivery of educational program in OSHC services</i></p>	<ul style="list-style-type: none"> • Amend Regulation 74 to require that documentation for over preschool age children to focus on the program, rather than an individual child’s development to evidence Working Towards the National Quality Standard; OR • Maintain the status quo but retrain authorised officers to regulate and assess OSHC services with a better understanding of the OSHC context.
		<p>C&K supports 1.3B – “...services that educate and care for children over preschool age must keep documentation about development of <i>programs</i>, rather than about individual children’s development”.</p> <p>Rationale:</p> <p>C&K supports the amendment that OSHC’s NQS documentation be focused on the <i>program</i> rather than each child. As many services have submitted, children can attend an OSHC for as little as a few hours per term, therefore child-specific documentation for NQS purposes is problematic.</p>

No.	Proposal	Description
<p>More generally in relation to OSHC – C&K reiterates the “My Time Our Place” principle that this service type is focused on <i>leisure and play-based</i> experiences which contribute fully to their ongoing development. The service context should be seen as more of an extension of the home environment rather than an extension of the school environment. It is also significantly different from purely early childhood services. In our experience OSHC services have had varying experiences of regulator’s understanding of their context, and have been less clear about the documentation that is expected of their service type.</p>		
1.4	<p><i>Significant Improvement Required rating</i></p>	<ul style="list-style-type: none"> Remove the Significant Improvement Required rating - so that the quality assessment rating process will cease where it is determined that there is an unacceptable risk to children’s health, safety or wellbeing; OR Retain the Significant Improvement Required rating, but amend its definition so that it refers to a rating a regulatory authority may determine if there is significant non-compliance, rather than the concept of unacceptable risk to children.
<p>C&K supports either 1.4B or 1.4C – either 1.4B “<i>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...</i>” or 1.4C “<i>Retain the Significant Improvement Required rating but amend its definition so that it refers to... significant non-compliance, rather than where there is unacceptable risk to children</i>”</p> <p>Rationale:</p> <ul style="list-style-type: none"> C&K has never had a Significant Improvement Required rating so it is difficult to comment on how the procedures have impacted. We do however support the rationale for change, that is, at any point in the A&R process where ‘significant improvement required’ becomes apparent, the assessment could cease so rapid actions could be taken if possible. Potentially both options 1.4B and 1.4C could co-exist: that is (1.4B) assessment ceases immediately an unacceptable risk to children is discovered; and (1.4C) should assessment find anything significant other than this, then the Significant Improvement Required rating is applied and the areas that require the significant improvement are clearly noted on the certificate to allow greatest transparency for parents. 		
1.5	<p><i>Exceeding the National Quality Standard rating</i></p>	<p>Require all standards in a Quality Area to be rated as Exceeding the National Quality Standard for the Quality Area to be rated Exceeding, given the proposed National Quality Standard retains only those elements and standards essential to service quality</p>
<p>C&K supports 1.5B – “<i>To be rated Exceeding the NQS at the Quality Area level, all standards in a Quality Area need to be rated as Exceeding</i>”.</p> <p>Rationale:</p> <p>C&K strongly supports this recommendation. While it would be more challenging for a service to reach exceeding for each QA, the final ratings would provide a clearer indicator of quality for each quality area, resulting in better transparency for families.</p>		

No.	Proposal	Description
1.6	<i>Excellent rating</i>	Remove the Excellent rating
<p>C&K supports 1.6A</p> <p>C&K does not support “Remove the Excellent rating”.</p> <p>Rationale:</p> <p>An overall the ‘excellent’ rating is a valuable motivator for services and for educators. We agree that the additional incentives in an ‘earned autonomy’ approach (such as reduced paperwork or reporting requirements/periods) would also be a motivator for aiming for an ‘excellent’ rating.</p> <p>Also related to the ‘Overall Rating’ discussion, C&K suggests that the ‘Excellent’ overall rating should only be available to services who have received an exceeding rating for <i>each</i> quality area. Currently services who have an <i>overall rating of exceeding</i> can be rated as <i>meeting</i> in some quality areas.</p> <p>As per previously stated, C&K does not support the inequities that are currently present in how the ‘excellent’ rating is being implemented:</p> <ul style="list-style-type: none"> the issuing of ‘excellent’ ratings should be held until such time as all providers have been assessed; the additional administrative process for applying for the rating, as well as its cost, removes the incentive and increases the likelihood that some services will ‘invest’ in applying for the excellent rating where others cannot. <p>Suggestions:</p> <ul style="list-style-type: none"> Excellent ratings could be suspended until all services have been assessed Remove the application fee. Make the process easier for services, perhaps through pre-populated application form. Completing the application is a very lengthy process. A mandatory visit from ACECQA for all applications. Not all services that have been awarded excellent have been visited by ACECQA. 		
1.7	<i>Ensuring ratings accurately reflect service quality</i>	<ul style="list-style-type: none"> Remove the overall rating and rely on the seven quality area ratings to indicate service quality; OR Retain the current requirement that all elements must be met to achieve a Meeting National Quality Standard rating on the basis that clarifying or streamlining The National Quality Standard will result in ratings that are a more accurate reflection of service quality; AND/OR Reviewing the Minor Adjustment Policy once the draft National Quality Standard is finalised with the intent of broadening its application across all Standards and better supporting decision making for services with only a very small number of elements not met.

No.	Proposal	Description
		<p>C&K supports 1.7C and 1.7D – 1.7C “Retain the current requirement that all elements must be met to achieve an overall rating of ‘Meeting’” and 1.7D “Broaden the application of the Minor Adjustment Policy” where a small number of elements can be remedied quickly.</p> <p>Rationale:</p> <p>C&K is aware of the merits of both sides of the ‘overall rating’ discussion. An overall rating is easier for families to understand and is a vital component of quality systems (ie. either the standard is met – or it isn’t) and as such C&K would support the overall rating be retained.</p> <p>C&K considers the more crucial amendment would relate to option 1.7C – to “broaden the application of the current Minor Adjustments Policy”, which allows services to make changes (that are able to be remedied quickly) immediately following the service visit.</p> <p>C&K further suggests that services with a small number or minor adjustments, which for some reason are unable to be amended immediately, have priority in being re-assessed. See 1.8 below.</p>
1.8	<i>Length of time until services are re-assessed</i>	<ul style="list-style-type: none"> Remove the three year rating cycle policy, and instead commit in principle to more frequent re-rating of lower quality rated services that takes into account assessment of risk and principles of earned autonomy; OR Remove the three year rating cycle policy and commit to re-rate all services at least every five years, with more frequent re-rating of lower quality rated services based on an assessment of risk and principles of earned autonomy.
		<p>C&K supports 1.8C – “Remove the three year rating cycle policy and commit to re-rate all services at least every five years, with more frequent re-rating of lower quality rated services ...”</p> <p>Rationale:</p> <p>The variability of the sector is highlighted by this question: C&K considers the better option would be to consider services case-by-case.</p> <p>C&K supports 1.8C “more frequent re-rating of lower rated services..... and change three-year rating cycle to five-year rating cycle” because this option articulates a re-rating timeframe which the other does not. However, five years is a long time in the life of a service. A lot can happen (eg. change of director or auspice) which can have a dramatic effect on quality.</p>

2. Removing supervisor certificate requirements

The table below outlines the proposals for removing supervisor certificate requirements.

Table A2: Removing supervisor certificate requirements

No.	Proposal	Description
2.1	<i>Supervisor certificate requirements</i>	Remove the supervisor certificate requirements from the National Law and National Regulations, to allow decisions regarding the responsible person to be made at the provider/service level.
<p>C&K supports – 2.1B “...remove the requirement for supervisor certificates”</p> <p>Rationale:</p> <p>C&K strongly supports this proposal: assuming that approved providers have policies and procedures in place to ensure appropriate checks and balances are in place to appoint suitable certified supervisors.</p>		

3. Expanding the scope of the NQF

The table below outlines the proposals for expanding the scope of the NQF.

Table A3: Expanding the scope of the NQF

No.	Proposal	Description
3.1	<i>Additional services to be included in NQF</i>	Inclusion of either regulated, unregulated or all of the following services in the NQF, including an appropriate transition period: <ul style="list-style-type: none"> (a) BBF Centre Based Services that operate in a similar way to services covered by the NQF (b) Occasional Care Services [not while attending conferences, sport and leisure activities or shopping] (c) Playschools, and (d) Mobile Services that provide a service similar to those currently covered by the NQF or similar to other services proposed for inclusion.
<p>C&K supports 3.1D – “include ...[additional services]... in the NQF”.</p> <p>Rationale:</p> <p>C&K supports bringing these vital services into the NQF in principle. The intent of the NQF is to improve child educational outcomes: children receiving a service in a rural area are entitled to receive an equitable quality service.</p> <p>The NQS may need to be further contextualised – as has been proposed as the changes for OSHC documentation requirements. Some further elements of the NQS may need to be revised to suit the contextualised needs of these additional service types.</p> <p>In addition, there will need to be additional support to ensure the cultural literacy of assessors to enable culturally appropriate assessments of services to be made.</p> <p>As also noted in 3.2 below, appropriate transition arrangements are essential - including:</p>		

No.	Proposal	Description
		<ul style="list-style-type: none"> • Cost: there is a cost to NQF implementation (as per RIS Pg 43) and this would occur in tandem with Budget Based Funding (BBF) cuts, Indigenous Advancement Strategy uncertainty, Universal Access uncertainty, Productivity Commission ‘deemed cost’ uncertainty. • Processes: some BBF services in particular may require further refined processes and/or partnerships or mentoring from other services in order to reap the benefits of the NQF and minimise the potential challenges. <p>—</p> <p>Given the Productivity Commission’s focus on in-home care, C&K’s takes this opportunity to recommend that nannies are also brought “within scope” during this or subsequent review(s) of the NQF.</p>

3.2	<i>Application of assessment and rating processes to additional services</i>	Services endorsed for inclusion should be subject to the assessment and rating process as for other services covered by the NQF, or subject to compliance monitoring, with assessment and rating to be considered further in the 2019 NP NQA Review.
<p>C&K supports 3.2A with qualification – “Additional services ... are assessed and rated in the same way as others currently covered by the NQF”.</p> <p>Rationale:</p> <p>As per above 3.1 - C&K supports the former option (3.2A) that new services are “ subject to the A&R processes as for other services” <i>provided they are supported to do so</i>. The A&R process drives continuous quality improvement.</p> <p>As stated, this next tranche of services moving into the NQF would require:</p> <ul style="list-style-type: none"> • The A&R process be contextualised: that assessors have a clear understanding about the differences in the type of services. Eg. If a service is operating in a community hall, what has the service done to add to/enhance the environment constrained by the shared nature of the hall etc. • The cost of compliance is recognised • Appropriate support such as partnerships or mentoring <p>We would, however, suggest that services are consulted in the timing of the A&R so that those who wish to (and are deemed to have a high-likelihood of success) be able to request A&R earlier. These services, particularly Aboriginal and Torres Strait Islander Services, or services in remote areas, could then become mentors in the process.</p>		

4. Extending some liability to educators

The table below outlines the proposals for extending some liability to educators.

Table A4: Extending some liability to educators

No.	Proposal	Description
4.1	<i>Extension of some liability to educators</i>	Amend the National Law to extend the scope of Sections 165 and 167 to include educators to be liable for not adequately supervising children under their care or where they did not take every reasonable precaution to protect children from harm or hazard that is likely to cause injury.
<p>C&K supports 4.1A – No change. C&K does not support “Liability...be extended to all educators...”</p> <p>Rationale: C&K strongly disagrees with this proposal. If implemented this may deter some educators joining the sector or may encourage some educators to leave.</p> <p>Numerous questions arise should this consideration be furthered: Would educators require professional indemnity insurance to cover the possibility of prosecution? Who would determine if an educator did not take reasonable precaution to protect / supervise children?</p> <p>As an approved provider C&K understands its responsibility to ensure appropriate policies relating to supervision are in place, that educators are properly trained and, if necessary, performance managed if under-performing.</p>		

5. Changes to prescribed fees

The table below outlines the proposals for changes to prescribed fees.

Table A5: Changes to prescribed fees

C&K comment:

Overall changes to prescribed fees needs systemic thinking: providers and regulators work in the same system. Revenues in any part of the system should ideally contribute back to the purpose of improved early childhood outcomes. The policy objective of charging a fee should be transparent: is the fee a tool to incentivise a change in negative behaviour, is it cost-recovery due to government budget changes, etc.

6. National educator to child ratio for OSHC services

The table below outlines the proposals for introducing a national educator to child ratio for OSHC services.

Table A6: Introducing a national educator to child ratio for OSHC services

No.	Proposal	Description
6.1	<i>National educator to child ratio</i>	Introduction of a national educator-to-child ratio for outside of school hours care services educating and caring for children over preschool age from 1 January 2016. Note that if pursued, some jurisdictions may require savings and transitional provisions to preserve existing higher standards or allow sufficient time to introduce this requirement.
<p>C&K supports 6.1B – “Introduce a national educator to child ratio”</p> <p>Rationale:</p> <p>As there are significant age ranges and developmental levels of children attending an OSHC service, C&K would support a range of educator to child ratios depending on the ages of children attending a service. For example - our OSHC at Calamvale applies a 1:11 ratio across the service on the days kindergarten/preschool children are attending. C&K would therefore suggest</p> <ul style="list-style-type: none"> • Kindergarten (preschool) & Prep children (4 and 5 year olds) - 1:11 or 1:12 • Years 1 to 3 1:15 • Years 4 to 6 - 1:18 		

7. Improved oversight of and support within FDC services

The table below outlines the proposals for improved oversight of and support within FDC services.

Table A7: Improved oversight of and support within FDC services

No.	Proposal	Description
7.1	<i>Approval of FDC services across jurisdictions</i>	An approved provider would need to hold a service approval in each jurisdiction where the FDC educators operate. There would be special arrangements in the new licensing scheme where a service straddles adjacent jurisdictions (e.g. Albury/Wodonga), for instance, one jurisdiction may allow the same principal office for both service approvals. A FDC principal office would be associated with each service approval and be recorded on the service approval, as currently required under the National Law. There would also need to be a transitional period to allow FDC services currently operating across jurisdictions sufficient time to apply for service approvals.

No.	Proposal	Description
		<p>C&K support 7.1B – “Approved provider would need to hold a service approval in each jurisdiction where the FDC educators operate”</p> <p>Rationale: This is not applicable for C&K at this time but C&K agree with proposed change.</p>

7.2	<i>Limiting the number of FDC educators in a service</i>	Amend the National Law so that a regulatory authority may impose a maximum number of educators approved to be engaged or registered by a family day care service and include this on the service approval.
<p>C&K supports 7.2A – no change.</p> <p>C&K does not support “Amend the National Law so that a regulatory authority may impose a maximum number of educators approved to be engaged or registered by a family day care service and include this on the service approval”</p> <p>Rationale: C&K considers the key to quality and support is 7.3 (below) – an appropriate ratio for Coordinators with Educators.</p> <p>As long as services are able to provide quality support to educators – there should be no reason for a maximum number of educators per service. There are no restrictions on how many other types of early childhood services that one organisation can have, so the rationale for this proposal is not clear.</p> <p>C&K understands that the amendment will not be mandatory and that regulatory authorities may choose to impose a limit.</p>		

7.3	<i>Mandating a ratio of FDC co-ordinators to educators=</i>	Introduce a ratio of FDC co-ordinators to educators of either 1:10, 1:15 or 1:20, mindful of viability, qualifications and support of educators; and Amend Section 51(2)(b) of the National Law, concerning conditions on service approval, to include a duty for the approved provider to ensure that FDC educators are adequately supported, monitored and trained, having regard to the knowledge, experience and qualifications of the FDC educator and the education and care needs of the children attending the service.
<p>C&K supports 7.3A – no change.</p> <p>C&K does not support amendment to National Law to mandate a ratio of FDC Coordinators to Educators.</p> <p>Rationale: C&K notes that the Community Support Program that underpins Family Day Care</p>		

coordination will be cut from June 2015 and this appears at odds with introducing ratios. Services are being asked to consider cost and efficiency as a result of this change and an introduction of ratios could increase costs and decrease opportunities for efficiencies to be found through innovative support models.

If working correctly, the A&R process should discover whether an educator is providing a quality service and is being properly supported. C&K does not feel additional legislated ratios are needed, but services need to ensure they are providing a quality

Should a ratio become likely, C&K would support the 1:20 ratio – with the knowledge that it is the duty of the approved provider to ensure educators are adequately supported, monitored and trained.

7.4	<i>Mandating a minimum Certificate III for FDC educators</i>	<p>FDC educators are required to have a Certificate III (or equivalent) before being permitted to educate and care for children.</p> <p>The need for any transitional provisions for approved providers and FDC educators to support them in meeting a minimum mandated requirement over time would need to be considered, as would the completion of a determined proportion of the Certificate III qualification being taken to meet the minimum mandated requirement.</p>
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C&K supports 7.4A – no change.

C&K does not support “FDC educators are required to have a Certificate III (or equivalent) *before* being permitted to educate and care for children”

Rationale:

C&K understands the proposed change, given that these educators are autonomous. However, the reality of FDC is that educator recruitment is challenging. The Productivity Commission’s recommendations are looking towards more flexible care options. Creating further hurdles will not improve services abilities to recruit educators to provide this to families, but will instead increase recruitment challenges.

C&K therefore recommends a ‘3rd option’ – ie. to require that educators are working towards their qualification, but must complete it within a timeframe of, say, 12 months.

7.5	<i>FDC educator assistants’ activities</i>	<p>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). Penalty to be set at \$2000 consistent with other approved provider regulation offences.</p>
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C&K supports 7.5A – no change.

C&K does not support the creation of an “offence (with penalty) that an approved provider must ensure the assistant’s activities are limited to the circumstances set out in Regulation 144(2)....”

Rationale:

C&K considers there may be a simpler way to address the risk of an assistant being regularly left in charge of children, before creating an offence. Potentially by being clearer in the Regulation, in training and in supervision. The Regulation currently uses the broad and ambiguous term “regular appointment”. Wording may be clearer, such as, Assistants may only be contracted to take charge of children due to “genuine, unavoidable, one-off, unpredictable...” events.

7.6	<i>Principal office notifications</i>	A FDC service must notify the regulatory authority of changes to the principal office at least 14 days before the change. The FDC approved provider must provide proof of address for the new principal office (e.g. contract or rental agreement); and The regulatory authority must amend or refuse to amend a new service approval within 14 days of the above notification (with regulatory authorities able to exercise discretion to increase the length of this period) and, if the principal office is also to be a venue or a residence, then the amended service approval must be issued before the commencement of any care at the venue or residence.
C&K supports 7.6B – that “A FDC service must notify the regulatory authority of changes to the principal office at least 14 days before the change”		

7.7	<i>Powers of entry to FDC residences</i>	Amend Section 199(4) (a) of the National Law to allow authorised officers to enter a family day care residence where the authorised officer reasonably believes that a service is operating at the residence at the time of entry.
C&K supports 7.7B – to “allow authorised officers to enter a family day care residence where the authorised officer reasonably believes that a service is operating at the residence at the time of entry.” Rationale: C&K encourages all FDC educators to be fully transparent about their pedagogy, educational programs and business operations and to have a good working relationship with the regulator. Quality services should have nothing to hide and encouraged to work alongside the regulatory to meet legislation and improve quality.		

8. Other changes which will have a regulatory impact

The table below describes all other changes which are expected to have a regulatory impact.

Proposals that are shaded grey or marked with an asterisk are expected to be of particular interest to the sector.

Table A8: Other changes which will have a regulatory impact

Supervisors

No.	Proposal	Description
8.3.1*	<i>Selecting a nominated supervisor/ person in day-to-day charge</i>	<ul style="list-style-type: none"> (a) Amend the National Law and National Regulations to designate the approved provider as the body responsible for appointing a suitably skilled educator who is prescribed by law to be 18 years or older; (b) In support of the approved provider’s role, publish guidelines of appropriate types of qualifications, skills or experience and evidence of fitness and propriety in determining who would be suitably skilled. The guidance would also emphasise the importance of making sure providers are aware of any changes affecting the fitness and propriety of a nominated supervisor/PIDTDC; and (c) Make further changes to the National Law to signal to providers the importance of making considered decisions in appointing the nominated supervisor/PIDTDC such as amending Section 161 to provide that each service must have a nominated supervisor ‘who is fit and proper, and has appropriate skills, to supervise the service.’
C&K supports		
8.3.2*	<i>Powers of the regulatory authority</i>	Amend the National Law to give the regulatory authority a mechanism to restrict a person from being the nominated supervisor/PIDTDC either entirely or subject to certain conditions, with an appropriate offence and penalty regime.
C&K supports in principle while being unclear of the offences and conditions.		
8.3.3	<i>Job sharing</i>	Amend the National Law to remove the limit on the number of nominated supervisors that may be appointed at one time for each service on the basis that they are jointly responsible for the service.
C&K supports the amendment.		
8.3.4	<i>Consenting to the role</i>	Amend the National Law to remove requirement for written consent if the approved provider, including a person with management or control, is to fulfil the role of nominated supervisor or PIDTDC.
C&K supports.		
8.3.5	<i>Notifications</i>	Amend the National Law to: <ul style="list-style-type: none"> (a) designate the approved provider with responsibility for notifying the regulatory authority if the nominated supervisor changes or if there is a change in a nominated supervisor’s name or contact details. In amending the National Law, remove duplication between existing notification provisions, which are currently set out in two different parts of the National Law; and (b) remove the existing notification requirements to regulatory authorities re fitness and propriety.
C&K supports.		
8.3.6	<i>Record keeping</i>	(a) Amend the National Law and National Regulations to expand current record-keeping requirements for nominated supervisors

No.	Proposal	Description
		and PIDTDC to include FDC services. (b) A consequential amendment is required for removal of the reference to the application process and certificate number.
8.3.7	<i>Terminology</i>	Amend the National Law to remove references to supervisor certificates and certified supervisors and adopt a new term for people who have been deemed suitable to supervise a service and who may be appointed as nominated supervisor or placed in day to day charge (e.g. acting supervisor, supervisor, duty supervisor).
C&K supports to amendment to terminology to bring greater clarity.		
8.3.8*	<i>Child protection and Nominated Supervisors</i>	Amend the National Law and National Regulations to provide that nominated supervisors and persons in day to day charge of an education and care service must have undertaken child protection training.
C&K requires <i>all</i> educators who work with children to have child protection training on an annual basis. The above amendment is potentially <i>reducing</i> the staff who are required to have an awareness of child protection law and, if this is the case, C&K does not support it.		

Operational issues

No.	Proposal	Description
8.4.1*	<i>12 Weeks ECT Leave Provision - Extending the scope to include resignation</i>	(a) Amend Regulation 135 to allow providers to also utilise this provision after the resignation of an ECT. This would also apply to services that engage a full time (FT) or full time equivalent (FTE) ECT. Adopting this change provides further flexibility to providers without compromising the objectives of the National Law or the overall policy intent of Regulation 135. (b) It is recommended that a savings provision for NSW is included in the amendments so this change does not apply.
C&K supports this amendment and sees it as potentially useful for regional and remote services that have difficulties recruiting Early Childhood Teachers.		
8.4.2*	<i>Educator Breaks</i>	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.
C&K supports		
8.4.3	<i>First Aid Qualifications</i>	Amend Regulation 136 to allow a 'staff member' and not just an 'educator' to be the person immediately available who holds the necessary first aid, anaphylaxis and emergency asthma training.
C&K supports		

Administrative requirements

C&K supports all of the following.

8.7.1	<i>Notifying the regulatory authority of a complaint</i>	<p>Amend the National Law so that providers are only required to notify the regulatory authority of a complaint that alleges:</p> <ul style="list-style-type: none">• A serious risk to a child’s health, safety or wellbeing (NOTE: the term serious risk will need to be defined), or• A breach of the National Law or National Regulations.
8.7.2	<i>Regulations – Medical conditions policy</i>	<ul style="list-style-type: none">• Amend Regulation 90 so that requirements for approved providers in obtaining a medical management plan, and developing a risk minimisation plan and communication plan, are more clearly expressed.• Strengthen requirements for obtaining a medical management plan before education and care is provided to a child with a health care need.• Amend Regulation 90 to specify that the medical conditions policy applies to children with a diagnosed medical condition.
8.7.3	<i>Regulations – Evidence of insurance</i>	<p>Remove the administrative requirement at Regulation 180, so that providers are no longer required to keep evidence of insurance at the service premises/principal office, noting the regulatory authority could still require the provider to supply evidence of their insurance, when needed, under its existing monitoring powers.</p>

C&K Comment - Draft revised National Quality Standard

Table B1: Draft revised National Quality Standard

Proposed	Current	Concept	Descriptor
QA1			Educational program and practice
<p>C&K comment:</p> <ul style="list-style-type: none"> the term 'play based' has been removed in parts of the proposed NQS; only appearing in QA3 Environment. C&K considers play based an essential part of educational program and practice QA1. potentially some wording could be simplified, particularly to promote inclusion of educators with English as a secondary language: eg " Each child's <i>agency</i> is promoted..." might change to "children are encouraged and supported to..." current NQS is more specific about when 'documentation' is required. If documentation will be required for successful A&R it should be noted in proposed NQS. 			
QA2			Children's health and safety
No comment			
QA3			Physical environment
No comment			
QA4			Staffing arrangements
No comment			
QA5			Relationships with children
No comment			
QA6			Collaborative partnerships with families and communities
<p>C&K comments:</p> <p>C&K notes the removal of "families are supported in their parenting role..." and considers its removal as a comment on the unsustainable expectations currently placed on educators. C&K continues to advocate that early childhood services <i>are</i> ideally placed to support families in their parenting role however the 'integrated' functions (across health, education and family support) would be need to be formally acknowledged and contracted.</p> <p>C&K notes the removal of "access to inclusion and support assistance..." however considers the vital principle of access and participation for all children is still adequately promoted elsewhere.</p>			
QA7			Leadership and governance
No comment			



Where children come first

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