



The Australian and state and territory Education Ministers have agreed to changes to the National Quality Framework (NQF) in relation to the definition of a person with management or control.

IDENTIFYING PERSONS WITH MANAGEMENT OR CONTROL OF A SERVICE FROM 1 JULY 2023 – EXISTING PROVIDERS



WHEN DO THE CHANGES START?

From 1 July 2023, the definition of a person with management or control (PMC) of a service will change. This information sheet supports existing approved providers to identify who meets the definition, and the steps approved providers must take to notify of any changes to PMCs.

WHERE CAN I GET FURTHER INFORMATION?

Visit nqfreview.com.au
Contact your [regulatory authority](#)

WHO IS DEFINED AS A PMC FROM 1 JULY 2023?

The approved provider is the legal entity that is approved to operate an education and care service and is legally responsible for managing the service. Persons with management or control of a service (PMCs) are the persons within or outside the approved provider who are responsible for

managing the delivery of the provider's service(s) or who have significant influence over the activities or delivery of the service.

Each PMC must be, and remain, a fit and proper person to be involved with children's education and care. A PMC has the same legal responsibility for the safety, health and wellbeing of children at their service as an approved provider.

A PMC is a person in an executive or management role of an approved provider entity, including:

- an officer of a body corporate
- each member of the management committee of an association
- each partner of a partnership
- a person in a management position of the business, with the authority or responsibility for, or significant influence over, decisions affecting the delivery of children's education and care (such as a state/territory or area manager).

In addition to persons who hold executive or management roles within the approved provider entity, a PMC may be a person outside the approved provider entity. For example, a person employed by a third-party management company or a volunteer.

A PMC may also be a person without a formal or contractual role who, by their actions, has significant influence over the planning, direction or control of the activities or the delivery of the service.

A nominated supervisor, person in day-to-day charge of a service, or a person who holds other operational management roles in a service (such as a centre manager) would not meet the PMC definition simply by holding these roles in the service. People holding these roles will only meet the PMC definition if they also participate in executive or financial decision-making or have authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the education and care service. For example, if they are also a partner in a partnership or are an executive committee member of the approved provider entity.

IF A PROVIDER APPROVAL IS HELD IN WESTERN AUSTRALIA

If a provider approval is held in Western Australia (WA), the PMC definition will not change on 1 July 2023. The existing definition in the *Education and Care Services National Law (WA) Act 2012* will continue to apply until further notice. This definition limits PMCs to:

- an officer of a body corporate
- each member of the management committee of an association
- each partner of the business a partnership
- in any other case, a person who has the responsibility, alone or with others, for managing the delivery of the service.

If a provider approval is held in another Australian state or territory, but that approved provider operates one or more services in WA, the expanded definition **will** apply from 1 July 2023 in relation to PMCs of services that the provider operates in WA. Providers seeking to operate in WA should contact the WA regulatory authority for more information.

WHY IS THE DEFINITION CHANGING?

The definition is being expanded to ensure that regulatory authorities can assess the suitability of all persons that have significant influence, responsibility or authority over the delivery of the provider's service(s).

For some approved providers, there will be no change in the individuals who meet the PMC definition when the expanded definition comes into effect.

However, some approved providers may find that the expanded definition will include persons within or associated with the approved provider entity who meet the PMC definition for the first time from 1 July 2023. This may include larger providers that have persons occupying roles within the approved provider entity such as a state/territory or area manager.

HOW SHOULD APPROVED PROVIDERS PREPARE FOR THIS CHANGE?

All approved providers should:

- assess whether the information about the approved provider (including PMCs) notified to the regulatory authority is current
- assess whether any additional persons will meet the expanded definition of PMC when it comes into effect on 1 July 2023
- notify the regulatory authority that those persons are PMCs for the provider as soon as possible **after** 1 July 2023.

If you are satisfied that the regulatory authority has been notified of all persons who meet the expanded definition, you will not need to take any further action.

HOW AND WHEN DOES AN APPROVED PROVIDER NOTIFY THE REGULATORY AUTHORITY?

The approved provider must notify the regulatory authority of any appointment or removal of a PMC within 14 days of the event (or within 14 days of becoming aware of it) under section 173 of the National Law and section 174 of the National Regulations.

If a person becomes a PMC under the expanded definition when it comes into effect, under a transitional provision, the person is taken to be appointed as a PMC on 1 July 2023. The approved provider must notify the regulatory authority of the appointment of that PMC by 15 July 2023.

Notification is **not required** for PMCs who had already been notified to the regulatory authority as PMCs before the change to the definition on 1 July 2023.

To notify the regulatory authority of any appointment or removal of a PMC, the provider must submit the *PA08 Notification of change to information about approved provider* form through the NQA IT System. Each identified PMC must then complete a PA02 – declaration of fitness and propriety form. This includes any persons who meet the new definition from 1 July 2023. As part of this notification process, each PMC must submit the relevant supporting documentation outlined in the PA02 form.

If an existing PMC is no longer fit and proper for any reason, the regulatory authority must be notified within seven days.

For more information about submitting information online through the NQA IT System, please see user guides on the Australian Children's Education & Care Quality Authority (ACECQA) [website](#).

WHAT IF AN APPROVED PROVIDER HAS ALREADY NOTIFIED PMCS TO THE AUSTRALIAN GOVERNMENT IN RESPECT OF THE CHILD CARE SUBSIDY (CCS)?

The expanded definition of a PMC under the National Law will be similar to the definition used by the Australian Government for a PMC of a provider entity for administering the CCS (under the Commonwealth Family Assistance Law).

If an approved provider has already notified the Australian Government of persons that meet the PMC definition for the CCS, but these persons have not been notified to the regulatory authority, the approved provider should assess whether these persons meet the expanded National Law definition. If the approved provider assesses that these people do meet the definition, the approved provider must notify the regulatory authority that these individuals are PMCs under the National Law as well.

Approved providers can expect that some PMCs declared to the Australian Government in relation to an existing CCS provider approval may also meet the expanded PMC definition under the National Law when it comes into effect on 1 July 2023.

In some circumstances, a person may be a PMC in relation to the CCS, but not a PMC under the National Law. This may occur when a person is involved with managing funds the provider receives for CCS payments, but has no role in relation to executive decision-making related to delivery of the approved provider's service/s.

Not all operational management roles, such as a nominated supervisor, person in day-to-day charge or centre manager, will automatically meet the expanded PMC definition under the NQF. However, these roles may meet the PMC definition in relation to the CCS if these individuals are involved with administering CCS.

Visit the [Australian Government website](#) for more information about PMCs in relation to the CCS and the Family Assistance Law.

WHAT IF SOMEBODY JOINS THE APPROVED PROVIDER THAT MEETS THE PMC DEFINITION?

At all times, approved providers must ensure their PMC information is kept current and accurate.

If somebody joins the approved provider and meets the PMC definitions under both National Law and for the CCS under the Family Assistance Law, then you must:

- notify the regulatory authority of this appointment within 14 days and provide all prescribed information (section 173 of the National Law and section 174 of the National Regulations), **and, if you are also an approved provider in relation to the CCS**
- notify the Australian Government Department of Education in accordance with the time frames and processes outlined in the [Child Care Provider handbook](#).

If you are a non-individual approved provider that has not notified either the regulatory authority or Australian Government of any PMCs, then you should assess who meets the PMC definition, and complete the required notifications as soon as possible. Penalties apply for failing to notify information about the approved provider to the regulatory authority (sections 173 and 174 of the National Law) and/or Australian Government.

HOW WILL THE REGULATORY AUTHORITY ASSESS THE SUITABILITY OF PMCS?

All PMCs identified by the provider as meeting the expanded definition must be, and must remain, fit and proper persons to be involved with the provision of education and care.

The regulatory authority will assess a person's fitness and propriety, including their knowledge of the NQF using a risk-based approach. In addition to the documentation submitted, relevant information may be obtained by interview, written assessment, or both.

The Australian Government may also assess a person's fitness and propriety under the Family Assistance Law.

The regulatory authority (under section 21 of the National Law) and/or Australian Government can reassess a person's fitness and propriety at any time.

RESOURCES

- The [Guide to the NQF](#) – Section 1.1 Application for provider approval
- Contact your [Regulatory Authority](#)

Acknowledgment: The information in this publication is accurate pending the Australian, state and territory Education Ministers' agreement to amended regulations.