



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

IDENTIFYING PERSONS WITH MANAGEMENT OR CONTROL OF A SERVICE FROM 1 JULY 2023 - PROSPECTIVE PROVIDERS



WHEN DO THE CHANGES START?

From 1 July 2023, the definition of person with management or control (PMC) of a service will change. This information sheet supports prospective approved providers to identify who is a PMC in relation to their service(s). If you are an existing approved provider, more information about identifying persons with management or control can be accessed [here](#).

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, or 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 partner in a partnership or are an executive committee member of the approved provider entity.

WHY IS THE DEFINITION CHANGING?

The definition is being expanded to ensure 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).

When the expanded definition comes into effect, it will include persons within or associated with the approved provider entity who have authority or responsibility for, or significant influence over, planning, directing or controlling the activities or delivery of the service.

HOW SHOULD PROSPECTIVE AND APPROVED PROVIDERS PREPARE FOR THIS CHANGE?

When completing an application for provider approval, an applicant must identify any persons within or associated with the prospective provider that meet the PMC definition.

Each person identified as a PMC must be notified to the regulatory authority. This involves each notified person providing some essential information to enable the regulatory authority to assess that person's fitness and propriety. This is known as 'prescribed information'.

To prepare for this change, prospective and approved providers should:

- assess which persons within or associated with the prospective or approved provider meet the expanded PMC definition
- ask these people to be ready to complete and submit a declaration of fitness and propriety form through the NQA IT System, including all prescribed information (for example, applying for a working with children check, if this is not already held by that person).

IF AN APPLICATION FOR PROVIDER APPROVAL IS MADE IN WESTERN AUSTRALIA

If an application for provider approval is made in Western Australia (WA), the prospective provider should identify any PMCs based on definition in the *Education and Care Services National Law (WA) Act 2012*. This definition will not change on 1 July 2023 and will continue to apply until further notice. That 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 an application for provider approval is made in another state or territory but that provider intends to operate 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. Prospective providers intending to operate in WA should contact the WA regulatory authority for more information.

WHAT ARE THE OBLIGATIONS OF PROSPECTIVE AND APPROVED PROVIDERS UNDER THE NATIONAL LAW?

When applying for provider approval under Section 12 of the National Law, prospective providers must provide the regulatory authority with the details of each person who will be a PMC of their service(s) and submit the prescribed information.

If an application for provider approval is made before 1 July 2023, the prospective provider should assess which persons meet the current PMC definition in the National Law, and notify only those persons to the regulatory authority in the application for provider approval.

If the application for provider approval is granted, the approved provider must then notify the regulatory authority of any other persons who meet the expanded definition once it comes into effect on 1 July 2023. See below for more information about how and when to notify the regulatory authority of any new persons that meet the expanded definition.

At all other times – approved providers must ensure their PMC information is kept current and accurate. Any PMC changes must be notified to the regulatory authority within the specified timeframes under section 173 of the National Law and section 174 of the National Regulations.

WHY DO APPROVED PROVIDERS NEED TO NOTIFY OF THESE CHANGES?

Approved providers and PMCs have a legal responsibility to continue to demonstrate their fitness and propriety to be involved in managing or controlling a service.

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 persons who were already 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 PMC identified 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](#).

HOW WILL THE REGULATORY AUTHORITY ASSESS THE SUITABILITY OF PMCS?

All PMCs identified by a prospective 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. As well as prescribed information, relevant additional information may be obtained by conducting an interview, a written assessment, or both.

The regulatory authority can reassess a person's fitness and propriety at any time under section 21 of the National Law.

IS THERE A DIFFERENCE BETWEEN A PMC UNDER THE NATIONAL LAW AND FOR CHILD CARE SUBSIDY (CCS) PAYMENTS?

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).

In some cases, a provider's PMCs will be the same individuals for the National Law and for CCS purposes.

However, 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 or authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the service. Similarly, a person who is a PMC under the National Law may not be involved with managing funds the provider receives for CCS payments.

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.

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

RESOURCES

- NSW Department of Education – [Your Responsibilities as a Person with Management Control](#)
- [The Guide to the NQF](#) – Section 1.1 Application for provider approval
- Contact your [regulatory authority](#)
- Fact sheet – [Suspending or cancelling a provider approval under National Law from 1 July 2023](#)

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