



FDC Guidance

# LEGISLATIVE REQUIREMENTS FOR FAMILY DAY CARE PROVIDERS: FROM 2023



The Australian, state and territory Education Ministers have agreed to changes to the National Quality Framework (NQF). This information sheet explains the key changes for family day care (FDC) providers.

## WHEN DO THE CHANGES START?

New requirements commencing **1 July** and **1 October 2023**.

## WHERE CAN I GET FURTHER INFORMATION?

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

## From 1 July 2023

There will be improved oversight and new safety and workforce requirements within FDC to achieve better compliance and improved quality, and to ensure the safety, health and wellbeing of children in education and care. Key changes for FDC providers are explained below.

## NEW MINIMUM FAMILY DAY CARE EDUCATOR QUALIFICATIONS

From 1 July 2023, new FDC educators must hold an approved Certificate III level (or higher) qualification prior to commencing their role in a FDC service and cannot be 'actively working towards' a qualification. Please check the legislation for commencement dates in Western Australia.

Existing educators currently engaged at a FDC service will have until 1 July 2024 to complete an approved qualification. This provision does not apply to FDC educators in South Australia. FDC educators in South Australia must hold an approved Certificate III level (or higher) qualification prior to commencing their role in a FDC service.

Waivers for staffing requirements will continue to be available. If by mid-2024, an educator does not hold an approved Certificate III level (or higher) qualification, the approved provider can apply for a waiver, which the regulatory authority may consider granting if it is satisfied the approved provider has reasonable justification for not being able to comply with regulation 127.

For more information on waivers visit the [ACECQA website](#).

As the approved provider, you must take reasonable steps to ensure that each educator maintains adequate knowledge and understanding of the provision of education and care to children.



## CLARIFICATION FOR FAMILY DAY CARE COORDINATOR RATIOS

For services that have been operating for less than 12 months:

- a minimum of 1 full time equivalent (FTE) FDC coordinator is required for every 15 FDC educators (1:15) or part thereof.

For services operating for more than 12 months:

- a minimum of 1 full time equivalent FDC coordinator is required for a maximum of 25 FDC educators (1:25)

There will be a pro-rata allowance for second and subsequent coordinators. When a service employs more than 25 educators, the number of full time equivalent coordinators that must be engaged for every 5 educators is the same as 0.2 FTE. The regulatory authority may impose the higher ratio of 1:15 at any time after the first 12 months of operation of the FDC service.

## CHANGES TO DEFINITION OF PERSONS WITH MANAGEMENT OR CONTROL

The definition of persons with management or control (PMC) is being expanded to ensure that regulatory authorities can assess the suitability of all persons that have influence, control or authority over the delivery of the approved provider's services.

It is important for every provider to consider who meets the new definition of a PMC in their unique operating context, and if the regulatory authority needs to be notified of any new PMCs.

See the information sheets: [Identifying persons with management or control from 1 July 2023 – Existing Providers](#) and [New Providers](#) to identify people who meet the new definition, and the steps approved providers must take to notify of any changes to PMCs.

## From 1 October 2023

Please check the legislation for commencement dates in Western Australia.

## CHANGES FOR SERVICES IN MULTI-STOREY BUILDINGS

New requirements will apply to services in multi-storey buildings with other occupants in the building.

A service approval application for a FDC service (that includes a request for approval of a venue) proposed to be located in a multi-storey building shared with other occupants, will need to include the following information:

- the storey(s) on which the premises will be located;
- if the service premises will be located on more than one storey, the ages of the children to be educated and cared for on each storey;
- the total number of storeys in the building.

For an application for an amendment to a service approval for a FDC service that includes a request for approval of a FDC venue, the application must include whether the venue is proposed to be located within a multi-storey building shared with other occupants. If so, the information above must also be included.

## RISK ASSESSMENTS FOR FAMILY DAY CARE RESIDENCES AND VENUES

When assessing a FDC residence or venue located in a multi-storey building shared with other occupants, the approved provider must consider for each storey on which the residence or venue is located, whether there is direct egress to an assembly area that allows the safe evacuation of all children, including non-ambulatory children.

## FAMILY DAY CARE COORDINATORS TO HAVE CHILD PROTECTION TRAINING

The 2019 NQF Review has identified gaps between the National Child Safe Principles and the National Quality Framework (NQF). Approved providers and services must review and update existing policies to comply with new requirements under [regulation 168](#).

Approved providers must ensure that FDC coordinators have successfully completed child protection training (if any) required in their state or territory.

## FAMILY DAY CARE REGISTER-NEW REQUIREMENT

Approved providers will need to ensure that the details of when FDC educators are approved to educate and care for more than seven children, or more than four children who are preschool age or under, at any one time, due to exceptional circumstances, are kept on the register of FDC educators.

The details, must include the:

- nature of exceptional circumstance
- date of when approval was granted by the approved provider



- name of person who granted the approval
- date of birth and name of each child educated and cared for as part of the approval
- period which the FDC educator is approved to educate and care for more than seven children, or for more than four children who are preschool age or under.

These details must be kept each time the approved provider approves a FDC educator to educate and care for more than seven children (or more than four children who are preschool age or under).

An example of this record could be :

1. **Nature of exceptional circumstance:** Child Ann Smith (DOB 16/01/XX) is determined by the relevant authority to be in need of protection under a child protection law and the family day care educator is determined to be the best person to educate and care for the child.
  - Name of person who granted approval: John Smith (Approved provider)
  - Date approved: 05/07/2023
  - Duration of approval: 1 day in total between 11/07/2023 to 14/07/2023.
2. **Nature of exceptional circumstance:** A child (John Smith DOB 10/08/XX) requires care, and the family day care residence is the only available education and care service located in the remote location.
  - Name of person who granted approval: Sandra Johnson (Approved provider)
  - Date approved: 06/10/2023
  - Duration of approval: 10 days in total from 10/10/2023 to 20/10/2023.

## SWIMMING POOLS AND OTHER WATER HAZARDS

FDC residences and venues with swimming pools will be able to continue to operate with additional safeguards to ensure active supervision and regular review of risks are considered.

A water hazard or water feature may include dams, relocatable/paddling or fixed pools, ponds, water fountains, large drains or any areas that retain water.

Approved providers must ensure that a diagram is displayed at each residence or approved venue which shows the areas of the residence or venue indicating the areas of the residence or venue suitable for the provision of education and care. The diagram should include the existence of any water hazards, water features or swimming pools at or near the residence or venue. The approved provider of a FDC service must ensure that any swimming pool at a FDC residence or approved FDC venue has a fence that complies with the law of the participating state or territory that applies to fences around swimming pools in which the residence or venue is located.

Approved providers, or a person nominated by the approved provider to represent the approved provider, will be required to inspect FDC residences and venues which have a swimming pool, water feature or water hazard **each month**. NOTE the nominated person must not be someone who provides care or resides at the residence or venue.



Inspections:

- Must identify and assess any risks that may pose to the health, safety and wellbeing of children. The approved provider (or a person nominated by the approved provider to represent the approved provider) must conduct monthly inspections of water hazards, water features or swimming pools at each FDC residence and approved FDC venue with a water hazard, water feature or swimming pool.
- May be conducted in person or remotely using technology that enables the person to conduct the inspection without visiting the residence or venue in person. However, no more than six (6) inspections may be conducted remotely in any given calendar year. An inspection may not be conducted remotely if the previous two (2) inspections were conducted remotely.
- The approved provider must ensure that the person who conducted the inspection provides the approved provider and the family day care educator with a written report with the required information. If a safety issue is identified as a result of an inspection, the person who conducted the inspection, if not the approved provider, must provide written notice of the safety issue/s to the approved provider within 24 hours after conducting the inspection. If no safety risk or issue is identified, the inspection report will be provided in seven (7) days.
- The inspection report must be kept by the approved providers who must make them available for inspection.
- The inspection report must be given by the approved provider to each FDC educator who provides education and care to children at the residence or venue.

NOTE: There are jurisdiction specific regulations in Tasmania and Western Australia that FDC services in those states must comply with.

NOTE: A [Report-Water hazard safety inspections](#) (Approved Providers) and [Checklist-Water hazard safety checks](#) (family day care educators) templates have been created to guide pool and water safety in FDC services.

## CHANGES TO GLASS REQUIREMENTS

All FDC residences and venues (except for those in \*Western Australia\* (WA) will need to comply with a 0.75 metres height requirement for safety glass.

Any glass surface under 0.75 metres must be approved safety glass or must not be accessible to children. This includes any glass in areas within a family day care residence or approved venue, including areas that are used by children to access the approved space such as a front door.

For example, if glazed areas such as glass panelled doors and low level windows are accessible to children then they must be:

- glazed with safety glass if required by the Building Code of Australia or,
- treated with a product that prevents glass from shattering if broken (such as safety film) or
- guarded with barriers that prevent a child hitting or falling against the glass.

\*For services in WA, any glass surface under 1 metre must be approved safety glass or must not be accessible to children.

## FAMILY DAY CARE EDUCATOR TO NOTIFY PROVIDER

FDC educators will need to notify the approved provider of the following:

- any circumstances relating to whether a person who resides at the FDC residence is a fit and proper person to be in the company of children, including if the person is changed with or convicted of a sexual offence, an offence of a violent nature, an offence involving drugs, an offence involving a weapon; if a person's application for a working with children or vulnerable people check is revoked, suspended or rejected; if the person is prohibited from working with children.
- any circumstances arising at a FDC residence or approved FDC venue that may pose a risk to the health, safety and wellbeing of children cared for at a residence or approved venue, including any renovations or other significant changes to the residence or venue, an infectious disease outbreak at the residence or venue, a bushfire, flood or other natural disaster that may affect the residence or venue.

Failure to notify an approved provider of any such circumstance will be an offence under section 174A of the National Law or regulation 164.

## NEW DISPLAY IN RESIDENCE AND VENUE REQUIREMENTS

The approved provider must ensure that certain information is clearly visible at each FDC residence or venue in a place that is accessible to families.

This information will need to include:

- a diagram (for example a floor plan) showing the areas of the FDC residence or approved venue indicating the areas of the residence or venue suitable for the provision of education and care to children. The diagram should include the existence of any water hazards, water features or swimming pools at or near the residence or venue.
- the service's rating certificate must be always displayed at each FDC residence or venue used to provide education and care to children as part of a family day care service.
- the display of the prescribed information stated in regulation \*173A (\*from 1 October 2023) should be clearly visible from the main entrance at each FDC residence or venue. For example, near the children's sign in records, next to the front door or near the place children's belongings are stored.

## FIRST AID CURRENT REQUIREMENTS

Each FDC educator is required to hold current first aid qualifications (regulation 136 (3)).

The approved provider of a FDC service must ensure that each FDC educator and FDC educator assistant engaged by or registered with the service:

- holds a current approved first aid qualification; and
- has undertaken current approved anaphylaxis management training; and
- has undertaken current approved emergency asthma management training.

From 1 October 2023, the following qualifications are taken to be current if the qualification was attained or the training was undertaken within the previous three years:

- a. approved first aid qualifications (except in the case of emergency life support and cardio-pulmonary resuscitation which must be completed within the previous year to be taken current)
- b. approved anaphylaxis management training
- c. approved emergency asthma management training.

An educator's certificate should include the date that the person completed the course, as well as the expiry date or validity period of the qualification from the date of completion. The certificate may include multiple qualifications, however currency periods are relevant for each individual qualification.

The first aid qualification, anaphylaxis management training and emergency asthma management training must be approved by ACECQA and published on the list of approved first aid qualifications and training on the [ACECQA website](#).

Transitional arrangements apply until 1 April 2024 for any necessary qualification or training to be undertaken to meet this requirement.



## THE ROLE OF THE FDC EDUCATOR ASSISTANT

The change to the role of an approved FDC educator assistant clarifies the situations when they may provide assistance to a family day care educator while the educator is educating and caring for children. There is a particular focus on FDC educator assistants escorting children by means of walking.

A FDC educator assistant may help a FDC educator while the educator is educating and caring for children. Written consent must be provided by the parents of each child.

In addition to the existing requirements as stated in [regulation 144](#), the FDC educator assistant will be able to **escort (by walking)** a child between the FDC residence or venue and:

- a school
- another education and care service or children's service
- the child's home.

Parents or carers must provide written consent for the educator assistant to assist the FDC educator and the FDC educator must give you, the approved provider, these written consents.

## OTHER CHANGES INTRODUCED FROM 1 MARCH 2023

### SAFE TRANSPORTATION OF CHILDREN – GUIDANCE FOR FDC

Children can be transported by, or be on transport arranged by, children's education and care services. Transportation can present heightened risks to children's safety, in particular, during the period of moving between transport and embarking or disembarking from a vehicle.

While new legislative requirements for regular transportation from 1 March 2023 **apply to centre-based services only**, it is good practice for FDC approved providers, nominated supervisors, coordinators, educators and educator assistants to apply the new requirements to [minimise risk and ensure the safety, health and wellbeing of children during any periods of transportation](#).

FDC providers should consider establishing clear and consistent procedures, through effective risk assessment, that ensure no children are left in vehicles when the FDC educator or FDC educator assistant is transporting children.

Ways to minimise the risk include:

- conducting regular headcounts and attendance checks of children including, but not limited to, before each departure, after each child embarks and disembarks the vehicle and after all children have disembarked
- actively and verbally engaging with the children over the course of the journey
- ensuring procedures for embarking and disembarking the vehicle and processes for entering and exiting each location are documented and understood
- providing staff training on safe transportation of children is included in induction processes and refresher training is held annually
- embedding effective communication plans and procedures with families to ensure that parents and carers inform the service that children will not be attending the FDC service and they do not need to be collected from another location.

More information is available in:

- ACECQA Information sheet [Minimising the risk of children left behind in vehicles](#)
- ACECQA Information sheet [Guidance for adequate supervision during transportation](#).

## OTHER CHANGES TO THE NQF FOR ALL SERVICES

There are more changes to the NQF commencing in 2023 that will apply to all education and care services, including FDC services. Information on the new requirements is available on [www.nqfreview.com.au](http://www.nqfreview.com.au).

## RESOURCES AND REFERENCES

Visit the [ACECQA website](#) to access:

- the [Guide to the National Quality Framework](#)
- ACECQA Information Sheet: [Legislative requirements for family day care educators from 2023](#)
- ACECQA [Policy and procedure guidelines](#)
- ACECQA Information Sheet: [Safe transportation of children](#)
- the [ACECQA Risk Assessment Management Tool](#)
- the [National Law and National Regulations](#).

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