



**Have
Your Say**



NCF REVIEW 2019

Consultation
summary report

December 2019

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SUMMARY

OVERVIEW

In December 2018, the COAG Education Council endorsed the [Terms of Reference](#) for a review of the National Quality Framework (NQF). The 2019 NQF Review builds on the 2014 Review of the National Quality Agenda, which led to the implementation of improvements to the regulatory framework that were generally well received by the children’s education and care sector.

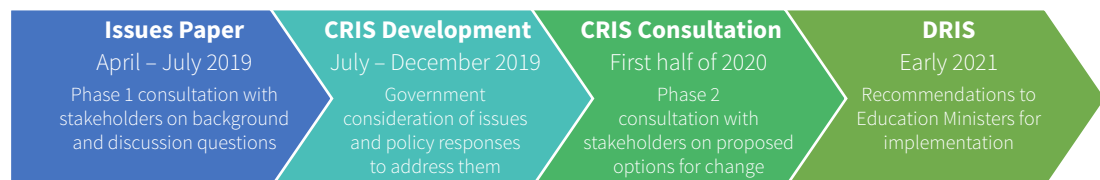
To commence the 2019 NQF Review, governments released an [Issues Paper](#) as the basis for Australia wide consultations on the NQF. The Issues Paper sets out the issues for public discussion, broadly divided into four topics:

- **Approvals**
- **Operation**
- **Public awareness of quality**
- **Compliance and enforcement.**

Public consultation on the 2019 NQF Review commenced on Monday 15 April 2019 when the [NQF Review website](#) was launched. The consultation period ended on Sunday 30 June 2019 and during this period the NQF Review website had nearly **17,500 visits**.

A series of questions was developed to guide the public consultation process (see Appendix A). These questions were used to guide discussions at consultation sessions held around Australia between April and June 2019. The questions were also used to inform an online survey that was open to stakeholders for 11 weeks.

This report signifies the end of the first step of the 2019 NQF Review. The next step of the review is the development of a **Consultation Regulation Impact Statement (CRIS)** which reflects the likely impact of any regulatory changes that have been considered as a result of the feedback during the first phase of consultation.



Have Your Say online survey

Have Your Say online surveys were designed to be answered by three stakeholder groups:

- **Service providers and peaks**
- **Educators**
- **Families and communities.**

At the end of the consultation period on **Sunday 30 June 2019, 1,769 survey responses** had been received, broken down as follows:

- **816** responses to the educators survey (**46% of all survey responses**)
- **767** responses to the service providers and peaks survey (**43%**)
- **186** responses to the families and communities survey (**11%**).

There was a high level of engagement across almost all survey questions, with all questions bar one (Q15: physical environment waivers for new premises) eliciting **1,000 or more responses**. The following six questions elicited around **1,600 responses each**:

- Q2: scope of services regulated under the NQF
- Q23: recognising educators who are ‘actively working towards’
- Q12: changes to the age range of children being educated and cared for by a service
- Q25: service emergency and evacuation procedures
- Q5: supervision and ratio requirements for services providing regular transport
- Q17: physical space requirements for school age children.

Due to the volume of survey responses received (**1,769**), this report presents **aggregated totals** and does not separately analyse responses by respondent characteristic (e.g. stakeholder group, jurisdiction or service type).

Preliminary analysis conducted suggests that there were no strongly divergent views, themes or trends by respondent characteristic. Furthermore, robust analysis by respondent characteristic is impeded by the low numbers involved in many instances of disaggregation.

Public Consultation Sessions

Between **Tuesday 16 April and Friday 28 June 2019**, state and territory regulatory authorities held 79 face-to-face consultation sessions.

More than **2,500 participants** attended the nationwide consultation sessions.

The consultation sessions, facilitated by each state and territory, covered the four main sections of the Issues Paper (approvals, operation, public awareness of service quality, and compliance and enforcement), and separated out two parts of the operation section for specific discussion - education and care in outside school hours care (OSHC), and family day care (FDC).

The six sections in order of level of participant engagement (from highest to lowest) were:

1. Operation
2. Approvals
3. Public awareness of service quality
4. Education and care in OSHC
5. Compliance and enforcement
6. Education and care in FDC.

Analysis of Feedback

While this phase of consultation did not specifically call for written submissions, 17 written submissions were received from a variety of peak organisations, providers and individuals.

All three consultation sources have been considered in the development of this summary which reflects the key themes arising from consultation across these sources.

While the three sources of feedback are not directly comparable, preliminary analysis conducted suggests that there were no strongly divergent views, themes or trends by feedback source (i.e. surveys, consultation sessions and written submissions).

The following summary of feedback is ordered in accordance with the order of the NQF Review 2019 Issues Paper.

FEEDBACK SUMMARY

1. Approvals (Q2–Q13 in the Issues Paper)

1.1 Scope of services regulated under the NQF

- There was general support for expanding the NQF to incorporate services that are currently out of scope
- However, if out of scope services were to be included in the NQF in the future, feedback received indicated that consideration would need to be given to the:
 - difficulty of out of scope services meeting NQF requirements, including the potential impact on their financial viability
 - need for greater support (e.g. training and guidance) for out of scope services to come under the NQF.
- Almost two-fifths (38%) of survey respondents indicated that, where overnight care is being provided, supervision and ratio requirements should be the same overnight as during the day, with just under a third (32%) feeling that the requirements should be *more stringent* overnight, and 17% feeling that they should be *less stringent*
- Almost two-thirds (63%) of survey respondents indicated that, where regular transport is being provided, supervision and ratio requirements should be the *same* on the transport as at the service. However, these respondents were relatively evenly split on whether the driver should be *excluded* (34%) from the requirements or *included* (29%). Risk based approaches were discussed, including that risk assessments should be conducted when regular transport is provided by a service. Other key points raised included the need to balance the requirements for transport with the risk involved, as well as financial viability.

1.2 Application efficiency and effectiveness

- While more than a third (34%) of survey respondents agreed (28%) or strongly agreed (5%), and two of the written submissions received offered the same viewpoint, that provider and service approval processes under the NQF are clear and straightforward, there was general agreement that the processes could be improved
- Just under three-quarters (74%) of survey respondents felt that better information sharing between government departments would improve the service approval application process and reduce administrative burden

- Issues raised in relation to application efficiency under the NQF and Family Assistance Law centred on the need to streamline and improve processes, as well as the need for support, co-ordination and consistency between agencies and jurisdictions
- Similar issues were raised in relation to assessing fitness and propriety of persons with management or control, namely a perceived lack of consistency in how fitness and propriety is assessed between jurisdictions, as well as a lack of clear guidance and definition of management capability, and the need for special consideration for volunteer management committees.

1.3 Maintaining current information about service delivery

- There was strong agreement that changes to the age range of children being educated and cared for should be notified to the regulatory authority, especially as this can impact on space, qualification and ratio requirements, as well as children's safety and wellbeing
- Suggestions for other changes to the nature of the service being provided that should require notification include hours of operation.

1.4 Physical environment

- Many respondents and participants felt that new premises should not be eligible for waivers to the physical environment. However, if waivers are considered necessary, they would only be acceptable when children's health, safety and wellbeing is not compromised. While two of the written submissions received stated that no physical environment waivers should be granted for new premises, six of the written submissions stated that this matter needs further consideration
- The importance of flexibility in the assessment of waiver applications was also raised, with the view that assessment should most appropriately occur on a case-by-case, individual merits basis in the context of the jurisdiction where the application is made
- Consultation session participants identified better coordination between the regulatory authority and the local council at the early stages of the build process as the best way to streamline the service approval process for new builds. Comments included that this should occur as soon as possible in the process, and essentially act as a 'provisional' or 'pre-approval' process prior to submitting building plans to council
- More than two-fifths of survey respondents agreed or strongly agreed that the NQF's current indoor space requirements (41%) and outdoor space requirements (43%) are suitable for school age children's wellbeing, learning and development. Disagreement or strong disagreement with these two statements was 24% and 22%, respectively

- Views were expressed regarding the limited control OSHC services on school sites often have over their physical environment, as well as a preference for OSHC physical environment requirements to align with school requirements. The needs of school aged children, such as the need to accommodate the leisure aspect of OSHC, and calls for greater flexibility in the regulation of OSHC services were also common themes.

2. Operation (Q14–Q23 in the Issues Paper)

2.1 Sustainability of the NQF

- A sizeable majority of comments supported looking at opportunities to use fees and fines to incentivise quality and compliance
- Consultation participants expressed concerns about, and a desire for, clarity around future funding for NQF regulation
- Other issues raised by respondents and participants, including through five of the written submissions, included the potential impact of fee increases on families and service viability.

2.2 Regulatory approach

- Additional comments discussing the best ways service providers can be encouraged to sustain and grow quality services included calls for greater recognition of high quality services, increased consistency in quality assessment and rating, and increased support for continuous professional development
- Concerns were raised about some aspects of the ‘earned autonomy’ approach, namely the validity of the quality rating due to the frequency of assessment and rating, as well as following a transfer of provider or service approval
- There was a strong sentiment for greater regulatory authority support and assistance, and a preference for a more collaborative approach to regulation.

2.3 Qualification requirements

- There was general support from respondents and participants for maintaining the ‘actively working towards’ provision. Three of the written submissions received supported its continuation while also highlighting that some service providers are not consistently gathering and maintaining information regarding its appropriate use
- More than two-thirds (69%) of survey respondents agreed or strongly agreed that recognising educators who are ‘actively working towards’ a qualification continues to be a practical approach to balancing workforce needs and NQF goals

- While there was general support for the ‘actively working towards’ provision, there were some divergent views that it should be removed. There was also general consensus that there needs to be clearer guidance and more rigorous monitoring of the ‘actively working towards’ provision
- Many participants raised the need for a new national workforce strategy that addresses workforce issues (e.g. supply, pathways) to attract and retain high quality educators and teachers.

2.4 Protecting children and staff in an emergency

- Almost three-quarters (72%) of survey respondents agreed or strongly agreed that the current requirements for service emergency and evacuation procedures are effective and proportionate to the risks to children and staff.
- Two of the written submissions received suggested that service providers should be allowed the autonomy to evaluate and put in place emergency management plans that reflect the context and location of the service
- Respondents were most likely to consider that separate requirements for different types of premises (e.g. multi-story) would be more effective, followed by separate requirements for different types of procedures (e.g. lock down, evacuation).

2.5 Education and care in OSHC

- Two options relating to NQF requirements for OSHC received particularly strong support from survey respondents. These were:
 - more distinction between OSHC and other centre-based service types in the regulations (77%)
 - specific assessment and rating criteria for OSHC services (69%).
- There was a strong sentiment from respondents and participants that OSHC services are inherently different to other service types under the NQF, and that the regulations should be amended to more adequately reflect these differences. Four of the written submissions received stated that the OSHC sector is unique and complex, and put forward the view that being regulated and quality assessed and rated in the same way as an early childhood education and care service is not fit for purpose.

2.6 Education and care in FDC

- Almost two-thirds (64%) of survey respondents agreed (36%) or strongly agreed (28%) that the education and care of additional children during exceptional circumstances in FDC should be notified to the regulatory authority – a sentiment shared by many consultation session participants and put forward as part of four of the written submissions received
- Just under two-fifths (39%) of survey respondents believed that there should be no set timeframe for an FDC educator to provide care for additional children in exceptional circumstances and that it should be dependent on the individual circumstances
- Most (86%) survey respondents agreed that the child protection training obligations that apply to nominated supervisors should also apply to FDC co-ordinators
- Other significant FDC related issues raised in the consultation sessions include:
 - concerns around co-ordinator to educator ratios and educator caps, and inconsistency across jurisdictions with how these are implemented
 - inconsistency in the quality assessment and rating process (e.g. variation in the way services are notified of which educators are going to be visited and when).

3. Public awareness of service quality (Q24 in the Issues Paper)

3.1 Value of quality rating for families

- Less than half (46%) of survey respondents agreed or strongly agreed that the quality ratings are easy to understand, compared to 34% who disagreed or strongly disagreed
- Similarly, 44% of respondents agreed or strongly agreed that the quality ratings provide useful information, compared to 33% who disagreed or strongly disagreed
- Many respondents and participants, including three of the written submissions received, raised significant issues relating to the value of quality ratings for families, with suggestions for how the ratings could be improved including:
 - changing the language and structure of the quality rating system
 - large-scale advertising and promotion of the quality rating system, including a national media campaign to promote the value of education and care and the assessment and rating system
 - involving parents and children in the determination of quality ratings.

4. Compliance and enforcement (Q25–30 in the Issues Paper)

4.1 Appropriateness of sanctions

- Of the respondents and participants that engaged with this issue, many felt an educative approach is preferable to sanctions as it supports continuous improvement. Two of the written submissions received queried how often financial penalties are applied, while another put forward the view that heavy financial penalties and legal proceedings should be a last resort.

4.2 Protected disclosures

- There was general agreement from respondents and participants, including one of the written submissions that protected disclosures should be broadened to other groups (e.g. parents, service staff, volunteers)
- The possibility of unfounded accusations was raised, with some respondents concerned that complaints could be made on the basis of false accusations due to personal vendettas
- Respondents also identified difficulties in maintaining confidentiality as a major issue.

4.3 Prohibition notices

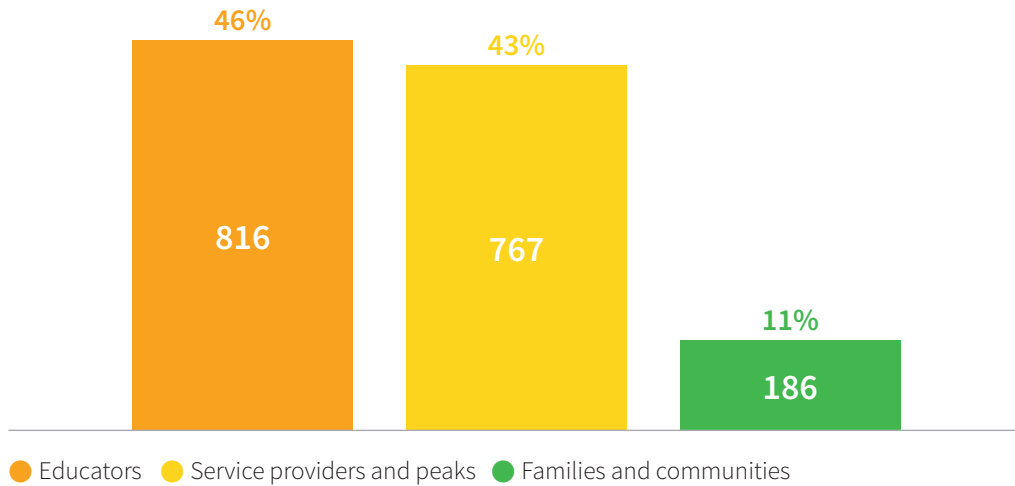
- Most (82%) survey respondents felt that the current approach to determining whether a person is unsuitable to be involved in the provision of education and care is sufficient. Two of the written submissions received addressed this issue, with one suggesting that there is a need for clear and transparent guidance in relation to the threshold whereby a person is deemed unsuitable, and the other suggesting that employment history, references and any corresponding breaches of legislation should be considered when determining suitability
- Comments relating to prohibition notices primarily centred on sharing and publication, and the need for applicability and accuracy
- The potential for a national register of individuals subject to prohibition notices was also raised.

5. Other significant issues for consideration (Q1 in the Issues Paper)

- Almost one-quarter (23%) of survey respondents indicated that there were issues not covered in the NQF Review 2019 Issues Paper that significantly impact on the NQF being able to meet its objectives. Other significant issues for consideration were also raised by consultation session participants, as well as through written submissions
- The major issues that survey respondents and consultation session participants felt were not covered in the Issues Paper are below:
 - Quality assessment and rating process, particularly:
 - perceived inconsistency of the process
 - authorised officer skills, knowledge and experience, including their knowledge of particular service types
 - frequency of assessments.
 - Sector workforce issues, particularly:
 - staffing shortages and the need for skills development
 - challenges in regional and remote areas
 - quality of initial teacher education
 - wages, conditions and professional status.
- Other notable issues raised included:
 - qualifications, particularly variable quality of registered training organisations
 - inconsistency in regulatory approach and interpretation of legislation
 - need for more clear information and guidance through sector resources
 - need for review of the approved learning frameworks (i.e. *Belonging, Being and Becoming: The Early Years Learning Framework for Australia* (EYLF); *My Time, Our Place: Framework for School Age Care in Australia* (MTO)).

SURVEY RESPONDENTS

Figure 1: Survey responses by stakeholder group



The proportion of responses by jurisdiction and service type were in keeping with the makeup of the children’s education and care sector.

For example, 40% of responses were from NSW, which accounts for 34% of services approved under the NQF, 20% were from Queensland, which accounts for 19% of services, and 7% were from Western Australia, which accounts for 8% of services.

Similarly, 47% of responses were from long day care services, which account for 49% of all services approved under the NQF, and 32% were from outside school hours care services, which account for 28% of services.

Figure 2: Survey responses by jurisdiction

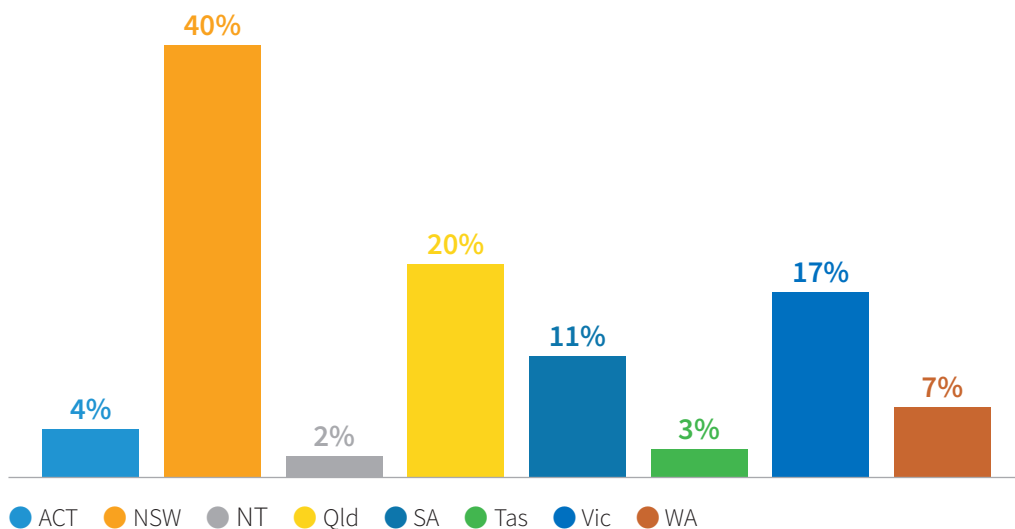
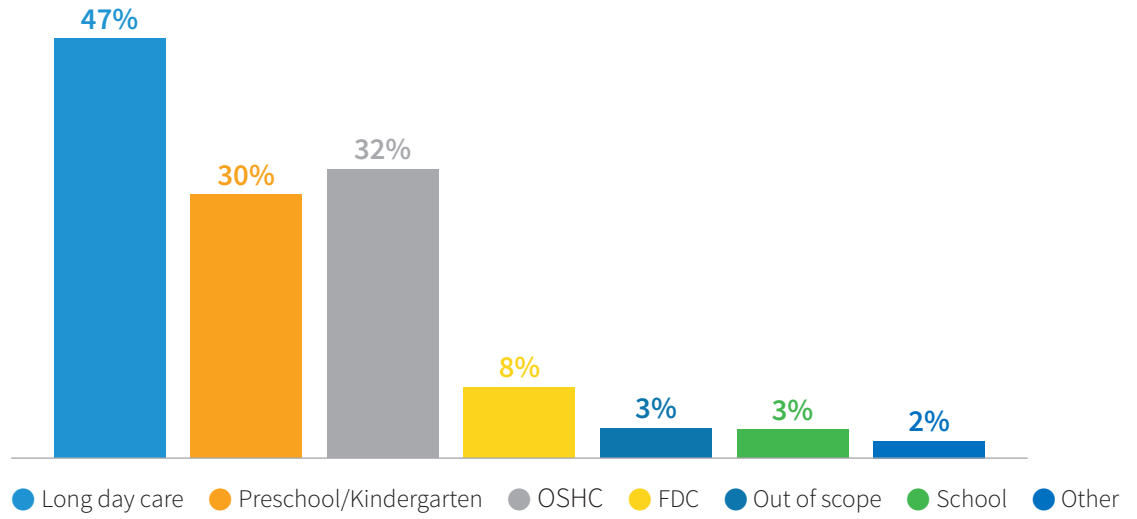


Figure 3: Survey responses by service type



APPENDIX A

CONSULTATION QUESTIONS

1. Are there issues not covered in this paper that significantly impact on the National Quality Framework being able to meet its objectives? What are those issues, and why are they significant?

Scope of services regulated under the NQF

2. Should service types that are currently out of scope of the National Law but which provide a substantially similar education and care service to those that are in scope be brought under the NQF? What should be considered if any of these services was to be included in future?
3. Considering the range of contexts for the provision of overnight care, how should the supervision and ratio requirements in the NQF apply?
4. Considering the range of contexts where regular transport is provided by a service, how should the supervision and ratio requirements in the NQF apply?

Application efficiency

5. What are the experiences of providers in navigating approval under both the NQF and the Family Assistance Law?
6. What are the main difficulties encountered in the application process for service approval under the NQF?
7. What could make the application process easier?
8. How can the assessment of whether an individual is 'fit and proper' be undertaken more effectively, proportionately and efficiently?

Maintaining current information about service delivery

9. Should services be required to apply to or notify the Regulatory Authority when there is a change to the age of children for which they provide education and care services?
10. Are there other changes to the nature of the service being provided which should require notification to the Regulatory Authority? If so, what?

Physical Environment

11. Under what circumstances, if any, is it acceptable for new premises to be eligible for waivers to the physical environment requirements of the NQF?
12. How can governments streamline service approvals to ensure new builds meet the requirements of the NQF early in the build process?
13. Are the NQF's physical space requirements for school age children suitable for their learning and development, and proportionate to risks for children of this age?

Sustainability of the NQF

14. What fee models are appropriate for ensuring the continued operation of the NQF and improving outcomes for children and families by encouraging improvement in service quality?

Regulatory approach

15. How can high quality providers and services be encouraged to sustain and grow quality services?
16. What approach should Regulatory Authorities take to engaging with approved providers to best achieve the objectives of the NQF?

Qualification requirements

17. Does recognising educators who are 'actively working towards' a qualification continue to be a practical approach to balance workforce needs and the NQF goals of service quality and child outcomes?

Protecting children and staff in an emergency

18. Are the current requirements for service emergency and evacuation procedures effective and proportionate to the risks? If not, what could strengthen them?

Education and Care in OSHC

19. How can the requirements of the NQF better reflect the unique operating context of OSHC?

Education and Care in FDC

20. Should the education and care of additional children during emergency placements in FDC be notified to the Regulatory Authority?
21. What are appropriate timeframes for the length of emergency placements?
22. Is further guidance on the role of FDC co-ordinators needed? If so, what form should this take? E.g. in regulation, online guidance materials etc.
23. Should the child protection training obligations of Nominated Supervisors similarly apply to FDC co-ordinators?

Value of quality ratings for families

24. How can public knowledge and understanding about quality ratings of education and care services be improved?

Appropriateness of Sanctions

25. Are current penalty amounts properly matched to the offences, and proving an effective deterrent to non-compliance?
26. Are offences targeted at the correct person? (i.e. Approved Provider, Nominated Supervisor, Educator)

Protected Disclosures

27. Should persons besides employees be protected from serious detrimental action when making a protected disclosure? If so, who?
28. What could 'serious detrimental action' look like for those people?

Prohibition Notices

29. What other factors should be considered when the Regulatory Authority is determining whether a person is unsuitable to be involved in the provision of education and care?
30. Are there roles besides the nominated supervisor where a prohibition notice based on not being fit and proper should apply?