



Australian Children's
Education & Care
Quality Authority

RESPONSIBLE PERSON REQUIREMENTS FOR APPROVED PROVIDERS

FROM 1 OCT 2017*

*In all states and territories except Western Australia which will commence by 1 Oct 2018

The Australian, state and territory education Ministers have agreed to changes to the National Quality Framework (NQF).

This information sheet explains changes and continuing requirements around responsible persons at a service. It also explains the removal of supervisor certificate provisions.

WHEN DO THE CHANGES START?

Most changes will commence 1 October 2017 in all states and territories (except Western Australia which will commence by 1 October 2018).

The revised National Quality Standard (NQS) and some related changes will commence 1 February 2018.

WHERE CAN I GET FURTHER INFORMATION?

Visit acecqa.gov.au/nqf-changes

Visit your regulatory authority website acecqa.gov.au/contact-your-regulatory-authority

Approved providers must continue to ensure that a responsible person is present at a centre-based service at all times that the service is educating and caring for children (see page 3 for family day care requirements).

Removing supervisor certificates

On 1 October 2017, certified supervisors and supervisor certificates will be removed from the National Law, to reduce red tape for approved providers.

Supervisor certificates continue in Western Australia until these changes are introduced by 1 October 2018.

From 1 October 2017, approved providers will have more autonomy to decide who can be the responsible person in each service.

A responsible person continues to be:

- the approved provider or a person with management or control
- a nominated supervisor
- a person in day-to-day charge of the service.

Appointing a nominated supervisor

Approved providers must continue to nominate a nominated supervisor and, from 1 October 2017, can appoint one or more individuals to be nominated supervisors at the service. The nominated person must give written consent.

You must display the name of each nominated supervisor so that it is visible from the service's main entrance.

Current nominated supervisors, who have previously consented to the role, can continue in this role from 1 October if you consider they continue to be suitable.

Revised minimum requirements for nominated supervisors

From 1 October, approved providers must determine if a person is suitable to be a nominated supervisor before nominating the person. It is important that the approved provider record this information, with sufficient evidence, and keep it on file to demonstrate compliance to the Regulatory Authority. This will help to show that you have taken reasonable steps to comply with your obligations under the National Law.

The person must:

- be 18 years or older
- have adequate knowledge and understanding of the provision of education and care to children
- have an ability to effectively supervise and manage an education and care service.

You must have regard to:

- the person's history of compliance with the National Law and other relevant laws
- any decision under the Law to refuse, suspend, refuse to renew, or cancel a licence, approval, registration, certification or other authorisation granted to the person under the National Law and other relevant laws
- Approved providers can ask the nominated person to complete and sign a Compliance History Statement template and then keep it on file. The template is not mandatory but can help make informed decisions about a person's suitability to be the nominated supervisor or to be placed in day-to-day charge of the service. Visit the ACECQA website to download this template:
www.acecqa.gov.au/sample-forms-and-templates-now-available

As an approved provider, you must not nominate a person as a nominated supervisor if you knew or could reasonably have known that person was prohibited from being nominated. Currently you must not engage a person or volunteer if you know, or could reasonably have known, that person was prohibited under the National Law. This requirement continues.

Reasonable steps you might take to ensure you do not nominate or engage a prohibited person include:

- ask the candidate to complete and sign a declaration stating they are not prohibited. Keep these forms on file. Visit the ACECQA website to download the Prohibition Notice Declaration template:
www.acecqa.gov.au/sample-forms-and-templates-now-available
- review the candidate's references, including previous employers
- when undertaking reference checks, ask each referee if they are aware of any compliance action under the National Law or any other law in relation to the candidate. Record referee responses and keep this information on file.

If after taking reasonable steps you are still concerned about the candidate's compliance history, you may contact your regulatory authority and enquire if the person is subject to a prohibition notice in any state or territory.

You should consider the person's qualifications, skills and work experience in determining if the person has adequate knowledge and understanding of the provision of education and care of children and supervision and management abilities.

If you become aware of a matter or incident which affects the ability of the nominated supervisor to meet the minimum requirements, you must consider if it is appropriate to remove them as nominated supervisor. For example, if you become aware that the nominated supervisor has had compliance action against them, you must reassess if that person is suitable to be in the position.

Child protection obligations and training

You must continue to ensure that nominated supervisors (and staff members) are advised of child protection laws and obligations and have current working with children checks that comply with working with children laws.

From 1 October 2017, you must ensure that nominated supervisors and people in day-to-day charge have successfully completed child protection training if required in your jurisdiction. To find training or check whether it's required, contact your regulatory authority.

Notifying the regulatory authority of changes to nominated supervisors

You must notify the regulatory authority when a nominated supervisor is appointed through the NQA IT System by submitting a Notification of change to nominated supervisor form:
acecqa.gov.au/applications

The regulatory authority must be notified 7 days prior to the nominated supervisor starting, or if that is not possible, within 14 days after the nominated supervisor has commenced in the role.

As an approved provider, you must also notify the regulatory authority via a separate notification if the nominated supervisor:

- changes their name or contact details
- is no longer employed or engaged by the service
- has been removed from the role or
- withdraws their consent to the nomination.

Consent to the nominated supervisor role

If an approved provider is an individual and has nominated themselves to be a nominated supervisor, there is no need for written consent.

You must continue to provide the regulatory authority with the written consent of other individuals appointed as a nominated supervisor. This can be included in the application for service approval or by submitting a Nominated supervisor consent form:

acecqa.gov.au/applications

Powers of regulatory authorities

Regulatory authorities can restrict a person from being a nominated supervisor either entirely or subject to conditions, if it considers the person is not fit and proper to be the supervisor of an education and care service.

This gives the regulatory authority a level of oversight over who can be a nominated supervisor, while allowing the approved provider flexibility in making a nomination.

Appointing a person in day-to-day charge

As an approved provider, you or the nominated supervisor continue to be able to appoint a person in day-to-day charge of the service. The person must give written consent.

Appointing a person in day-to-day charge enables you to have a responsible person at the centre based service at all times the service is educating and caring for children.

For example, they can be a point of contact for parents and staff in the absence of the nominated supervisor. They must meet minimum requirements to be appointed to the role.

Being in day-to-day charge of a service does not place any additional legal responsibilities on a person under the National Law. The responsibilities relevant to educators under the National Law continue to apply.

An approved provider does not have to appoint a person in day-to-day charge if a nominated supervisor/s or approved provider is to be the responsible person.

Revised minimum requirements for a person in day-to-day charge

A person in day-to-day charge must be 18 years or older.

As an approved provider either you or the nominated supervisor must take reasonable steps to ensure the person:

- has adequate knowledge and understanding of the provision of education and care to children
- has an ability to effectively supervise and manage an education and care service.

The approved provider or the nominated supervisor must have regard to:

- the person's history of compliance with the National Law and other relevant laws
- any decision under the Law to refuse, suspend, refuse to renew, or cancel a licence, approval, registration, certification or other authorisation granted to the person under the National Law and other relevant laws.

A person who previously consented to be in day-to-day charge of the service will not need to provide consent again from 1 October 2017.

Assistance for family day care educators

An approved provider of a family day care service must ensure that when an educator is educating and caring for a child, one of the following is available to provide support to the educator:

- the approved provider, if the approved provider is an individual, or a person with management or control of the service
- a nominated supervisor of the service
- a person in day-to-day charge of the service.

The requirement to be available to provide support to an family day care educator continues to include being available to be contacted by telephone to provide advice and assistance to the educator.

Acknowledgment

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