



Australian Children's  
Education & Care  
Quality Authority

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1 March 2017

Committee Secretary  
Senate Community Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Re: Inquiry into the *Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017*

Dear Committee Secretary

Thank you for the opportunity to comment on the *Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017* (the Bill).

The Australian Children's Education and Care Quality Authority (ACECQA) is the national authority established under the Education and Care Services National Law (the National Law) to work collaboratively with all jurisdictions in guiding the implementation of the National Quality Framework (NQF).

In January 2016, ACECQA lodged a submission in response to the then inquiry into the provisions of the *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015*. In that submission, ACECQA commented on two matters as they related to that Bill and its interactions with the NQF. These comments addressed:

- the importance of quality in realising the benefits of Australia's investment in child care
- legislative and administrative alignment between the National Law and Family Assistance Law.

ACECQA's previous submission remains relevant with respect to the current Bill, and I wish to bring this to the attention of the Committee. Please find attached for your reference.

If you would like any further information, please contact Michael Petrie, General Manager Strategy, Communications and Consistency,

Yours sincerely

Gabrielle Sinclair  
CEO



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Dear Committee Secretary

Thank you for the opportunity to comment on the *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015* (the Bill).

The Australian Children's Education and Care Quality Authority (ACECQA) is the independent national authority established to lead the implementation of the National Quality Framework (NQF). The NQF is the national system for regulating education and care services, setting levels of safety and quality to ensure all children who attend long day care, preschool/kindergarten, outside school hours care and family day care have the best start in life.

The NQF is jointly governed by all state and territory governments and the Australian Government to drive continuous improvement in the quality of education and care services, and to realise the efficiency and cost effectiveness benefits of a unified national system.

The NQF was agreed to by first ministers in 2009 through the *National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care*. The legislative basis for the NQF is the *Education and Care Services National Law* (the National Law). The National Law passed the Victorian Parliament in 2011, and is an applied law in all other states and territories, with the exception of Western Australia, where mirror legislation is in effect. Regulations under the National Law are made by Education Ministers through the Council of Australian Governments (COAG) Council system.

ACECQA is writing to provide comment on two aspects of the Bill which we consider to be most relevant to the regulation of education and care services under the NQF:

1. The importance of quality to realising the benefits of Australia's investment in child care, and
2. The advantages of legislative alignment and operational cooperation between state and territory NQF regulators and the Australian Government.



## **The importance of quality in realising the benefits of Australia's investment in child care**

The children's education and care system in Australia is regulated by parallel systems – Family Assistance Law which promotes affordable access to education and care for families through subsidies, and the NQF which promotes standards and quality in education and care. As noted above, the NQF was designed to realise the educational, developmental and wellbeing outcomes for children that are attributable to high quality service provision, and to benefit Australia's long term social and economic outcomes.

The Explanatory Memorandum for the Bill recognises the benefits that quality childcare and early learning has on children's early development: "*early childhood education and care plays a vital role in the development of Australian children and their preparation for school. Access to early childhood education and care is also one of the most effective early intervention strategies to break the cycle of poverty and intergenerational welfare dependence*".<sup>1</sup>

The Explanatory Memorandum's statement reflects established research that shows quality early childhood education and care leads to better health, education and employment outcomes later in life,<sup>2</sup> as well as broader social and emotional development.<sup>3</sup> Quality children's education and care is also integral to realising long term economic gains through building human capital, improving workforce productivity and reducing public spending on health, welfare and justice.

ACECQA recognises that the availability of high-quality and affordable education and care is complementary to supporting the workforce participation choices of families and the goal of contributing to positive outcomes for children.

As at 21 January 2016, more than 11,300, or around 75% of all education and care services were quality rated under the NQF. Of these services, over 440 have been quality rated more than once. Although the number of services with multiple quality ratings is small, this early sample includes more than 60% of services that improved upon their original quality rating. For example, around 200 services improved their quality rating from *Working Towards the National Quality Standard*, to *Meeting the National Quality Standard*. Most of the remainder moved from *Meeting* to *Exceeding the National Quality Standard*.

These early results show how the NQF is having a positive impact on the quality of education and care across the country.

## **The advantages of legislative alignment and operational cooperation between state and territory NQF regulators and the Australian Government.**

ACECQA welcomes the opportunities presented by the Bill for stronger collaboration between the NQF's state and territory regulatory authorities and the Australian

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<sup>1</sup> Family Assistance Legislation Amendment Bill 2015, Explanatory Memorandum p 6.

<sup>2</sup> Elliott A. Australian Council for Educational Research, *Early Childhood Education, Pathways to quality and equity for all children*, Australian Education Review, Volume 50, 2006 (note A Elliot is a former member of the ACECQA Board)

<sup>3</sup> OECD (2012) *Starting Strong III: Early Childhood Education and Care*

Government. These opportunities come from legislative and administrative alignment, and have the potential to improve outcomes for children by reducing risk associated with non-compliance, enabling more effective regulatory interventions, and reducing administrative costs for education and care providers.

#### *Provider approval and service approval*

ACECQA supports the inclusion of 'provider approval' under *Schedule 1 Part 8* of the Bill, as well as changes to service approval requirements. The amendments parallel the National Law, which establish an approved provider as the primary duty holder to which multiple approved services can be linked. The intent of this process, as outlined in the Bill, is to minimise duplication of application requirements already considered at the provider approval application stage.

Requirements for provider eligibility for approval under sections 194B and 194C(a) of the Bill and for service eligibility under section 194D(b) include that the provider holds any approval or licenses required under the law of the State or Territory in which a service will operate. Therefore, the Bill embeds the corresponding approval process for providers and services mandated by the National Law into Family Assistance Law.

Alignment between the provider and service approval application processes under the National Law and Family Assistance Law will aid in reducing administrative burden within the sector by reducing unnecessary differences in requirements for approval applications. A secondary benefit is that equivalent treatment of the approval of entities and their services will support improved public reporting about the sector, in particular, on the number of approved services and providers.

#### *Conditions for continued approval*

ACECQA supports the provisions in the Bill which reinforce a provider's compliance with obligations under the NQF, particularly in relation to service quality and the health, safety and wellbeing of children. Part 8 Division 2 sets out a range of conditions an approved provider must meet to ensure continued Commonwealth approval. For example, an approved provider must comply with all requirements of Commonwealth, state or territory law (section 195A(4)), including the National Law.

An approved provider must also comply with any conditions imposed by the Secretary on the provider or a service of the provider (section 195F). ACECQA foresees the potential for conditions on providers under Family Assistance Law to be used to reinforce conditions placed on providers by a regulatory authority under section 19 of the National Law. This alignment of conditions can provide greater protections for children and families, and make for more coordinated, and therefore more effective, regulatory interventions on the part of governments.

#### *Fit and proper person requirements*

A major harm that regulation of education and care aims to prevent is that children might attend services that are controlled by people who are not suitable to have this responsibility. The Bill proposes it be a requirement of approval that a provider, person with management or control, or person responsible for the day-to-day operation of a service, is a fit and proper person (sections 194B, 194C and 194 D).

This mirrors provisions under the National Law which require that an approved provider, or person with management or control of a service to be operated by the provider, is a fit and proper person (section 12).

Several criteria in the Bill for determining fitness and propriety (section 194E) are similar to criteria under the National Law (sections 13 and 109) and this is welcomed. It is appropriate, given the risk of fraud associated with subsidies, that a number of other criteria in the Bill are more specifically focused on a person's financial aptitude and integrity for administering child care subsidies.

ACECQA notes that some information that the Secretary must have regard to in determining fitness and propriety under section 194E of the Bill is likely to be held in the National Quality Agenda IT System under the NQF.

### ***Information management systems***

ACECQA maintains the National Quality Agenda IT System under the NQF on behalf of the eight state and territory regulatory authorities and the Australian Government. Information sharing between the Australian Government and regulatory authorities reduces administrative burden for providers and makes the work of regulators more efficient at all levels, for example, by enabling more efficient identification of non-compliance and mitigation of risks.

ACECQA is working with the Australian Government in its development of the IT systems that would be required to support the Jobs for Families Child Care Package. ACECQA's aim is to establish appropriate compatibility between the two systems, and we are optimistic about future opportunities for greater collaboration between governments and exchange of operational information in the interests of improved child outcomes.

Yours sincerely

Karen Curtis  
Chief Executive  
29 January 2016