

2014 NQF Review – Consultation Regulation Impact Statement

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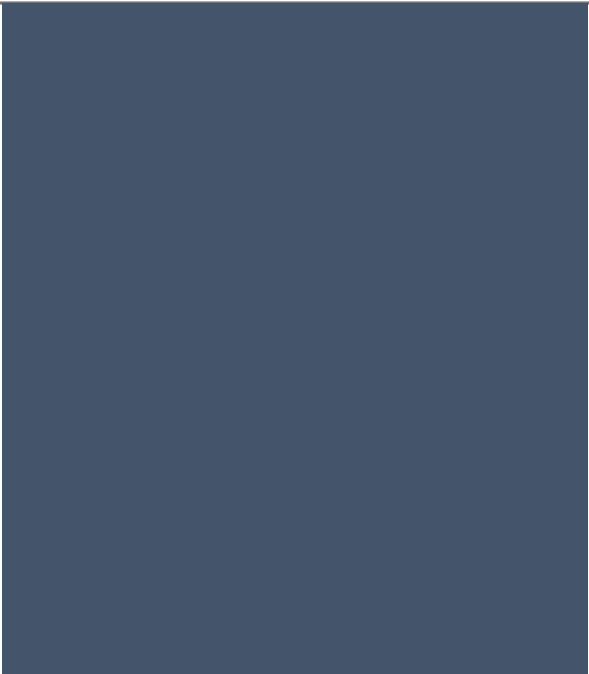
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Response to Regulation Impact Statement for proposed options for changes to the National Quality Framework

15 January 2015

Australian Childcare Alliance



Australian Childcare Alliance

The Australian Childcare Alliance (ACA) is the national peak body representing members in the long day care early childhood education and care (ECEC) sector throughout Australia, with offices in Victoria, New South Wales, Queensland, South Australia, and Western Australia and representation in all states and territories. ACA works on behalf of long day care owners and operators to ensure families have an opportunity to access affordable early childhood education and care throughout Australia. ACA and its state associations work with all levels of government, regulatory authorities and other stakeholders to ensure that families are supported into the future with a sustainable, affordable and viable sector.

As at 30 September 2014, there were 13 657 centre-based ECEC services in Australia, operated by 7218 approved providers nationally¹. Whilst a number of large providers have entered the sector in recent years, it is important to note that 83per cent of approved providers nationally operate only one service, with only 1per cent of approved providers operating 25 or more services².

There were 1.11 million children attending approved early childhood education and care during the September quarter 2013, 57per cent (637,590) of whom were in long day care. Whilst the vast majority (75per cent) of children in long day care are located in major cities, more than 160 000 children attend long day care in regional and remote Australia. More than 773 000 families had at least one child in approved ECEC during the September quarter 2013, 67per cent (519 130) of whom had children in long day care.

Whilst there is variation across the states, the majority of centre-based long day care services nationally are privately owned, with 73per cent of long day care services in NSW for example privately operated³. It is these privately owned services nationally that ACA has received the strongest feedback from on matters pertaining to the National Quality Framework (NQF), from its inception onwards. We have also been gathering feedback from the families at these services via our annual 'What Parents Want' surveys, giving ACA a unique view into the opinions of more than 2,500 parents on an ongoing basis.

ACA welcomes the opportunity to respond to the *Regulation Impact Statement for proposed options for changes to the National Quality Framework*. It is important to note from the outset that ACA supports the intent of the NQF, in particular the desire to drive continuous improvement and consistency in Australian early childhood education and care services. However, as we have consistently stated, the NQF will only be successful and meet its objectives if implemented consistently, administered equitably and funded adequately. Section 2 of the RIS reflects these concerns, particularly in terms of areas of unnecessary regulatory and administrative burden; insufficient consistency and clarity; and incomplete regulatory coverage.

¹ Australian Children's Education and Care Quality Authority (2014). *NQF Snapshot Q3 2014* Retrieved from <http://files.acecqa.gov.au/files/Reports/2014/OCT_2014_ACECQA_Snapshot_Q3_FINAL_WEB.pdf>.

² Australian Children's Education and Care Quality Authority (2014). *NQF Snapshot Q3 2014* Retrieved from <http://files.acecqa.gov.au/files/Reports/2014/OCT_2014_ACECQA_Snapshot_Q3_FINAL_WEB.pdf>.

³ Australian Government (2014). *Report on Government Services – Volume B: Child care, education and training*. Retrieved from <<http://pc.gov.au/gsp/rogs/childcare-education-training>>.

ACA believes an assessment and rating (A&R) process which is evidenced based and transparent, rather than the current system which relies on the subjective interpretation of the Authorised Officer, will provide an objective and accurate reflection of the service.

This submission outlines ACA's position on each of the options for consideration, along with supporting material where applicable.

Regards



Gwynn Bridge
President

Contents

Chapter 3: Options for Consideration	4
3.1. Refining the National Quality Standard and Assessment and Rating process.....	4
3.1.1 Proposal 1.1 - Reducing the complexity of the National Quality Standard.....	4
3.1.2 Proposal 1.2 - Streamlining of quality assessments.....	5
3.1.1 Proposal 1.3 - Reduction in documentation of child assessments or evaluations in OSHC services	6
3.1.1 Proposal 1.4 - Significant Improvement Required rating.....	7
3.1.5 Proposal 1.5 - Exceeding the National Quality Standard rating	8
3.1.6 Proposal 1.6 - Excellent rating	8
3.1.7 Proposal 1.7 - Ensuring ratings accurately reflect service quality	9
3.1.8 Proposal 1.8 - Length of time between assessments	10
3.2. Removing supervisor certificate requirements	11
3.2.1 Proposal 2.1 - Removing supervisor certificates.....	11
3.3. Expanding the scope of the NQF	12
3.3.1 Proposal 3.1. - Additional Services to be included in the NQF.....	12
3.3.2 Proposal 3.2 - Application of assessment and rating processes to additional services	13
3.4. Extending some liability to educators.....	14
3.4.1 Proposal 4.1 - Extending some liability to educators	14
3.5 Changes to prescribed fees	16
3.6 National educator to child ratio for OSHC services.....	17
3.7 Improved oversight of and support within FDC services.....	18
3.7.1 Proposal 7.1 - Approval of FDC services across jurisdictions.....	18
3.7.2 Proposal 7.2 - Limiting the number of FDC educators in a service	18
3.7.3 Proposal 7.3 - Mandating a ratio of FDC co-ordinators to educators:	19
3.7.4 Proposal 7.4 - Mandating a minimum Certificate III for FDC educators	19
3.7.5 Proposal 7.5 - FDC educator assistants' activities.....	19
3.7.6 Proposal 7.6 - Principal office notifications.....	19
3.7.7 Proposal 7.7 - Powers of entry to FDC residences	20
3.8 Other changes which will have a regulatory impact	20
Proposal 8.5.4 Conflict - Extension of liability – definition of ‘person with management and control’	24

Chapter 3: Options for Consideration

3.1. Refining the National Quality Standard and Assessment and Rating process

3.1.1 Proposal 1.1 - Reducing the complexity of the National Quality Standard

Proposal 1.1 seeks to reduce the complexity of the National Quality Standard (NQS) through a draft revised Standard. Whilst ACA agrees with the assessment of net benefit in the RIS that there is likely to be a net benefit arising from the streamlining of the NQS, particularly in terms of reducing the time spent on preparation by the service, assessment and rating (A&R) by the regulatory body and the reduction of red tape, ACA believes that “tinkering at the edges” will not create a net gain impact until authorised officers have been trained to apply a nationally consistent approach to A&R. There is evidence of the variation in A&R through lack of consistency, clarity and regulatory process in all states/territories and regions across Australia. We have provided extensive evidence of this in our submissions to the Productivity Commission⁴, Senate Education and Employment Committees⁵ and Woolcott Research and Engagement⁶ last year. ACA also maintains a log of inconsistencies reported by approved providers throughout Australia. This log can be provided on request and separate to this submission.

The sector has experienced unnecessary regulatory burden through several requirements under the NQS as implemented on 1 January 2012. It is consistent that many services have implemented administrative processes and reporting far beyond what was initially intended but the NQS document fails to specify what is intended. The main areas of concern to services have been Supervisor Certificates, meeting the sustainability elements, documentation of program evidence and service involvement with the community. It is important to note that ACA does not view ‘regulatory burden’ as legislative requirements pertaining to the education, care and safety of children. We view ‘regulatory burden’ as inefficient administrative burden imposed by regulation.

ACA supports a reduction in the complexity and size of NQS but cautions that achieving consistency of authorised officers’ expectations of a service during the A&R visit is of primary importance for any net benefit to occur. Without a substantial change to this aspect of A&R visits, any streamlining will be fruitless. We note that various jurisdictions have introduced, or are in the process of introducing, more workable and efficient procedures, practices and communications

⁴ Australian Childcare Alliance (2014). *Submission to the Productivity Commission Review into Childcare and Early Childhood Learning* <http://childcareqld.org.au/wp-content/uploads/2014-Submission-to-the-Productivity-Commission-Final-Website.pdf>; Australian Childcare Alliance (2014). *Response to Productivity Commission Draft Report into Childcare and Early Childhood Learning* <<http://childcareqld.org.au/wp-content/uploads/ACA-Response-to-PC-Draft-Report-into-Childcare-and-Early-Childhood-Learning1.pdf>>.

⁵ Australian Childcare Alliance (2014). *Submission to Senate Inquiry: Immediate Future of the Childcare Sector in Australia* <<http://childcareqld.org.au/wp-content/uploads/ACA-Submission-to-the-Senate-Inquiry-into-the-Immediate-Future-of-the-Childcare-Sector-in-Australia.pdf>>; Australian Childcare Alliance (2014). *Submission to Senate Inquiry: The Delivery of Quality and Affordable ECEC Services* <<http://childcareqld.org.au/wp-content/uploads/ACA-Submission-to-the-Senate-into-the-Delivery-of-Quality-and-Affordable-ECEC-services.pdf>>.

⁶ Australian Childcare Alliance (2014). *2014 Review 2014 Review of the NPA on the National Quality Agenda for Early Childhood Education and Care* <<http://www.woolcott.com.au/NQFreview/submissions/Review%20of%20the%20NQF%20-%20Submission%20from%20ACA.pdf>>.

pertaining to A&R, pre, during and post-visit. Whilst this is a welcome step forward at a state level, it may well lead to more inconsistency between jurisdictions, rather than streamlining and clarifying national requirements. It also begs the question of the role of the Australian Children's Education and Care Quality Authority (ACECQA) in overseeing and providing national guidance on A&R. ACA argues that implementation must be adequately resourced by comprehensive professional development and documentation provided through ACECQA.

The proposed options in the draft revised NQS appear insufficient to effect significant improvement to the process simply by reducing the complexity and numeric quantity. ACA believes that by combining and rewording current standards and elements effective reduction of overlap and documentation expectations will fail to be achieved. The current option consists of fewer standards and elements – 15 standards instead of 18, and 40 elements instead of 58, however we do not see this as any benefit other than the reduction of actual numbers and although there is a streamlining in structure, the intent remains.

Appendix 1 summarises ACA's analysis and commentary on the proposed NQS options.

Option Number	ACA Position
1.1B	Supported with variation. ACA supports a reduction in the complexity of the National Quality Standard through a draft revised standard capable of meaningfully reducing administrative burden and a thorough overhaul of authorised officer training.

3.1.2 Proposal 1.2 - Streamlining of quality assessments

Proposal 1.2 seeks to streamline the national approach to A&R, including through supporting templates and documents and further rigorous training of authorised officers.

ACA have previously put forward a proposal to streamline the A&R process (see Appendix 2). We remain committed to this proposal as a positive and necessary evolution of the process. The proposed streamlining recommended in our document has the capacity to effect a substantial fiscal net benefit to regulatory bodies by providing the ability to progress at a faster pace through the A&R visits whilst ensuring compliance is addressed and quality outcomes assessed. With the implementation of the proposed change in A&R, we envisage that net benefit would not occur immediately for the sector as there would be transition and adjustment costs incurred through documentation adjustments and training of educators on the changes and implementation of a revised system. Any change must be deliberated by practitioners, ACECQA and regulatory bodies prior to implementation. ACA recommends that a team be selected to formalise the streamlining process. ACA envisages that the primary composition of this team would be "hands on" practitioners. This team of practitioners would be empowered to assess and assist at the development and trial stages to identify areas of administrative burden, overlap and unintended consequences prior to service level implementation.

ACA agrees that the streamlined approach proposed be trialled. The success and ongoing support of this new system will be dependent upon this approach being well considered through

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meaningful consultation with the sector followed by rigorous training of authorised officers resulting in a nationally consistent, more equitable A&R process. Documentation and training through ACECQA is to be made available to practitioners.

Option Number	ACA Position
1.2B	<p>Supported with variation.</p> <p>ACA supports the streamlining of the national approach to assessment and rating, including through supporting templates and documents and further rigorous training of authorised officers, but requests that consideration to be given to feedback provided and ACA's "Proposed Assessment and Rating" Appendix 1</p>

3.1.1 Proposal 1.3 - Reduction in documentation of child assessments or evaluations in OSHC services

Proposal 1.3 seeks to amend the documentation requirements and/or retrain authorised officers on Outside School Hours Care (OSHC) services.

The RIS document states:

'The policy intent of Regulation 74 is to ensure that children's learning under the approved learning framework is appropriately assessed, in order to enhance further learning and development. OSHC services are designed to complement the school day, and the primary focus is on providing children with play and leisure opportunities which are meaningful (*My Time, Our Place*, page 5).'

ACA believes that there is a fundamental flaw in the policy intent of Regulation 74 as it clearly states that it is designed to complement the school day. When it originally evolved, OSHC was a program to complement a family home situation by providing children with (out of school hours) leisure and recreation time. Over time and with the introduction of the NQF, academics have redefined the intent to suit a more institutionalised approach which is entirely inappropriate.

ACA members and practitioners advise that the current process of A&R is challenging for long day care services operating before and after school care and vacation care for a limited number of students. This service is included in the overall assessment of the service through the *My Time Our Place* (MTOP) Framework. We support this Framework and acknowledge its encompassing value. However, the provision of this service is quite demanding of an educator considering the small number of children in attendance and the lesser amount of time that these children are involved at the service. We also challenge whether these children at the end of their school day require pressure to be involved in yet more structured activities (to enable the program requirements to be met for the A&R process). An OSHC program should be first and foremost a recreation program that focuses on children's leisure time and need for each child to enjoy their 'down time' as they might if they were at home. Documentation under the NQF has resulted in directing educator time away from the facilitation of children's play and interests resulting in a more 'institutionalised' program. Some services have advised ACA that the OSHC component of

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their assessment has resulted in an overall lower result. This also adds to the unfairness of the current A&R system when a service provides ECEC for children aged 3 – 5 only are assessed under the same weighting as a service providing care for children across the age groups 0 – 12 years. There is also an anomaly in Tasmania and Western Australia whereby standalone preschools are not assessed under the NQF.

A “one size fits all approach” of A&R across all sectors is unsustainable.

ACA supports Option 1.3B reduction in documentation and requests that inequity of size and age groups in a service receive consideration during A&R and 1.3C is also invoked.

Our members who operate OSHC services on school premises report that they are powerless to modify their physical environment, which means that they are extremely limited in the way that they can meet their sustainability requirements. The ability of these services to attract and retain educators is extremely challenging. Educators who are fantastic role models and very adept at running outdoor programs with the children find programming and documentation very challenging/undesirable.

Option Number	ACA Position
1.3B	Supported with variation Amend Regulation 74 so that services that educate and care for children over preschool age must keep documentation about development of the program, rather than about individual children’s development
1.3C	Amend Regulation 74 in conjunction with the retraining of authorised officers to regulate and assess OSHC services in a manner that better recognises the context of OSHC services

3.1.1 Proposal 1.4 - Significant Improvement Required rating

This proposal seeks to remove the Significant Improvement Required rating or amend its definition to reflect significant non-compliance issues rather than unacceptable risk to children.

ACA believes the net benefit return under both Option 1.4B and 1.4C would primarily be to regulatory bodies. A service’s failure to meet compliance standards must be addressed immediately on identification during the A&R visit, thus saving time on continuing through full assessment and completion of paperwork to the extent required under the A&R visit. ACA believes that any funds needed to be expended (est. \$162,000 to provide 1 day of training for each authorised officer)⁷ must occur.

⁷ Education Council (2014). *Regulation Impact Statement for proposed options for changes to the National Quality Framework*.

A net benefit of satisfaction may be evident for the families and educators attending that service if they are aware of the breaches of the National Law and National Regulations occurring and immediate rectification is addressed.

ACA supports option 1.4B and holds firmly to our previous recommendations that the Significant Improvement Required rating should not be part of the rating as it is a compliance matter. Departmental recording of a service in breach should instead be invoked and the service displays the example notice “rating pending resolution of non-compliance”.

Option Number	ACA Position
1.4B	<p>Supported with variation</p> <p>ACA supports the removal of the Significant Improvement Required rating, with the quality assessment rating process ceasing where it is determined that there is an unacceptable risk to children’s health, safety or wellbeing. However, we request that services Identified as non-compliant be required to display a statement of non-compliance covering the time of rectification, with the service to be re-assessed in a timely manner once rectification has occurred.</p>

3.1.5 Proposal 1.5 - Exceeding the National Quality Standard rating

This proposal seeks to amend the way in which a rating of *Exceeding* the NQS is determined.

Before agreeing to the thrust of this option, which is that every standard must be met for the services to achieve an overall *Exceeding* rating, ACA would require a sound understanding of the proposed streamlining of the NQS. If the result of the A&R process is based on an outcome of individual quality areas rather than an overall rating, there is no discussion on this point. However if the overall rating is to continue, ACA recommends that 5 of the 7 Quality areas achieve *Exceeding*. We reiterate that a consistent approach by Authorised Officers is a determining factor.

Option Number	Description
1.5	<p>Neither Option 1.5A or Option 1.5 B is supported</p> <p>If the overall rating is to continue, ACA recommends that 5 of the 7 Quality areas be required to achieve <i>Exceeding</i>. We reiterate that a consistent approach by Authorised Officers is a determining factor. ACA supports individual ratings not an overall rating.</p>

3.1.6 Proposal 1.6 - Excellent rating

This proposal seeks to remove the Excellent rating.

ACA has previously proposed removal of this rating and our position on this remains. To date, receiving this rating has provided services that have been assessed with a distinct advantage over the more than 50per cent of services still waiting for assessment, which is clearly a less than equitable approach.

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ACA is concerned that the level of rigour in determining whether a service should be rated as Excellent is insufficient, particularly given there is no additional visit to the service. A desktop analysis is currently the deciding factor.

ACA also believes that situations change within services with staff movement etc. and an Excellent rating may not constantly be truly reflective of the service provision for the allocated period of time.

The RIS raises the concern that removal of this rating may reduce incentive for services to become sector leaders. ACA is of the opinion that sector leaders are those with the intrinsic passion to be outstanding for the benefit of children in their early years and not merely because of a rating.

Option Number	ACA Position
1.6B	<p>Supported</p> <p>ACA does not support the current Excellent rating process.</p> <p>It should be noted that the consideration to change the rating system to individual Quality Area results rather than an overall rating would again make this proposal obsolete.</p> <p>Should the current overall rating system be retained, ACA proposes that a service receiving 7 Exceeding Quality Areas could be rated as <i>Excellent</i>. Net benefit would be achieved through the saving of the compilation of additional paperwork and time expended by services and in the process of assessment by regulatory authorities of the volume of paperwork submitted</p>

3.1.7 Proposal 1.7 - Ensuring ratings accurately reflect service quality

This proposal seeks to remove the overall rating; retain the current requirement that all elements must be met to achieve an overall rating of Meeting the NQS, or broaden the application of the current Minor Adjustments Policy.

In view of current information received from members regarding comments and actions of some authorised officers, the variability of fairness and equity can result in a negative outcome for a service with very little substantiation. One jurisdiction determined that they were “lifting the bar” resulting in most services being assessed as “Working Towards”, particularly if the area marked down was relating to sustainability. This result causes educators to be demoralised and lose faith in the system together with incurring a substantial increase in costs and work load for state/territory jurisdictions and the service.

ACA recommends a change in the existing policy that one indicator rated as “Working Towards” reduces the overall result to working towards. This again supports the individual rating of Quality Areas and not subjecting the service to the overall rating that is not truly reflective of the positive work that is occurring across all other areas of the service. With 27per cent of the sector currently with a *Working Towards* result failing to meet fewer than 4 elements, this is a harsh outcome. ACA believes that with increased diligence to the A&R process through policy and by Authorised

Officers, the *Working Towards* result could be truly reflective of the very few services that are not attaining the meeting standard, are compliant with the regulations but may require additional assistance for various reasons e.g. change of key staff, change of ownership etc.

ACA supports broadening the application of the current *Minor Adjustments Policy* particularly in view of the proposed change to the Significant Improvement Required result. Adjustments to this policy would also improve the regulatory authorities' task of annual assessments if a service can fix through minor adjustments, areas identified and forward proof of adjustment through to the regulatory authority. This outcome should result in a net benefit to the service and regulatory bodies.

ACA is concerned that Net Benefit is considered by streamlining the number of Standards and Elements. As stated earlier in this submission, unless there are clear and concise guidelines provided for services and Authorised Officers, we can see no benefit in the rolling together of the Standards and Elements.

Option Number	ACA Position
1.7B	Supported ACA supports the proposed removal of the overall rating and move to rely on the seven quality area ratings to indicate service Quality
1.7D	Supported ACA supports broadening the application of the current Minor Adjustments Policy (but not extending to those areas of the National Quality Standard that are not able to be remedied quickly)

3.1.8 Proposal 1.8 - Length of time between assessments

This proposal seeks to remove the three year rating cycle policy and either commit to more frequent re-rating of lower quality rated services or commit to re-rating all services at least once every five years.

ACA understands the difficulty jurisdictions are experiencing in providing an initial rating for all services. This, combined with the number of services rated "Working Towards" who requires re-rating within one year of the original assessment and rating, means that the rating system will remain under pressure for several years to come. The streamlined system proposed by ACA will alleviate much of this pressure into the future, however, with large numbers of new services registering; assessments will remain a high pressure point.

Services that are underperforming will require targeted assistance from authorised officers and more frequent visits. However as stated in Proposal 1.6, there can be an ebb and flow of performance in a service dependant on staff turnover.

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Currently there are a considerable number of services in Australia that have not been rated in more than five years and ACA has information from many of our member services that they are maintaining their high quality standards and ready for assessment.

Net benefit would be evident to services and regulatory authorities with the introduction of a streamlined system and lengthening the time between assessments. ACA supports the benefit of earned autonomy with the introduction of these measures. ACA supports a procedure whereby certain changes of events or reporting of incidents raises a red flag with regulatory bodies. This would initiate an additional site visit which could then result in the service receiving compliance notices and reassessment.

Option Number	ACA Position
1.8C	Supported ACA supports the proposed removal of the three year rating cycle policy and commitment to re-rate all services at least once every five years, with more frequent re-rating of lower quality rated services with procedures in place to ensure compliance and maintenance of quality education and care for all children.

See Appendix 1 for the Australian Childcare Alliance Proposed Assessment and Rating (A&R) Process.

3.2. Removing supervisor certificate requirements

3.2.1 Proposal 2.1 - Removing supervisor certificates

This proposal seeks to amend the National Law to remove the requirement for supervisor certificates.

Considerable dialogue has occurred between the sectors and ACECQA regarding the worthiness and unintended consequences that arose from this requirement under the National Law. ACA notes that considerable costs were involved by educators and the sector in the period of compliance with this requirement.

It has therefore been proposed that supervisor certificate requirements be removed altogether, as the current supervisor certificate concept is not considered necessary to ensure that an appropriately skilled staff member to oversee the service is present (centre based service) or available (FDC service).

It should be noted that the role of the nominated supervisor would still exist, but that responsibility to determine a person's suitability would rest with the approved provider.

Option Number	ACA Position
2.1B	Supported ACA supports amending the National Law to remove the requirement for supervisor certificate

Consultation Questions – Removing supervisor certificate requirements

1. Are there aspects of the change options that you believe should not be under consideration? If so, why?

ACA believes that this change should proceed as identified in the Proposal 2.1.

2. Do the preliminary costs and benefits as described here accord with your views regarding the likely impacts of these options? Are there other impacts that have not been identified here? Please provide substantiating evidence wherever possible.

ACA confirms that the system is currently allowing services to operate without being in breach of the law on a daily basis. ACA does see the need for the National Law to be adjusted/changed to support the current practices of service appointment of Certified Supervisors.

3. Does the conclusion with respect to net benefit accord with your expectation regarding the overall impact of these change options?

ACA envisages minor impact with the proposed changes as services are currently operating under the recent changes.

4. What are the benefits and costs of the proposed options for change?
 It is a disgrace that so much money has been expended on Supervisor Certificates, both by educators/services and regulatory authorities. The Australian Government and ACECQA were advised during the early implementation stages in 2012 that this Law was unworkable and that the unintended consequences resulting from the Law were expensive in money and in time notwithstanding the fact that services were finding it more difficult each day to operate within the boundaries of the Law.

ACA has called for an implementation group on future changes to ensure that the sectors are not subjected again to unworkable laws and policies.

3.3. Expanding the scope of the NQF

3.3.1 Proposal 3.1. - Additional Services to be included in the NQF

This proposal seeks to include budget based funding centre-based services, occasional care services, playschools and mobile services; only those that are either not currently regulated in the NQF; or only those regulated under another children's services law in the NQF.

ACA has concerns and views on aspects of the proposal.

Proposal 3.1 of the document clearly defines the additional costs and implementation measures that will be experienced by many of the services that could be included under this proposal. ACA has been involved with discussion with colleagues from these sectors and there are concerns that the implementation of Law and regulatory requirements and the additional funds required will be exhausting for them to undertake. While many would appreciate the benefits of coming under the NQF, ACA believes that this is a discussion for the future and any proposed changes at a later time must be phased in over an extensive period to allow the services to adjust to the implementation and costs required.

For some of these services, ACA cannot envisage how they could benefit from becoming part of the system that has stretched the boundaries of the long day care sector, and other sectors, during the implementation period.

ACA also notes that there is no mention in this document of the possibility of nannies being introduced under the NQF (as per the draft Productivity Commission report), so we can only assume that they will be encapsulated under the word “Additional”. Again, ACA has grave concerns for this sector becoming part of the NQF when it will be almost impossible for them to retain independence and work under the requirements of the NQF. ACA cannot accept if additional services are added and receive funding under the same financial model as the LDC sector yet are exempt from any of the stringent requirements of the LDC sector under the NQF.

It is also of concern that we are advised that there will be no additional funds provided to current families who are struggling as a result of rising costs associated with the NQF implementation, devaluation of the Child Care Benefit (CCB) funding and the freeze over the past four + years of the Child Care Rebate (CCR). ACA cannot condone government funding for any additional sector that will see continued affordability constraints placed on families.

Option Number	ACA Position
3.1A	Supported No change

3.3.2 Proposal 3.2 - Application of assessment and rating processes to additional services

This proposal seeks to have additional services included in the NQF assessed and rated in the same way as others currently covered by the NQF; or to have additional services included in the NQF subject to compliance monitoring only, with assessment and rating processes to be considered further in the 2019 review.

ACA has concerns that apart from 3.1C - *Include BBF centre-based services, occasional care services (excluding those provided for parents attending conferences, sport and leisure activities or shopping), playschools and mobile services that are regulated under another children's services law in the NQF*, the result could see the watering down of the NQF and the overall

system of regulation. In the case of nannies, one of the options discussed has been that the nanny is linked to a formal provider (e.g. LDC service to ensure that there is an overseeing body), however, this would need significant consultation with the sector and risk assessments considered to ensure that it would not be a process that the LDC was legally responsible for but could not control.

Random and targeted inspections by regulatory authorities will be almost negligible unless substantial additional funding is provided to State and Territory regulators. Assessors in most states are falling significantly behind targets for completing A&R, with only the Northern Territory having assessed more than 50 per cent of approved services to date⁸.

ACA could not support either option without a significant increase in budgetary allocations to regulatory authorities to enable them to adequately fulfil their current assessment and rating requirements, including timely re-assessment of services previously rated as 'working towards', let alone deal with hundreds of additional services being added to their brief. ACA suggests that the impact on jurisdictions' budgets and timeframes of adding the additional services to the NQF be fully considered before entertaining either of the options presented in this proposal.

Option Number	ACA Position
3.2A	Not Supported
3.2B	Not Supported

3.4. Extending some liability to educators

3.4.1 Proposal 4.1 - Extending some liability to educators

This option seeks to extend liability under Sections 165 and 167 of the National Law to all educators. ACA has previously supported proposals that educators accept responsibility for supervision and protection of children from harm or hazard likely to cause injury. See below excerpt from the ACA 2011 Education and Care Services National Submission. Whilst this refers to the NSW Ombudsman Child Protection in the workplace 2004 document – all child protection laws refer to the statements similar to the following:

One of the most important concerns of any community is the health, safety and wellbeing of its children and young people. Whilst parents and carers are responsible for the safety and welfare of children in their care, protecting children and young people from abuse and neglect is the responsibility of the whole community. Family and Community Services NSW⁹ ACA suggests that "failure to supervise" is neglect as is raising voices to children, speaking inappropriately to children, failure to document or report an incident and other inappropriate actions.

⁸ ACECQA (2014), *NQF Snapshot Q2 201* Retrieved from http://files.acecqa.gov.au/files/Reports/2014/2014_ACECQA_Snapshot_Q2_Final.pdf.

⁹ Family and Community Services NSW. *Protecting Children*. Retrieved on 9/11/2014 from www.community.nsw.gov.au/docs_menu/preventing_child_abuse_and_neglect/protecting_children.html.

Educators' Duty of care

ACA believes that Educators should have a legal duty of care for the position they hold in providing a safe, healthy and nurturing environment. ACA finds it objectionable that an Educator can be negligent in their duty of care towards children yet the Approved Provider and Nominated Supervisor will receive the criminal charge.

ACA suggests that if the Educators were to be made legally responsible for their positions, then those who are less diligent and less responsible would improve their practices or leave the sector. For the safety and wellbeing of children, ACA believes that this extension of the duty of care parameters should occur.

ACA requests that the document "Child Protection in the Workplace" responding to allegations against employees (NSW) be used as a guide to implement a process to ensure that Approved Providers meet their own duty of care which is necessary for the educators to meet their duty of care.

Inadequate Supervision - Burden of responsibility

Until child care educators with a Certificate III (or higher) qualification are required to take their role as a supervisor of children earnestly, children may be placed at risk from inadequate supervision. This is notwithstanding the fact we seek to employ the very best, the highest skilled and the most experienced child care educators available.

The penalties associated with the inadequate supervision of children are necessarily significant, but should not be the responsibility of the Approved Provider and Nominated Supervisor alone. All educators experience a detailed induction, where their responsibilities to adequately supervise children under their care, and take every reasonable precaution to protect the children from harm or hazard that is likely to cause injury, are made clear. All services are assessed and rated on their staffing arrangements, which includes induction, professional development, performance reviews, regular feedback and so on. It is inherent upon all educators in the service – not just the approved provider and nominated supervisor – to ensure the children in their care are supervised and protected from harm and hazard.

Just as a Family Day Care Supervisor is required to carry this responsibility, so should any educator with a qualification in other sectors. The ACA has discussed this proposal with a number of educators who agree that, as a Nominated Supervisor, they should not be held entirely accountable for the adequate supervision of the children in their care when correct induction, training, reinforcement, policies and procedures are in place for all educators to adhere to.

The question must be asked – How can an educator take responsibility for a group of children yet not be accountable for that responsibility?

The Approved Provider and Nominated Supervisor are responsible for the provision of policies and procedures, adequate training, correct staffing levels and the provision of a safe workplace, but the day to day responsibility should be shared with the educators on site. As with OH & S legislation and certain Child Protection legislation, if all levels of the duty of care have been

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passed down, the educator would have a level of legal responsibility. Failure on behalf of the Nominated Supervisor and/or the Approved Provider to record and pass down relevant information, training refreshers etc. would result in either or both the Nominated Supervisor and Authorised Provider receiving the penalty.

Therefore the ACA recommends that the Educator be added to the Inadequate Supervision offences.

The sector is experiencing the fast tracking of students through RTO's and students entering the field with a minimum amount of on the job training and therefore ill equipped to carry out their duty of care in a safe manner.

Option Number	ACA Position
4.1B	Supported ACA supports liability under Sections 165 and 167 of the National Law being extended to all educators, for not adequately supervising children under their care or not taking every reasonable precaution to protect the children from harm or hazard that is likely to cause injury, in addition to Approved Providers, Nominated Supervisors and FDC educators

3.5 Changes to prescribed fees

Proposals 5.1-5.4 seek to introduce a fee for the extension of a temporary waiver, increase fees for provider approvals and service approvals and increase the annual fees for approved services.

ACA cannot support the increase in fees for regulatory authorities. When the original submission was made to the ACCESS Economics Regulatory Impact Statement Urban Economics Report *Economic Impact Analysis*¹⁰: Page 22, regarding proposed costs of the implementation of the NQF states:

It is estimated that under this situation the cost per child per day would be in the order of \$16 from 2016 for Option 2, \$16 from 2015 for Option 3 and \$21 from 2020 for Option 4.

It is considered that childcare cost increases of this level would lead to a substantial upheaval within the industry with a large proportion of families seeking alternative childcare/workforce arrangements, either by using informal care or changing or reducing work hours. It is considered that low and medium income families would be particularly vulnerable to such increases.

This has come to fruition and earlier than the date estimated by Urban Economics.

¹⁰ Meulman, A. & Davies, L. (2009). *Economic Impact Analysis*. Urban Economics. < <http://childcareqld.org.au/wp-content/uploads/cq-submission-annexure-a-urban-economics-report1.pdf>>.

ACCESS Economics and the government of the time were stating that the costs involved would in fact be as low as “a cup of coffee a day.”

ACA was considered “scaremongering” by government and others when we stated our case as to the extent of the implementation of the NQF up to 2020. We now find that the figures presented by Urban Economics did not take into account the costs now acknowledged by ACECQA for implementation of the NQF (*Table 3.2 of Regulation Impact Statement for proposed options for Changes to the National Quality Framework 2014*). These costs amounted to \$18,100 per annum for long day care during the implementation stages of the NQF and have been born by families and Approved Providers. These costs will be ongoing and increasing with the implementation of the 2016 regulatory requirements for lower staff: child ratios.

ACA considers that Government - not families - must now meet any additional costs in the implementation and ongoing recurrent fees. Consequently ACA cannot endorse the proposed fee increases and new fees.

Option Number	ACA Position
5.1A	Supported No change
5.2A	Supported No change
5.3A	Supported No change
5.4A	Supported No change

Proposal 5.1 – Introduce fee for extension of temporary waiver – 5.1A

Proposal 5.2 – Increase in provider approval fee – 5.2A

Proposal 5.3 – Increase in service approval fee – 5.3A

Proposal 5.4 – Increase in annual fee for approved services – 5.4A

3.6 National educator to child ratio for OSHC services

This proposal seeks to introduce a national educator to child ratio for OSHC services.

ACA believes that consistent National ratios for school age children should exist and should be 1:15 as it is currently in most states and territories. While no ratio requirements are currently formally imposed for some services, these services report operating under the broad principles agreed by states and territory governments in 1995, which included a recommended ratio of 1:15.

ACA notes the statement in the RIS document that “most states already exceed the standard required by the ratio”. This is where regulation can be at the higher end and best practice in services will dictate the lower staff: child ratios when required.

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Option Number	ACA Position
6.1B	Supported ACA supports the introduction of a national educator to child ratio for OSHC services at 1:15

3.7 Improved oversight of and support within FDC services

3.7.1 Proposal 7.1 - Approval of FDC services across jurisdictions

This proposal seeks to require approved family day care providers to hold a service approval in each jurisdiction in which they operate.

ACA notes that jurisdictions are experiencing significant difficulty in ensuring FDC services that may be operating in one jurisdiction but are registered in another jurisdiction are doing so to the required standard under the NQF and Commonwealth Law requirements. Whilst each jurisdiction has responsibility to ensure services for children in their state are operating at the required level, the reality is that unless the FDC services are formally registered in that jurisdiction, the regulatory authority currently has little power to enforce compliance. This has resulted in some questionable services being able to remain operational without addressing serious compliance issues.

Option Number	ACA Position
7.1B	Supported ACA supports the proposal for approved FDC providers to be required to hold a service approval in each jurisdiction in which they operate (including paying all relevant fees in each jurisdiction in which they operate an FDC service)

ACA does not have operational interest within the FDC sector so consequently, will leave the FDC sector to make broad comment and suggestions.

3.7.2 Proposal 7.2 - Limiting the number of FDC educators in a service

Option Number	ACA Position
7.2B	Supported Amend the National Law so that a regulatory authority may impose a maximum number of educators approved to be engaged or registered by a FDC service and include this on the service approval

3.7.3 Proposal 7.3 - Mandating a ratio of FDC co-ordinators to educators:

Option Number	ACA Position
7.3D	<p>Supported</p> <p>Introduce a 1:15 ratio of FDC co-ordinators to educators AND/OR</p> <p>Amend the National Law on conditions on service approval to include a duty for the Approved Provider to ensure that FDC educators are adequately supported, monitored and trained</p>

3.7.4 Proposal 7.4 - Mandating a minimum Certificate III for FDC educators

Option Number	ACA Position
7.4B	<p>Supported</p> <p>Require all FDC educators to have an approved Certificate III (or equivalent) before being permitted to educate and care for children, rather than working towards the qualification, which is currently the requirement</p>

3.7.5 Proposal 7.5 - FDC educator assistants' activities

Option Number	ACA Position
7.5B	<p>Supported</p> <p>Create an offence (with attached penalty) that an Approved Provider must ensure the assistant's activities are limited to the circumstances set out in Regulation 144(2) (as amended), with the penalty set at \$2,000</p>

3.7.6 Proposal 7.6 - Principal office notifications

Option Number	ACA Position
7.6 B	<p>Supported</p> <p>A FDC service must notify the regulatory authority of changes to the principal office at least 14 days before the change AND</p> <p>The regulatory authority must amend or refuse to amend a new service approval within 14 days of the above notification and, if the principal office is also to be a venue or a residence, then the amended service approval must be issued before the commencement of any care at the venue or residence</p>

3.7.7 Proposal 7.7 - Powers of entry to FDC residences

Option Number	ACA Position
7.7B	Supported Amend the National Law to allow authorised officers to enter FDC residences where the authorised officer <i>reasonably believes</i> that a service is operating at the residence at the time of entry

3.8 Other changes which will have a regulatory impact

Approvals

Proposal	ACA's Preferred Option	Comments
8.1.2: Approvals – Assessment of capability	8.1.1B: Adopt proposed change	
8.1.2: Approvals – Assessment of capability	8.1.2B: Adopt proposed change	
8.1.3: Approvals – Assessment of capability	8.1.3B: Adopt proposed change	
8.1.4: Approvals – maximum children numbers as service approval condition	8.1.4B: Adopt proposed change	
8.2.1: Revocation of waivers	8.2.1B: Adopt proposed change	
8.3.1: Selecting a nominated supervisor/PIDTDC	8.3.1B: Adopt proposed change	
8.3.2: Powers of the regulatory authority	8.3.2B: Adopt proposed change	ACA supports the proposal to restrict a person from being a Nominated Supervisor either entirely or subject to certain conditions, with an appropriate offence and penalty regime
8.3.3: Job Sharing	8.3.3B: Adopt proposed change	ACA supports the ability for services to appoint more than one Nominated Supervisor at a time
8.3.4: Consenting to the role	8.3.4B: Adopt proposed change	
8.3.5 Notifications	8.3.5B: Adopt proposed change	

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<i>Proposal</i>	<i>ACA's Preferred Option</i>	<i>Comments</i>
<i>8.3.6: Record Keeping</i>	<i>8.3.6B: Adopt proposed change</i>	
<i>8.3.7: Terminology</i>	<i>8.3.7B: Adopt proposed change</i>	
<i>8.3.8: Child protection and nominated supervisors</i>	<i>8.3.8B: Adopt proposed change</i>	<i>ACA supports the requirement for Nominated Supervisors to participate in Child Protection training</i>
<i>8.4.1: 12 Weeks ECT leave provision (extending the scope to include resignation)</i>	<i>8.4.1B: Adopt proposed change in all jurisdictions</i>	<i>ACA does not support the saving provision being maintained for NSW services. National Regulations should permit services to voluntarily operate above National Standard level but not be forced to do so by a specific jurisdiction. It should be noted that NSW has double the ECT requirements of other states and consequently the most significant workforce shortages for ECTs. Excluding them from this proposal would do nothing to recognise or address this issue. Furthermore, one of the problems identified in section 2 of the RIS is inadequate consistency. ACA will not support proposals that seek to introduce further inconsistency between jurisdictions.</i>
<i>8.4.2: Educator Breaks</i>	<i>8.4.1A: No change</i>	<i>ACA believes the commentary and example provided in the Guide to the National Law¹¹ reflect the intent of the National Law and how best to practically implement it. ACA considers the National Law should be amended to accurately reflect</i>

¹¹ ACECQA (2011). Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011 p89. <Retrieved from <http://files.acecqa.gov.au/files/National-Quality-Framework-Resources-Kit/2%20-%20Guide%20to%20the%20Education%20and%20Care%20Services%20National%20Law%20and%20National%20Regulations%20%28updated%209.11%29.pdf>>

<i>Proposal</i>	<i>ACA's Preferred Option</i>	<i>Comments</i>
		<i>the intent, rather than amending the Guide. The impact of this proposed option will have a negative financial impact on families as the requirement to cover educators on paid breaks will force services to increase considerably the number of educators engaged, thereby increasing fees for families</i>
<i>8.4.3 First Aid Qualifications</i>	<i>8.4.3B: Adopt proposed change</i>	
<i>8.5.1: Undertakings – expansion of scope</i>	<i>8.5.1B: Adopt proposed change</i>	
<i>8.5.2: Undertakings – time within which proceedings for alleged offence must be commenced</i>	<i>8.5.2B: Adopt proposed change</i>	
<i>8.5.3: Drafting issues – definition of ‘unauthorised person’</i>	<i>8.5.3B: Adopt proposed change</i>	
<i>8.5.4: Extension of liability – definition of ‘person with management and control’</i>	<i>8.5.4A: No change</i>	<i>This would ensure the regulatory authority will always be able to prosecute the relevant person even in circumstances where he or she argues they have delegated the responsibility of managing the delivery of the education and care service. ACA supports legislation for Businesses e.g. Management Companies who are paid to manage the day to day operations of a service at a substantial cost and with no responsibility in accordance with National Law and substantiated by this proposed change. ACA agrees that a Nominated Supervisor is not in this category and we also understand that an Approved Provider must ensure that a Management Company is abiding by the regulations in accordance with their contracted agreement. It</i>

<i>Proposal</i>	<i>ACA's Preferred Option</i>	<i>Comments</i>
		<i>does seem unreasonable that Management Companies can have ultimate control of the day to day operations without responsibility. It is a grey area as there is no legislation providing rules for their adherence to the National Law and Regulations. It appears almost draconian that a Management Company can oversee the education and care of children in their early years and not be held accountable in any manner.</i>
<i>8.6.1: Compliance and Enforcement Information</i>	<i>8.6.1B: Adopt proposed change</i>	
<i>8.6.2: Sharing of information within and between other state or territory government agencies</i>	<i>8.6.2B: Adopt proposed change</i>	
<i>8.6.3: Publication of information</i>	<i>8.6.3B: Adopt proposed change</i>	
<i>8.7.1: Notifying the regulatory authority of a complaint</i>	<i>8.7.1B: Adopt proposed change</i>	
<i>8.7.2: Regulations – Medical conditions policy</i>	<i>8.7.2B: Adopt proposed change</i>	
<i>8.7.3: Regulations – Evidence of insurance</i>	<i>8.7.3B: Adopt proposed change</i>	
<i>8.8.1: Qualification requirements for supervisors of volunteers</i>	<i>8.8.1B: Adopt proposed change</i>	

Operational issues

Proposal 8.4.1 Conflict- 12 Weeks ECT Leave Provision - Extending the scope to include resignation

ACA supports the proposal that a Diploma educator or a Primary Teacher is taken to be an Early Childhood Teacher for a maximum of 12 weeks per year during the absence or replacement period after resignation of an ECT.

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ACA does not support the saving provision being maintained for New South Wales services. National Regulations should permit services to voluntarily operate above National Standard level but not be forced to do so by a specific jurisdiction. It is absolutely inappropriate for families in one jurisdiction to be penalised through additional fees.

Proposal 8.4.2A No Change - Educator Breaks

ACA believes that whilst educators are on paid breaks and not permitted to leave the service and in accordance with the Guide to the National Law¹² – see below.

Breaks

The National Regulations require the educator to child ratio to be maintained at all times. However, it is recognised that backfilling educators in **Centre-based** services while they are on short breaks is difficult. The approach of Regulatory Authorities will be to allow each educator to take up to 30 minutes off the floor per day without being backfilled—for example, for personal hygiene, meal breaks or to take personal phone calls—without the service being in breach of prescribed ratio requirements. At all times the overarching consideration must be the needs of the children and adequate supervision must be maintained at all times.

For example, this provision might be used to provide educators with two 15 minute tea breaks without backfilling their position, or one 30-minute lunch break, where adequate supervision can be maintained. This provision is not intended to result in situations where accommodating the needs of the children is compromised. For example, children should not be required to rest for an unreasonable length of time to accommodate educators' breaks.

This has been working successfully, despite the revelation on Page 96 of the RIS that the above information is “technically in breach of the law” in services for the past three years and to withdraw this now will cause considerable increase in fees to families at a time when they can very least afford it.

ACA agrees that unpaid lunch breaks are to be covered with an additional employee except where provision has been established under transitional arrangements. To cover a 6 room centre with the proposed option would mean at least two more full time educators would need to be employed.

Compliance, review, monitoring and enforcement

Proposal 8.5.4 Conflict - Extension of liability – definition of ‘person with management and control’

¹² ACECQA (2011). Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011 p89. <Retrieved from <http://files.acecqa.gov.au/files/National-Quality-Framework-Resources-Kit/2%20-%20Guide%20to%20the%20Education%20and%20Care%20Services%20National%20Law%20and%20National%20Regulations%20%28updated%209.11%29.pdf>>

This would ensure the regulatory authority will always be able to prosecute the relevant person even in circumstances where he or she argues they have delegated the responsibility of managing the delivery of the education and care service.

ACA supports legislation for Businesses e.g. Management Companies who are paid to manage the day to day operations of a service at a substantial cost and with no responsibility in accordance with National Law and substantiated by this proposed change.

ACA agrees that a Nominated Supervisor is not in this category and we also understand that an Approved Provider must ensure that a Management Company is abiding by the regulations in accordance with their contracted agreement. It does seem unreasonable that Management Companies can have ultimate control of the day to day operations without responsibility. It is a grey area as there is no legislation providing rules for their adherence to the National Law and Regulations. It appears almost draconian that a Management Company can oversee the education and care of children in their early years and not be held accountable in any manner.

ACA would therefore have to support 8.5.4 A.

Appendix 1

Proposed Assessment and Rating (A&R) Process

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
QA1 Educational Program and Practice				
1.A	1.1	Program	The Program enhances each child's learning and development	reworded
1.Ai	1.1.1	Approved learning framework	Curriculum decision making contributes to each child's outcomes in relation to their identity, connection with community, wellbeing, confidence as learns and effectiveness as communicators.	<ul style="list-style-type: none"> • "outcomes" replaces "learning and development now moved to 1B • It will depend on each authorised officer across regions to determine the intensity of requirement for program recording of outcomes.
1Aii	1.1.2	Child-centred	Each child's current knowledge, strengths, ideas, culture, abilities and interests are the foundation of the program	no change
1Aiii	1.1.3	Program learning opportunities	All aspects of the program, including routines, are organised in ways that maximise opportunities for each child's	<ul style="list-style-type: none"> • Same sentence rephrased, 1.14 and 1.15 removed • This appears to be an extremely broad

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
			learning	<p>descriptor not offering any idea for assessment and rating – there would need to be clear requirements set down in the guide (if there is one to be written)</p> <ul style="list-style-type: none"> Suggestion: All daily experiences are inclusive of each child where educators encourage children and families to participate in collaborative learning, and be informed about the program.
1B	1.1, 1.2	Practice	Educators actively facilitate each child's learning and development	
1.B.i	1.2.2	Intentional teaching	Educators are deliberate, purposeful and thoughtful in their decisions and actions	
1.B.ii	1.1.6	Educator practice supports child directed learning	Each child's agency is promoted, enabling them to make choices and decisions that influence events and their world	no change
1.B.iii	1.2.2	Scaffolding	Educators anticipate and extend children's learning through open ended questions, interactions and feedback	reworded
1.C.	1.1,1.2	Assessment and Planning	Educators and co-ordinators are active and reflective in planning and implementing the program for each child	<ul style="list-style-type: none"> reworded and combined Suggestion: Combine 1B-1C as one descriptor, for example, all educators are mindful of children's learning and actively

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
				facilitate and record learning and development experiences which includes questioning, planning, acting and reflecting.
1.C.i	1.2.1	Assessment and planning cycle	Each child's learning and development is assessed or evaluated as part of an ongoing cycle of collecting information, analysing learning, planning, implementation and reflection	<ul style="list-style-type: none"> • small change in wording • <i>Despite there being a small change in wording, the requirements for meeting this concept have been extremely taxing under the current system. Authorised Officers' requirements need to be visible throughout the guide.</i> • NB: Would this also be summarised within the above point by using the wording facilitate and record? This is more open-ended for educators to demonstrate practice and documentations.
1.C.ii	1.1.4	Information for families	Families are informed about the program and their child's progress	<ul style="list-style-type: none"> • removed –“program is available to families” • How much documented information will the Authorised Officer need to see as evidence? There are many methods of informing families and services need to be made aware of what will not be acceptable – considering the fact that some parents are not particularly interested or are interested and stretched for time. Feedback from families is not always possible to collect in

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
				<p>written format. Would it therefore mean that when educators speak about the program the discussion must be documented on each family's comments?</p> <ul style="list-style-type: none"> NB This descriptor could be combined with the above suggested descriptor: (All daily experiences are inclusive of each child where educators encourage children and families to participate in collaborative learning, and be informed about the program and progress.)
1.C.ii	1.2.3	Critical Reflection	Critical reflection on children's learning and development, both as individuals and in groups, drives program planning and implementation.	<ul style="list-style-type: none"> no change <i>Paperwork /documentation are considerable.</i> NB Reflections are mentioned within the aforementioned descriptor of combining 1B-1C: (All educators are mindful of children's learning and actively facilitate and record learning and development experiences which includes questioning, planning, acting and reflecting.)
QA 2 Children's health and safety				
2.A	2.1, 2.2,	Health	Each child's health and physical	combined

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
	2.1.1		development is monitored, supported and promoted.	
2.A.i	2.1.2	Wellbeing and comfort	Each child's wellbeing and comfort is provided for, including appropriate opportunities to meet each child's need for sleep, rest and relaxation	no change
2.A.ii	2.1.4, 2.1.3	Health Practices and procedures	Effective illness and injury management and hygiene practices are promoted and implemented	<ul style="list-style-type: none"> • Combined and reworded - no mention of "spread of infectious disease or management of health practices • Suggestion: in accordance with current recognised authorities and legislative requirements. • <i>The Authorised Officer may need to see a lot more than this indicates. Recognised Guidelines are not mentioned and it is vital that educators remain diligent in following the advice of recognised authorities. Information provided in the guide would need to incorporate clearer instructions.</i> • <i>Services that have operated under the NCAC and current NQS but we have concern for new services and new educators who do not have the previous knowledge and understanding of best</i>

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
				<i>practice requirements.</i>
2.A.iii	2.2.1, 2.2.2	Healthy lifestyle	Healthy eating and physical activity are promoted and appropriate for each child.	<ul style="list-style-type: none"> “removed -embedded in the program” no mention of nutrition” <i>What will the Authorised Officer need to see? Healthy eating and physical activity cover an extremely wide range of requirements. By removing “embedded in the program” does this mean that documentation required will be of lesser significance and that assessment will be mainly visual?</i>
2B	2.3	Safety	Each child is protected	no change
2B.i	2.3.1, 2.3.2	Supervision	At all times reasonable precaution and adequate supervision ensures children are protected from harm and hazard	<ul style="list-style-type: none"> Combined <i>Despite the word “adequate” being used in the current system it appears to undervalue the importance of supervision by considering it “passable”. Supervision is vital and the adjective should be strengthened.</i>
2.B.ii	2.3.3	Incident and emergency management	Plans to effectively manage incidents and emergencies are developed in consultation with relevant authorities, practised and implemented	no change
2.B.iii	2.3.4	Child	Management, educators and staff are	<ul style="list-style-type: none"> “management” added

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
		Protection	aware of their roles and responsibilities and respond to every child at risk of abuse or neglect.	<ul style="list-style-type: none"> <i>To whom does “Management” refer? Does this include an Approved Provider who engages a Management Company, the Management Company or is it limited to the hands on operators only?</i> Suggestion: All stakeholders are aware of their roles and responsibilities and respond to every child at risk of abuse or neglect.
QA 3 Physical environment				
3.A.i	3.1.1, 3.1.3	Fit for purpose	Outdoor and indoor spaces, buildings, fixtures and fittings are suitable for their purpose, including supporting the access of every child.	<ul style="list-style-type: none"> Combined, reworded with location removed <i>Is the removal of the word “location” going to make it easier for services to be built on sites that are not appropriate – maybe up to local government when giving approval? “Supporting the access of every child” In older buildings this can be extremely difficult and costly particularly if the child is requiring short term attendance and considerable renovation work would be required.</i>
3.A.ii	3.1.2	Upkeep	Premises, furniture and equipment are safe, clean and well maintained.	no change

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
3.B	3.2, 3.3	Use	The service environment is inclusive, promotes competence and supports exploration and play-based learning.	similar reworded
3.B.i	3.2.1, 3.1.3	Inclusive environment	Outdoor and indoor spaces are organised and adapted to support each child's participation and to engage every child in quality experiences in both built and natural environments.	combined and reworded
3.B.ii	3.2.2	Resources support play-based learning	Resources, materials and equipment allow for multiple uses, are sufficient in number, and enable every child to engage in play based learning.	similar – reworded
3.B.iii	3.3.2, 3.3.1, 3.3	Environment ally responsible	The service takes an active role in caring for the environment and supports children to become environmentally responsible.	<ul style="list-style-type: none"> all combined and reworded <i>“embedded in service operations” removed which is a positive as this has increased the need for intense recording of supporting activities particular in babies areas where dependant on the age of the babies, there can be very little time to show comparable involvement as in the older age groups.</i>
QA4 Staffing arrangements				
4A	4.1	Staffing arrangement	Staffing arrangements enhance children's learning and development.	<ul style="list-style-type: none"> removed – “and ensure their safety and wellbeing”

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
		s		<ul style="list-style-type: none"> How? What will be the proof?
4.A.i	4.1.1 (this has replaced)	Effective deployment of educators	Educators are deployed across the service to support children's learning and development.	<ul style="list-style-type: none"> Educator-to-child ratios and qualification requirements are maintained at all times. A clear understanding is needed as to the intent of this descriptor and what evidence will be required for A & R to prove "deployment".
4.A.ii	7.1.3	Continuity of staff	Every effort is made for children to experience continuity of educators at the service.	<ul style="list-style-type: none"> no change other than moved from Management to Staffing Could this be included with 4.A.i or vice versa? This can be seen clearly by roster however when educators leave a service can this be seen as a break in continuity. Measuring the words "every effort" is subjective.
4.B	4.2	Professional collaboration	Management, educators and staff are collaborative, respectful and ethical.	<ul style="list-style-type: none"> "Management" added Define "Management" – see 2Biii above Suggestion: Possibly use the term 'stakeholders'?
4.B.i	4.2.2, 4.2.1	Staff collaboration	Management, educators and staff work collaboratively and interactions convey mutual respect, equity and recognition of each other's strengths and skills.	<ul style="list-style-type: none"> Management added and reworded Define "Management" – see 2Biii above
4.B.ii	4.2.1	Professional	Professional standards guide practice,	<ul style="list-style-type: none"> No change

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
		standards	interactions and relationships.	<ul style="list-style-type: none"> 4.2.3 included in both above
QA 5 Relationships with children				
5.A	5.1	Relationship between educators and children	Respectful and equitable relationships are developed with each child.	"and maintained" removed
5.A.i	5.1.1, 1.2.2, 5.1.2,5.1.3	Positive educator to child interactions	Responsive and meaningful interactions build trusting relationships which engage and support every child to feel secure, confident and included.	<ul style="list-style-type: none"> Combined and reworded – "learning" removed. Can't relate to 1.2.2 being included <i>This is a relatively meaningless descriptor difficult to measure solely on the day of assessment as it would be totally up to the Authorised Officer to make the decision based on their own judgment as to whether children "felt" secure, confident and included or not. If children were obviously distressed the "not meeting" call could be made but how can one measure if children are adequately or exceedingly "feeling" secure, confident and included?</i> Suggestion: All educators create an engaging environment that supports children and educators responsive

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
				interactions where the dignity and rights of each child is promoted. (NB This descriptor could combine descriptors 5.A.i; 5.A.ii; 5B)
5.A.ii	5.2.3	Dignity and rights of the child	Educators promote the dignity and rights of each child.	reworded – “maintained” to “promote” which is more appropriate
5.B	5.2	Relationships between children	Each child is supported to build and maintain sensitive and responsive relationships	<ul style="list-style-type: none"> removed “with other children and adults” Suggestion: Each child is supported to build and maintain sensitive and responsive relationships which includes developmentally appropriate regulation of their own behaviours and communications. (NB This descriptor could incorporate 5.B; 5.B.i; 5.B.ii)
5.B.i	4.2.1	Collaborative learning	Children are supported to collaborate, learn from and help each other.	can’t relate this to 4.2.1
5.B.ii	5.2.2	Self-regulation	Each child is supported to regulate their own behaviour, respond appropriately to the behaviour of others and communicate effectively to resolve conflicts.	No change other than “manage” to “regulate” which is an improvement
QA 6 Collaborative partnerships with families and communities				

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
6.A	6.1, 6.2	Supportive relationships with families	Respectful relationships with families are developed and maintained and families are supported in their parenting role.	Combined and reworded
6.A.i	6.1.1, 6.1.2 -	Engagement with the service	Families are supported from enrolment to be involved in the service and contribute to service decisions.	combined
6.A.ii	6.2.1, 6.2	Parent views are respected	The expertise, values and beliefs of families are respected and families share in decision-making about their child's learning and well-being.	Combined and reworded
6.A.iii	6.2.2, 6.3.1	Families are supported	Current information is available to families about the service and relevant community services and resources to support parenting and family wellbeing.	Combined and reworded
6.B	6.3, 6.3.3	Collaborative partnerships	Collaborative partnerships enhance children's inclusion, learning and well-being.	Combined and reworded
6.B.i	6.3.2	Transitions	Continuity of learning and transitions for each child are supported by sharing information and clarifying responsibilities.	no change
6.B.ii	6.3.3	Access and participation	Effective partnerships support children's access and participation in the program.	<ul style="list-style-type: none"> • reworded – removed “inclusion support”. • <i>This no doubt requires “inclusion support” partnerships and by removing those words it can broaden the scope but again, the</i>

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
				<i>intent could be missed by new services and new educators. Guide would need to address.</i>
6.B.iii	6.3.4	Community engagement	The service builds relationships and engages with its community.	<ul style="list-style-type: none"> removed “local” community. <i>Significant expectations including additional costs and valuable time expended have been placed on services by Authorised Officers for a positive A & R result on this element under the current system. Funds and time would have produced better outcomes if spent on and with the children</i>
QA7 Leadership and governance				
7.A	7.1.1, 7.2 , 7.3	Good governance	Appropriate governance and risk management support quality outcomes for each child.	7.2. There is a commitment to continuous improvement. See 7A.ii below
7.A.i	7.2.1	Service philosophy and purpose	A statement of philosophy is developed and guides all aspects of the service’s operations.	<ul style="list-style-type: none"> no change
7.A.ii	7.3.1,2,4,5 ; 7.1.5	Decision making and systems	Decision making and systems enable the effective management and operation of a quality service.	<ul style="list-style-type: none"> This appears to be minimalistic compared to the current NQS Whilst most of the previous elements may

<i>Proposed</i>	<i>Current</i>	<i>Concept</i>	<i>Descriptor</i>	<i>Comments</i>
				have been covered by the Law/Regs, this would be left to the judgment of an Authorised Officer as to what is “effective” management. This is extremely wide-ranging and may not have the desired impact of increasing quality.
7.A.iii	7.2.3;7.2	Continuous improvement	There is an effective self-assessment and quality improvement process in place to support continuous improvement.	Combined and reworded
7.B	7.1	Positive organisational culture	Effective leadership promotes a positive organisational culture and builds a professional learning community.	no change
7.B.i	7.1.2	Clear responsibilities	Management, educators and staff have clearly defined responsibilities and are inducted into those roles.	<ul style="list-style-type: none"> • Reworded • <i>Define Management</i>
7.B.ii	7.1.4	Educational leader	The educational leader is supported to establish clear goals for teaching and learning, guide the development of the educational program and assessment and planning cycle, and facilitate critical reflection.	reworded and extended
7.B.iii	7.2.2	Performance development	Performance is regularly evaluated and individual development plans support performance improvement.	reworded

SUMMARY OF THE PROPOSED CHANGES

Taking into consideration the intent of ACECQA to reduce the red tape burden and streamline the current NQS, ACA is disappointed that the above changes are simply rolling together and rewording many of the elements. In our opinion it is not reducing the workload for educators. We do not see this as a notable or triumphant document that will make a difference in the day to day recording and quality outcomes for children. Educators may in fact miss many of the important issues as they address the abbreviated proposed “concepts” and “descriptors”. ACA believes that to ensure the desired outcomes of streamlining the current NQS additional investment must be expended by ACECQA on training Authorised Officers across every region to ensure that they the bar of quality measurement does not continue to rise and that there is consistency in assessment and rating.

Appendix 2

A&R Proposed Model Add value to the Quality Improvement Plan (QIP)		
Issue	Suggested Solution	Benefits
<p>The QIP is a valuable, comprehensive and rich document which is assessed and monitored solely by compliance.</p>	<p>Our proposal is to include the assessment and rating tool in the process of self- assessment as this document is a requirement under the National Law. The current QIP tool provides no scope for services to rate themselves against the NQS in terms of the 3 possible levels – working towards, meeting or exceeding.</p> <p>Under our proposal, services would be asked to rate themselves and accordingly provide substantiation as to why they have assessed the service at a particular level.</p> <p>This then forms the basis for discussion between the assessor and the service. After this professional dialogue, reflection and the assessors visit, an interim overall rating is then assigned at the time.</p>	<p>This process would better engage services with the standards holistically, taking into account that there are different rating levels awarded to each standard as well as overall.</p> <p>The capacity of the service to fully engage with the standard would be improved as a result of this process.</p> <p>The service's rating would reveal to Authorised Officers how services have assessed themselves including how they define and describe their own quality practice within the local context.</p> <p>Authorised Officers would be able to take a more informed approach to the process and this would in turn alleviate pressure on assessors to effectively gather all of the data required in order to make an effective decision during the visit which would require a shorter time span.</p> <p>This process empowers services to attain high standards in diverse ways. It creates a cycle of continuous reflection, collaboration and growth and empowers the ECEC services to take ownership to achieve self actualisation.</p> <p>This proposal shifts the thinking from one of subjectivity and compliance to one of ownership, partnership and enabling showcasing of the innovation of which services are capable within their context.</p> <p>The process would help to build relationships and trust between services and assessors by being more transparent and collaborative.</p>

Independent 'expert' moderation		
Issue	Suggested Solution	Benefits
There is a potential for differences in the rating that services allocate to themselves as opposed to the rating that may be awarded by the Authorised Officer.	<p>Scenario</p> <p>The service rate themselves as exceeding in the area of programming. They substantiate their rating with evidence they believe put them in that category.</p> <p>The Assessor after examining the evidence and professional dialogue with the service believes the service is at 'meeting'. They substantiate their reasons for this decision.</p> <p>In doing so the Assessor provides the service with a clear understanding of pathways to attain the level to which they are aspiring.</p> <p>Independent moderation when there is a clear difference of opinion between the services rating and assessor's rating would occur.</p> <p>Review training to build assessor skills to competently manage professional discussion when dealing with differences</p>	<p>This will add greater depth to the assessment process.</p> <p>A time-efficient, less costly, streamlined process would be realised.</p> <p>Fewer appeals would occur as only circumstances where there is a clear difference between the service's rating and the Authorised Officer's perspectives should moderation be necessary.</p> <p>Guidance points on QIP to improve quality could be enhanced by moderation.</p>

Interpretation in different context and different regions		
Issue	Suggested Solution	Benefits
There is significant inconsistency in the approach taken by Authorised Officer's as they assess and rate services. This is evident across different care types and different jurisdictions as well as within the same care types and same jurisdictions.	<p>Undertake a review of the training to build the competency of Authorised Officers.</p> <p>Commit to a requirement for Authorised Officer's to effectively demonstrate underpinning knowledge across the different service types as well as relevant qualifications.</p> <p>Invest in independent 'expert peer' moderation to assess the ongoing competency of Authorised Officers as they undertake assessment and rating processes.</p>	<p>There is great potential to streamline the assessment process when Authorised Officers are competent, consistent and knowledgeable. This will create time efficiencies and enable Authorised Officers to assess more services.</p> <p>Fewer appeals are likely to occur when the Authorised Officer has a deep understanding and experience. At present we believe that all services regardless of size, structure, children attending and number of educators are being treated as one. It is much easier for a service with two rooms and 5 educators to reach exceeding than it is for a service with several rooms and 20+ educators. OSH services are also required to fit the same mold with a more casualised workforce and children in attendance for considerably less hours per day. This proposed system would enable the different service models to self-assess and rate themselves within the context of their model e.g. there is a vast difference between all models and one size does not fit all. Achieving rating levels will look very different in each model. For example, the perception of the current system is that benchmarks may be set from an assessor's observation in a sessional preschool which they then expect other sectors to replicate. Size of the service, number of educators, work load , hours the children attend the service and the number and age of children in a group for recoding learning outcomes, babies etc. must be taken into consideration during assessment.</p>

Redeployment of resources		
Issue	Suggested Solution	Benefits
There are significant financial resources invested in the system by both government and service providers. These resources are not being used effectively and efficiently to drive quality.	Review the allocation of resources alongside the streamlining of processes. Invest financially in pre-assessment support and align other financial investment to services towards achieving goals identified in the QIP. Explore administrative implications and costs within the current funding models.	<p>Building service capacity to meet the standards independently will enable better outcomes for children and families in a timelier manner and alleviate some of the pressure currently associated with the assessment and rating process.</p> <p>e.g. at the moment assessments are subjective: Evidence assessors don't see on the days of the visit is reflecting in lower ratings The bar is moving upwards as assessors gain more evidence of what can be done in a service and the evidence that some assessors are requiring is not reflective of the element</p>

PROPOSED ASSESSMENT AND RATING FLOW CHART

6 week cycle Assessor time line
8 week cycle service time line

