



21 May 2018

Megan Mitchell  
National Children's Commissioner

By email: [kids@humanrights.gov.au](mailto:kids@humanrights.gov.au)

**Submission to National Children's Commissioner – Consultation on Australia's progress in implementing the United Nations Convention on the Rights of the Child**

Dear Ms Mitchell

Thank you for the invitation and opportunity to provide input to the consultation on the progress that Australia has made in terms of implementing the United Nations Convention on the Rights of the Child. Our submission specifically addresses the main areas of concern and recommendations outlined in the [2012 Concluding Observations](#) by the UN Committee on the Rights of the Child in relation to early childhood education and care, and in particular the following two issues:

- The Committee is further concerned that the large proportion of providers of such services being private has limited the applicability and compliance with the National Quality Framework for Early Childhood Education and Care (Paragraph 76)
- The Committee recommends that the State party further improve the quality and coverage of its early childhood care and education, including by: Ensure that adherence, by all providers of early childhood care and education, to the National Quality Framework for Early Childhood Education and Care (Paragraph 77(c)).

**The National Quality Framework**

The National Quality Framework (NQF) was introduced from 1 January 2012 and is the national system for regulating education and care services, setting standards for market entry, children's safety and wellbeing, and service quality.

More than 15,000 services across Australia are within scope of the NQF, including more than 7,000 long day care services, nearly 4,500 outside school hours care services, more than 3,000 preschools/kindergartens, and around 800 family day care services. There are some 7,500 service providers licensed to operate one or more services, of varying management types, with most providers (around 80%) operating just one service.

All approved services under the NQF are required to comply with the requirements of the NQF, including the *Education and Care Services National Law* (the National Law) and the *Education and Care Services National Regulations* (the National Regulations).

The NQF is jointly governed by the Australian Government and all state and territory governments as a means of:

- ensuring the safety, health and wellbeing of children attending these services,
- delivering educational and developmental gains for these children, and
- realising the efficiency benefits and cost effectiveness of a unified national regulatory scheme.

The Australian Children's Education and Care Quality Authority (ACECQA) is the independent national authority established under the National Law to guide the implementation and administration of the NQF. The state and territory governments fulfil the role of the 'regulatory authority' under the National Law, with responsibilities that include licensing, service quality rating, and enforcement of legislated standards and regulations.

### **2012 Concluding Observations – Early childhood education and care**

In its capacity as the national authority supporting the implementation and administration of the NQF, ACECQA is well-placed to comment on the concerns and recommendations outlined in the 2012 Concluding Observations in relation to early childhood education and care, and particularly those outlined in paragraphs 76 and 77(c).

All approved services under the NQF are required to comply with the requirements of the NQF and are assessed and rated by their state and territory regulatory authority against the seven quality areas of the National Quality Standard (NQS). These are: 1) Educational program and practice; 2) Children's health and safety; 3) Physical environment; 4) Staffing arrangements; 5) Relationships with children; 6) Collaborative partnerships with families and communities and 7) Governance and Leadership. Services are given a rating for each of the seven quality areas and an overall rating based on these results.

ACECQA produces a range of reports about the NQF to fulfil its monitoring and evaluation role, including an [Annual Report](#), the [NPA Annual Performance Report](#) and quarterly [NQF Snapshots](#). The NQF Snapshot reports on a range of aspects of the NQF including the profile of the sector, progress of assessment and rating, quality improvement, and quality ratings of education and care services. These reports note the NQF covers all service types, regardless of their provider management type. Quality assurance measures have been applied and reported equally and transparently since the NQF started in 2012.

The latest [NQF Snapshot](#) (Quarter 1, 2018) shows that 93% of services (or 14,691 services) have a quality rating against the NQS, and that 77% of services (or 11,321 services) have a quality rating of Meeting NQS or above.

The Snapshot also provides a breakdown of approved services under the NQF according to provider management type, as well as overall quality ratings by provider management type. About half of the approved services under the NQF are managed by 'private for profit' providers (47%), with the remainder being managed by a range of other provider types, including 'private not-for-profit' (36%), 'state/territory and local government managed' (8%) and the school sector (including 'state/territory government schools', 'independent schools' and 'Catholic schools') (9%).

'Private for profit' providers operate three quarters of approved family day care services, almost two thirds of approved long day care services and almost half of approved outside school hours care services. Half of approved preschools/kindergartens<sup>1</sup> are operated by 'private not for profit community managed' providers, with approaching a quarter being 'state/serritory and local government managed'.

ACECQA also reports on quality ratings by provider management type. The perception that 'Private for profit' services are lower quality than services in other sectors is not entirely accurate, as evidenced in the latest NQF Snapshot which shows the variation in the spread of quality ratings between provider management types. It shows 'Catholic schools', 'private for profit' and 'state/territory government schools' have the highest proportions of services rated Working Towards NQS, and 'state/territory and local government managed', 'private not for profit community managed' and 'private not for profit other organisations' have the lowest proportions of services rated Working Towards NQS.

In addition, a core objective of the NQF is continuous quality improvement. All approved services are required to develop a Quality Improvement Plan (QIP) which is informed by self-assessment against the NQS and regulatory requirements. Over time, the proportion of services meeting or exceeding the NQS has increased, and the latest NQF Snapshot shows that 67% of education and care services previously rated Working Towards NQS have improved their overall quality rating at reassessment. This suggests that the NQF is realising a number of its intended benefits, including continuous quality improvement in service provision and efficiencies in regulation.

### **Reviews and changes to the NQF**

Results from surveys of providers of education and care services have shown there is continual strong support for the NQF, with overall support consistently above 95% since 2013.<sup>2</sup>

Governments and ACECQA regularly collaborate to review and analyse the performance of the NQF, and continue to undertake activities to promote efficiency and cost effectiveness.

A major review of the National Quality Agenda commenced in 2014, with recommendations for changes agreed by the COAG Education Council for implementation in October 2017 and February 2018. The final Decision Regulatory Impact Statement<sup>3</sup> agreed by Ministers explored 52 substantive proposals in detail. The changes to the NQF implemented as a result of the review maintain quality

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<sup>1</sup> Preschools in Tasmania, and most preschools in Western Australia, are outside the scope of the NQF, as are some other types of services nationally, such as occasional care services and Budget Based Funded services.

<sup>2</sup> ACECQA (2018), [National Partnership Annual Performance Report 2017](#).

<sup>3</sup> Council of Australian Governments (2017), [Decision Regulation Impact Statement for changes to the National Quality Framework](#).

outcomes for children while balancing the need to reduce red tape and unnecessary administrative burden for approved providers and educators.

ACECQA and peak bodies in the early childhood education and care sector also regularly consider and reflect on the UN Convention on the Rights of the Child. For example, articles such as '[Children's rights – are they respected?](#)' in ACECQA Newsletter Issue 7 2016 highlight the alignment between the NQF and the Convention, and pose considerations for services to ensure their education and care programs are rights based, such as the importance of play and agency of the child.

### **Conclusion**

If you would like to discuss our responses to the consultation, or would like further information, please contact [Michael Petrie](#), General Manager Strategy, Communications and Consistency, on [02 8240 4230](#).

Yours sincerely



Gabrielle Sinclair  
**Chief Executive Officer**