

# EDUCATION AND CARE SERVICES NATIONAL LAW (QUEENSLAND) BILL 2011

## DET RESPONSES TO SUBMISSIONS RECEIVED

Issue	DET position
<b>1. Creche and Kindergarten Association (C&amp;K)</b> (representing not-for-profit, community kindergartens)	
<ul style="list-style-type: none"> <li>Community kindergartens are not specifically mentioned in the document and should be, as a distinct education model.</li> </ul>	<p>The definition of an 'education and care service' in the national legislation is broad, simply referring to any service providing, or intending to provide, education and care on a regular basis to children under 13 years of age, other than specified services that are excluded from the definition.</p> <p>It is not necessary for the national legislation to distinguish between service types, other than whether they are centre based or family day care.</p> <p>This approach is similar to Queensland's current <i>Child Care Act 2002</i> (CCA), which refers to "centre-based services" and does not include specific provision for "kindergarten" services.</p> <p>Department of Education and Training's communications materials use "kindergarten" terminology extensively to translate the legislation for those services and families.</p>
<ul style="list-style-type: none"> <li>Use of the term 'supervisor' is a misnomer in educational contexts such as kindergartens, or other settings that employ university qualified teachers. If the term cannot be removed (eg and replaced with 'teacher') then a 'supervisor' should be required to have appropriate qualifications above those being supervised.</li> </ul>	<p>The term 'supervisor' refers to the supervisor of the service, not necessarily of other staff. A person employed as a "teacher" could hold the position of 'supervisor' in a service. The national legislation does not prevent this. Similarly, the CCA currently requires services to employ a 'qualified director', and in many services a teacher is employed in this role.</p> <p>The eligibility requirements for the 'supervisor' role are intended to recognise different types of experience and qualifications as being suitable for the role of certified supervisor.</p>
<ul style="list-style-type: none"> <li>The Voluntary Parent Management Committee (VPMC) model is flawed and will face particular difficulties under the National Quality Framework, due to its compliance regime.</li> <li>Services that are operated by volunteer parent management committees should be strongly encouraged to join a professional, not-for-profit organisation (<i>such as C&amp;K</i>).</li> <li>Alternatively, professional, not-for-profit organisations (<i>such as C&amp;K</i>) should manage (<i>and be funded to manage</i>) the operations of a group of services in a specified geographic location.</li> <li>At the very least management committee members should be required to undertake approved training annually in governance of non-profit associations.</li> </ul>	<p>Community organisations, managed by voluntary management committees, have and continue to play an important role in the provision of early childhood education and care. A key strength of these organisations is their community connection and understanding of community needs; collaborative partnerships with families are fundamental to achieve quality outcomes for children and community partnerships that focus on active communication, consultation and collaboration also contribute to children's learning and wellbeing.</p> <p>An organisation may choose to engage a management body to undertake various aspects of managing a service.</p> <p>Under its <i>Early Childhood Education and Care (ECEC) Workforce Action Plan</i>, the Queensland</p>

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	<p>Government has allocated funding to supporting the sector in upskilling to meet the changes posed by the NQF. This includes the negotiation of approx. \$400k in support services for those ECEC services not currently supported by the Australian Government training and support initiatives for approved services (i.e. kindergartens and limited hours care).</p> <p>In order to receive Queensland Government funding that supports the delivery of kindergarten programs, approved kindergarten services are required to be a member of a Central Governing Body (CGB).</p> <p>Approved CGBs have a range of responsibilities including supporting their members to provide a quality and inclusive kindergarten program. The Queensland Government provides funding to these organisations to support the delivery of kindergarten.</p> <p>Obligations and responsibilities for management committee members of incorporated associations are outlined under separate legislation (the <i>Associations Incorporation Act 1981</i> and <i>Associations Incorporation Regulation 1999</i>).</p>
<b><u>2. Independent Education Union of Australia – Queensland and Northern Territory Branch</u></b> (representing teachers in non-government schools, including kindergartens and preschools)	
<ul style="list-style-type: none"> <li>Concerned about the National Regulations, which establish regulatory offences including penalties to be borne by 'supervisors'. This is inappropriate – penalties should be borne by proprietors. <i>(NB the Regulations will be subordinate to this Bill, and are not addressed in the Explanatory Notes. They are still in draft form, with consultation occurring nationally).</i></li> </ul>	<p>The National Regulations have been revised in response to stakeholder feedback received on this issue and the latest version has reduced the number of offences which would apply to Nominated Supervisors.</p> <p>Note that these concerns are not directly relevant to the Bill.</p>

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<ul style="list-style-type: none"> <li>Endorses higher staff to child ratios, but concerned about the capacity of the sector to attract sufficient qualified staff.</li> </ul>	<p>The Queensland Government realises the challenges in meeting the 2014 early childhood teacher requirement for all long day care and kindergarten services. This is why it announced the \$76M ECEC Workforce Action Plan 2011-14 in July 2011, which includes numerous initiatives specifically targeted at helping meet the current and future demand for early childhood teachers. The key initiatives include:</p> <ul style="list-style-type: none"> <li>Up to \$2.5M for a maximum of 200 eligible three-year trained university qualified educators to become qualified early childhood teachers</li> <li>Up to \$1.2M to support eligible educators with an advanced diploma to upskill to meet teacher registration requirements</li> <li>Up to \$1.2M in financial incentives to encourage qualified teachers to relocate to work in rural and remote kindergarten or long day care services delivering an approved kindergarten program.</li> <li>In conjunction with significant investment via the TAFE Fee Waiver initiative for Diploma level qualifications, \$300k to enable registered primary teachers to upskill to become qualified early childhood teachers</li> <li>Up to \$100k to provide financial incentives for pre-service teachers to undertake practicum in rural and remote services.</li> <li>Approximately \$650k to provide professional and leadership development to educators, like early childhood teachers, across a range of service types (inc. kindergarten).</li> </ul> <p>Lastly, it is important to note that the ability of the sector to meet the workforce changes presented in the NQF will be re-assessed nationally in 2013.</p>
<ul style="list-style-type: none"> <li>Existing experienced, qualified and registered teachers should be able to continue their work in the sector even if they do not have specialist early childhood training.</li> </ul>	<p>Transitional provisions in the National Regulations will recognise particular people who have a long history of working in the sector, even if they do not have the designated level education and care qualification.</p> <p>The functions of the national authority, the Australian Children's Education and Care Quality Authority (ACECQA) will include publication and determination of approved qualifications and assessment of qualifications to determine equivalency, including Early Childhood teacher qualifications.</p>

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<b><u>3. Commission for Children and Young People and Child Guardian</u></b>	
<ul style="list-style-type: none"> <li>Supports Bill, including the provisions to ensure blue card screening remains consistent with existing provisions following transition to the new national law. CCYCG has worked with DET to ensure changes do not diminish integrity of blue card system.</li> </ul>	<p><b>No comment required.</b></p>
<b><u>4. Queensland Council of Parents and Citizens' Associations</u></b>	
<ul style="list-style-type: none"> <li>Concerned that many P&amp;Cs currently at a high standard will fall back to a lower rating with introduction of the new quality rating system. It will be near impossible for P&amp;Cs (who often operate out of school hours care (OSHC) services) to attain high rankings with the proposed measures, given they are volunteer-run. <i>(NB similar to the C&amp;K issue).</i></li> </ul>	<p>The National Quality Framework does raise the standard for services when compared to the previous Accreditation system.</p> <p>However, assessment of services will focus on outcomes for children rather than specifying inputs. Under this approach, it is not envisaged that services operated by large commercial organisations will have an advantage over smaller community-based services. In fact, as noted in the response to C&amp;K above, a key aspect of quality is that the service delivery meets the needs of the community and a P&amp;C would be well placed to understand the needs of the families, the school community and the general community.</p>

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<ul style="list-style-type: none"> <li>Measures will be needed to ensure qualified teachers are available in remote areas – imperative in the context of a policy of universal access to kindergarten.</li> </ul>	<p>As stated above, the Queensland Government's ECEC Workforce Action Plan 2011-14 provides a range of initiatives specifically aimed at attracting qualified early childhood teachers to rural and remote services, for both the purposes of the NQF and also in meeting the universal access to kindergarten commitment. These include:</p> <ul style="list-style-type: none"> <li>Up to \$1.2M in financial incentives to encourage qualified teachers to relocate to work in rural and remote kindergarten or long day care services delivering an approved kindergarten program.</li> <li>Up to \$100k to provide financial incentives for pre-service teachers to undertake practicum in rural and remote services.</li> </ul> <p>Applicants from rural and remote services are prioritised for the early childhood teacher and advanced diploma teacher scholarships programs.</p> <p>If a rural and remote kindergarten or long day care service is unable to employ a qualified early childhood teacher, they may apply to the Department to seek a temporary waiver of this requirement under the National Law.</p> <p>It is important to note that the ability of the sector to meet the workforce changes presented in the NQF will be re-assessed nationally in 2013.</p>
<ul style="list-style-type: none"> <li>Will the url data disclosure around disability be used to inform financial assistance to early childhood education services?</li> </ul>	<p>Unit Record Level (URL) data includes information about a child enrolled at a relevant service in an approved kindergarten program, including whether the child has a disability or a long term medical condition.</p> <p>This information is currently collected under the CCA and the provisions have been included in the Bill to ensure that it can continue to be collected for relevant services that will be covered by the National Law.</p> <p>The URL data may be used for quality assuring funding provided to relevant services for approved kindergarten programs; planning for, monitoring of outcomes of, and reporting on, early childhood initiatives; and disclosing the data to the Australian Bureau of Statistics of the Australian Institute of Health and Welfare in accordance with the National Information Agreement on Early Childhood Education and Care.</p>
<ul style="list-style-type: none"> <li>P&amp;Cs may incur costs in the early stages of implementation, that will be lost if a teacher moves. While a short term issue, it is still an issue.</li> </ul>	<p>P&amp;Cs currently only provide outside school hours care (OSHC) services, which are not required to have a teacher. There are no changes to the educator to child ratios or qualifications requirements for OSHC services at this stage.</p>

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<b><u>5. The Glennie School</u></b>	
<ul style="list-style-type: none"> <li>Having the same processes for kindergarten as OSHC will be advantageous for schools which have both.</li> </ul>	<b>No comment required.</b>
<ul style="list-style-type: none"> <li>Supports the quality assessment and rating system; though cautions that the fees for assessment and <i>application for excellent rating</i> need to be reasonable to ensure no disadvantage for smaller, community based services and to encourage centres to work towards excellence.</li> </ul>	<p>No fees will be payable for an assessment of a service, other than if the provider seeks a re-assessment, or applies to ACECQA for assessment at the highest level. Instead, each service pays an annual administrative fee regardless of when their next assessment is scheduled.</p> <p>Under the Education and Care Services National Law Act 2010, ACECQA is responsible for assessing applications for the 'Excellent' rating. It is anticipated that very few services will meet the criteria for an excellent rating ie "a service demonstrates excellent practice and sector leadership". The fee is payable to ACECQA in recognition of the cost of undertaking the assessment, without being prohibitive for services.</p> <p>ACECQA will have the power to waive or reduce fees payable to it in exceptional circumstances.</p>
<ul style="list-style-type: none"> <li>Supports the new qualification and ratio requirements. Those working in centres should be fully qualified, not working towards qualification.</li> </ul>	<p>The provision for an educator to be counted as having a qualification provided they are working towards that qualification is consistent with the current requirements under the Child Care Act. Furthermore, the National Law provides time for educators and service providers to adjust by introducing the new qualification requirements gradually.</p>
<ul style="list-style-type: none"> <li>The idea of employment status (eg supervisor, educational leader, etc) remaining with the worker, not the centre, is attractive.</li> </ul>	<b>No comment required.</b>
<ul style="list-style-type: none"> <li>The implementation timeframe for the National Framework is concerning. The new Framework has not been finalised – due for release mid-October and implementation from 1 January 2012. Funding will be required for professional training, and time allocated for staff to understand the requirements in a short period.</li> </ul>	<p>While services will be required to meet certain requirements under the National Law from 1 January 2012, many aspects of the National Quality Framework will be implemented gradually.</p> <p>To give services time to become familiar with the National Quality Standards under the National Quality Framework, the commencement of quality assessment and rating of existing services has been delayed until June 2012.</p> <p>The Department will continue to work with services to ensure that they are meeting the minimum requirements and are focussed on areas for improvement.</p>

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<ul style="list-style-type: none"> <li>Several concerns noted with the draft National Regulations: children being able to leave the service with parental permission or with older siblings; need for clarification of 'regular' policy reviews; transitional arrangements need to be clarified.</li> </ul>	<p>Feedback received from stakeholders in relation to the draft National Regulations released in March 2011 has resulted in some changes. For instance, the National Regulations will not specifically refer to children leaving a service with older siblings. The National Regulations will require that children may only leave the service's premises if they are given into the care of their parents, or someone authorised by the parents, or if they leave in accordance with written authorisation from the parents.</p>
<ul style="list-style-type: none"> <li>Rather than commencing at a base level, previous National Childcare Accreditation Council (NCAC) ratings should be published along with the proposed nil rating and 'yet to be assessed' statement.</li> </ul>	<p>At the commencement of the National Law, services transitioning into the system will be required to publish their NCAC accreditation (where they have one) together with their provisional assessment, until such time as they are first assessed and rated under the National Law.</p>

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<b>6. Child Care Queensland</b> (representing private child care service operators)	
<p><b><i>Affordability for families</i></b></p> <ul style="list-style-type: none"> <li>The reforms will result in increased child care costs.</li> </ul>	<p>The Queensland Government is working hard to ensure the NQF strikes the right balance of enhanced service provision at an affordable price for parents.</p> <p>Although the National Quality Framework (NQF) will be implemented from 1 January 2012, these reforms will not have any impact on child care fees until 2014 when the first substantial change for Queensland services comes into effect. From 2014, long day care services will be required to engage an early childhood teacher and family day care educators will require a minimum Certificate III qualification.</p> <p>Queensland's roll out of universal access to kindergarten will offset some of the impact of having to employ a teacher for those services eligible for funding under the Queensland Kindergarten Funding Scheme (QKFS).</p> <p>To balance quality and affordability for Queensland families, Queensland has negotiated key concessions in the draft National Regulation such as:</p> <ul style="list-style-type: none"> <li>○ Delayed implementation of the improved educator-to-child ratios from 2016;</li> <li>○ A special transitional arrangement for services licensed before 1 January 2011 that can justify the use of a 1:5 ratio for children aged 15-24 months, able to continue to use that ratio until 31 December 2017;</li> <li>○ Transitional provisions to continue current practices to allow fewer educators to care for children during specified rest periods and rest pauses under certain circumstances; and</li> <li>○ Allowing a Diploma qualified educator to backfill an early childhood teacher during short term absences (including annual leave).</li> </ul>



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<ul style="list-style-type: none"> <li>The flow on effects of <i>cost increases</i> will be that parents will leave the workforce, with consequent broader economic effects, or be forced into lower quality ('backyard') child care arrangements.</li> </ul>	<p>The Productivity Commission in its draft report on the early childhood workforce<sup>1</sup> does not include substantial analysis of the impact of fee increases on workforce participation and in fact concludes that the exact effects are difficult to quantify. The report also states that "most studies suggest that demand for ECEC is relatively unresponsive to changes in fees".</p> <p>Importantly, the report indicates that in addition to cost, parents will also consider the educational benefits to their child in determining whether to send their children to early childhood services.</p>
<ul style="list-style-type: none"> <li>Children using services irrespective of parental employment status are also an important consideration – yet their parents do not qualify for Child Care Rebate, making the costs even more prohibitive for them.</li> </ul>	<p>Regardless of their employment status, all parents using approved child care services are eligible to apply for assistance with their fees, either through Child Care Benefit or the Child Care Rebate, or both.</p>
<ul style="list-style-type: none"> <li>Children from disadvantaged backgrounds are less likely to attend early childhood programs. Increased costs of early childhood education and care services will place them firmly out of reach.</li> </ul>	<p>Under the new needs-based funding scheme for approved kindergarten programs, eligible services can claim extra funding for low income parents holding a Health Care Card to directly offset their out-of-pocket fees.</p>
<ul style="list-style-type: none"> <li>Costings conducted nationally are averaged out across Australia while there is significant diversity between communities.</li> </ul>	<p>The costing impact estimates provided by Access Economics in 2009 included a state by state breakdown as well as the national average. It is acknowledged that there will be significant variation in cost impacts at the service level, depending on current staffing arrangements and the ways in which services individually adjust their business practices to meet the requirements of the NQF.</p>
<ul style="list-style-type: none"> <li>The estimated fee increase of \$5.60 per day was calculated on mixed age groups, which do not lead to quality outcomes for children.</li> </ul>	<p>The costings provided by Access Economics in 2009 estimated an increase of \$5.99 per child per day by 2020 in long day care centres in Queensland. This analysis assumed that child places would be redistributed efficiently across the sector.</p>
<ul style="list-style-type: none"> <li>The union representing child care workers is seeking pay increases for members. This will also add to costs for families.</li> </ul>	<p>The Queensland Government is not a party to Award negotiations for the ECEC sector.</p>
<ul style="list-style-type: none"> <li>The Australian Government's reduction in child care rebate (CCR) demonstrates a lack of concern for parents.</li> </ul>	<p>In the 2010–11 Budget, the Australian Government announced changes to the Child Care Rebate, which would be capped at the 2008–09 level of \$7,500 a child (down from current rebate of \$7,778) over the next four years. The Australian Government estimated this would impact less than 700 families nationally (i.e. high income, full time users of care).</p>

<sup>1</sup> PRODUCTIVITY COMMISSION 2011, *EARLY CHILDHOOD DEVELOPMENT WORKFORCE*, DRAFT REPORT (PAGE 79), MELBOURNE, RELEASED ON 30 JUNE 2011

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<ul style="list-style-type: none"> <li>Children with high support needs present an impost on services, because Australian Government funding for those children is \$12 per hour less than the current wage rate for specialised assistance.</li> </ul>	<p>This funding is a matter for the Australian Government and is not affected by the implementation of the NQF.</p>
<ul style="list-style-type: none"> <li>Viability of centres will be an issue with loss of 30 places per week per centre. Costs will be passed on to parents to cover that loss, to ensure service viability – services are committed to the extent of licensed capacity and return on borrowing.</li> </ul>	<p>There is no reason to believe that centres which currently have a maximum capacity of 75 places or less at any time will reduce their capacity by 30 places per week. The National Regulations provide much more flexibility, with staffing requirements calculated at the service level, rather than on a room by room basis.</p> <p>Services may consider reducing places by a small number when new ratios commence in 2016 or may employ additional staff. It is reasonable to assume that services will implement the new ratios in the most efficient way and would not reduce places where demand for those places is strong.</p>
<ul style="list-style-type: none"> <li>There are many apparent inconsistencies and contradictions within the National Regulations themselves, and when read with the Education and Care Services National Law. Interpreting these and then educating a child care centre workforce on them is impossible to achieve within a few months. At least two years will be necessary from the date that the regulations become ‘final’ for all stakeholders to become operationally familiar with the new requirements.</li> </ul>	<p>Feedback on the draft National Regulations has informed changes to clarify requirements and make the Regulations easier to understand and use.</p> <p>The Queensland Government is working with the Australian Government to provide the sector with resources to assist in understanding the new system. Following the finalisation of the National Regulations, a suite of resources will be released to assist services to implement and navigate the National Quality Framework.</p> <p>In addition, the Department of Education and Training will be conducting a series of state-wide information sessions for the sector once the final National Regulations are released.</p>
<ul style="list-style-type: none"> <li>Requests the Government delay the adoption of the regulations for two years while the sector works on implementing the Early Years Learning Framework, growing the staffing pool and until the Australian Government can provide financial assistance for families. Queensland’s current regulations are the highest standard in Australia which allows Queensland to bide its time, and learn from those states and territories who will implement immediately.</li> </ul>	<p>The Early Years Learning Framework was developed in 2009 and since its release, services have been provided with a range of information, support and resources to assist them to implement it.</p> <p>In accordance with the COAG agreement in December 2009, the Queensland Government is committed to implementing the National Quality Framework from 1 January 2012.</p> <p>Delaying implementation of the National Regulations until 2014 as suggested by CCQ would not have any effect on the cost impacts in Queensland as the first substantial change for Queensland services will be in 2014.</p> <p>In contrast to Queensland’s current highly prescriptive legislation, the National Quality Framework focuses assessing and rating each service’s performance in relation to delivering positive outcomes for children.</p>

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<ul style="list-style-type: none"> <li>The construction of state kindergartens on school sites has further impacted on utilisation rates for private long day care centres in some areas.</li> </ul>	<p>Planning for the development of new kindergarten services takes into account the existing capacity of services in the area, including any long day care centres. The Queensland Kindergarten Funding Scheme and associated promotional campaign encourages parents to enrol their children in an approved kindergarten program, wherever the family can conveniently access it – for example, this could be at a kindergarten located on a school site or at another service such as a long day care centre.</p> <p>The National Quality Framework legislation does not impact on this process.</p>

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<ul style="list-style-type: none"> <li>Where will the required qualified teachers come from? Legislation should not be implemented where there is no assurance the sector can meet that legislation. While a 'waiver' might be possible, it is understood the National Regulations will provide that a waiver means not meeting standards.</li> </ul>	<p>Data from Queensland universities indicate that the supply of graduating early childhood teachers will meet current demand (470 in 2008, 432 in 2009) with higher levels expected from 2010 onwards.</p> <p>New university programs and pathways continue to be developed to support the supply of qualified teachers for the sector such as the pathway for Advanced Diploma holders to attain teacher qualifications.</p> <p>The Queensland Government is also encouraging early childhood teaching careers through its ECEC Workforce Action Plan 2011-14 which provides numerous initiatives targeting the creation of additional early childhood teachers. This includes:</p> <ul style="list-style-type: none"> <li>Up to \$3.7M for teaching scholarships (upgrading 3 year degree and advanced diploma holders). To date there have been 235 scholarship offers made across both programs to educators employed within the sector.</li> <li>Up to \$1.2M in financial incentives to encourage qualified teachers to relocate to work in rural and remote kindergarten or long day care services delivering an approved kindergarten program. This initiative is expected to commence in October 2011.</li> <li>In conjunction with significant investment via the TAFE Fee Waiver initiative for Diploma level qualifications, \$300k to enable registered primary teachers to upskill to become qualified early childhood teachers. To date, this program has enrolled more than 200 registered primary school teachers to be upskilled to work as qualified early childhood teachers.</li> <li>Up to \$100k to provide financial incentives for pre-service teachers to undertake practicum in rural and remote services. This initiative commenced in October 2011.</li> <li>Approximately \$650k to provide professional and leadership development to educators, like early childhood teachers, across a range of service types. These services are expected to commence from early 2012.</li> </ul> <p>In addition to the above, as part of its Teacher Recognition Program, the Department of Education and Training has also recognised almost 1,200 individuals to work as qualified early childhood teachers suitable to deliver an approved kindergarten program since January 2011.</p> <p>It is important to note that the ability of the sector to meet the workforce changes presented in the NQF will be re-assessed nationally in 2013.</p>