

# ***National Child Safety Review***

**Consultation Regulation Impact Statement Summary**

# Contents

## Consultation Regulation Impact Statement Summaries

Please refer to the Child Safety Review Consultation Regulation Impact Statement, available at [content.deloitte.com.au/ChildSafetyReview](https://content.deloitte.com.au/ChildSafetyReview) for full details.

Theme	Description	Page
<b>Management of digital devices</b>	Increasing protections around the use of digital devices among those working with children, with a particular focus on the use of personal digital devices.	<a href="#">Page 3</a>
<b>Child safety training</b>	Including proposed changes to strengthen child protection provisions regarding training and knowledge, in addition to introducing nationally consistent and mandatory child safety training.	<a href="#">Page 7</a>
<b>Responding to educator and staff member conduct</b>	Including proposed changes to make inappropriate conduct an offence, to enhance Regulatory Authorities' ability to share information on prohibition notices, suspension orders, and enforceable undertakings with approved providers, and expansion of regulatory responses to educator and staff member conduct.	<a href="#">Page 13</a>
<b>Working with Children Checks</b>	Including proposed changes to provide a more nationally consistent approach to Working With Children Checks (WWCC) requirements and practices in education and care services. This includes requirements for a valid or registered WWCC before commencing a role in an education and care service and notifying a change in WWCC status.	<a href="#">Page 25</a>
<b>Improving the safety of the physical service environment</b>	Regarding the design and maintenance of service premises to facilitate better supervision, assessing formal boundaries between family day care (FDC) services and the rest of the residence/property, and increasing authorised officers' powers to access all areas of FDC residences.	<a href="#">Page 33</a>
<b>Additional recommendations</b>	Including possible changes enabling Regulatory Authorities to conduct their roles more effectively. This includes the identification, monitoring and regulation of related providers, changing the limitation period for commencing proceedings against offences to start from the date of notification, rather than the date of the offence, and improving their power to engage with recruitment agencies when they are relevant to an investigation.	<a href="#">Page 45</a>

# *Short summary*

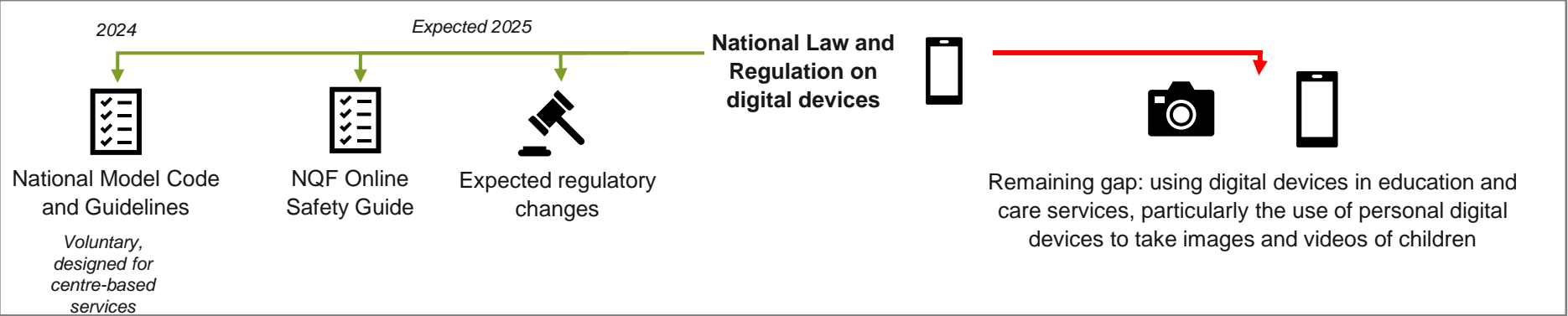
**Management of digital devices** | *Managing the use of digital devices*

# Background and context

## Managing the use of digital devices

### CONTEXT

Digital devices (phones, tablets, digital cameras, etc.) are commonly used in education and care services to document a child’s learning and participation in an educational program or experience. Currently, the National Law and National Regulations do not address the use of digital devices, including personal digital devices, in education and care services. Regulatory changes expected to come into effect from September 2025 will require education and care services to have policies and procedures about the safe use of digital technologies, and there is guidance available about child safe practices for the use of digital devices. But there is still a gap in the National Law and National Regulations when it comes to using digital devices in education and care services, particularly the use of personal digital devices to take and store images and videos of children.



While images and videos provide evidence of a child’s learning and development for families, there are also significant potential risks for children if digital devices are not used in an appropriate way.

These risks include, but are not limited to:

- child harm, particularly where personal digital devices are used by individuals to inappropriately take, store, retain and share images or videos of children. *For example, child sexual abuse may be recorded on personal digital devices and distributed to other individuals online. This deepens the harm experienced by children, as their trauma is further exploited.*
- educators taking, storing and using images of children on personal devices without considering children’s consent, privacy, voice and rights. *For example, an educator may retain images of children on their personal device, increasing the risk that these images are accessed, shared or stored for reasons beyond their initial intended purpose.*

### OF PARTICULAR INTEREST TO



Approved providers and education and care services



Regulatory Authorities



Education and care workforce



Families, parents, carers

# Policy overview

## Managing the use of digital devices

Option 1 cannot be selected with other options, but the remaining options can be combined.

WHAT ARE THE POLICY OPTIONS?		
Summary of the option*	What this means in practice	Where to find more information about the policy options
Option 1 (Status Quo)	No change	CRIS page 31
Option 2 (Regulatory) Amend the National Law/Regulations to mandate that only service-issued digital devices can be used when taking images or videos of children while providing education and care.	If a service takes images and videos of children while providing education and care, these images and videos will need to be taken on service-issued devices only.  There will be penalties for non-compliance.  This amendment will apply across all service types, including FDC services.	CRIS page 31
Option 3 (Regulatory) Amend the National Law/Regulations to mandate that except in the case of defined exempt circumstances, personal devices that can take, store and transfer images or videos <b>cannot</b> be in the possession of any person while providing education and care and working directly with children – with penalties for non-compliance. This is to apply across <b>all</b> education and care services (including FDC).	While providing education and care and working directly with children, a person cannot possess a personal device that can take, store and transfer images and videos (such as tablets, phones, digital cameras, and smart watches) and any data storage or file transfer media (such as SD cards, USB drives, hard drives and cloud storage). There will be penalties for non-compliance.  There will be penalties for non-compliance.  This amendment will apply across all service types, including FDC services.	CRIS page 32

\*Note: Please refer to the Child Safety Review Consultation Regulation Impact Statement for a full description.

# Possible impacts

Managing the use of digital devices

WHAT ARE THE POSSIBLE IMPACTS?

	Costs		Benefits
	Purchase of service-issued digital devices	Monitoring and enforcement of the use of service-issued devices only	Reduced harm to children from inappropriate use of images and videos
Option 1 (Status Quo) No change	-	-	×
Option 2 (Regulatory) Amend the National Law/Regulations to mandate that only service-issued digital devices can be used when taking images or videos of children while providing education and care.	✓	✓	✓
Option 3 (Regulatory) Amend the National Law/Regulations to mandate that except in the case of defined exempt circumstances, personal devices that can take, store and transfer images or videos <b>cannot</b> be in the possession of any person while providing education and care and working directly with children – with penalties for non-compliance. This is to apply across <b>all</b> education and care services (including FDC).	✓	✓	✓

WE'D LIKE TO HEAR FROM YOU

How much do you think each option will reduce the risk of harm to children?

What are the possible positive and negative impacts of these options on you or your service?

What is your preferred option or combination of options and why?

Do you think there are any groups that will be impacted more than others by any of these options?

Specific questions about your experiences of the current context.

Specific questions about the possible costs of these options.

These possible impacts are not intended to be an exhaustive list.

# ***Short summary***

**Child safety training** | *Introducing mandatory child safety training*

# Background and context

## Introducing mandatory child safety training

### CONTEXT

Currently, the National Law and National Regulations require some staff in education and care services to undertake **child protection** training, depending on state or territory legislation or government protocol.

This leads to differences across states and territories, in terms of whether it applies and which individuals are required to complete child protection training. In some states and territories, for example, staff who do not work directly with children, volunteers and students are not obligated to complete child protection training.

There are also no requirements under the National Law for child protection training to be regularly updated and renewed.

**Child protection** focuses on responding to harm through mandatory reporting of abuse and neglect. **It is narrower in scope than child safety.**

**Child safety** is a **broader concept** that addresses harm prevention and safe environments for children, to promote their wellbeing. It focuses on proactive measures that identify and mitigate risks. Child safety training is not currently mandated in any state or territory.

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT
Is child protection training mandated under jurisdictional law or government protocol?	✓	✗	✓	✗	✓	✗	✗	✗

In addition, there is no requirement for nationally consistent **child safety** training. Child safety is a broader concept that goes beyond child protection training and knowledge.

Combined, these issues leave a significant gap in workforce capability and understanding about child safety, which creates a risk to child safety and wellbeing. There is a risk that some people in education and care services may lack the knowledge or understanding of how to prevent and respond to child harm, and how to keep children safe.

### OF PARTICULAR INTEREST TO



Education and care workforce



Regulatory Authorities



Approved providers and education and care services



Families, parents, carers



RTO and higher education institutes



# Policy overview

## Introducing mandatory child safety training

Options 1, 3 and 4 cannot be selected together, but the remaining options can be combined (more options on next page).

WHAT ARE THE POLICY OPTIONS?		
Summary of the option*	What this means in practice	Where to find more information about the policy options
Option 1 (Status Quo)	No change	CRIS page 42
Option 2 (Non-regulatory) Improved, nationally consistent resource and training guidance materials that can be provided to Registered Training Organisations and Higher Education institutions to insert into courses.	This option will support all states and territories by providing the same materials available to guide the development and updating of courses that relate to child protection and child safety, with these courses delivered by education providers.	CRIS page 42
Option 3 (Regulatory) Amend section 162A of the National Law to require nominated supervisors, persons in day-to-day charge and FDC coordinators to complete child protection training, removing the dependency on other jurisdictional law or government protocol.  This would be supported by a published list of approved child protection training.	Child protection training is mandated nationally for <b>nominated supervisors, persons in day-to-day charge, and FDC coordinators</b> . This would create consistency in who needs to complete child protection training across all states and territories.	CRIS page 42

\*Note: Please refer to the Child Safety Review Consultation Regulation Impact Statement for a full description.

# Policy overview

## Introducing mandatory child safety training

Options 1, 3 and 4 cannot be selected together, but the remaining options can be combined (more options on next page).

### WHAT ARE THE POLICY OPTIONS?

Summary of the option*	What this means in practice	Where to find more information about the policy options
<p><b>Option 4 (Regulatory)</b> Amend section 162A of the National Law to require staff who work with children, including FDC educators, volunteers and students, in addition to nominated supervisors, persons in day-to-day charge and FDC coordinators, to complete child protection training, removing the dependency on other jurisdictional law or government protocol.</p> <p>This would be supported by a published list of approved child protection training.</p>	<p>Child protection training is mandated nationally for <b>all staff working with children</b> (including FDC educators, volunteers, students). This would create consistency in who needs to complete child protection training across all states and territories whilst also requiring a broader scope of individuals to complete the training.</p>	<p>CRIS page 42</p>
<p><b>Option 5 (Regulatory)</b> Amend the National Regulations (regulation 84) to ensure all staff and volunteers, whether or not they work with children, are made aware of the existence and application of current child protection law and any obligations they may have under such law.</p>	<p>The scope of people required to be made aware of the existence and application of current child protection law, and their obligations under that law, would be expanded to include all staff and volunteers, irrespective of direct contact with children. This would remove the limitation that only staff who work with children need to be made aware of child protection law and obligations.</p>	<p>CRIS page 43</p>
<p><b>Option 6 (Regulatory)</b> Legislative change to require mandatory child safety training which is nationally consistent, of a high quality, and tailored for all people involved in the provision of education and care services (including people who do not directly work with children), with a requirement to complete refresher training every two years.</p>	<p>A legislative change to mandate nationally consistent child safety training would be introduced for all education and care service staff (including those who do not directly work with children). It will also be a requirement that refresher training is completed every two years.</p>	<p>CRIS page 43</p>

\*Note: Please refer to the Child Safety Review Consultation Regulation Impact Statement for a full description.

# Possible impacts

Introducing mandatory child safety training

## WHAT ARE THE POSSIBLE IMPACTS?

	Costs				Reduced harm to children
	Develop and distribute guidance materials	Implement, provide, and monitor training (incl. admin, staff backfill)	Implement processes for law awareness to staff	Compliance incl. monitoring, maintaining records	Improved staff knowledge and reduced capability gaps
Option 1 (Status Quo)	-	-		-	×
Option 2 (Non-regulatory) Improved, nationally consistent resource and training guidance materials that can be provided to Registered Training Organisations and Higher Education institutions to insert into courses.	✓	×	×	×	✓
Option 3 (Regulatory) Amend section 162A of the National Law to require nominated supervisors, persons in day-to-day charge and FDC coordinators to complete child protection training, removing the dependency on other jurisdictional law or government protocol.  This would be supported by a published list of approved child protection training.	✓	✓	×	✓	✓

## WE'D LIKE TO HEAR FROM YOU

How much do you think each option will reduce the risk of harm to children?

What are the possible positive and negative impacts of these options on you or your service?

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Do you think there are any groups that will be impacted more than others by any of these options?

Specific questions about your experiences of the current context.

Specific questions about the possible costs of these options.

These possible impacts are not intended to be an exhaustive list.

# Possible impacts

Introducing mandatory child safety training

WHAT ARE THE POSSIBLE IMPACTS?

	Costs				Reduced harm to children
	Develop and distribute guidance materials	Implement, provide, and monitor training (incl. admin, staff backfill)	Implement processes for law awareness to staff	Compliance incl. records, monitoring, maintenance	Improved staff knowledge and reduced capability gaps
<b>Option 4 (Regulatory)</b> Amend section 162A of the National Law to require staff who work with children, including FDC educators, volunteers and students, in addition to nominated supervisors, persons in day-to-day charge and FDC coordinators, to complete child protection training, removing the dependency on other jurisdictional law or government protocol. This would be supported by a published list of approved child protection training.	✓	✓	✗	✓	✓
<b>Option 5 (Regulatory)</b> Amend the National Regulations (regulation 84) to ensure all staff and volunteers, whether or not they work with children, are made aware of the existence and application of current child protection law and any obligations they may have under such law.	✓	✗	✓	✓	✓
<b>Option 6 (Regulatory)</b> Legislative change to require mandatory child safety training which is nationally consistent, of a high quality, and tailored for all people involved in the provision of education and care services (including people who do not directly work with children), with a requirement to complete refresher training every two years.	✓	✓	✗	✓	✓

WE'D LIKE TO HEAR FROM YOU

- How much do you think each option will reduce the risk of harm to children?
- What are the possible positive and negative impacts of these options on you or your service?
- What is your preferred option or combination of options and why?
- Do you think there are any groups that will be impacted more than others by any of these options?
- Specific questions about your experiences of the current context.
- Specific questions about the possible costs of these options.

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# ***Short summary***

**Responding to educator and staff member conduct |**

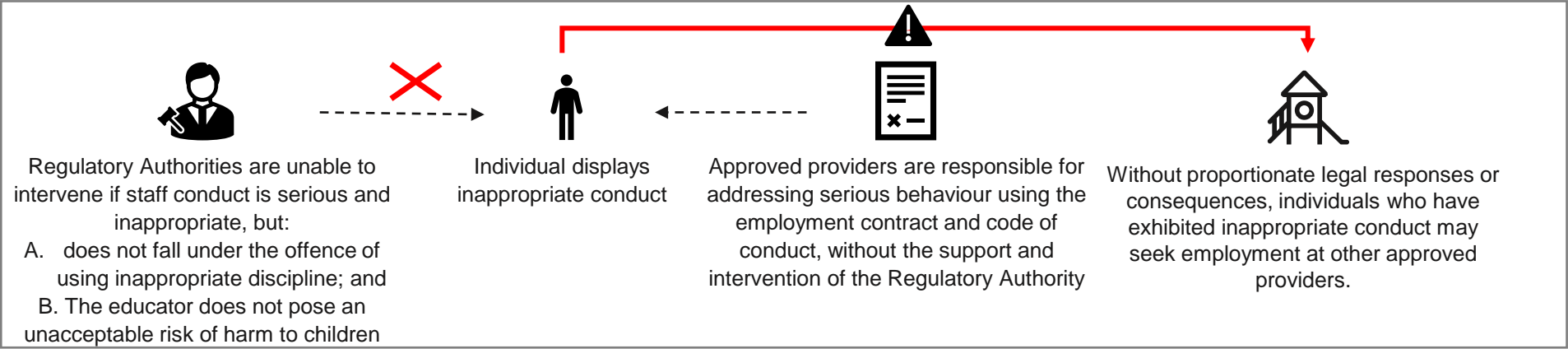
*Making inappropriate conduct an offence*

# Background and context

*Making inappropriate conduct an offence*

CONTEXT

There are instances where a staff member, volunteer or FDC educator has behaved in a way that is serious, inappropriate and requires Regulatory Authority intervention, however does not constitute an offence under the National Law. The inappropriate conduct may include a child sexual offence, physical or verbal violence or other behaviour that may cause physical, emotional or psychological harm to a child. Where conduct does not constitute an offence under the National Law or the person does not meet the threshold for prohibition, the Regulatory Authority have no legislative tools to respond to educator and staff member conduct. This conduct may not always be suitable for approved providers to respond to without the support from the Regulatory Authority.



- The limited legislative provisions available to the Regulatory Authority enables an environment where:
- individuals who have displayed or allegedly displayed inappropriate conduct can remain in the sector without proportionate legal responses or consequences by the Regulatory Authority; and
  - approved providers are responsible for addressing serious behaviour of their employees under the employment contract and code of conduct, without the support and intervention of the Regulatory Authority.

OF PARTICULAR INTEREST TO



Education and care workforce



Regulatory Authorities



Families, parents, carers



Approved providers and education and care services

# Policy overview

## Making inappropriate conduct an offence

Option 1 cannot be selected with other options, but the remaining options can be combined.

WHAT ARE THE POLICY OPTIONS?		
Summary of the option*	What this means in practice	Where to find more information about the policy options
Option 1 (Status Quo)	No change	CRIS page 56
Option 2 (Non-regulatory) Develop more communications and resources on encouraging approved providers to address appropriate and inappropriate conduct within their contracts of employment, Code of Conduct and policies and procedures required under regulation 168(2) of the National Regulations.	Approved providers will have greater access to communications and resources on addressing appropriate and inappropriate conduct within their contracts of employment, Code of Conduct and policies and procedures.  The Regulatory Authority will be unable to intervene where inappropriate conduct does not breach section 166 of the National Law or the person does not meet the threshold for prohibition.	CRIS page 56
Option 3 (Regulatory) Amend the National Law to introduce ‘inappropriate conduct’ as an offence applicable to approved providers, nominated supervisors, educators, other staff members, volunteers and FDC educators as follows: <ul style="list-style-type: none"><li>• The approved provider and a nominated supervisor must ensure that no child being educated and cared for by the service is subjected to any form of inappropriate conduct</li></ul> and <ul style="list-style-type: none"><li>• A staff member of, or volunteer at an education and care service, or FDC educator must not subject any child being educated and cared for by the service to any form of inappropriate conduct.</li></ul>	The National Law would be amended to introduce ‘inappropriate conduct’ as an offence applicable to approved providers, nominated supervisors, educators, other staff members, volunteers and family day care educators.	CRIS page 56

\*Note: Please refer to the Child Safety Review Consultation Regulation Impact Statement for a full description.



# Possible impacts

Making inappropriate conduct an offence

WHAT ARE THE POSSIBLE IMPACTS?

	Costs		Reduced harm to children		
	Develop and distribute guidance materials	Monitoring and enforcing compliance	Clearer and more explicit codes of conduct across the sector	Increased ability to monitor, manage, and take action against a larger scope of inappropriate behaviours	Increased ability to track and document inappropriate conduct
<b>Option 1 (Status Quo)</b> <i>No change</i>	-	-	×	×	×
<b>Option 2 (Non-regulatory)</b> Develop more communications and resources on encouraging approved providers to address appropriate and inappropriate conduct within their contracts of employment, Code of Conduct and policies and procedures required under regulation 168(2) of the National Regulations.	✓	Possible	Possible	×	×
<b>Option 3 (Regulatory)</b> Amend the National Law to introduce 'inappropriate conduct' as an offence applicable to approved providers, nominated supervisors, educators, other staff members, volunteers and FDC educators.	✓	✓	×	✓	✓

WE'D LIKE TO HEAR FROM YOU

How much do you think each option will reduce the risk of harm to children?

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# ***Short summary***

**Responding to educator and staff member conduct |**

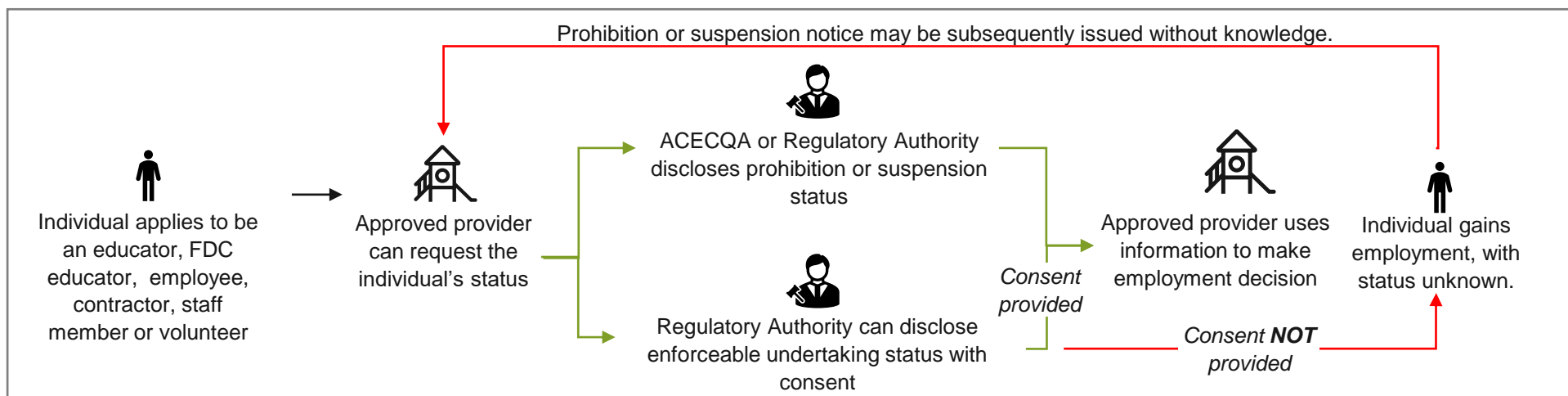
*Enhancing Regulatory Authorities' ability to share information with approved providers*

# Background and context

## Enhancing Regulatory Authorities' ability to share information with approved providers

### CONTEXT

- 1. Prohibition notices and notice to suspend FDC educators:** Currently, the Regulatory Authority or ACECQA are only able to disclose information about a prohibited person or suspended FDC educator, upon a request from an approved provider.
- 2. Sharing information on enforceable undertakings:** The Regulatory Authority are unable to disclose information about an enforceable undertaking to an approved provider without the express consent of the person subject to the enforceable undertaking or unless it is a condition of the enforceable undertaking.



Information sharing limitations may mean that an individual may retain or obtain a new role at an approved provider in instances where:

- a person is prohibited or suspended due to conduct at a previous service, after recruitment checks and screening processes are complete. Hence the prohibition or suspension notice goes undetected until the approved provider conducts another check.
- an approved provider is not informed about a current enforceable undertaking as it is not a condition of the enforceable undertaking or the person has not provided consent to share this information.

### OF PARTICULAR INTEREST TO



Education and care workforce



Regulatory Authorities and National Authority



Approved providers and education and care services

# Policy overview

## Enhancing Regulatory Authorities' ability to share information with approved providers

Option 1 cannot be selected with other options, but the remaining options can be combined.

### WHAT ARE THE POLICY OPTIONS?

Summary of the option*	What this means in practice	Where to find more information about the policy options
<b>Option 1 (Status Quo)</b>	No change	CRIS page 64
<b>Option 2 (Non-regulatory)</b> Develop more communications on the current process for accessing the NQA ITS solution that provides an approved provider with the ability to perform an initial check and subsequent prohibition checks.	Additional communications on the current process for accessing the NQA ITS will be developed and available to approved providers to outline an immediate approach which approved providers can use to undertake initial and subsequent prohibition and suspension checks (in the case of FDC educators).  The Regulatory Authority will not be able to share any information about enforceable undertakings without the direct consent of the person who is subject to the enforceable undertaking	CRIS page 64
<b>Option 3 (Regulatory)</b> Amend section 272 of the National Law to allow the Regulatory Authority to share information about a prohibited person or suspended FDC educator with that person's current approved provider, without a request from the approved provider.	This change would enable the Regulatory Authority to share information about a person's prohibition or a FDC educator's suspension to a current approved provider, without a request from the approved provider.	CRIS page 64
<b>Option 4 (Regulatory)</b> Amend the National Law to allow a Regulatory Authority to share information about a person's current enforceable undertaking with that person's current approved provider, without a request.	This change would enable the Regulatory Authority to share information about a person's current enforceable undertaking with that person's current approved provider.	CRIS page 64

\*Note: Please refer to the Child Safety Review Consultation Regulation Impact Statement for a full description.

# Possible impacts

Enhancing Regulatory Authorities' ability to share information with approved providers

WHAT ARE THE POSSIBLE IMPACTS?

	Costs			Reduced harm to children	
	Develop and distribute guidance materials	Admin and compliance costs associated with screening and monitoring individuals	Reviewing higher volume of requests	More consistent screening practices	Reduced likelihood that children are exposed to unsuitable individuals
<b>Option 1 (Status Quo)</b> No change	-	-	-	-	-
<b>Option 2 (Non-regulatory)</b> Develop more communications on the current process for accessing the NQA ITS solution that provides an approved provider with the ability to perform an initial check and subsequent prohibition checks.	✓	Possible	Possible	Possible	Possible
<b>Option 3 (Regulatory)</b> Amend section 272 of the National Law to allow the Regulatory Authority to share information about a prohibited person or suspended FDC educator with that person's current approved provider, without a request from the approved provider.	✓	✓	✓	✓	✓
<b>Option 4 (Regulatory)</b> Amend the National Law to allow a Regulatory Authority to share information about a person's current enforceable undertaking with that person's current approved provider, without a request.	✓	✓	✓	✓	✓

WE'D LIKE TO HEAR FROM YOU

How much do you think each option will reduce the risk of harm to children?

What are the possible positive and negative impacts of these options on you or your service?

What is your preferred option or combination of options and why?

Do you think there are any groups that will be impacted more than others by any of these options?

Specific questions about your experiences of the current context.

Specific questions about the possible costs of these options.

These possible impacts are not intended to be an exhaustive list.

# ***Short summary***

**Responding to educator and staff member conduct |**

*Expansion of regulatory responses to educator and staff member conduct*

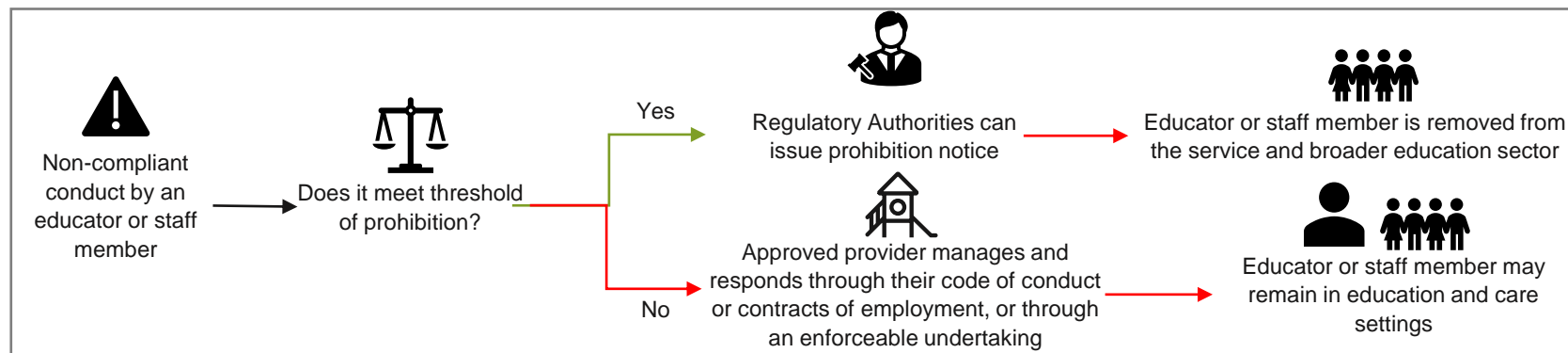
# Background and context

## Expansion of regulatory responses to educator and staff member conduct

### CONTEXT

The National Quality Framework (NQF) is structured to keep approved providers – entities responsible for running an education and care service – accountable to effectively manage and respond to educator or staff member conduct through their code of conduct or employment contracts. However, when there is an unacceptable risk of harm due to educator or staff member conduct, Regulatory Authorities can enable the swift removal of that educator from the both the service they work in and the broader education and care sector – an action known as issuing a **prohibition notice**.

However, where the threshold of prohibition has not been met, the Regulatory Authority has a limited number of legislative responses.



In some scenarios, the limited legislative tools available to impose by the Regulatory Authority is not conducive to an environment that promotes the safety, health and wellbeing of children in education and care services. In particular:

1. **Educators and staff members who display non-compliant conduct are not required to undertake corrective training or professional development activities. This means repeated non-compliance is more likely, and the risk of prohibition increases for that educator.**
2. **Approved providers are left to manage non-compliant conduct without the support of Regulatory Authorities. This may impose additional burden on approved providers and pose a risk to the safety of children attending their services.**

### OF PARTICULAR INTEREST TO



Approved providers and education and care services



Education and care workforce



Regulatory Authorities



Families, parents, carers

# Policy overview

## Expansion of regulatory responses to educator and staff member conduct

Option 1 cannot be selected with other options, but the remaining options can be combined.

WHAT ARE THE POLICY OPTIONS?		
Summary of the option*	What this means in practice	Where to find more information about the policy options
Option 1 (Status Quo)	No change	CRIS page 70
<b>Option 2 (Non-regulatory)</b> Develop more communications and guidance to encourage approved providers to address appropriate and inappropriate conduct within their contracts of employment and their required Code of Conduct and policies and procedures under regulation 168(2) of the National Regulations.	<p>Additional communications and guidance will be developed to encourage approved providers to address appropriate and inappropriate conduct within their contracts of employment and their required Code of Conduct and policies and procedures.</p> <p>If no changes are made, the Regulatory Authority will continue to have limited tools available to address non-compliant conduct by educators or staff members where the individual’s level of risk or harm to children does not meet the threshold for prohibition.</p>	CRIS page 71
<b>Option 3 (Regulatory)</b> Amend the National Law to enable Regulatory Authorities to impose: <i>a suspension notice/order from providing education and care to children for a specified period of time, applicable to educators, other staff members and volunteers, where a certain threshold of risk has been met.</i>	This amendment would enable the Regulatory Authority to suspend and subsequently remove for a period of time, an educator, other staff member or volunteer, where a certain threshold of risk has been met that falls below the threshold for prohibition.	CRIS page 71
<b>Option 4 (Regulatory)</b> Amend the National Law to enable RAs to impose: <i>a supervision order on approved providers, applicable where an educator has contravened the National Law and where that contravention connects to a failing of the approved provider.</i>	<p>This amendment enables Regulatory Authorities to impose a supervision order on approved providers where an educator, staff member or volunteer contravenes the National Law and where that offence provision connects to a failing of the approved provider, yet the level of risk posed by the individual falls short of the threshold for prohibition.</p> <p>This amendment aims to keep approved providers accountable and responsible for meeting their obligations under the National Quality Framework, including management of educators, staff members and volunteers.</p>	CRIS page 71
<b>Option 5 (Regulatory)</b> Amend the National Law to enable Regulatory Authorities to impose: <i>mandatory training/re-training for educators, staff members and volunteers (with the educator, staff member and volunteer paying for the cost of any training/re-training).</i>	This amendment enables Regulatory Authorities to impose mandatory training or re-training to address educator, staff member and volunteer non-compliant conduct by directing that staff member to undertake a course that is tailored to the specific conduct in question.	CRIS page 71

In options 3-5 , a show cause process would apply and the action would be internally and externally reviewable.

\*Note: Please refer to the Child Safety Review Consultation Regulation Impact Statement for a full description.



# Possible impacts

Expansion of regulatory responses to educator and staff member conduct

## WHAT ARE THE POSSIBLE IMPACTS?

	Costs				Reduced harm to children	
	Administrative costs associated with updating codes of conduct	Developing and distributing materials	Compliance costs incl. monitoring, enforcement, and temporary staff	Administrative costs issuing and monitoring suspension notices	Clearer and more explicit codes of conduct across the sector	Increased ability to monitor, manage, and take action against inappropriate conduct
<b>Option 1 (Status Quo)</b> <i>No change</i>	-	-	-	-	✗	✗
<b>Option 2 (Non-Regulatory)</b> Develop more communications and guidance to encourage approved providers to address appropriate and inappropriate conduct within their contracts of employment and their required Code of Conduct and policies and procedures under regulation 168(2) of the National Regulations.	✓	✗	✗	✗	✓	Possible
<b>Option 3 (Regulatory)</b> Amend the National Law to enable Regulatory Authorities to impose: <i>a suspension notice/order from providing education and care to children for a specified period of time, applicable to educators, other staff members and volunteers, where a certain threshold of risk has been met.</i>	✓	✓	✓	✓	✓	✓
<b>Option 4 (Regulatory)</b> Amend the National Law to enable RAs to impose: <i>a supervision order on approved providers, applicable where an educator has contravened the National Law and where that contravention connects to a failing of the approved provider.</i>	✓	✓	✓	✓	✓	✓
<b>Option 5 (Regulatory)</b> Amend the National Law to enable Regulatory Authorities to impose: <i>mandatory training/re-training for educators, staff members and volunteers (with the educator, staff member and volunteer paying for the cost of any training/re-training).</i>	✓	✗	✓	✗	✓	✓

## WE'D LIKE TO HEAR FROM YOU

How much do you think each option will reduce the risk of harm to children?

What are the possible positive and negative impacts of these options on you or your service?

What is your preferred option or combination of options and why?

Do you think there are any groups that will be impacted more than others by any of these options?

Specific questions about your experiences of the current context.

Specific questions about the possible costs of these options.

These possible impacts are not intended to be an exhaustive list.



# ***Short summary***

## **Working with Children Checks\* |**

*Requiring an approved WWCC prior to commencing paid or volunteer work at an education and care service*

*\*WWCC is used to represent working with children checks and working with vulnerable persons (WWVP), in addition to equivalent checks across jurisdictions, in this document.*

# Background and context

Requiring an approved WWCC prior to commencing paid or volunteer work at an education and care service

## CONTEXT

In Australia, people who work or volunteer with children are screened for suitability via a **Working With Children Check** or Clearance (WWCC). Valid and current employee and volunteer WWCCs in an education and care setting are an important safeguard to maintaining a child safe environment.



**Working With Children Checks or Clearances** (WWCC) are screening processes that look at employment and criminal histories to determine if someone is suitable to work or volunteer with children.

Across jurisdictions, there are fundamental differences in whether people can start working or volunteering in the education and care sector while their WWCC applications are being processed.

- A WWCC is required for all people to work or volunteer in all approved education and care services across Australia.
- Most jurisdictions expect people have a valid/registered WWCC before they commence in the sector.
- However, some jurisdictions have exceptions or conditions, which mean people can start working or volunteering with only an application for a WWCC.

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT
Are there exemptions or conditions under which a person might start working or volunteering in the education and care sector before they have a current WWCC? (i.e. between applying and receiving the WWCC).	✓	✗	✗	✓	✗	✗	✓	✓

There are two ways this can increase risk of harm to children.

1. **Differences across jurisdictions means there might be confusion around how to comply with WWCC requirements.** Non-compliance might mean there is inadequate checking during recruitment processes.
2. **Exemptions and conditions that allow people to start working or volunteering before they receive their WWCC mean some unsuitable people may have contact with children between their application and the result of the WWCC.** For example, if someone can start volunteering when they have only **applied** for their WWCC, that person might later be found to have a criminal conviction that makes them unsuitable to work with children. They may have already had contact with children while their application was processing.

## OF PARTICULAR INTEREST TO



Approved providers and education and care services



Regulatory Authorities



Education and care workforce

# Policy overview

Requiring an approved WWCC prior to commencing paid or volunteer work at an education and care service

Option 1 cannot be selected with other options, but the remaining options can be combined.

WHAT ARE THE POLICY OPTIONS?		
Summary of the option*	What this means in practice	Where to find more information about the policy options
Option 1 (Status Quo)	No change	CRIS page 81
Option 2 (Non-regulatory) Additional guidance about WWCC and teacher registration/accreditation requirements and the importance of WWCCs in conjunction with the implementation of child safety training. Guidance to include recommended 'best practice' approaches.	Guidance will be developed to better understand and follow current WWCC and teacher registration / accreditation requirements in each state and territory.  This information will highlight the importance of WWCCs to improve child safety. It will include recommended 'best practice' approaches for managing WWCCs in the sector and will be connected to any further child safety training that is developed.	CRIS page 81
Option 3 (Regulatory) Jurisdiction specific National Regulation amendment in WA, ACT and NT to require that an approved provider of an education and care service must ensure that staff, students, and volunteers of that service hold a valid WWCC before they can commence their roles. A jurisdiction specific amendment in NSW will clarify this same requirement beyond doubt.	A new requirement in only WA, ACT and the NT to make sure everyone has a current (i.e. registered, and not an application) WWCC before they start working or volunteering in an education and care service.  An amendment will be made to ensure it is clear this is also a requirement in NSW.	CRIS page 82

\*Note: Please refer to the Child Safety Review Consultation Regulation Impact Statement for a full description.

# Possible impacts

Requiring an approved WWCC prior to commencing paid or volunteer work at an education and care service

## WHAT ARE THE POSSIBLE IMPACTS?

	Costs			Reduced harm to children	
	Develop and distribute guidance materials	Administrative costs (incl. recruitment & monitoring WWCC)	Delay costs waiting for approval	Reduced likelihood that children are exposed to non-compliant individuals	More consistent application of best practices engaging individuals across the sector
<b>Option 1 (Status Quo)</b> <i>No change</i>	-	-	-	×	×
<b>Option 2 (Non-Regulatory)</b> Additional guidance about WWCC and teacher registration/accreditation requirements and the importance of WWCCs in conjunction with the implementation of child safety training. Guidance to include recommended 'best practice' approaches.	✓	×	×	Possible	Possible
<b>Option 3 (Regulatory)</b> Jurisdiction specific National Regulation amendment in WA, ACT and NT to require that an approved provider of an education and care service must ensure that staff, students, and volunteers of that service hold a valid WWCC before they can commence their roles. A jurisdiction specific amendment in NSW will clarify this same requirement beyond doubt.	✓	✓	✓	✓	✓

## WE'D LIKE TO HEAR FROM YOU

- How much do you think each option will reduce the risk of harm to children?
- What are the possible positive and negative impacts of these options on you or your service?
- What is your preferred option or combination of options and why?
- Do you think there are any groups that will be impacted more than others by any of these options?
- Specific questions about your experiences of the current context.
- Specific questions about the possible costs of these options.

These possible impacts are not intended to be an exhaustive list.

# ***Short summary***

## **Working with Children Checks\* |**

*Requiring approved providers and Regulatory Authorities to be notified about changes in WWCC status*

*\*WWCC is used to represent working with children checks and working with vulnerable persons (WWVP), in addition to equivalent checks across jurisdictions, in this document.*

# Background and context

*Requiring approved providers and Regulatory Authorities to be notified about changes in WWCC status*

## CONTEXT

- In Australia, people who work or volunteer with children are screened for suitability via a **Working With Children Check** or Clearance (WWCC) process.
- WWCCs are an important safeguard to maintaining a child safe environment.
- Across Australia, there are differences in who must communicate changes in WWCC to various stakeholders in the system.



**Working With Children Checks or Clearances** (WWCC) are screening processes that look at employment and criminal histories to determine if someone is suitable to work or volunteer with children.

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT
Individuals are required to notify their approved provider of a change in WWCC (or equivalent) status	×	✓	×	✓	✓	×	×	×
WWCC agency notifies the approved provider of changes to a person's WWCC status	✓	✓	✓	×	✓	✓	✓	✓
Individuals are required to notify WWCC screening agencies of a change in employer	✓	✓	✓	✓	×	✓	×	×
Approved providers or WWCC screening agencies are required to notify Regulatory Authorities of a change in an any employee, volunteer, or FDC resident's WWCC status (or equivalent)	×	×	✓	✓	✓	×	×	×

- The lack of nationally consistent and comprehensive notification requirements increases the risk that unsuitable individuals remain in education and care settings.

## OF PARTICULAR INTEREST TO



*Approved providers and education and care services*



*Regulatory Authorities*



*Education and care workforce*

# Policy overview

Requiring approved providers and Regulatory Authorities to be notified about changes in WWCC status

Option 1 cannot be selected with other options, but the remaining options can be combined. Options 3A and 3B act as one option.

WHAT ARE THE POLICY OPTIONS?		
Summary of the option*	What this means in practice	Where to find more information about the policy options
Option 1 (Status Quo)	No change	CRIS page 88
Option 2 (Non-regulatory) Additional guidance about current WWCC and teacher registration/accreditation notification requirements and the importance of WWCCs in conjunction with the implementation of child safety training (refer to Chapter 4) Guidance to include the following recommended 'best practice' approaches: <ul style="list-style-type: none"><li>• Confirmation of a WWCC record in staff files prior to working in a service (all staff and volunteers).</li><li>• Check WWCC status every six months (in jurisdictions where approved providers are not already notified by the relevant WWCC agency).</li></ul>	Guidance will be developed to better understand and follow current WWCC and teacher registration / accreditation requirements in each state and territory.  This information will highlight the importance of WWCCs to improve child safety. It will include recommended 'best practice' approaches for managing WWCCs in the sector and will be connected to any further child safety training that is developed.  [Same as Option 2 for Chapter 6.1]	CRIS page 88
Option 3 (Regulatory) Amend the National Regulations and National Law A. New requirement for all centre-based staff and FDC educators to notify their approved provider of a change in WWCC or teacher registration/accreditation status (in NSW, TAS, ACT and NT only). <b>AND</b> B. New requirement for approved providers to notify the Regulatory Authority of a change in WWCC or teacher registration/accreditation status for all staff with penalties/offences for non-compliance, (in all jurisdictions except QLD and WA. Also, an exemption in SA in instances where changes to WWCC status is directly communicated to the Regulatory Authority).	All centre-based staff and FDC educators (in NSW, TAS, ACT, and NT) would be required to notify their approved provider of a change in WWCC or teacher registration/accreditation status, <b>AND</b> Approved providers would be required to notify the Regulatory Authority of a change in WWCC or teacher registration/accreditation status for all staff, except in QLD and WA with exemptions in SA in some circumstances.	CRIS page 88  CRIS page 88

\*Note: Please refer to the Child Safety Review Consultation Regulation Impact Statement for a full description.



# Possible impacts

Requiring approved providers and Regulatory Authorities to be notified about changes in WWCC status

## WHAT ARE THE POSSIBLE IMPACTS?

	Costs					Reduced harm to children	
	Develop guidance materials	Regulatory Authority compliance	Work duplicated due to confusion of changes	Record maintenance costs	Temporary staffing costs	Quicker actions reduce exposure to unsuitable individuals	More consistent best practices for status change notifications
<b>Option 1 (Status Quo)</b> No change	-	-	-	-	-	×	×
<b>Option 2 (Non-regulatory)</b> Additional guidance about current WWCC and teacher registration/ accreditation notification requirements and the importance of WWCCs	✓	×	✓	Possible	×	×	✓
<b>Option 3 (Regulatory)</b> Amend the National Regulations and National Law A. New requirement for all centre-based staff and FDC educators to notify their approved provider of a change in WWCC or teacher registration/ accreditation status (in NSW, TAS, ACT and NT only). <b>AND</b> B. New requirement for approved providers to notify the Regulatory Authority of a change in WWCC or teacher registration/accreditation status for all staff with penalties/offences for non-compliance, (in all jurisdictions except QLD and WA. Also, an exemption in SA in instances where changes to WWCC status is directly communicated to the Regulatory Authority).	✓	×	×	✓	✓	✓	✓
	✓	✓	×	✓	✓	✓	✓

## WE'D LIKE TO HEAR FROM YOU

How much do you think each option will reduce the risk of harm to children?

What are the possible positive and negative impacts of these options on you or your service?

What is your preferred option or combination of options and why?

Do you think there are any groups that will be impacted more than others by any of these options?

Specific questions about your experiences of the current context.

Specific questions about the possible costs of these options.

These possible impacts are not intended to be an exhaustive list.



# ***Short summary***

**Improving safety of the physical service environment |**  
*Service and temporary waivers for the design of premises (to facilitate supervision of children)*

# Background and context

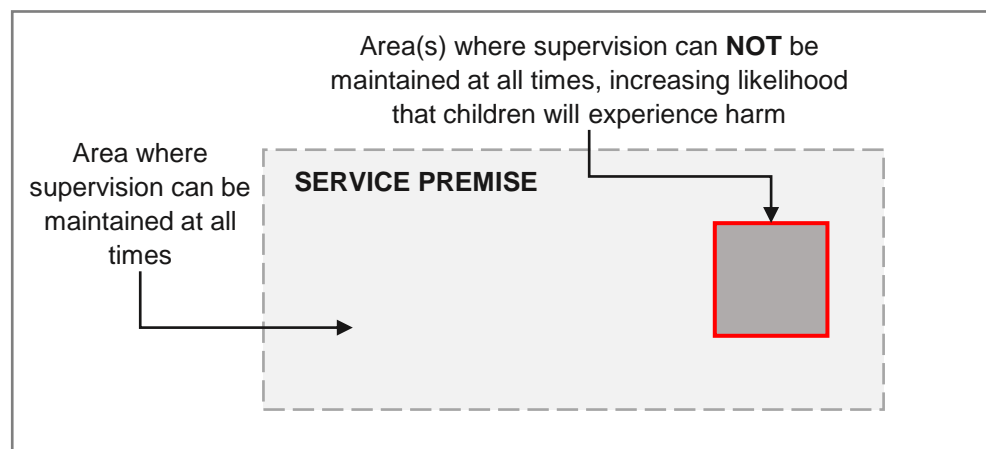
## Service and temporary waivers for the design of premises (to facilitate supervision of children)

### CONTEXT

Centre-based services can request a service or temporary waiver of regulation 115 under the National Regulations, which requires that the service premises (including toilets and nappy changing facilities) are designed and maintained in a way that facilitates supervision of children at all times. Approved providers can apply for a temporary or service waiver if the design and maintenance of the premises does not facilitate supervision of children, and under any proposed modifications, the premises would still not meet regulatory requirements. *For example, the service premise building is heritage listed, limiting the changes that can be made.*

#### Regulation 115: Premises designed to facilitate supervision

*The approved provider of a centre-based service must ensure that the education and care service premises (including toilets and nappy change facilities) are designed and maintained in a way that facilitates supervision of children at all times that they are being educated and cared for by the service, having regard to the need to maintain the rights and dignity of the children.*



The approval of waivers for regulation 115 may lead to increased occurrences of inadequate supervision, which may increase instances in which children experience harm.

This may particularly be the case if additional supervisory measures put in place for a waived service are not fully or consistently complied with. *For example, CCTV installed for better supervision is not working properly.*

### OF PARTICULAR INTEREST TO



Preschool & long day care



Outside school hours care



Regulatory Authorities



Families, parents, carers

# Policy overview

## Service and temporary waivers for the design of premises (to facilitate supervision of children)

**Regulation 115: Premises designed to facilitate supervision**

The approved provider of a centre-based service must ensure that the education and care service premises (including toilets and nappy change facilities) are designed and maintained in a way that facilitates supervision of children at all times that they are being educated and cared for by the service, having regard to the need to maintain the rights and dignity of the children.

Option 1 cannot be selected with other options, and options 3 and 4 cannot be selected together. The remaining options can be combined.

**WHAT ARE THE POLICY OPTIONS?**

Summary of the option*	What this means in practice	Where to find more information about the policy options
<b>Option 1 (Status Quo)</b>	No change	CRIS page 98
<b>Option 2 (Non-regulatory)</b> Providing guidance to promote the importance of designing and maintaining premises in a way that facilitates supervision of children at all times.	Guidance will be developed to better understand the importance of making sure services are designed and maintained to always ensure supervision of children.	CRIS page 98
<b>Option 3 (Regulatory)</b> Amend the National Regulations to remove the ability to apply for service waivers of regulation 115. This option means the ability to apply for a temporary waiver of regulation 115 remains in place for short-term emergent circumstances, with suitable risk mitigation required. This amendment will have no impact on existing regulation 115 waivers.	New service waivers of regulation 115 will not be allowed. Temporary waivers (for short-term issues) and existing waivers will not be impacted.	CRIS page 98
<b>Option 4 (Regulatory)</b> Amend the National Regulations to remove the ability to apply for service and temporary waivers of regulation 115. This amendment will have no impact on existing regulation 115 waivers.	New service waivers or temporary waivers for regulation 115 will not be allowed. Existing waivers will not be impacted.	CRIS page 98

\*Note: Please refer to the Child Safety Review Consultation Regulation Impact Statement for a full description.

# Possible impacts

Service and temporary waivers for the design of premises (to facilitate supervision of children)

## WHAT ARE THE POSSIBLE IMPACTS?

	Costs		Reduced future compliance costs	Reduced harm to children
	Develop and distribute guidance materials	Compliance costs to ensure premises satisfy regulation 115	Reduced future costs to comply with regulation 115 after premises have been designed / constructed / renovated	Reduced harm to children from inadequate supervision linked to premises design and maintenance
<b>Option 1 (Status Quo)</b> <i>No change</i>	-	-	×	×
<b>Option 2 (Non-Regulatory)</b> Providing guidance to promote the importance of designing and maintaining premises in a way that facilitates supervision of children at all times.	✓	Possible	✓	✓
<b>Option 3 (Regulatory)</b> Amend the National Regulations to remove the ability to apply for service waivers of regulation 115. This option means the ability to apply for a temporary waiver of regulation 115 remains in place for short-term emergent circumstances, with suitable risk mitigation required. This amendment will have no impact on existing regulation 115 waivers.	✓	✓	✓	✓
<b>Option 4 (Regulatory)</b> Amend the National Regulations to remove the ability to apply for service and temporary waivers of regulation 115. This amendment will have no impact on existing regulation 115 waivers.	✓	✓	✓	✓

## WE'D LIKE TO HEAR FROM YOU

How much do you think each option will reduce the risk of harm to children?

What are the possible positive and negative impacts of these options on you or your service?

What is your preferred option or combination of options and why?

Do you think there are any groups that will be impacted more than others by any of these options?

Specific questions about your experiences of the current context.

Specific questions about the possible costs of these options.

These possible impacts are not intended to be an exhaustive list.

# ***Short summary***

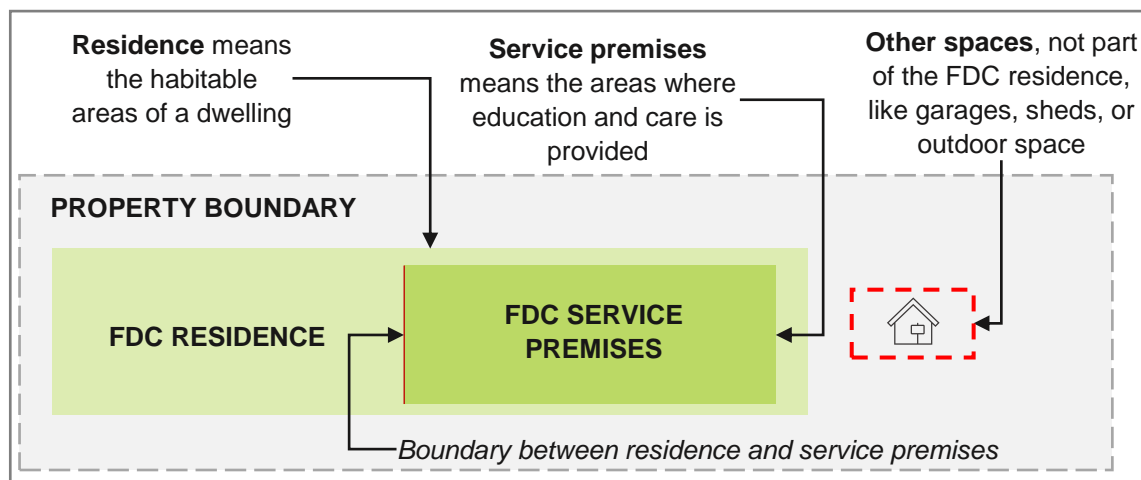
**Improving safety of the physical service environment |**  
*Requiring approved providers to assess not just the FDC residence, but areas near the residence*

## Background and context

*Requiring approved providers to assess not just the FDC residence, but areas near the residence*

### CONTEXT

Regulation 116 requires approved providers of family day care (FDC) services to assess each proposed FDC residence initially and annually to ensure that the health, safety and wellbeing of children who are educated and cared for by the service are protected. However, there are currently varying expectations and practices around the boundaries of FDC residences and service premises for risk assessments.



This means that in some scenarios, children may be accessing areas that have not been risk assessed and are not suitable for use for the provision of education and care to children. If children access areas that are not assessed, there are safety concerns such as physical harm from injuries or accidents due to exposure to hazardous materials or equipment found outside of FDC residences. *For example, children attending FDCs may be able to access garages, sheds, or outdoor locations with hazards such as machinery, chemicals, and insect nests.*

### OF PARTICULAR INTEREST TO



Family day care



Regulatory Authorities



Families, parents, carers

# Policy overview

*Requiring approved providers to assess not just the FDC residence, but areas near the residence*

Option 1 cannot be selected with other options, but the remaining options can be combined

## WHAT ARE THE POLICY OPTIONS?

Summary of the option*	What this means in practice	Where to find more information about the policy options
<b>Option 1 (Status Quo)</b>	No change	CRIS page 105
<b>Option 2 (Non-regulatory)</b> Provide more explicit national guidance to FDC approved providers on their obligations under the current regulation 116, including the areas to be assessed and risk assessment/mitigations to prevent children from accessing areas beyond the FDC service premises, and consideration of risks near the residence other than water hazards.	Guidance will be developed for FDC approved providers to better understand the requirements under regulation 116 to ensure the health, safety, and wellbeing of children at the residence.  The guidance will provide more detailed information about the areas to be assessed, and the risk assessments needed to manage risks or hazards outside of the FDC service premises or near the residence.	CRIS page 105
<b>Option 3 (Regulatory)</b> Amend the National Regulations (regulation 116) to explicitly require assessment of not just the FDC residence but areas near the residence that may be accessible to children. Changes to apply to new assessments and each annual reassessment (not retrospectively), both of which are undertaken by approved providers.	A new requirement for approved providers to assess 'other spaces' near the FDC residence that may be accessible to children for risks, such as sheds and the surrounding outdoor environment. These changes would apply to any new assessments and each annual reassessment. Previous assessments will not be affected.	CRIS page 105
<b>Option 4 (Regulatory)</b> Amend the National Regulations (e.g. regulation 116) to formalise an approval process for the FDC service premises, as part of the FDC residence i.e. explicit requirement for approval from the approved provider to confirm areas that are used as the FDC service premises. This approval would apply to new FDC service premises. For existing premises, the approval should be confirmed or amended at each annual assessment undertaken by approved providers.	A new requirement for the approved provider to formally approve areas that are used as the FDC service premises. Approvals for existing FDC services will be confirmed/amended at annual assessments undertaken by approved providers.	CRIS page 105

\*Note: Please refer to the Child Safety Review Consultation Regulation Impact Statement for a full description.

# Possible impacts

Requiring approved providers to assess not just the FDC residence, but areas near the residence

WHAT ARE THE POSSIBLE IMPACTS?

	Costs				Reduced harm to children	
	Develop and distribute guidance materials	Costs incurred to ensure that all relevant areas are adequately assessed	Longer FDC assessments	Monitoring and mitigation of hazards in larger area	Reduced likelihood that children access non-approved areas	More consistent application of best practices in FDC premise assessment
<b>Option 1 (Status Quo)</b> No change	-	-	-	-	×	×
<b>Option 2 (Non- Regulatory)</b> Provide more explicit national guidance to FDC approved providers on their obligations under the current regulation 116, including the areas to be assessed and risk assessment/mitigations to prevent children from accessing areas beyond the FDC service premises, and consideration of risks near the residence other than water hazards.	✓	✓	×	×	✓	✓
<b>Option 3 (Regulatory)</b> Amend the National Regulations (regulation 116) to explicitly require assessment of not just the FDC residence but areas near the residence that may be accessible to children.	✓	✓	✓	✓	✓	✓
<b>Option 4 (Regulatory)</b> Amend the National Regulations (e.g. regulation 116) to formalise an approval process for the FDC service premises, as part of the FDC residence, i.e. explicit requirement for approval from the approved provider to confirm areas that are used as the FDC service premises.	✓	✓	✓	✓	✓	✓

WE'D LIKE TO HEAR FROM YOU

How much do you think each option will reduce the risk of harm to children?

What are the possible positive and negative impacts of these options on you or your service?

What is your preferred option or combination of options and why?

Do you think there are any groups that will be impacted more than others by any of these options?

Specific questions about your experiences of the current context.

Specific questions about the possible costs of these options.

These possible impacts are not intended to be an exhaustive list.



# ***Short summary***

## **Improving safety of the physical service environment |**

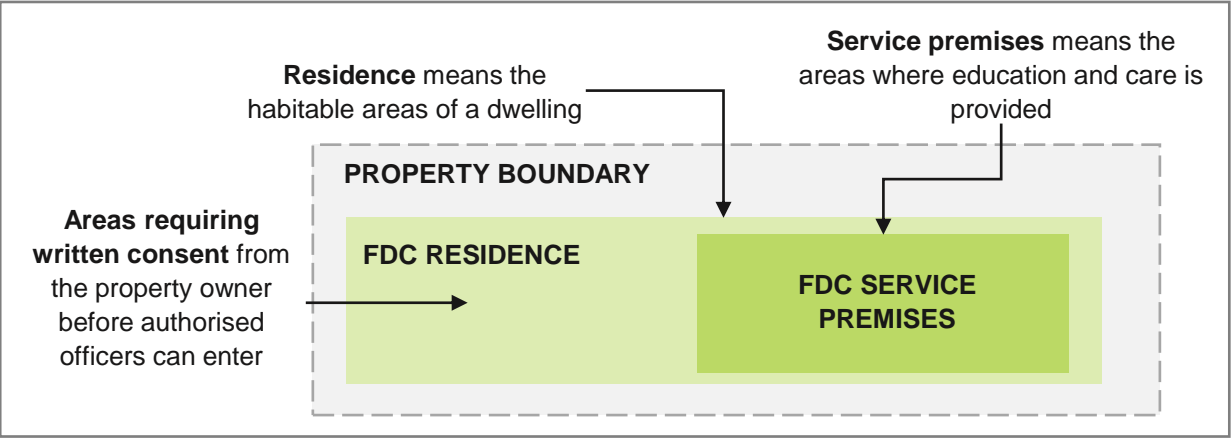
*Enabling authorised officers to access a FDC residence or property, beyond the service premises, in specific instances or for specific purposes*

# Background and context

Enabling authorised officers to access a FDC residence or property, beyond the service premises, in specific instances or for specific purposes

## CONTEXT

An authorised officer is a person authorised by the relevant Regulatory Authority to carry out specific functions under the National Law, including having the power to access family day care (FDC) service premises where children are educated and cared for. Currently, however, authorised officers are not able to assess areas outside the FDC service premises without written consent from the property owner. For FDCs operating from a residence, there is potential that areas outside the service premises may contain hazards to the health, safety, and wellbeing of children.



**Authorised officers** are people authorised by the relevant Regulatory Authority to carry out specific functions under the National Law

## OF PARTICULAR INTEREST TO



Family day care



Regulatory Authorities



Families, parents, carers

This can increase the risk of child harm through the:

- Limited intervention capabilities of authorised officers:** Without provisions for an authorised officer to access areas of the residence or property outside the service premises, the ability for Regulatory Authorities to intervene to preserve the health, safety and wellbeing of children is limited.
- Delayed intervention and investigation:** Limited powers of entry may delay risk mitigation and can delay investigations into a serious incident or suspected serious incidents involving child harm occurring outside of the service premises.

# Policy overview

Enabling authorised officers to access a FDC residence or property, beyond the service premises, in specific instances or for specific purposes

Note: Option 1 cannot be selected with other options, but the remaining options can be combined

## WHAT ARE THE POLICY OPTIONS?

Summary of the option*	What this means in practice	Where to find more information about the policy options
Option 1 (Status Quo)	No change	CRIS page 110
<b>Option 2 (Non-regulatory)</b> Short guidance or information sheet aimed at authorised officers, FDC approved providers and FDC educators to explain powers of entry in relation to FDC and nationally agreed practices for authorised officers' access to areas of an FDC residence or property that are not part of the service premises.	Short guidance or an information sheet will be developed to clearly explain the 'powers of entry' for an authorised officer to enter an FDC premises.  This guidance will create a shared understanding between FDC educators, FDC approved providers and authorised officers about nationally agreed practices for entering areas outside of the FDC service (i.e. the FDC residence or property).	CRIS page 111
<b>Option 3 (Regulatory)</b> Amend the National Law to enable authorised officers' access to areas of a FDC residence or property, beyond the service premises, in specific instances or for specific purposes. These instances or purposes may include: <ul style="list-style-type: none"> <li>a serious incident has occurred, or the authorised officer reasonably suspects that a serious incident has occurred;</li> <li>to assess or monitor compliance with regulation 116;</li> <li>to assess or monitor compliance with regulation 97.</li> </ul>	A new requirement for authorised officers to access areas of a FDC residence or property, beyond the service premises, in specific instances or for specific purposes including: <ul style="list-style-type: none"> <li>to investigate a serious (or suspected) incident</li> <li>to check the assessment of risks</li> <li>to ensure emergency and evacuation procedures are in place.</li> </ul>	CRIS page 111

\*Note: Please refer to the Child Safety Review Consultation Regulation Impact Statement for a full description.

# Possible impacts

Enabling authorised officers to access a FDC residence or property, beyond the service premises, in specific instances or for specific purposes

## WHAT ARE THE POSSIBLE IMPACTS?

	Costs		Reduced harm to children	
	<i>Develop and distribute guidance materials</i>	<i>Potential infringement on the privacy of FDC educators</i>	<i>Early intervention and investigation if an incident or suspected incident has occurred on the FDC premises</i>	<i>Formal processes to identify harms and hazards to children on the FDC premises</i>
<b>Option 1 (Status Quo)</b> <i>No change</i>	-	-	×	×
<b>Option 2 (Non-regulatory)</b> Short guidance or information sheet aimed at authorised officers, FDC approved providers and FDC educators to explain powers of entry in relation to FDC and nationally agreed practices for authorised officers’ access to areas of an FDC residence or property that are not part of the service premises.	✓	×	Possible	Possible
<b>Option 3 (Regulatory)</b> Amend the National Law to enable authorised officers’ access to areas of a FDC residence or property, beyond the service premises, in specific instances or for specific purposes.	✓	✓	✓	✓

## WE’D LIKE TO HEAR FROM YOU

How much do you think each option will reduce the risk of harm to children?

What are the possible positive and negative impacts of these options on you or your service?

What is your preferred option or combination of options and why?

Do you think there are any groups that will be impacted more than others by any of these options?

Specific questions about your experiences of the current context.

Specific questions about the possible costs of these options.

These possible impacts are not intended to be an exhaustive list.

# ***Short summary***

**Additional recommendations** | *Effective identification, monitoring and regulation of 'related providers'*

# Background and context

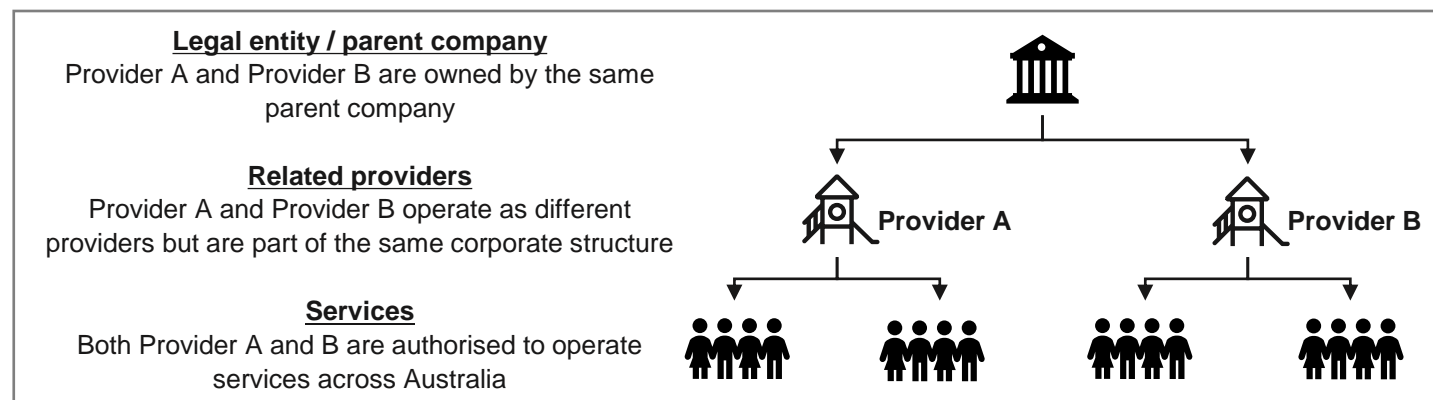
## Effective identification, monitoring and regulation of 'related providers'

### CONTEXT

Approved providers are legal entities which are authorised to operate education and care services across Australia. Approved providers are treated separately under the National Law; however, there has been an increase in the number of education and care services operating under (nominally) different providers that are part of the same corporate structure – referred to as *related providers*. For example, related providers could be:

- providers that share some or all persons with management or control
- providers which are owned by the same company.

The National Law is not conceptually set up to deal with groups of related providers, and Regulatory Authorities have difficulty undertaking regulatory action against them. This creates risks to child safety by obstructing regulatory action.



Consider the example below, which is inspired by real-world challenges faced by Regulatory Authorities across Australia.

*There are two related providers, A and B, who have systems, policies and procedures in common across their services. After an assessment of provider A's services, an investigation is started against A by the Regulatory Authority. Determining the relatedness of providers A and B is a very challenging and time-consuming process for the Regulatory Authority and it is difficult to determine any potential risks to children attending services operated by provider B.*

### OF PARTICULAR INTEREST TO



Regulatory Authorities



Approved providers and education and care services

# Policy overview

## Effective identification, monitoring and regulation of 'related providers'

Note: Option 1 cannot be selected with other options, but the remaining options can be combined

WHAT ARE THE POLICY OPTIONS?		
Summary of the option*	What this means in practice	Where to find more information about the policy options
<b>Option 1 (Status Quo)</b>	No change	CRIS page 117
<b>Option 2 (Non-regulatory)</b> Guidance for the sector and families to improve awareness of an increase in the number of services under multiple approved providers that are being operated by a single controlling entity and/or PMCs in common.	Ensure that key stakeholders across the sector – including families – are aware of provider structures, and how these may impact child safety in different services.	CRIS page 118
<b>Option 3A (Regulatory)</b> Legislative amendment to add a definition of related providers that is designed to help Regulatory Authorities efficiently and effectively identify and monitor related providers. Powers for Regulatory Authorities to take compliance and enforcement action at the related provider level would be needed, as well as requirements for providers to disclose they are related.	Supply Regulatory Authorities with compliance tools that can be applied at the related provider level. Additionally, require that those providers considered 'related' under the introduced definition declare their relatedness.	CRIS page 118
<b>Option 3B (Regulatory)</b> Legislative amendment to require notice of acquisition to the Regulatory Authority when ownership of an approved provider is transferred to another entity.	Regulatory Authorities will be notified whenever ownership of an approved provider is transferred from one entity to another entity.	CRIS page 118

\*Note: Please refer to the Child Safety Review Consultation Regulation Impact Statement for a full description.

# Possible impacts

Effective identification, monitoring and regulation of ‘related providers’

## WHAT ARE THE POSSIBLE IMPACTS?

	Costs		Benefits		
	<i>Develop and distribute guidance materials</i>	<i>Administrative costs for RAs and approved providers</i>	<i>Increased awareness of the compliance history of education and care services</i>	<i>Lowered regulatory resource burden to identify related providers</i>	<i>Greater ability for Regulatory Authorities to be able to manage risks posed by related providers</i>
<b>Option 1 (Status Quo)</b> <i>No change</i>	-	-	×	×	×
<b>Option 2 (Non- Regulatory)</b> Guidance for the sector and families to improve awareness of an increase in the number of services with multiple approved providers that are being operated by a single controlling entity and/or PMCs in common.	✓	×	✓	×	×
<b>Option 3A (Regulatory)</b> Legislative amendment to add a definition of related providers that is designed to help Regulatory Authorities efficiently and effectively identify and monitor related providers. Powers for Regulatory Authorities to take compliance and enforcement action at the related provider level would be needed, as well as requirements for providers to disclose they are related.	✓	✓	✓	✓	✓
<b>Option 3B (Regulatory)</b> Legislative amendment to require notice of acquisition to the Regulatory Authority when ownership of an approved provider is transferred to another entity.	✓	✓	✓	✓	✓

## WE'D LIKE TO HEAR FROM YOU

- How much do you think each option will reduce the risk of harm to children?
- What are the possible positive and negative impacts of these options on you or your service?
- What is your preferred option or combination of options and why?
- Do you think there are any groups that will be impacted more than others by any of these options?
- Specific questions about your experiences of the current context.
- Specific questions about the possible costs of these options.

These possible impacts are not intended to be an exhaustive list.



# *Short summary*

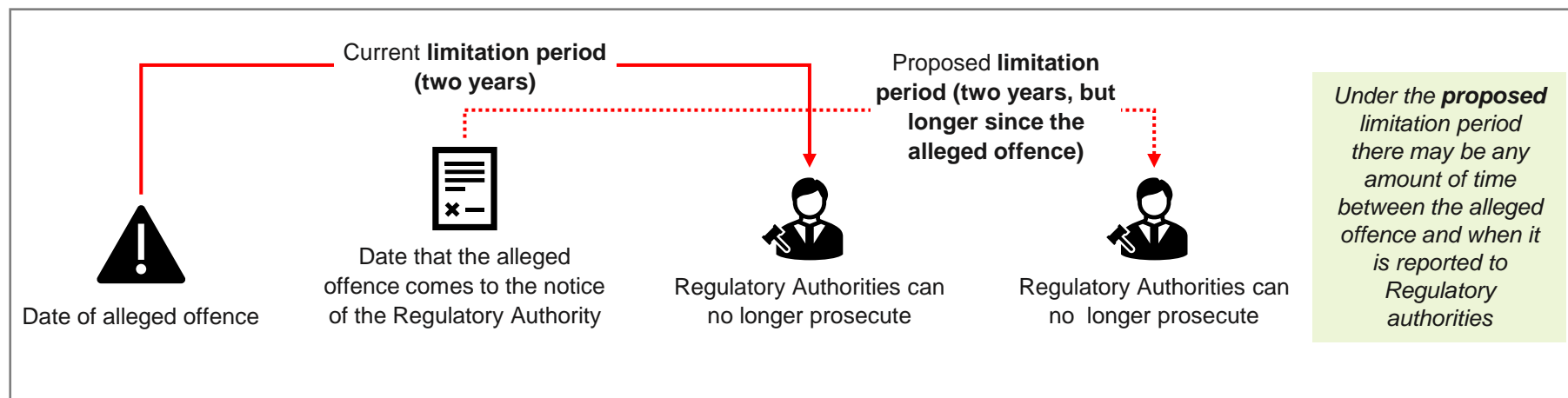
**Additional recommendations** | Extending the limitation period for commencing proceedings under the National Law

# Background and context

## Extending the limitation period for commencing proceedings under the National Law

### CONTEXT

Proceedings for an offence under the National Law must be commenced by Regulatory Authorities within 2 years of the alleged date of that offence – this limit on prosecution is called a *limitation period*. The current limitation period does not consider circumstances where there is a reasonable delay in reporting and investigation due to the nature of the offence, such as child abuse. If Regulatory Authorities learn of alleged offences under the National Law just before – or slightly after – the limitation period takes effect, there is a chance that these alleged offences remain unpunished.



It is important that alleged offences under the National Law are thoroughly investigated and, where necessary, prosecuted – the current limitation period is an obstacle in ensuring that this occurs. It also places additional pressure on the victim-survivors of child harm to raise these issues promptly, which may cause additional trauma.

*For example, suppose that there is a failure to protect children from harms and hazards at a service, but that this issue is not reported to the Regulatory Authority until 2.5 years after the date of the alleged offence. In this case, Regulatory Authorities have no recourse to bring proceedings against the party responsible for the breach of the National Law.*

### OF PARTICULAR INTEREST TO



Regulatory Authorities



Approved providers and  
education and care services



Families, parents, carers

# Policy overview

Extending the limitation period for commencing proceedings under the National Law

Note: Options 1 and 2 cannot both be implemented.

WHAT ARE THE POLICY OPTIONS?		
Option	What this means in practice	Where to find more information about the policy options
Option 1 (Status Quo)	No change	CRIS page 123
Option 2 (Regulatory) Amend section 284 of the National Law so that the limitation period commences two years from the date that the alleged offence comes to the notice of the Regulatory Authority in the jurisdiction in which the offence is committed.	This will replace the current wording of the National Law, which states that <i>proceedings for an offence must be commenced within 2 years of the date of the alleged offence</i> . Proceedings would instead be required to commence within two years of the date that the relevant Regulatory Authority becomes aware of the offence.	CRIS page 123

# Possible impacts

Extending the limitation period for commencing proceedings under the National Law

WHAT ARE THE POSSIBLE IMPACTS?

	Costs	Benefits	
	Additional regulatory costs associated with a relatively larger case load for regulators	Increased trust and credibility for the NQF as a system that upholds child safety	Offences with long reporting lags can still be investigated and prosecuted under the National Law
Option 1 (Status Quo) No change	-	×	×
Option 2 (Regulatory) Amend section 284 of the National Law so that the limitation period commences two years from the date that the alleged offence comes to the notice of the Regulatory Authority in the jurisdiction in which the offence is committed.	✓	✓	✓

WE'D LIKE TO HEAR FROM YOU

How much do you think each option will reduce the risk of harm to children?

What are the possible positive and negative impacts of these options on you or your service?

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Do you think there are any groups that will be impacted more than others by any of these options?

Specific questions about your experiences of the current context.

Specific questions about the possible costs of these options.

These possible impacts are not intended to be an exhaustive list.

# *Short summary*

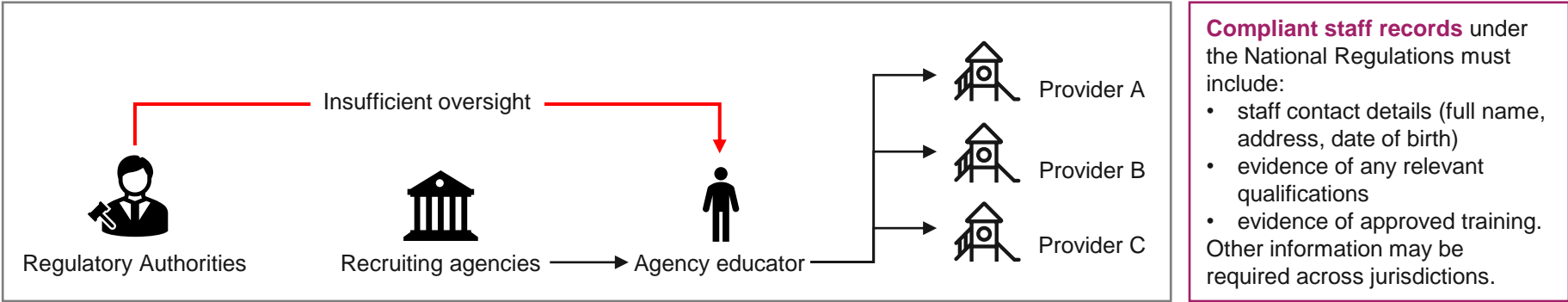
**Additional recommendations** | Information sharing provisions for recruitment agencies

# Background and context


## Information sharing provisions for recruitment agencies


### CONTEXT

- Workforce shortages are a significant issue faced by education and care services in Australia.
- Approved providers source labour through recruitment agencies – staff acquired in this way are referred to as **agency educators**.
- Agency educators are considered staff members under the National Law, but it is common for approved providers to keep minimal staff records.



The use of agency educators through recruitment agencies – *without sufficient oversight* – poses a risk to child safety in the following ways:

 Regulatory investigations are delayed and obstructed when Regulatory Authorities cannot easily obtain staff records held by recruitment agencies

 Important information about agency educators – including compliance with the National Law – may be unknown to recruitment agencies or approved providers

- If an agency educator leaves a temporary role, Regulatory Authorities cannot identify where they have previously worked or where they are and will be working– this is particularly high-risk where serious allegations of physical or sexual abuse have been raised.

### OF PARTICULAR INTEREST TO



Approved providers and education and care services



Regulatory Authorities



Families, parents, carers

# Policy overview

## Information sharing provisions for recruitment agencies

Note: Option 1 cannot be selected with other options, but the remaining options can be combined

### WHAT ARE THE POLICY OPTIONS?

Option	What this means in practice	Where to find more information about the policy options
<b>Option 1 (Status Quo)</b>	No change	CRIS page 126
<b>Option 2 (Non-regulatory)</b> Guidance/messaging for approved providers regarding the requirement to keep staff records for agency educators.	Guidance detailing the current staff record requirements under the National Law, and how these requirements apply to agency educators in labour hire arrangements.	CRIS page 126
<b>Option 3 (Regulatory)</b> Amend section 206(4) of the National Law to include recruitment agencies supplying educators to education and care services.	Regulatory Authorities would have the power to obtain information, documents and evidence from recruitment agencies supplying educators to education and care services.	CRIS page 126
<b>Option 4 (Regulatory)</b> Amend section 272 of the National Law to allow a Regulatory Authority to share information about an agency educator with that person's recruitment agency (including mirroring any amendments to section 272 regarding proactive sharing with providers) and consider whether recruitment agencies may have access to the prohibited persons register.	Proactively addresses concerns that recruitment agencies may not be aware of information about educators seeking employment through services (information like prohibitions, suspensions and other compliance actions).	CRIS page 126
<b>Option 5 (Regulatory)</b> Amend section 188A of the National Law to include giving an approved provider or recruitment agency any information about the content or existence of the prohibition notice that is false or misleading in any material particular.	Ensures that recruitment agencies are not misled or provided false information regarding a prohibition notice.	CRIS page 126

# Possible impacts

Information sharing provisions for recruitment agencies

## WHAT ARE THE POSSIBLE IMPACTS?

	Costs			Benefits	
	Develop and distribute guidance materials	Administrative costs for Regulatory Authorities	Administrative costs for recruitment agencies	More efficient use of regulatory resources	Reduced likelihood of prohibited educators working in an education and care
<b>Option 1 (Status Quo)</b> <i>No change</i>	-	-	-	×	×
<b>Option 2 (Non-regulatory)</b> Guidance/messaging for approved providers regarding the requirement to keep staff records for agency educators.	✓	×	×	×	Possible
<b>Option 3 (Regulatory)</b> Amend section 206(4) of the National Law to include recruitment agencies supplying educators to education and care services.	✓	✓	✓	✓	Possible
<b>Option 4 (Regulatory)</b> Amend section 272 of the National Law to allow a Regulatory Authority to share information about an agency educator with that person's recruitment agency (including mirroring any amendments to section 272 regarding proactive sharing with providers) and consider whether recruitment agencies may have access to the prohibited persons register.	✓	✓	✓	×	✓
<b>Option 5 (Regulatory)</b> Amend section 188A of the National Law to include giving an approved provider or recruitment agency any information about the content or existence of the prohibition notice that is false or misleading in any material particular.	✓	✓	✓	×	✓

## WE'D LIKE TO HEAR FROM YOU

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For more information and to provide feedback, please visit  
[content.deloitte.com.au/ChildSafetyReview](https://content.deloitte.com.au/ChildSafetyReview).