
F The National Quality Framework

F.1 Introduction

Since 1 January 2012, most long day care, preschool, family day care and outside hours school care services fall within the scope of the COAG endorsed National Quality Framework for Early Childhood Education and Care (NQF).

The NQF aims to create a uniform national approach to the regulation and quality assessment of early education and care (ECEC) services and replaces separate licensing and quality assurance processes in each jurisdiction. It was established in response to concerns about inconsistent quality standards across jurisdictions and overlap between Australian Government and state and territory government regulatory arrangements.

The NQF contains four key components:

- a national legislative framework (the National Law and National Regulations)
- a new national body, the Australian Children’s Education and Care Quality Authority (ACECQA), responsible for establishing consistent and efficient procedures for the operation of the NQF.
- a National Quality Standard (NQS) with seven assessable quality areas
- a national quality rating and assessment process to complement the NQS.

Some service types are excluded from the scope of the NQF by the National Regulations (box F.1) and the National Law. In addition, both Tasmania and Western Australia have chosen to continue regulating kindergartens (preschools) in those states under relevant state education legislation. However, both states have committed to ensuring that state based requirements for these services (including up to year 2 in Western Australian primary schools) correspond with those of the NQF (Department of Premier and Cabinet – Tasmania, sub. 390; Western Australian Government, sub. 416). Key requirements of the NQF (section F.3) are being progressively implemented over the period to 2020 (all jurisdictions have varying ‘transitional provisions’ and are implementing some requirements within different timeframes). This appendix summarises the key requirements of the NQF, while its effects and potential reform options are discussed in chapter 7.

Box F.1 Service types excluded by the National Regulations

The scope of the National Quality Framework covers all early childhood education and care services excluding those listed as 'out of scope' by the National Regulations and National Law.

Out of scope

- Disability services defined under state or territory law and early childhood intervention services for children with additional needs.
- Education and care in a child's home (excluding Western Australia).
- Education and care in a residence, other than as part of a family day care service.
- Occasional care services (for example, care offered ad hoc or on a casual basis).
- Education and care provided by a hotel or resort to children of short-term guests at the hotel or resort.
- Education and care that is provided to the children of a guest, visitor or patron where the person who is responsible for the child is readily available at all times.
- Education and care where it is primarily provided or shared by parents or family members
- Education and care provided at a high school to children of students attending the school
- Mobile services
- Services that provide education and care for no more than four weeks per calendar year during school holidays
- Transition to school programs provided by a school to orient children to that school
- Budget-based funded services, other than where the service also receives Child Care Benefit.
- Playschools licensed in the Australian Capital Territory
- Stand-alone services in Queensland (care provided in a home, or another place such as a hall or church — these are regulated by the State)
- Playcentres in South Australia
- Services licensed as centre-based class 4 or 5 services under the *Child Care Act 2001* in Tasmania.
- Licensed limited hours or short-term services in Queensland or Victoria
- Government-funded services under the Western Australian *Children and Community Services Act 2004*.

Source: Education and Care Services National Regulations 2011.

Separate state and territory 'Regulatory Authorities' are responsible for administering most aspects of the regulation of ECEC services, including the approval (now nationally recognised) of providers and services and conducting quality assessments. The system of administering the NQF was designed with the objective of ensuring that '99 per cent of all service interactions' (with either Regulatory Authorities or ACECQA) are with their jurisdiction-based Regulatory Authority (ACECQA 2013d).

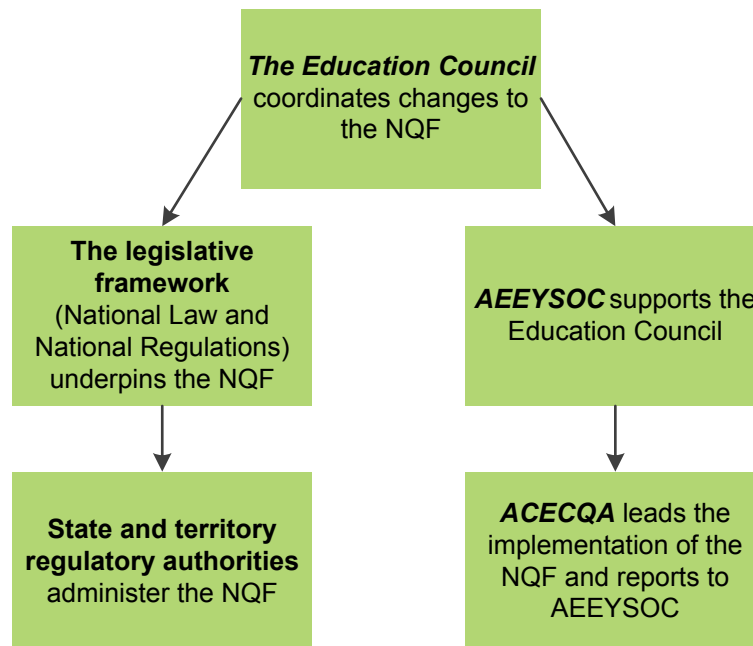
F.2 Governance

The governance of the NQF (figure F.1) involves three national bodies and eight jurisdictional Regulatory Authorities. ACECQA, which is responsible for leading the implementation of the NQF and ensuring national consistency, reports to two related COAG bodies:

- the Education Council: formerly the Standing Council on School Education and Early Childhood.
- The Australian Education, Early Childhood Development and Youth Affairs Senior Officials Committee (AEEYSOC).

These three bodies have varying responsibilities, including monitoring the implementation of the NQF and reforming the National Law and National Regulations at the national level. State and territory Regulatory Authorities administer and monitor the NQF on the ground in each jurisdiction.

Figure F.1 **Governance of the National Quality Framework**



A national legislative framework

The national legislative framework underpinning the NQF consists of the:

- *Education and Care Services National Law* (the National Law)
- the Education and Care Services National Regulations 2011 (National Regulations)

The legislative framework was established through an applied laws system. Under this system, a host jurisdiction (Victoria) first passed the *Education and Care Services National Law Act 2010* (Vic). This legislation was then adopted by all other states and territories with the exception of Western Australia, which passed its own corresponding legislation with some minor variations.

This framework replaced separate licensing and quality assurance processes and created a jointly governed, uniform national approach to the regulation and quality assessment of ECEC services. The approach aims to reduce red tape, which was particularly complex for providers operating across multiple jurisdictions.

The National Law and National Regulations set out:

- approval processes for the operation of education and care services
- the assessment and rating system
- key operational requirements
- compliance, monitoring and enforcement powers
- the functions and powers of the Education Council, ACECQA and the Regulatory Authorities in each jurisdiction
- key transitional arrangements.

The NQF covers most long day care, family day care, preschools (or kindergartens) and outside school hours care services in Australia. In Western Australia, it also extends to home-based care.¹ All other forms of care, including mobile, occasional care and most Budget Based Funded² services are excluded from the NQF (box F.1).

The Education Council and AEEYSOC

The Education Council and AEEYSOC are COAG bodies that work together to guide strategic policy on ECEC at a national level.

The Education Council is one of eight Councils established under current COAG arrangements; replacing the Standing Council on School Education and Early Childhood.

¹ Home-based care is where a child is cared for in their own home.

² The Budget Based Funded Programme provides a contribution to the operational costs of some services, predominantly located in rural, remote and Indigenous communities.

Its membership includes state, territory, Australian Government and New Zealand Ministers with responsibilities for either school education, early childhood development, and/or youth affairs. The Council provides a forum through which national policy on ECEC (as well as school education and other youth policy) can be coordinated. Its responsibilities include endorsing and coordinating changes to the NQF.

The Education Council is supported by AEEYSOC, a group of senior state, territory and Commonwealth officials with responsibility for school education, ECEC and youth affairs. Its roles include:

- providing policy advice to the Education Council
- supervising and coordinating the Education Council's work across its advisory bodies and working groups
- resolving operational and policy issues before progressing matters raised by ministerial authorities and companies to the Education Council
- managing and coordinating jurisdictions' funding contributions for national agreed projects and initiatives, through the the Education Council Secretariat.

AEEYSOC's membership comprises the head of the relevant department from each state and territory government, the Australian Government and the New Zealand Government. It also includes a representative from the Education Council's Youth Working Group, the Community and Disability Services Ministers' Advisory Council and the Australian Health Ministers' Advisory Council. AEEYSOC is directly responsible to the Education Council.

ACECQA

ACECQA is a national statutory authority established under the National Law to lead the implementation of the NQF. The Authority has a 13 member board — eight nominated by state and territory governments and four by the Australian Government, plus a Chair appointed independently by the Education Council. The ACECQA Board is appointed by, and accountable to, the Education Council. The Board reports to the Education Council through AEEYSOC. ACECQA's CEO is responsible for the day-to-day management of the authority.

In addition to advising the Education Council, ACECQA has a number of other roles (box F.2) relating to ensuring consistency across all states and territories and undertaking national administrative functions. It does not directly regulate ECEC services.

Box F.2 Responsibilities of ACECQA

- Monitor the consistency of, and assist in, assessments and ratings, including:
 - establishing consistent procedures for the operation of the NQF
 - conducting national consistency audits
 - assessing which services receive the ‘Excellent’ rating
 - conducting ‘second tier’ reviews.
- Conduct research on ways to reduce regulatory burden in the sector
- Determine qualification requirements for authorised officers and deliver support and training for staff of regulatory authorities
- Determine approved qualifications for educators, including assessment of equivalent qualifications
- Undertake national administrative functions, including:
 - maintaining and publishing the national registers of approved providers and services and certified supervisors
 - collecting and publishing national data on the assessment, rating and regulation of ECEC services and the implementation of the NQF
 - maintaining the National IT System for the NQF and facilitating IT training for jurisdictions.
- Publish guides, practice notes and resources to assist parents and the sector in understanding the NQF and the National Law.

Source: ACECQA (2013a).

State and territory Regulatory Authorities

State and territory Regulatory Authorities (box F.3) administer the NQF in each jurisdiction. Almost all service interactions — including approvals, assessments, queries and complaints — should be with their jurisdiction-based Regulatory Authority. Regulatory Authorities are responsible for:

- granting all approvals, including for providers, services and certified supervisors
- assessing and rating services
- monitoring and enforcing compliance
- granting waivers
- conducting ‘first tier’ reviews.

Box F.3 Regulatory Authorities in each jurisdiction

- **Australian Capital Territory:** Children's Policy and Regulation Unit, Education and Training Directorate
- **New South Wales:** Early Childhood Education and Care Directorate, Department of Education and Communities
- **Northern Territory:** Quality Education and Care NT, Department of Education
- **Queensland:** Office for Early Childhood Education and Care, Department of Education, Training and Employment
- **South Australia:** Education and Early Childhood Services Registration and Standards Board of South Australia
- **Tasmania:** Education and Care Unit, Department of Education
- **Victoria:** Department of Education and Early Childhood Development
- **Western Australia:** Education and Care Regulatory Unit, Department of Local Government and Communities

F.3 Licensing, the NQS and assessments

The NQF created a national system for ECEC to replace previously independent licensing and quality assurance processes in each jurisdiction. This national system means providers and staff should have the same experiences in each jurisdiction and services undergo an identical assessment process.

Licensing

The NQF includes three interrelated types of (nationally recognised and ongoing) approvals for providers, services and their staff:

- Provider approval: enables providers to apply for one or more service approvals
- Service approval: authorises an Approved Provider to operate an Approved Service, each of which must have a Nominated Supervisor
 - There are two types of service approvals: one for centre-based services (long day care, preschool/kindergarten and outside school hours care) and one for family day care services
- Supervisor approval: allows a person to be appointed as the Nominated Supervisor for an Approved Service, or to be temporarily placed in charge of an Approved Service when the usual Nominated Supervisor is absent.

State and territory Regulatory Authorities are responsible for granting all three types of approvals. Providers and services with existing approvals before the implementation of the NQF were transitioned to the new approvals system by their Regulatory Authority without reapplication.

The National Quality Standard

The NQS created a uniform approach to assessment and ratings for ECEC services and rates services across seven ‘quality areas’ (box F.4). These quality areas are divided into 18 ‘standards’ containing ‘58 elements’, for example:

- Standard 2.2 — Healthy eating and physical activity are embedded in the program for children — is one of three standards in quality area 2 and contains two elements:
 - Element 2.2.1 — Healthy eating is promoted and food and drinks provided by the service are nutritious and appropriate for each child.
 - Element 2.2.2 — Physical activity is promoted through planned and spontaneous experiences and is appropriate for each child.

Each quality area contains two or three standards and each standard is made up of between one and six elements.

Several key aspects of the NQS — Quality Improvement Plans, educator-to-child ratios and staff qualification requirements — are discussed in further detail below.

Quality Improvement Plans

The National Regulations require every approved service to develop a Quality Improvement Plan (QIP). Developing a QIP is a core requirement of the NQF that requires each service to evaluate their current practices and conduct a self-assessment against the NQS, but is not a specific element within the NQS. A QIP must:

- assess current practices against the National Regulations and the NQS
- identify areas for improvement
- formulate strategies to address areas identified as needing improvement
- contain a statement about the philosophy of the service.

Services must submit a QIP to their state or territory’s Regulatory Authority each time they are assessed. The QIP must be revised at least annually and be available to families and the Regulatory Authority at all times.

Box F.4 **The seven quality areas of the National Quality Standard**

Quality Area 1: Educational program and practice

- Comprises two standards and nine elements.
- Requires the service to use and document an approved learning framework and develop an educational program.

Quality Area 2: Children’s health and safety

- Comprises three standards and ten elements.
- Relates to policies and procedures regarding hygiene practices, healthy eating, physical activity, preventing harm to children and dealing with injury or illness.

Quality Area 3: Physical environment

- Comprises three standards and seven elements.
- Requires the design of indoor and outdoor areas to be safe, suitable and provide a diverse range of experiences, and for the service to use sustainable practices.

Quality Area 4: Staffing arrangements

- Comprises two standards and four elements.
- Relates to educator-to-child ratios, staff qualification requirements and professional staff interactions.
- Requirements vary substantially between centre-based and family day care services.

Quality Area 5: Relationships with children

- Comprises two standards and six elements.
- Relates to interactions with and support for children.

Quality Area 6: Collaborative partnerships with families and communities

- Comprises three standards and nine elements.
- Includes relationships with and information provided to families, engagement with the local community and facilitation of access to support assistance.

Quality Area 7: Leadership and service management

- Comprises three standards and thirteen elements.
- Includes governance arrangements and the development of key documentation, records and administrative systems.

Educator-to-child ratios

The NQF established national educator-to-child ratios (‘staff ratios’) for both centre-based and family day care services. Although the NQF applies to children of school age, it does not include a national staff ratio for these children — individual jurisdictions have their own arrangements for this age group (chapter 7).

Staff ratios for centre-based services (excluding teachers) are being phased in by 2016 (table F.1). Some jurisdictions met the new ratios before their introduction or were adopting them earlier than others, while some have retained higher standards that override the national ratios.

The National Regulations require these ratios to be maintained at all times and there are no nationally consistent educator provisions in relation to taking breaks. The Guide to the National Law and National Regulations states that Regulatory Authorities will ‘allow’ educators at centre-based services to take up to 30 minutes per day ‘off the floor’ without their position needing to be backfilled. This means services must have sufficient staff available (whether full-time, part-time or casual) to fill planned or unplanned staff absences outside of this 30 minute period.

This system of staff ratios also allows for children in older age groups to be ‘mixed’ into the ratio allocation for younger age groups, in cases where an educator has excess capacity. For example, if a service has one educator caring for three children aged 0 to 24 months, then that educator has the capacity to care for one additional child in an older age group (thereby reaching the maximum 1:4 ratio allowed for the 0 to 24 month age group).

Table F.1 Staff ratios for centre-based services

Age	Target ratios & exceptions	Until implementing the target	Timeframe for achieving target
Birth to 24 months	1:4 in all jurisdictions	1:5 in NSW, WA, SA, Tas, NT & ACT 1:4 in Qld ^a , Vic	1 January 2012 in all jurisdictions except: 1 August 2012 in WA 1 January 2018 for some Qld services ^a
25 to 35 months	1:5 in all jurisdictions except: 1:4 in Vic	1:10 in SA 1:8 in NSW 1:6 in Qld 1:5 in ACT, NT, Tas, WA 1:4 in Vic	1 January 2012 in ACT, NT, Tas 1 August 2012 in WA 1 January 2016 in NSW, Qld, SA
36 months up to and including preschool age	1:11 in all jurisdictions except: 1:10 in NSW, Tas ^b , WA some SA services ^c	1:15 in Vic 1:12 in Qld 1:11 in ACT ^d , NT 1:10 in NSW, SA, Tas ^e , WA	1 January 2012 in NT 1 January 2016 in ACT, Qld, Vic

^a Queensland: Pre-NQF, services could choose from multiple ratios, including 1:4 for children aged 0-2 years and 1:5 for those aged 15 months to 3 years. Services which were licensed on 1 January 2011 may continue to operate under these ratios until 1 January 2018. In Qld, a range of seven mixed aged groups were previously available to provide flexibility to providers. ^b Tas: 2:25 for children attending a preschool program. ^c SA: 1:10 for ‘disadvantaged preschools’ and preschool-aged children at an ECEC service other than a dedicated preschool. ^d ACT: 2:25 for preschool age children in a centre-based preschool. ^e Tas: 1:12 for preschool age children in a centre-based preschool.

Source: Education and Care Services National Regulations 2011.

A family day care educator may not care for more than seven children at any one time, of which a maximum of four may be under school age (table F.2). This ratio now applies across all states and territories, but was adopted at different times:

- 1 January 2012 in the Australian Capital Territory, Queensland, South Australia and Victoria
- 1 January 2014 in New South Wales, the Northern Territory, Tasmania and Western Australia.

Table F.2 Staff ratios for family day care services

<i>Age</i>	<i>Target Ratio</i>	<i>Until implementing the target</i>
All children	1:7	1:7 in all jurisdictions
Children under school age	At most 4	A maximum of 4 children under school age in ACT, Qld, SA, Vic A maximum of 4 children under 5 years of age in Tas A maximum of 5 children under 6 years of age in NSW A maximum of 5 children below school age, with at least 1 to be a kindergarten child, in WA A maximum of 2 children under 3 years of age in NT

Source: Education and Care Services National Regulations 2011.

A family day care service may care for more than seven children, or more than four children who are preschool age or under, in exceptional circumstances. These include when:

- all the children are siblings
- a child is in need of protection under child protection law
- the residence is in a rural or remote location and no alternative care is available.

If the educator's own children or any other children are at the service while it is operating and are under 13 years of age, they must be included in the total number of children. The regulations for family day care also specify that a maximum of seven children can be educated at each family day care residence at any one time, which means a service cannot increase the number of educators at a residence in order to increase the number of available places.

The National Regulations do not prescribe how many coordinators are required in a family day care service. Providers are expected to determine how many coordinators are required to adequately monitor and support their educators.

Qualification requirements

The NQF established new minimum qualification requirements for both centre-based and family day care services. These requirements are prescribed only for educators working with children who are under school age, so they are not applicable to outside school hours care services. However, as is the case with staff ratios, some states and territories have qualification requirements relating to the care of children above preschool age (chapter 7).

ACECQA maintains and publishes a list of nationally approved qualifications for centre-based and family day care services. It also maintains a separate list of approved qualifications for school age children (where qualifications are approved separately for each jurisdiction).

There are two sets of qualification requirements for centre-based services (box F.5):

- the hiring of up to two full-time equivalent early childhood teachers, dependant on how many children are cared for on a given day
- minimum qualifications for other educators at the service.

Several jurisdictions maintain different requirements relating to the hiring of early childhood teachers (chapter 7).

New qualification requirements for family day care services began on 1 January 2014. There are two sets of requirements, one each for family day care educators and coordinators:

- family day care educators must have (or be actively working towards) at least an approved certificate III level education and care qualification
- family day care coordinators must have at least an approved diploma level education and care qualification.

In addition to the qualification requirements above, both centre-based and family day care services must meet first aid qualification requirements:

- a centre-based service must have, in attendance and immediately available in case of an emergency, at least one educator who holds a current approved first aid qualification, one educator who has undertaken anaphylaxis management training and one educator who has undertaken emergency asthma management training
 - the same educator may hold more than one of these qualifications
 - if the service is provided by a school on a school site, the person holding these qualifications may be on the wider school site (that is, not at the ECEC service itself) as long as they are available in an emergency (for example, a school nurse)
- each family day care educator must hold a current approved first aid qualification, have undertaken anaphylaxis management training and emergency asthma management training.

Box F.5 Qualification requirements for centre-based services

Early childhood teachers

From 1 January 2014

Services providing care to less than 25 children must ensure an early childhood teacher is in attendance at least 20 per cent of operating hours.

Services providing care to 25 or more children on any given day must ensure an early childhood teacher is in attendance for at least:

- six hours on that day (for a service that operates for 50 or more hours per week)
- 60 per cent of operating hours (for a service that operates for less than 50 hours)
 - A service may comply with these requirements by engaging a full-time equivalent early childhood teacher.

By 1 January 2020

Services providing care to between 60 and 80 children on any given day must ensure a **second** early childhood teacher is in attendance for at least:

- three hours on that day (for a service that operates for 50 or more hours per week)
- 30 per cent of operating hours (for a service that operates for less than 50 hours)
 - A service may comply with these requirements by engaging a second early childhood teacher for half of full-time equivalent hours.

Services providing care to more than 80 children on any given day must ensure a **second** early childhood teacher is in attendance for at least:

- six hours on that day (for a service that operates for 50 or more hours per week)
- 60 per cent of operating hours (for a service that operates for less than 50 hours)
 - A service may comply with these requirements by engaging a second full-time equivalent early childhood teacher.

Other educators

From 1 January 2014, minimum qualification requirements apply to all educators necessary to meet the minimum staff ratios for a service (i.e. educators that are excess to minimum staff ratio requirements do not require qualifications):

- at least 50 per cent must have (or be actively working towards) at least an approved diploma level education and care qualification
- the remaining educators necessary to meet the minimum staff ratios must have (or be actively working towards) at least an approved Certificate III level education and care qualification.

Source: ACECQA (2013c).

The assessment and ratings process

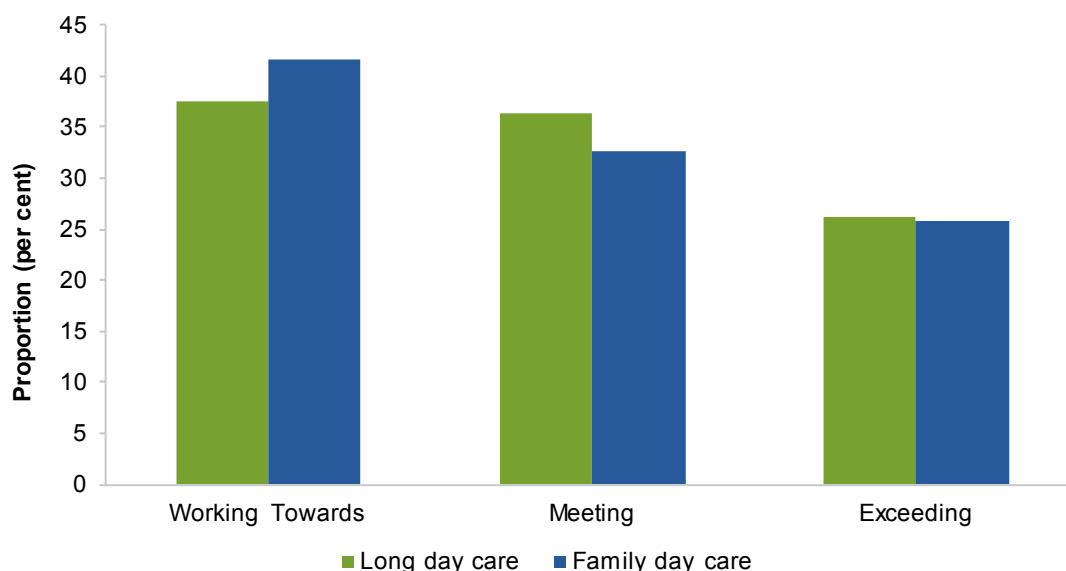
Approved services are assessed by their jurisdiction-based Regulatory Authority and receive a rating for each of the seven NQS quality areas and an overall rating. There are five rating levels that a service may receive as a result of the assessment process:

- Excellent (overall rating only) – awarded by ACECQA on application
- Exceeding NQS
- Meeting NQS
- Working Towards NQS
- Significant Improvement Required.

These ratings must be displayed by the service and are published on the ACECQA and MyChild websites. As at 31 March 2014, approximately 60 per cent of the long day care and family day care services which had been assessed had received either a Meeting or Exceeding rating (figure F.2). Family day care services were slightly more likely to be rated as Working Towards NQS, but equally likely to be rated as Exceeding.

Figure F.2 **Distribution of ratings across service types**

n = 5821^a



^a Excluding 6 Significant Improvement Required and 14 Excellent ratings.

Source: ACECQA (2014b, p. 9).

The assessment process is designed to last up to 16 weeks (figure F.3). Before changes to the assessment timeframe in April 2014, this process lasted up to 20 weeks. This lengthier timeframe was mostly due to a longer lead in time before the service had to submit its QIP

(now reduced from 6 weeks to 3 weeks) and a longer gap between when the service submits its QIP and when the assessment visit occurs (reduced from 6 weeks to 2-5 weeks). Many services are not assessed within the timelines prescribed under the National Law (chapter 7).

Figure F.3 **The assessment and rating process**



Source: Adapted from ACECQA (2014a).

As part of the ratings process, services must submit their QIP to their Regulatory Authority and undergo an assessment conducted by an ‘authorised officer’ of the Regulatory Authority. ACECQA provides guidance to state and territory-based Regulatory Authorities on the manner of assessments, which vary between service types (box F.6).

Box F.6 The recommended assessment process varies by service type

Long day care and preschool

- Minimum six hour visit (or two sessions for preschool).
- Two day or three session visit triggered when the service has four rooms or more.

Outside school hours care

If the service provides both before and/or after school care and vacation care, it is likely scheduling will not allow both service types to be visited in the assessment process. Regulatory authorities may consider supplementing this process with a spot check at a later date.

Before and/or after school care

- Two sessions in total.

Vacation Care

- One day or 7.5 hours, whichever is less.
- If the service has multiple sites, the assessor only has to visit one site.

Family day care

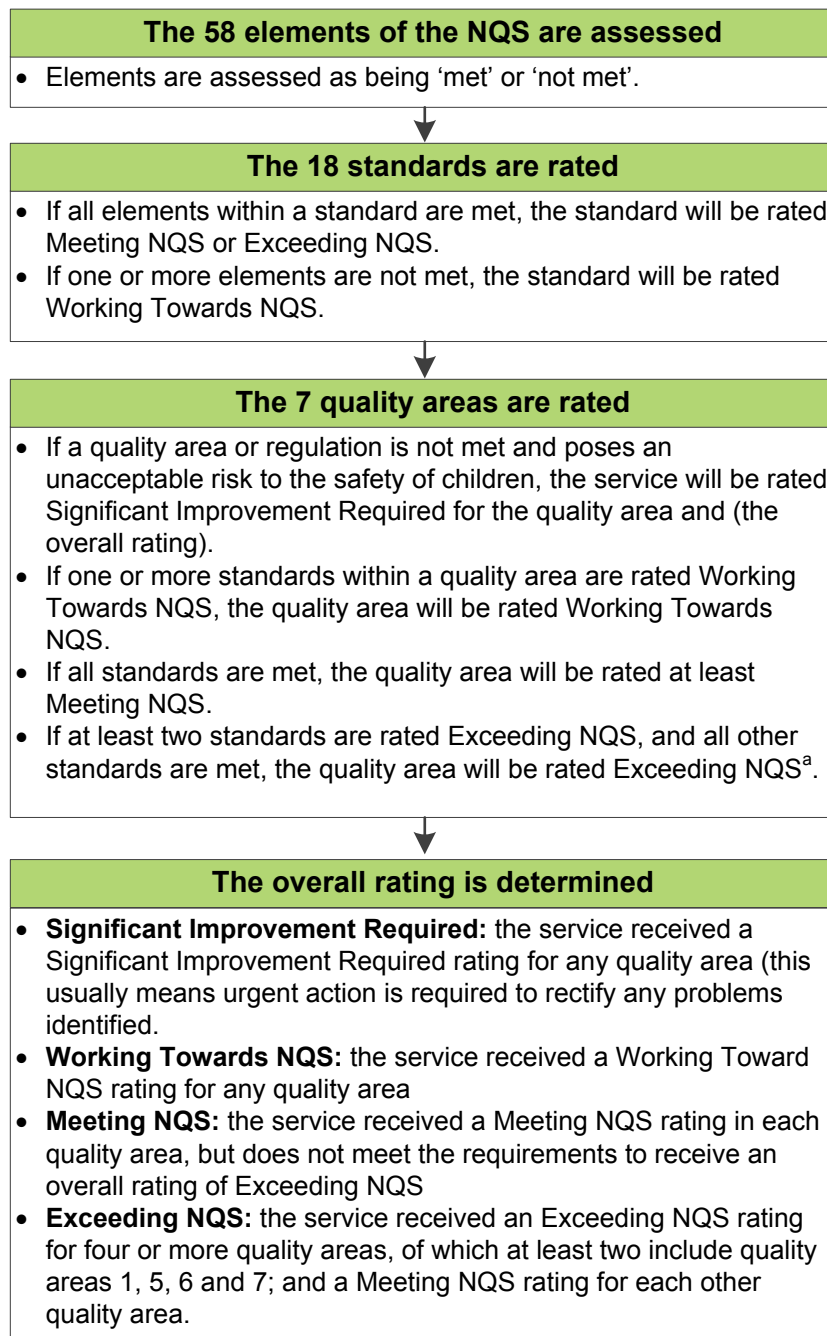
The assessment process entails an initial visit to the coordination unit, an assessment of a sample of family day care educators (in their residence) and a final visit to the coordination unit.

- The initial visit may take up to three hours.
- Individual educator visits should take between two and three hours.
- The final visit may take up to three hours.

Source: ACECQA (2014a, pp. 16–17).

Following an assessment, services will receive one of four ratings for each quality area and the overall rating (Significant Improvement Required, Working Towards NQS, Meeting NQS or Exceeding NQS) (figure F.4). An important feature of this ratings system is the weight given to unmet elements. The tiered design of the system means that a service must meet all 58 elements in order to receive an overall rating of at least Meeting NQS. A single unmet element means the standard containing that element cannot receive a rating higher than Working Towards NQS, which means the highest overall rating a service can receive is Working Towards NQS.

Figure F.4 How a service's rating is determined



^a If a service cares for children who are in the year that is two years before grade 1 of school, they may only be awarded Exceeding NQS for quality area 1 if the service provides a preschool program (or provides arrangements for access to one through another ECEC service).

Source: Adapted from ACECQA (2014a).

In addition to the four core ratings, services that receive a rating of Exceeding NQF may apply to ACECQA to be considered for an Excellent rating, which is the highest rating a service can achieve. Services must pay a fee of between \$200 and \$600 to be considered for this rating, depending on the type of service and its size. ACECQA (2013e) assesses applications according to three criteria:

- the service exemplifies and promotes exceptional education and care that improves outcomes for children and families, across at least three of six quality ‘themes’
- the service demonstrates leadership that contributes to the development of a community, a local area, or the wider education and care sector
- the service demonstrates commitment to sustained excellent practice through continuous improvement and comprehensive forward planning.

Once a service has been rated, the frequency of their future assessments should reflect the rating received — that is, the higher the rating, the longer the timeframe between assessments. Guidance from ACECQA (2013b), based on the National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care (COAG 2009), suggests that services should generally be assessed every:

- three years, if rated Excellent or Exceeding NQS
- two years, if rated Meeting NQS
- year, if rated Working Towards NQS.

Regulatory Authorities are expected to take immediate compliance action and work with services rated as Significant Improvement Required. The above timeframes are meant as a guide only, and appear unlikely to be met in any jurisdiction given the current pace of assessment by Regulatory Authorities.

Waivers

The assessment and ratings process includes provisions that allow a service to receive a waiver exempting it from some elements of the NQS. The National Law provides for two types of waivers:

- service waivers — provided on an ongoing basis
- temporary waivers — for up to 12 months.

A service may apply for waivers in order to be exempted from the standards and elements of Quality Areas 3 (Physical Environment) and 4 (Staffing Arrangements) of the NQS, and many of their associated regulations. As at 30 June 2014, 70 per cent of waivers were temporary and 30 per cent were service waivers (ACECQA 2014b, p. 15). A total of 913 services had active waivers as at 30 June 2014, accounting for around 6 per cent of approved services (table F.3).

Table F.3 Waivers granted by type and jurisdiction

<i>Jurisdiction</i>	<i>Physical</i>	<i>Staff</i>	<i>Both</i>	<i>Total</i>	<i>Proportion of services with a waiver</i>
					<i>%</i>
ACT	3	21	0	24	7.6
NSW	135	184	4	323	6.6
NT	0	34	0	34	16.3
Qld	70	100	3	173	6.4
SA	2	45	0	47	4.1
Tas	7	13	0	20	9.0
Vic	21	103	0	124	3.2
WA	7	161	0	168	16.4
Total	245	661	7	913	6.3

Source: ACECQA (2014b, p. 15).

A waiver is approved when the provider can demonstrate:

- genuine difficulty in meeting the requirements of the NQF
- children’s safety, health and wellbeing is not compromised or at risk
- a plan is in place for the service to meet the requirements by the time the waiver is due to expire (if temporary).

Since the introduction of the NQF, just over a quarter of waiver applications have been rejected (Commission calculations based on ACECQA administrative data, 20 January 2014). There is an application fee for waiver applications and waivers may be revoked by the Regulatory Authority at any time.

Reviews and reassessments

If an approved provider disagrees with their rating, they may apply to the Regulatory Authority for a review of their rating within 14 days of receiving the final assessment and rating report. This is referred to as a first tier review. There is no application fee for a first tier review.

If a first tier review does not resolve the concerns of the approved provider, they may apply on limited grounds to ACECQA for a further review by a Ratings Review Panel. This is referred to as a second tier review. Applications for a second tier review must be made within 14 days of receiving the decision of the Regulatory Authority on a first tier review and require an application fee of between \$400 and \$800. Such applications may only be made on the grounds that the Regulatory Authority:

- did not appropriately apply the prescribed processes for determining a rating level

-
- failed to take into account or give sufficient weight to special circumstances or facts existing at the time of the original rating assessment.

If the application for a second tier review is successful, ACECQA will convene a three member panel, comprising at least one ECEC expert and one ACECQA staff member. These members must have expertise in at least one of the following areas:

- early learning and development research or practice
- law
- the assessment of quality in ECEC services or other relevant services
- best practice regulation.

The rating determined by the panel will be the final rating for the service. The National Law does not provide the right of appeal against the decision of the panel.

An approved provider may also apply to the Regulatory Authority for a reassessment and re-rating, as an alternative to the review process. Unlike a review, a reassessment can take account of changes made to a service's operations since its most recent assessment. A fee applies for reassessment and an application can only be made once every two years.