



Procedure

Regulating for quality - Determining applications for early childhood services procedure

Version: 1.1 | **Version effective:** 15/04/2024

Audience

All early years

Purpose

This procedure outlines the Department of Education's approach as the Regulatory Authority responsible for assessing and determining applications for early childhood education and care providers and services that are seeking approval, amendment or a waiver under the National Quality Framework (NQF).

Overview

The Regulatory Authority assesses and determines a range of applications from organisations and individuals who wish to provide early childhood education and care services in Queensland. As part of the assessment process, the Regulatory Authority carefully considers an applicant's fitness and propriety, as well as their ability to provide safe, high quality early childhood education and care services that are fully compliant with the NQF.

The types of applications considered may include (but are not limited to):

- provider approvals
- service approvals
- waivers (service or temporary)
- notifications about the transfer of a service approval.

Further information on how to respond to notifications about incidents and complaints in accordance with the R4Q policy should be directed to regulation@qed.qld.gov.au.

This procedure sets out the steps to follow when assessing and determining an application under the NQF. The practical steps, relevant legislation and decision criteria will vary depending on the application type and are set out in internal documents including work instructions, assessment tools and templates.

This procedure should be read in conjunction with the [Regulating for quality - The regulation of approved early childhood education and care services policy](#) (R4Q policy), and builds on the guidance contained in Section 2 of the [Guide to the NQF](#).

Responsibilities

Chief executive (Director-General)

- Regulates education and care services in Queensland.
- Delegates powers under the Education and Care Services National Law (National Law) to appropriately qualified officers within the Regulatory Authority.

Regulatory officers

- Validate application forms received by the Regulatory Authority.
- Assess applications in accordance with the National Quality Framework and the [R4Q policy](#).
- Ensure applicants are afforded procedural fairness throughout the application process, and in a way that demonstrates operational consistency, un-biased decision-making and is compatible with, and properly considers, human rights.
- Ensure the safety, health and wellbeing of children is the primary consideration throughout the assessment of an application.
- Allocate applications to delegated officers for decision-making.
- Maintain appropriate and accurate records in the approved record management system to support application decisions.
- Conduct internal reviews of a decision within legislative timeframes.

Delegated officers

- Determine applications on behalf of the chief executive under the National Law.
- Ensure applicants are afforded procedural fairness throughout the application process, and in a way that demonstrates operational consistency, un-biased decision-making and is compatible with, and properly considers, human rights.
- Maintain accurate and complete records of the information that informs their decision in the approved record management system.
- Seek legal advice prior to making a decision, wherever necessary.
- Determine applications within the specified legislative timeframes.
- Decide internal reviews of decisions within legislative timeframes.
- Ensure no officer involved in an original application decision is involved in deciding an internal review.

Process

1. Receive an application

Applications must be on the [approved form](#) and must be submitted online using the National Quality Agenda IT System (NQA ITS) via the Australian Children's Education and Care Quality Authority (ACECQA) [website](#).

Regulatory officer will:

- receive the application in the NQA ITS
- ensure that the correct fee has been paid where required, such as on applications for provider approval, service approval, amendment of service approval, applications for temporary and service waivers, and notifications of intended transfer of service approvals
- save a record of the application and all documentation supplied in the approved record keeping system and update the status of the application in the NQA ITS. Refer to the online NQA ITS instructions in the Regulatory Practice Manual.

2. Validate an application

Applications are assessed after all the necessary prescribed information set out in the [Education and Care Services National Regulations](#) (National Regulations) is provided by the applicant. Prescribed information will vary depending on the type of application. Refer to the relevant guidance found in the online Regulatory Practice Manual.

Regulatory officer will:

- conduct a completeness check of the application to ensure the necessary prescribed information has been included to enable assessment of the application to commence
- record the outcome of the validation process in the NQA ITS
- advise the applicant in writing if the application is incomplete (i.e. does not include all the prescribed information) and request information be provided within a reasonable given timeframe, taking into consideration the amount and complexity of the information requested
- update the status of the application in NQA ITS. The statutory timeframe for deciding an application will commence when the application is validated in the NQA ITS. Under the National Law, the Regulatory Authority must decide applications for:
 - provider approval, amending a service approval, and a service or temporary waiver: within 60 days after receiving a complete application
 - service approval: within 90 days after receiving a complete application
 - provider amendment and voluntary suspension of service approval: within 30 days after receiving a complete application.

3. Assess an application

The National Law sets out what must be considered when assessing and deciding an application. The relevant requirements will vary depending on the application type. Information about what is to be considered when assessing an application is available in section 2 of the [Guide to the NQF](#), under the relevant chapter

Uncontrolled copy. Refer to the Department of Education Policy and Procedure Register at <https://ppr.qed.qld.gov.au/pp/regulating-for-quality-determining-applications-for-early-childhood-services-procedure> to ensure you have the most current version of this document.

headings (e.g. Service approval, Provider approval, Waivers). Further guidance about assessing an application can be found in the online Regulatory Practice Manual.

Regulatory officer will:

- consider the application in a way that is consistent with the [R4Q policy](#) and the principles of good administrative decision-making (set out in [section 5](#) of the [Guide to the NQS](#)). This includes considering risk factors to determine the level of scrutiny to be given to the application. Relevant factors to be considered will depend on the application type but may include, for example:
 - management capability
 - financial circumstances
 - an approved provider's past compliance history in Queensland or another jurisdiction
 - compliance with any other relevant legislation
 - the type and size of the service
 - the age of the children in care
 - (in the case of waivers) the nature of the provision to be waived and the potential impact on children's safety, health and well-being.
- contact the applicant if additional evidence or information is required. For example, to ensure procedural fairness, applicants may be invited to provide more information, undertake an assessment or attend an interview to confirm aspects of their application. Guidance about obtaining additional information and undertaking an interview with an applicant is available in the online Regulatory Practice Manual
- analyse all the information and evidence available to establish the facts that are relevant to the decision and making an assessment as to whether the requirements, matters and/or conditions specified in the National Law have been met
- consider if risks have been adequately addressed. Relevant factors to consider will vary depending on the type of application but may include, for example, risks relating to:
 - management capability
 - adequacy of policies and procedures
 - working with children check
 - suitability of premises.
- prepare a recommendation to the delegate to either:
 - grant the application
 - grant the application with conditions (Section 5, Chapter 4 of the [Guide to the NQF](#))
 - refuse the application.

4. Decide an application

Delegated officer will:

- ensure the applicant has been provided with procedural fairness throughout the application process and consider human rights when making a decision

- make a decision on the application by considering the regulatory officer's recommendation, ensuring the relevant legislation has been correctly interpreted and applied, and there is clear and sufficient evidence to support the decision
- record the decision and supporting evidence and save in the approved record management system
- complete the decision section in the NQA ITS. Refer to the online NQA ITS instructions in the Regulatory Practice Manual
- ensure the applicant is notified in writing within 7 calendar days of making the decision. The letter must include supporting reasons for the decision (supporting reasons may be brief for decisions to grant) and detail any avenues for review and the timeframes for requesting a review. For example, applications for internal review must be made within 14 days after being notified of a decision; or in the case of an application for external review, within 30 calendar days after being notified of the decision. More information about review rights is available in Section 6 of the [Guide to the NQE](#).

Regulatory officer will:

- update the notification section in NQA ITS. Refer to the online NQA ITS instructions in the Regulatory Practice Manual.

5. Internal review request

An internal review gives an applicant an opportunity to have an application-related decision reconsidered by the Regulatory Authority. The [Education and Care Services National Law \(Queensland\)](#) (National Law) sets out which decisions are internally reviewable.

An applicant for an internal review will:

- Complete the application on the [approved form](#) and submit the form online using the NQAITS on the ACECQA [website](#). Alternatively, an applicant can complete a [manual form](#) and send it to the Regulatory Authority [directly](#) by email or post, within 14 days of becoming aware of the decision. The applicant must include a statement setting out:
 - the details of the decision, or part of the decision, for which review is sought.
 - how the decision affects the applicant.
 - the grounds for seeking a review of the decision; for example, why the original decision was unreasonable, unfair, or unmeritorious.

An internal review must be conducted by a person who was not involved in the assessment of the application. This includes the original decision-maker and also regulatory officers who were involved in collecting information and preparing a recommendation for the original decision.

Regulatory officer will:

- receive the application for review and decide if it has been submitted within the required timeframe
- validate the application for review by checking that the Regulatory Authority has the power to conduct an internal review of the original-decision
- check the application form is complete by ensuring all required information and supporting documentation referred to in the approved form has been included

- register the application for review in the NQA ITS (if a manual form was submitted). The required timeframe for deciding an internal review will commence at this time
- acknowledge receipt of the application for internal review in writing confirming the date the review must be determined
- contact the applicant if the request is incomplete (i.e. does not include all the required information) and request further information be provided within a reasonable set timeframe (which is not included in the statutory timeframe), taking into consideration the amount and complexity of the information requested

6. Assess and determine an internal review application

Regulatory officer will:

- conduct an internal review of an application within 30 calendar days of receiving the application. The time frame may be extended by up to 30 calendar days by agreement between the applicant and the Regulatory Authority.
- assess all relevant documents such as notes, evidence, or any other information considered by relevant parties, such as the original decision-maker
- analyse and assess the evidence against the [NQS](#), [National Law](#) and [National Regulations](#)
- seek legal advice if necessary. It is important that the relevant legislation is correctly interpreted and applied when making a decision. If the decision-maker is in doubt they should seek legal advice. Guidance about obtaining legal advice is available in the online Regulatory Practice Manual
- provide recommendations to the delegated officer on the internal review application

Delegated officer will:

- ensure they have the appropriate delegation to make the decision under the National Law
- determine whether to confirm the original decision, overturn the original decision or make any other decision that is consistent with the Regulating for Quality framework policy and the principles of good administrative decision-making
- review and approve the decision letter before it is sent to the applicant by the regulatory officer.

Regulatory officer will:

- record the decision in the NQA ITS. Refer to the online NQA ITS instructions in the Regulatory Practice Manual
- notify the applicant in writing within 7 calendar days of making the decision. The letter must include the findings and reasons as approved by the delegated officer, together with – as relevant – information regarding any further internal or external review rights.

Definitions

Term	Definition
Applications	Includes:

Term	Definition
	<ul style="list-style-type: none"> • provider approvals issued under Part 2 of the National Law • service approvals issued under Part 3 of the National Law • waivers issued under Part 3 of the National Law.
Approved education and care service	Any education and care service that has been granted a service approval by the Regulatory Authority under the Education and Care Services National Law (Queensland) . This includes long day care services, family day care services, outside school hours care services and preschool programs including those delivered in schools unless expressly excluded.
Approved provider	An individual or organisation that holds an approval that allows them to provide one or more early childhood education and care services.
Australian Children's Education and Care Quality Authority (ACECQA)	An independent national authority that works with the Australian and state governments to administer the National Quality Framework for children's education and care.
Condition	A limitation or requirement placed on an approval by the Regulatory Authority.
National Quality Agenda Information Technology System (NQA ITS)	<p>An online suite of web portals that is managed by the Australian Children's Education and Care Authority (ACECQA) on behalf of the Australian Government, and all State and Territory Governments.</p> <p>The NQA ITS supports the technical implementation of the NQF such as monitoring and compliance and assessment and rating.</p>
National Quality Framework	<p>The National Quality Framework (NQF) sets out the national approach to regulation for early childhood education and care services and comprises the:</p> <ul style="list-style-type: none"> • Education and Care Services National Law (Queensland) • Education and Care Services National Regulations • National Quality Standard for assessing the quality of education and care services • Assessment and quality rating process • National approved learning frameworks.
Procedural fairness	<p>The opportunity to review any relevant and adverse material which is before the decision-maker and be given the opportunity to present a case before a decision is made.</p> <p>The decision-maker is not biased and does not have the appearance of bias.</p> <p>The decision-maker relies upon credible evidence to make their decision.</p>

Term	Definition
	Denial of procedural fairness is a ground for applying for a statutory order of review under the Judicial Review Act 1991 (Qld) .
Provider approval	A nationally recognised approval which, when granted, enables an Approved Provider to apply for service approval to operate one or more education and care services.
Service approval	An approval which authorises an Approved Provider to operate an approved education and care service.
Waiver	Permits an approved service to operate despite the service not complying with an element of the National Quality Standard (NQS) and/or a prescribed Regulation. May be granted on a temporary or ongoing basis.

Legislation

- [Education and Care Services National Law \(Qld\) Act 2011](#)
- [Education and Care Services National Law](#)
- [Education and Care Services National Regulations](#)

Delegations/Authorisations

- [Delegation of Director-General's Powers under the Education and Care Services National Law, Section 262](#)
- [Director-General delegations under the Education and Care Services National Law](#)
- [Director-General delegations under the Education and Care Services National Regulations](#)
- [Instrument of Authorisation of Authorised Officers under the Education and Care Services National Law](#)

Policies and procedures in this group

- [Regulating for quality: The regulation of approved early childhood education and care services policy](#)
- [Regulating for quality - Assessing and rating the quality of early childhood services procedure](#)
- [Regulating for quality - Monitoring and assessing compliance of early childhood services procedure](#)

Supporting information for this procedure

- Nil

Other resources

- [Application forms](#)
- [ACECQA Guide to the National Quality Framework](#)

Contact

For further information, please contact:

Local [regional office](#)

Email: ecec@qed.qld.gov.au

DoE employees please contact:

Director, Licensing

Telephone: 3328 6910

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Superseded versions

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Nil

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