National Child Safety Review

Regulatory Impact Analysis
Consultation Submission, June 2025

Family Day Care Queensland

National Child Safety Review, consultation submission

Contents

Regulatory Impact Analysis

Family Day Care Queensland (FDCQ) welcomes the opportunity to contribute feedback on the Child Safety Review Regulation Impact Analysis's Consultation Regulation Impact Statement (CRIS). FDCQ represents the collective voice of family day care (FDC) and in-home care (IHC) service providers across Queensland within the registered home-based early childhood education and care sector. As the peak body representing and supporting these sectors, we recognise that this consultation is vital in ensuring the safety, protection, and wellbeing of all children in approved education and care services.

FDCQ has a proud record of supporting FDC and IHC providers for more than 40 years. FDCQ operates as a nonprofit, for-purpose organisation, registered charity, member-based association, and a company limited by guarantee, governed by a skills-based Board. As the peak body representing and supporting the sector, our purpose is to lead, promote, and grow exceptional home-based quality FDC and IHC services. We understand that IHC is currently not within the scope under the NQF; however, FDCQ continue to work in partnership with the Australian Government and ACECQA to support the development and implementation of IHC best-practice quality and safety standards. FDCQ works closely with Family Day Care Australia and Early Childhood Australia to strengthen and enhance the sector.

Child safety is the foremost objective under the National Quality Framework (NQF), supported by a strong focus on continuous quality improvement to ensure children are safe, healthy, and thriving in education and care settings. As highlighted in the CRIS (page 20, section 1.3 "What is the case for change?"), the need for additional protections is underscored by findings from the Child Safety Review, along with ongoing reports of critical incidents and allegations. The review identified that instances of harm could be significantly reduced by introducing enhanced child safety measures and evolving the requirements of the NQF to align with technological and other advances. For example, strengthening policies and practices regarding the use of digital devices within education and care settings would ensure child safety standards keep pace with modern risks and technological developments.

As the peak representative of the FDC and IHC sectors in Queensland, FDCQ strongly supports regulatory improvements that reinforce the health, safety, wellbeing, and protection of all children in Australia. Through a comprehensive consultation process involving a large number of responses and extensive input from approved providers, coordinators, staff and educators across Queensland, FDCQ has gathered a broad range of perspectives that have directly informed the development of our submission. As a result, we believe this ensures the submission reflects the collective voice of the Queensland FDC and IHC sectors. The consensus view supports the proposed reforms, with due consideration of realistic application and adaptation for home-based education and care.

Theme 1: Management of digital devices

Managing the use of digital devices

FDCQ supports Option 1—maintaining the status quo for FDC services—unless a hybrid approach combining Options 2 and 3 can be applied across the home-based care sector. Such an approach must include specific provisions for FDC and IHC that acknowledge the unique context of home-based education and care delivered by individual educators working in isolation.

FDCQ recognises that the primary benefit of **Option 3** is that it appears relatively more difficult for individuals providing education and care to use their personal device to generate inappropriate digital content relating to children attending education and care services. Further, it reduces the risk that images or videos of children (including inappropriate content) will be distributed, intentionally or unintentionally. FDCQ supports this option for centre-based services (CBS), however, it is imperative that any regulatory changes also respond to the unique FDC setting and context of service delivery.

FDCQ believes that the costs involved in supplying devices and necessary digital/technological infrastructure to each FDC educator are not feasible and propose that carefully guided and managed risk mitigation policies and processes would work best in the home-based education and care sectors.

Understanding the Home-based Services context in relation to the use of digital devices

Currently, FDC represents 2.3% of the national ECEC sector. There are 97 FDC approved providers in Queensland providing education and care for approximately 13,805 children across metropolitan, regional and remote areas of Queensland. In effect this means, approximately 400 staff and 4000 educators. FDC approved providers in Queensland currently engage varying numbers of staff and educator's dependent on their approval and size. For each service, this could be anywhere between 10-250 staff and educators per Approved provider. The number of educators registered with any FDC approved provider at any one time fluctuates regularly.

Over the past 10 years, there has been a significant decline in FDC approved providers across Australia. ACECQA Snapshot national data recorded 854 FDC services in Q4 2014 and 416 FDC services in Q4 2024 (NQF Snapshots | ACECQA). It is our view that a mandated requirement for Approved providers to provide service use only devices and potentially infrastructure for staff and each educator is not feasible, cost-prohibitive and could further add to the decline in FDC services and workforce. Purchasing, maintaining and updating this quantity of individual devices is not cost-effective nor viable to the ongoing delivery of FDC by individual approved providers. Similarly, expecting educators to purchase, maintain, and regularly update separate devices and infrastructure solely for use within their individual home-based education and care business would be prohibitive. This added financial burden may further impact workforce retention, as educators may opt to transition to centre-based services (CBS), where such devices are typically provided.

FDCQ recognises that whilst a cost is incurred for all service types, we suggest that service use only devices would be manageable in centre-based services (CBS) where fewer devices would be needed and utilised across multiple staff working from the one venue. It is acknowledged that FDC coordination unit /approved service staff could be issued service use only devices, however there would be an enormous impact on approved providers if the regulatory change requires approved providers to purchase, issue, track and monitor service use only devices to every FDC educator across multiple jurisdictions.

Why and how do FDC Educators currently use their own device

- Recording digital media, accessing software platforms and for sharing children's learning, transitions, daily routines and injury or illness and permissions with families, the approved provider and the Regulatory Authority (regular usage).
- **Managing emergencies & contacting emergency services** (requirement).
- Contacting parents.
- Contacting and remaining connected with the approved provider, coordination unit, support agencies, local authorities and other external stakeholders (requirement).
- Accessing apps that provide real-time safety information such as air quality, UV and weather and local emergency alerts.
- Recording daily routines and activities including but not limited to transportation transitions - arrivals, departures; sleep registers; daily safety checklists; UV SunSmart checks; parent / guardian permissions and more.

FDCQ would support a combination of Options 2 and 3 to amend the National Law and National Regulations to mandate that only service-issued digital devices can be used when taking images or videos of children while providing education and care with defined exceptional circumstances, for FDC. FDCQ recommends amendments to regulation 168 of the National Regulations requiring FDC approved providers to develop policy and procedures for the management of digital devices in the FDC setting. This option allows for the use of personal devices in specific situations, with proper training, guidance and permissions.

An example of how approved providers could risk mitigate the use of personal devices could include but not be limited to:

- FDC approved providers ensure that only service-issued digital devices can be used by FDC coordination staff when taking images or videos of children while enrolled in the education and care setting.
- FDC approved providers develop policy and procedure for the management of digital devices and technology in practice including the use of devices bought into the service by children (e.g. digital licences, panopticon and cyber safety measures required).
- Only educator devices used in the education and care setting during operational hours or for programming purposes.
- FDC approved provider must obtain signed parent/guardian permissions for defined use of devices and digital images of each child enrolled.

- Documentation of children's learning is uploaded to approved provider portal, third party software platform or software program and sent to the approved provider annually (or when an educator leaves the service) for record keeping (in accordance with NQS Regulation 74) and deleted from the educator device.
- Educator signs an agreement at the time of on-boarding to the above whilst providing the education and care service and provides a declaration upon leaving the service that all digital media is permanently deleted from personal devices.
- ACECQA provide guidelines and training including, appropriate use of digital devices and risks associated with misappropriation. Permissions for taking and storing media, and guidelines for documenting children's learning and communicating with families.

FDCQ remains committed to promoting a practical and sustainable approach that strengthens child safety while recognising the operational realities of FDC. By implementing well-informed and robust policies—alongside clearly defined exemptions for personal device use—approved providers can maintain regulatory compliance while supporting educators in delivering safe, high-quality home-based care.

Theme 2: Child Safety Training

Introducing mandatory child safety training

FDCQ strongly supports a nationally consistent and comprehensive approach to strengthening child protection provisions that better equip staff with knowledge and skills to understand child safe principles and practice through ongoing training.

FDCQ supports Option 6: 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 work directly with children), with a requirement to complete refresher training every two years.

A regulatory option that involves a transitioned, approach including (1) a 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 services, with a requirement to complete refresher training every two years to ensure currency of knowledge, and (2) a list of several features that may be included in the content of the mandatory child safety training (as listed below). Creating a child safe culture in education and care services;

- Identifying, reporting, and responding to child maltreatment through trauma informed practice.
- Understanding differences in behaviour and responding appropriately. Able to identify grooming behaviour in children and adults around them.
- Understanding the difference between developmentally appropriate sexual behaviour and concerning or harmful behaviour by children or between children.
- Effective supervision and behaviour guidance, including the offence of using inappropriate discipline, and potentially inappropriate conduct.

- Considerations including service-specific stressors, educator wellbeing, code of conduct, workplace culture, cultural inclusion and reasonable steps for embedding in practice.

FDCQ acknowledge that whilst **Option 6** will result in nationally improved consistency in child safe practices across all jurisdictions, it will also have the greatest cost and workforce impact on Approved providers. This change should be subject to the government undertaking further research, costing and impact analysis of any proposed training and the implementation approach. FDCQ supports the development of national training. We believe that this will require careful consideration and deliberate consultation with all ECEC sectors to ensure flexible training delivery supports the impact on staff attendance and considers accessibility and inclusivity for learners, including rural and remote, learning needs, cultural safety, and ensuring the training is relevant to each service type and context.

FDCQ strongly recommends that the government either fully fund a nationally consistent training scheme that includes initial and refresher modules. In addition, consideration for future requirements for updated child safe training that it evidence-informed, particularly to incorporate in line with legislative changes over time, which could be delivered through recommended Registered Training Organisations (RTOs), or ACECQA or via state-based PEAK bodies. Alternatively, the government could allocate funding opportunities directly to services to support staff and educators in meeting and maintaining compliance with the proposed regulatory training requirement.

Theme 3: Responding to educator and staff member conduct

Making inappropriate conduct an offence

FDCQ support Option 3: 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.

FDCQ agrees that this change is necessary to empower the regulator to act on non-compliant behaviours beyond inappropriate discipline and supports the list of inappropriate conduct examples provided in the CRIS. FDCQ recommends that the government provide clear definitions and comprehensive guidelines to support fair and consistent decision-making, and due diligence accompanied by uniform enforcement practices by the regulatory authority. During consultation with FDCQ Members, stakeholders provided examples of previously experienced scenarios and raised concerns about protecting educators from unjust accusations, emphasising the need for clear procedures and safeguards to ensure that educators are provided the opportunity to defend themselves and capacity to present evidence in support of their situation.

Recognising that FDC educators work in isolation, FDCQ would like to emphasise the need for a comprehensive, clear and consistent investigation process, highlighting the importance of thorough, fair and objective procedures that recognise the need to protect educators from potential vindictive or false accusations. Any investigative process would require rigor, be evidence-based and clearly detail the role of the regulator in ensuring fair and accurate assessments of conduct. FDCQ stakeholders

raised questions on how inappropriate conduct would be reported and managed. They suggested a decision-making triage system could be used to assess cases effectively.

Enhancing Regulatory Authorities' ability to share information with approved providers

FDCQ support Option 3: Amend section 272 to allow the Regulatory Authority to share information about a prohibited person or suspended FDC educator with the person's current approved provider, without a request from the approved provider.

Consensus from the FDCQ consultation with the Queensland FDC sector highlighted the urgent need for change to allow Regulatory Authorities to notify services if an individual is prohibited from working with children. The current prohibited persons check process is only effective at time of checking and subject to change, which in our view puts services and children at risk. While the process of checking a prohibition and suspension record is quick and seamless, it has been observed that the generated report lacks key details such as the candidate's name and the date the check was performed. These details are important for quality assurance and record-keeping.

Expansion of regulatory responses to educator conduct

FDCQ support Option 5: Amend the National Law to enable the Regulatory Authority to impose mandatory training or re-training for staff members (regulatory).

Option 5 would ensure that the Regulator provides the directive and that this supports approved providers who may be under-resourced to manage non-compliant behaviour, therefore preventing improved performance, knowledge of appropriate conduct and potentially resulting in repeated inappropriate conduct by the educator or staff member.

FDCQ recommends that the provision supports open communication between the Regulator and the approved provider when determining individual actions that lead to suspension. This should include transparent discussions with greater clarity about the duration of the suspension, the type of training required, and the consideration of flexible training options that enable a FDC educator to continue operating, where appropriate, while being supported and monitored by the approved provider.

FDCQ recommends that regulatory responses be directed at the specific actions of individual educators or staff members, rather than applied broadly to the entire service. This approach is especially important when the individual has acted independently and in contradiction to the approved provider's established policies and procedures.

Decisions regarding minimum or maximum suspension periods, required training, or cessation of engagement should be guided by established national standards or a risk matrix. These decisions should be made in conjunction with a decision tree framework that prioritises quality, governance and safety for all stakeholders in practice. It is noted that instances of inappropriate conduct within education and care services, where the individual's behaviour does not meet the threshold for prohibition or suspension (particularly in the case of FDC educators), are infrequent, occurring less than once per year or not at all in many services.

Theme 4: Working with children checks[1]

FDCQ agrees that national consistency is essential to ensure that all education and care providers manage Working With Children Checks (WWCC) status changes uniformly. Option 3 was the preferred choice, as it would standardise processes, reduce administrative complexities for services operating across jurisdictions, and improve child safety nationwide.

Requiring an approved working with children's check prior to commencing paid or volunteer work at an education and care service

FDCQ strongly support Option 3 Jurisdiction-specific National Regulation amendment in WA, the ACT and the 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 be engaged/commence their roles. In addition, a jurisdiction-specific National Regulation amendment in NSW will clarify this same requirement beyond doubt.

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

FDCQ supports Option 3: 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); and
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, (current 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).

FDCQ views national consistency in WWCC as a critical measure to enhance transparency, strengthen child safety, and streamline compliance processes during both onboarding and ongoing monitoring of educators within the sector and Australia-wide.

[1] WWCC is used to represent working with children checks and working with vulnerable persons (WWVP), in addition to equivalent checks across states and territories.

Theme 5: Improving the safety of the physical service environment

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

FDCQ supports and advocates for educators and families across a wide range of jurisdictions, from metropolitan areas to rural, remote, and very remote communities. It is acknowledged that early childhood education and care (ECEC) services operate in diverse settings, including—but not limited to—purpose-built centres, modified buildings, venue-based services, and home-based care environments.

Some services are delivered from premises not originally designed for childcare or aligned with current building codes, such as community halls, commercial properties, and council-owned facilities. In these cases, temporary waivers—paired with robust risk management plans—enable services to continue operating and meet the immediate childcare needs of their communities.

Temporary waivers are particularly valuable in rural and remote areas, often referred to as "childcare deserts," where access to ECEC is limited. Without such flexibility, families in these regions may face significant barriers to accessing early learning, participating in the workforce, and engaging in their communities—further widening the equity gap across jurisdictions.

However, concerns have been raised regarding the long-term reliance on waivers, particularly where services operate from non-purpose-built facilities, which in our view may pose risks to effective child supervision.

FDCQ supports a combined approach incorporating Option 2 and Option 3, which includes:

- Providing clear guidance on the importance of designing and maintaining premises that support continuous supervision of children.
- Amending the National Regulations to remove the ability to apply for service waivers under Regulation 115 on a long-term basis.

This approach would retain the ability to apply for temporary waivers of Regulation 115 in short-term or emergent circumstances, provided appropriate risk mitigation strategies are in place. Importantly, this amendment would not affect existing Regulation 115 waivers.

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

FDCQ supports Option 3: 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.

During consultation, FDCQ stakeholders confirmed that, as required by legislation, all FDC educators develop and display a detailed floor plan identifying areas used for education and care, areas not used, and any water hazards. FDCQ strongly supports the requirement that areas not designated for education and care are assessed and maintained as inaccessible to children.

Educators are responsible for monitoring and maintaining child-safe environments in accordance with their documented floor plans. Annual reassessments and regular visits to the residence by the approved provider are recognised as effective risk management strategies.

FDCQ recommends that any amendments to the National Regulations include:

- Clear and consistent definitions to support compliance and enforcement.
- Clarification of the term “near” in relation to proximity of hazards or unapproved areas.
- A refined definition of “habitable” to ensure that inspections and assessments of unapproved areas are appropriately scoped (for example excluding sheds, agricultural, industrially relevant outlying areas).

These recommendations take into account work health and safety considerations, as well as the potential limitations in hazard identification, and expertise among coordination staff and regulatory personnel. They also recognise the resourcing constraints that may affect smaller service providers.

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

FDCQ supports Options 2 and 3: Guidance or information (as detailed below) and amendment to 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:

- A serious incident has occurred, or the authorised officer reasonably suspects that a serious incident has occurred.
- To assess or monitor compliance with regulation 116.
- To assess or monitor compliance with regulation 97.

Government regulators, such as state and territory regulatory authorities, are responsible for inspecting FDC residences to ensure they comply with safety standards set out under the **Education and Care Services National Law and National Regulations**. Currently, authorised officers are permitted to enter the areas of a home that are officially designated for childcare, and if an educator refuses entry to inspect unapproved areas within the residence, an authorised officer can seek formal approval via external authorities to inspect the balance of the residence and private property. It has been noted that there appear to be inconsistencies in practice or vagaries in understanding under this provision in action.

Preferred Option: Family Day Care Queensland supports the combination of Option 2 (Non-regulatory) Develop and disseminate a Short guidance or information sheet aimed at authorised officers, FDC approved providers and FDC educators to explain powers of entry in relation to FDC.

The guide must include nationally agreed principles and practices for authorised officers' access to areas of an FDC residence or property that are not part of the service premises. This guidance would 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).

AND

Option 3, which would amend the National Law to enable authorised officers to enter additional areas of a Family Day Care residence in specific instances. These instances may include:

- Investigating a **serious incident** or responding to concerns where child safety may be compromised.
- **Assessing or monitoring compliance with Regulation 116**, which ensures FDC residences provide a safe environment for children.
- **Assessing or monitoring compliance with Regulation 97**, which outlines requirements for risk assessments and emergency procedures in childcare settings.

FDCQ recommends that government authorities provide **clear and precise guidance** on:

- **Defining boundaries** for inspections of areas near a FDC residence to ensure safety assessments remain focused and on task, whilst additionally being respectful of the educator and other occupants' privacy.
- **Training regulatory officers** in hazard identification, particularly in household or farm environments, where specific technical expertise is required.

Providing clear guidance and interpretations under amended regulations, alongside consistent regulatory practices and enforcement, will help uphold child safety while addressing shared concerns related to professional collaboration, respect, privacy, and procedural consistency. While there is broad support for transparency and access, educators have expressed concerns about privacy and the need for consistent enforcement in practice in all circumstances. Ensuring professionalism and mutual respect across the FDC sector remains essential.

Theme 6: Additional recommendations

Effective identification, monitoring and regulation of 'related providers'

FDCQ supports Option 3: Regulative amendment is necessary to ensure transparency in provider ownership, strengthen child safety regulations, and improve Regulatory Authorities' ability to enforce compliance.

FDCQ stakeholders emphasised that public notification of ownership transfers should be standard practice to prevent hidden shifts in control.

Extending the limitation period for commencing proceedings under the National Law

FDCQ supports Option 2, advocating for a longer window for proceedings to begin, ensuring offences can be addressed even if discovered after the standard two-year timeframe. FDCQ stakeholders acknowledged that this change was a crucial step toward strengthening enforcement and protecting child safety.

Information sharing provisions for recruitment agencies

FDC services do not generally use the services of recruitment agencies, however FDCQ, in consultation with Queensland FDC service providers, agreed that information-sharing provisions should be strengthened, ensuring clear regulatory alignment between recruitment agencies and education providers **(Option 3, 4 or 5).** There was strong support for proactive engagement, modern compliance solutions, and improved transparency in hiring practices that support other ECEC sectors.

Submission response

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