

- Sections 10, 12 and 13 of the *Education and Care Services National Law Act 2010 (National Law)*
- Part 8 Division 1 of *A New Tax System (Family Assistance) (Administration) Act 1999 (Family Assistance Law)*

## Important information before you begin

You are required to fill in this form if you are applying:

- under the National Law, and/or
- under the Family Assistance Law to administer Child Care Subsidy and Additional Child Care Subsidy

as:

- an individual applying to be an approved provider of education and care services
- a constituent individual member of a non-individual entity applying to be an approved provider of an education and care service. (Note - constituent individual personnel include company directors, executive members of an association, and partners of a partnership)
- an individual who will have 'management or control' of an education and care service (operated by a non-individual provider) as defined by section 5 of the National Law, and/or
- an individual who will have 'management or control' of the provider under s194F of the Family Assistance Law.

Consideration of 'management or control' responsibilities may arise:

- a. when a new provider is seeking approval, OR
- b. when the membership of the governing body of an existing approved provider is changing/has changed.

Please refer to the Explanatory Notes on pages 2 to 4 of this form when considering whether you are a person with 'management or control' of an education and care service.

### Submitting this form

Please submit this form along with any required documentation via [NQA ITS](#) as part of the application.

If you have questions, please contact your regulatory authority or the Australian Government. Contact details are available on the [ACECQA website](#).

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## Privacy statement

The Australian Children's Education and Care Quality Authority (ACECQA), the regulatory authorities and the Australian Government are committed to protecting personal information in accordance with the *Privacy Act 1988*.

The personal information you provide is being collected by ACECQA on behalf of the regulatory authority and/or the Australian Government for the purposes of assessing your application or notification.

Regulatory authorities, the Australian Government and ACECQA may use and disclose the information you provide in accordance with the Education and Care Services National Law (National Law) and Family Assistance Law. If you are required to complete a knowledge assessment as part of your application or notification, your personal information may be disclosed to Janison Solutions and/or Proctortrack who provide the assessment software for ACECQA, the regulatory authorities and the Australian Government.

If the requested information is not provided, your application or notification may not be able to be assessed, or it may be refused.

ACECQA publishes national registers of approved education and care services and providers on its website. Personal information in the registers (e.g. personal information in email addresses) may be disclosed to overseas recipients.

Read more about ACECQA's [Privacy Policy](#). Our privacy policy contains information about how an individual may access and correct personal information ACECQA holds about them.

If you have concerns about how ACECQA has handled your personal information or believe there has been a breach of the Australian Privacy Principles, you can raise this with ACECQA. The contact details for our privacy officer are available [here](#).

ACECQA will attempt to resolve your concerns. If you are not satisfied, you are able to complain to the [National Education and Care Services Privacy Commissioner](#).

## Explanatory Notes

### An Applicant Must be a Fit and Proper Person

#### National Law

Under section 12 of the National Law:

1. An applicant who is an individual must satisfy the regulatory authority that the applicant is a fit and proper person to be involved in the provision of an education and care service.
2. If the applicant is not an individual, the applicant must satisfy the regulatory authority that:
  - a. Each person who will be a person with management or control of an education and care service to be operated by the applicant is a fit and proper person to be involved in the provision of an education and care service, and
  - b. The applicant is a fit and proper person to be involved in the provision of an education and care service.

Under (2), the regulatory authority must be satisfied that each person with management or control of a service to be operated by the applicant is 'fit and proper' AND that the non-individual applicant (corporation, eligible association or partnership) itself is 'fit and proper'. In the case of a corporation, this would involve consideration of:

- the fitness and propriety of persons with management or control – which may include some or all of the Board and, potentially, other key officers of the corporation, and
- the fitness and propriety of Board members – who, together, control the corporation.

#### Family Assistance Law

Under section 194C of the Family Assistance Law, an applicant must satisfy the provider eligibility rules to be approved. Under these eligibility rules, the following people must be fit and proper to be involved in the administration of Child Care Subsidy and Additional Child Care Subsidy:

- the provider
- any person with management or control of the provider
- any person who will be a person with management or control of the provider on the day the provider's approval takes effect, or the day the provider's approval in respect of a child care service takes effect.

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## Who is a 'person with management or control'?

#### National Law

Under section 5A of the National Law\*, **a person with management or control** of an education and care service is defined as follows:

- a. if the provider or intended provider of the service is a body corporate—
  - i. an officer (within the meaning of the Corporations Act 2001 of the Commonwealth) of the body corporate who has authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the education and care service; and
  - ii. any other person who—
    - A. is a member of the group of persons responsible for the executive decisions made in relation to the education and care service; or
    - B. has authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the education and care service;



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- b. if the provider or intended provider of the service is an eligible association—
  - i. each member of the executive committee of the association who has authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the education and care service; and
  - ii. any other person who—
    - A. is a member of the group of persons responsible for the executive decisions made in relation to the education and care service; or
    - B. has authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the education and care service;
- c. if the provider or intended provider of the service is a partnership—
  - i. each partner who has authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the education and care service; and
  - ii. any other person who—
    - A. is a member of the group of persons responsible for the executive decisions made in relation to the education and care service; or
    - B. has authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the education and care service;
- d. in any other case, any person who—
  - i. is a member of the group of persons responsible for the executive decisions made in relation to the education and care service; or
  - ii. has authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the education and care service.

\*If in Western Australia, please refer to the definition of 'person with management or control' in section 5 of the *Education and Care Services National Law (WA) Act 2012*. Please [contact the regulatory authority](#) in Western Australia for more information if required.

## Family Assistance Law

Under section 194F of the Family Assistance Law, **a person with management or control** is defined as follows:

1. A person is **a person with management or control** of a body, if the person is any of the following:
  - a. a member of the group of persons responsible for the executive decisions of the body;
  - b. a person who has authority or responsibility for, or significant influence over, planning, directing or controlling the activities of the body;
  - c. a person who is responsible for the day-to-day operation of the body (whether or not the person is employed by the body);
  - d. a person who is responsible for the day-to-day operation of a child care service in respect of which the body is approved or is seeking to be approved (whether or not the person is employed by the body).
2. Without limiting paragraph (1)(a), the following persons are taken to be members of the group referred to in that paragraph:
  - a. if the body is a body corporate—an officer of the body corporate (within the meaning of the *Corporations Act 2001*);
  - b. if the body is a partnership—a partner;
  - c. in any other case—a member of the body's governing body.



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## Who is an 'Officer' under the Corporations Act 2001?

Under section 9 of the *Corporations Act 2001*, an **officer** of a corporation is defined as follows: :

- a director or secretary of the corporation, or
- a person:
  - who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the corporation, or
  - who has the capacity to affect significantly the corporation's financial standing, or
  - in accordance with whose instructions or wishes the directors of the corporation are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors or the corporation), or
- a receiver, or receiver and manager, of the property of the corporation, or
- an administrator of the corporation, or
- an administrator of a deed of company arrangement executed by the corporation, or
- a liquidator of the corporation, or
- a trustee/other person administering a compromise or arrangement made between the corporation & someone else.

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### I am a nominated supervisor or person with day-to-day charge under the National Law. Do I need to complete this form?

In most cases, no. People holding these roles will only need to complete this form if they meet the person with management or control definition, i.e. if they also participate in executive or financial decision-making or have authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the education and care service.

### I am a 'person responsible for the day-to-day operation of the service' under the Family Assistance Law. Do I need to complete this form?

Persons responsible for the day-to-day operations at the service under the Family Assistance Law do not need to complete this form unless they are also:

- a person with management or control at the provider level under the Family Assistance Law, and/or
- a person with management or control of a service under the National Law.

Individuals must be identified and complete this form if they satisfy one of these thresholds under the National Law and/or Family Assistance Law.

### What is meant by evidence of management capability (National Law)?

The regulatory authority may consider whether the person has the management capability to operate an education and care service in accordance with the National Law and National Regulations. Evidence of management capability does not need to relate only to education and care services, or qualifications in education and care. Evidence of management capability may be related to any previous expertise, experience or qualification in a leadership, governance, administrative or management role in a:

- business
- not-for-profit organisation
- sporting or social club
- community-based committee.

This may include experience gained as a volunteer.



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## Part A: Provider information

1. Please complete the following:

### Details

First name:

Middle name:

Last name:

PRODA ID:

Date of birth:

Place of Birth:

Phone number:

Mobile number:

Fax number:

Email:

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### Residential address

Address line 1:

Address line 2:

Suburb/Town:

State/Territory:

Postcode:

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### Postal address

As above      If, not:

Address line 1:

Address line 2:

Suburb/Town:

State/Territory:

Postcode:

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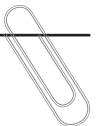
2. Are there any former or other names that you may be known by?

Yes      No

If yes, please provide:

- details of all other or former names that you may be known by:

- evidence of any name changes, such as a copy of a marriage certificate, deed poll certificate, or change of name certificate.





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**3. Please select the state or territory where the provider approval is sought or held, and submit the required evidence?**

ACT NSW QLD TAS NT VIC WA SA

- Working with children or vulnerable people card, check or clearance number and expiry date:



- A copy of your national criminal history check, which includes your full name, any former name you may be known by, and issued not more than six months before the date of this declaration.

*If you are **only** applying for National Law provider approval in QLD or the ACT, a copy of your national criminal history check is not required to be submitted. It must be submitted for a National Law provider approval application made in any other state or territory, and for all Family Assistance Law approval applications.*

*If an application for National Law Provider Approval application in QLD or the ACT is joined with an application under the Family Assistance Law to administer the Child Care Subsidy and Additional Child Care Subsidy, a copy of this check must be submitted.*

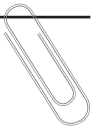
- If you are a registered teacher, proof of current teacher registration (NT/VIC/WA only).

**4. In the previous three years have you held any role with an education and care service or a children's service in any jurisdiction?**

Yes

No

If yes, please provide details of all roles in the table below and attach further entries if required:



Name of the service	Service approval number <i>this can be found on the National Registers on the ACECQA website</i>	Location of the service <i>address and town/city</i>	State or territory	The nature of your role

**5. Have you been convicted in Australia of any offences relevant to a person seeking to work with children?**

Yes

No

If yes, please provide details – including the date and type of conviction:

*If you have provided a criminal history record check, only disclose relevant convictions in the period from the date the check was issued to the date of this declaration.*



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**6. Have you been convicted in Australia of any fraud or dishonesty offences?**

Yes No

If yes, please provide details – including the date and type of conviction:

*If you have provided a criminal history record check, only disclose relevant convictions in the period from the date the check was issued to the date of this declaration.*

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**7. Have you lived and worked outside of Australia at any time within the previous three years?**

Yes No

If yes, please provide the addresses of places you have lived and worked outside of Australia at any time within the previous three years:

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**8. Have you been charged with, or convicted, of any offences in a jurisdiction outside of Australia?**

Yes No

If yes, please provide details – including the date and type of charge or conviction:

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**9. Have you been subject to a formal disciplinary proceeding or action under an education law of any Australian state or territory?**

Yes No

If yes, please provide details of the disciplinary proceeding or action.



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**10. Have you had any of the following actions taken under the *A New Tax System (Family Assistance) (Administration) Act 1999 of the Commonwealth in relation to a child care service:***

Yes                      No

If yes, please provide details, including the date that the action was taken, the type of action, and the outcome.

- Any sanction imposed under section 195H of that Act
- Any suspension imposed under section 197A of that Act
- Any infringement notice given under section 219WA of that Act

**11. Have you had any other actions taken by the Australian Government under the *A New Tax System (Family Assistance) Act 1999*, or any other Commonwealth legislation?**

Yes                      No

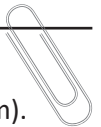
If yes, please provide details, including the date that the action was taken, the type of action, and the outcome.

**12. Do you have the management capability to operate an education and care service in accordance with the National Law?**

Yes – I have previously been a person with management or control of an education and care service (as listed in Question 4 of this form).

Yes – if you have not previously been a person with management or control of an education and care service, please attach evidence of your management capability. *(Evidence can include a resume or part of a resume that shows the roles (including duties) that demonstrate management capability, or a qualification/certification. Please attach your resume and/or your relevant qualification – with transcripts if available – to this form before uploading).*

No



**13. Have you ever been the subject of any bankruptcy, insolvency or external administration proceeding?**

Yes

No





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**13a. (If yes to q13) Please provide details of the proceeding, including:**

- Whether any actions have been taken against you under Part IV of the *Bankruptcy Act 1966* of the Commonwealth
- Whether you have made any debt agreement under Part IX of the *Bankruptcy Act 1966* of the Commonwealth, and
- Whether you have made any personal insolvency agreement under Part X of the *Bankruptcy Act 1966* of the Commonwealth.

**14. Do you have any potential conflicts of interest between managing or delivering the education and care service, and any other business or financial interests? This may include any interests held in a Registered Training Organisation, or other children's education and care related enterprise.**

Yes                      No

If yes, please provide details of these circumstances.

**15. I am (tick any that apply):**

An individual applying to be the approved provider of an education and care service, or a constituent individual member of a non-individual entity applying to be an approved provider of an education and care service.

An individual who will have management or control of an education and care service as defined by section 5 of the National Law.

An individual who will have management or control of an education and care service as defined by section 194F of the Family Assistance Law.

- Sections 10, 12 and 13 of the *Education and Care Services National Law Act 2010 (National Law)*
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## Part B: Declaration

I, \_\_\_\_\_ [full name of person signing the declaration]

of, \_\_\_\_\_ [residential address of person signing the declaration],

am \_\_\_\_\_ [position/title of person signing the declaration]

and I declare that:

1. the information provided in this form, including any evidence submitted in support of the form, is true, accurate, and correct
2. I am aware that penalties apply if false or misleading information is provided
3. I understand that the regulatory authority, the Australian Government, and/or ACECQA have the right (but are not obliged) to act in reliance upon the contents of this form, including any evidence submitted in support of this declaration
4. I have read and understood my legal obligations as an approved provider or person with management or control under the National Law and/or Family Assistance Law
5. I have submitted all specified evidence required in support of this declaration under either or both the National Law and/or Family Assistance Law, and am aware that penalties apply if I breach these obligations
6. I understand that the approved provider must notify the regulatory authority and/or Australian Government of any change relevant to the assessment of the fitness and propriety of the approved provider
7. I understand that the regulatory authority and/or Australian Government is authorised to verify any information provided in this form, including verifying information with the Issuer or Official Record Holder
8. I understand that the regulatory authority, the Australian Government, and/or ACECQA may disclose information provided in this form to other persons or authorities where authorised by the *Education and Care Services National Law Act 2010 (National Law)*, *A New Tax System (Family Assistance) (Administration) Act 1999 (Family Assistance Law)*, or other legislation
9. I agree that the regulatory authority may service a notice under the National Law using the contact details provided in this form, including the postal, street or email address, or fax number, in accordance with section 293 of the National Law
10. I do not have a medical condition that may cause me to be incapable of being responsible for providing an education and care service in accordance with the National Law
11. I am not aware of any financial circumstances that may significantly limit the applicant's capacity to meet its obligations in providing an education and care service in accordance with the National Law or Family Assistance Law
12. I have read and understood the Privacy Statement.

Signature of person making the declaration: \_\_\_\_\_

Signed at [enter address]: \_\_\_\_\_

Date: \_\_\_\_\_

### Submitting this form

Please submit this form along with any required documentation via NQA ITS as part of the application.

If you have questions, please contact your regulatory authority or the Australian Government. Contact details are available on the [ACECQA website](#).