

# Written Submission for the NQF Review

## Consultation Regulation Impact Statement (CRIS)

**Name and/or organisation**

Goodstart Early Learning

**In which state(s) are you based?**

National head office – Qld  
Centres located in all states and territories – Qld, NT, WA, ACT, Vic, NSW, SA and Tas.

**What is your role in the Children’s Education and Care Sector?**

Provider (not for profit, long day care, stand-alone sessional kindergartens)

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### About Goodstart

Goodstart Early Learning (hereafter Goodstart) is Australia’s largest not-for-profit social enterprise and Australia’s largest early childhood education and care (ECEC) provider, with 670+ centres located in all states and territories, supporting more than 70,700 children from 59,200 families. Our purpose is to ensure all Australia’s children have the learning, development and wellbeing outcomes they need for school and life.

### Overarching statement

Goodstart supports and is deeply committed to the National Quality Framework (NQF) as a mechanism that sets consistent national standards for ECEC services in Australia – as well as the commitment to continuous improvement, which is a core objective of the NQF Review. The NQF upholds children’s best interests through the implementation of a world-class quality system comprising the National Quality Standards, the Early Years Learning Framework, the Assessment and Ratings process underpinned by the National Law and the independent national authority, ACECQA. All governments, children and families benefit from a national approach to regulation and quality assessment of ECEC services.

All the options proposed in the CRIS seek to improve the quality of ECEC and the experience of children and families – and we unreservedly support the objective of continuous quality improvement. We note, however, that all of these options will have direct or indirect impacts on our workforce and the costs of delivery. Wages are the sector’s biggest cost driver and are rising faster than CPI. Changes that affect our workforce must be considered in the context of affordability for families, particularly in the context of the Child Care Subsidy.

A high quality – qualified and experienced – workforce is critical for providing high quality early learning for children and families. Yet, our ECEC workforce is facing critical shortages and its overall wellbeing has been impacted by COVID-19. Implementation of many of the CRIS options, if supported, will therefore be dependent on the outcomes of the:

- 1) National Workforce Census (May 2021) – to establish a contemporary understanding of the current workforce in order to determine baseline data, what might be achievable in coming years and what investment from Governments might be required to achieve these changes; and
- 2) National Workforce Strategy (consultation in May 2021) – to outline strategies and commensurate investments to address immediate workforce shortages (attraction and recruitment) as well long-term quality improvements (retention, professional development and wellbeing).

Where options proposed in the CRIS have a significant impact on the workforce, especially sections 7.1 and 7.2, we recommend further consultation with the sector be conducted to better understand what is achievable, the costs associated with the changes and a potential reform timeframe for implementation, once the workforce census has been conducted and the workforce strategy has been released. Ideally additional investment aimed at delivering the quality improvements while maintaining affordability for families should be delivered concurrently, as with previous subsidy and workforce reforms and the introduction of the NQF.

## RESPONSES TO THE CONSULTATION REGULATION IMPACT STATEMENT (CRIS)

### Chapter 3 – Safety, Health and Wellbeing

#### 3.1 Safety of children during transitions between services (including school)

##### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘
B. Legislative change to specify staff supervision requirements during periods of transition between education and care services.	Support ✓
C. Recommendation to state and territory school authorities and non-government school sector organisations to develop policies and procedures to safely transfer children between schools and education and care services.	Support ✓
D. Require that where relevant, an education and care service has a policy and procedures for the transition period between education and care services (for example between school and OSHC, or OSHC and preschool), including a risk assessment process.	Support ✓
E. Develop further guidance to support policies and procedures relating to the delivery of children to, and the collection from, education and care service premises, with an emphasis on transition periods between services, as well as further guidance for parents and families around notifying when a child is unable to attend an education and care service.	Support ✓

##### Position statement

Goodstart supports the proposed changes around staff supervision requirements and transitions between services. We particularly support Option C, which will help clarify the transfer of duty of care responsibilities during transitions for all parties involved – preschools, OSHC services, schools and parents.

##### Impacts of the proposed options

Key impacts are the costs and time required to update existing policies and procedures.

If Options B, D and/or E are adopted *without* Option C, increased responsibility may be placed on ECEC and/or OSHC services without corresponding improvements in school transition policies or procedures.

##### General feedback regarding this issue

In transitions to and from schools, OSHC and/or ECEC services currently carry most, if not all, of the responsibility in ensuring the safety of children. This includes ensuring the safe collection of children and contacting parents and/or locating children who are rostered to attend but do not arrive at the collection point. This is problematic from a safety perspective and also impacts staffing, as additional staff may be required to carry out these responsibilities while other staff supervise or transport other children.

Legislative and policy change regarding staff supervision requirements, i.e. ratios, qualifications and responsibilities, should be considered in the context of existing regulatory requirements and consistent with changes to transport safety, as outlined in section 3.3 of the CRIS. Further guidance on policies and procedures relating to safely transporting children should recommend liaison between the school, preschool and/or OSHC service when developing the plan.

#### 3.2 Sleep and rest requirements

##### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘

CRIS OPTIONS	GOODSTART POSITION
B. Legislative change to require compulsory safe sleep practices training for all educators who care for sleeping children (birth to five years).	Do not support ✘
C. Further guidance developed to support policies and procedures for sleep and rest, and to provide information to families on safe sleeping practices.	Support ✓
D. Amend the National Regulations to specify the matters that must be included in services' policies and procedures for sleep and rest.	Support ✓
E. Amend the National Regulations to require a risk assessment be conducted in relation to sleep and rest, including matters that must be considered within that risk assessment.	Support ✓
F. Legislative change to require that sleeping and resting children in education and care services are within sight and hearing distance of an educator at all times.	Do not support ✘

### Position statement

Goodstart supports additional guidance to support a more consistent understanding of sleep and rest policies and procedures to not only clarify expectations for educators (providers) but also for regulatory authorities and families.

We support policy and procedure requirements, including risk assessment requirements, to be specified in regulations but we do not support operational matters like training and professional development being defined in legislation.

The proposal to provide more information to families (option C) is welcomed to support a shared understanding of safe sleep practices and the requirements in the NQF, particularly where a family's beliefs are in conflict with current evidence-based guidelines.

We do not support Option F, which proposes an educator to be within sight and hearing distance of a sleeping or resting child at all times for reasons outlined below.

### Impacts of the proposed options

Stipulating specific training in legislation (Option B) has moderately high establishment and ongoing cost implications and may warrant government investment in order for training to be delivered without costs being passed onto families. The same outcome could be achieved in policy without legislative amendment, although this would not attract the same penalties for non-compliance.

Option F proposes for an educator to be within sight and hearing distance of a sleeping or resting child at all times. There are a number of ways this proposal may be interpreted, including sight through structural provisions, e.g. supervision windows, hearing through monitors or, it could be interpreted to mean an educator must be physically near the sleeping or resting child at all times. The latter interpretation may have significant additional staffing costs without necessarily achieving a commensurate increase in safety for children, especially infants. Children, especially infants, do not have set or shared sleep patterns or routines. So, in practice, this proposal could result in an educator being stationed in a sleep area or room for extended periods – almost the whole day – meaning they would be unable to be responsible for maintaining adequate supervision or provide learning and care to other children. In effect, this would likely result in the need for an additional educator to be allocated these rooms, which would be a significant additional cost.

Option F is likely to have a greater impact in rooms with younger children, particularly nurseries. Due to higher educator-to-child ratio requirements (1:4), nurseries already have a higher per place cost of delivery for providers and fees are more likely to exceed the Child Care Subsidy (CCS) hourly fee cap. As a result, many providers only offer places for children aged 15 months and above. This proposal may require additional educators in these infant rooms, making this important service offering even more cost prohibitive and reducing family choice. Finally, from an educator's perspective, being stationed in a sleep room for extended periods of time is unlikely to be rewarding for an educational professional and may result in static rather than active supervision. A more comprehensive cost benefit analysis would be warranted in further exploring this option.

### Other general feedback regarding this issue

We defer to and support the submission to this Review made by Dr Sally Staton and Dr Karen Thorpe, UQ, who are eminent experts in safe sleep practice in ECEC settings. We urge you to consider their views in relation to this matter.

We support ‘active supervision’ of sleeping or resting children but believe this is best achieved by having an educator actively check the child and their environment every five minutes, rather than by having an educator physically present at all times. Our policies and procedures clearly define practical measures to support safe sleep, incorporating activities such as observing children through supervision windows complemented with active monitoring at regular intervals (every 5 minutes) to check and inspect a sleeping or resting child and their breathing, skin and environment.

We acknowledge and adhere to existing guidance from ACECQA<sup>1</sup> and regulators<sup>2</sup> around the design of suitable sleep spaces and facilities, not just sleep practices, e.g. viewing windows, soft furnishings for children to self-select for rest, and other measures to support children’s individual sleep, rest and relaxation needs. We welcome the proposal to provide additional advice to families, who often make sleep requests that is inconsistent with recommended evidence-based guidelines, e.g. infants sleeping on their stomach, swaddling children who are mobile, children sleeping with toys and/or cultural necklaces, etc.

Developing guidance to support sleep and rest policies and procedures will help achieve consistency of practice and, ideally, consistency of regulatory oversight. As a national organisation, we have an intimate understanding of the various regulatory approaches implemented across the country. Our data relating to sleep matters highlights that, while these matters represent a very small proportion of breaches, minor adjustments, non-compliance and unmet elements (A&R), there is disparity in the number of matters raised by different state regulators, i.e. more than half of all matters raised across our organisation in relation to sleep came from one state regulatory authority.

### 3.3 Improving children’s safety during regular transportation

#### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘
B* Legislative change to require specific transport ratio requirements for when children are being transported by, or are on transportation arranged by, an education and care service. To clarify that the driver is counted in the ratio during transportation. For example, transport specific ratio requirements could require: a. In the case of vehicles carrying no more than 7 children at any one time, only the driver of the vehicle is required to be on the vehicle; and b. In the case of vehicles carrying more than 7 children at any one time, there must be the driver and at least one other additional staff member on the vehicle. <i>For FDC services the FDC age limitations continue to apply.</i>	Do not support ✘
C* Legislative change to specify in the case of vehicles transporting only school age children that ratio requirements would not apply in the vehicle.	Do not support ✘
D* Legislative change to require the presence of a staff member of the service (other than the driver) when children are embarking and disembarking from the vehicle at the service.	Support ✓
E. Legislative change to require that where the driver is not a staff member of the education and care service that prior to transportation of the children the approved provider must ensure that the driver holds a current working with children check (unless an exclusion applies), a current approved first aid qualification and has undertaken anaphylaxis and emergency asthma management training.	Support in-principle

<sup>1</sup> ACECQA Safe sleep and rest practices, <https://www.acecqa.gov.au/resources/supporting-materials/infosheet/safe-sleep-and-rest-practices>.

<sup>2</sup> SA Gov Safe sleeping and resting procedure, [https://www.education.sa.gov.au/sites/default/files/safe-sleeping-for-infants-and-young-children-procedure.pdf?acsf\\_files\\_redirect](https://www.education.sa.gov.au/sites/default/files/safe-sleeping-for-infants-and-young-children-procedure.pdf?acsf_files_redirect).

CRIS OPTIONS	GOODSTART POSITION
F. Further guidance around adequate supervision/risk assessment as it relates to transportation.	Support ✓

\* These options are minimum requirements. A risk assessment must be completed by the service that may indicate requirements for additional staff members to meet adequate supervision because of issues such as numbers of children and their specific characteristics (e.g. age, mobility, behaviour, disability, etc).

### Position statement

Goodstart unreservedly supports policy and legislative change to improve children’s safety during regular transportation. Following the tragic death of a small boy in the care of our Edmonton centre in February 2020, we have conducted systemic reviews and set about further improving our transport and assurance policies. We also recognise that the provision of transport is important to supporting access to early learning for all children.

We do not support Option B (a), which proposes that a Driver would suffice when carrying no more than 7 children at a time, although we do support the Driver being counted in the ratio during transportation.

We do not support Option C as we believe school-age children, especially those in early primary years (4 – 8 years), deserve the same safety standards as children in ECEC settings.

We support Option D, which is consistent with our current policy to have a ‘Checker’ support children embarking and disembarking from a vehicle, including marking the role and physically checking the vehicle.

### Impacts of the proposed options

While Options B and C seek to clarify ratio requirements for transporting children, we do not think they set a sufficient benchmark around ratio requirements. At Goodstart, our current transport policy<sup>3</sup> requires a minimum of two staff members to accompany children being transported – the Driver and Supervisor; more if required to comply with usual ratio requirements. Our policies and procedures also require a ‘Checker’ role to facilitate embarking and disembarking from transport services. The Checker has prescribed functions to support the safety of all children on the transport service and must be an individual who is not the Driver or Supervisor on the vehicle.

In most Australian jurisdictions, children start school as young as 4 years old and there is a risk of children falling asleep and/or hiding on a bus service. All children warrant the same level of safety afforded to children in ECEC settings (i.e. birth to 5 years) but particularly where their age presents increased vulnerability.

### Other general feedback regarding this issue

We support Option E in-principle. However, we note that the transportation provider has the onus of responsibility in ensuring the driver (who is not employed by the ECEC service) has current working with children checks and first aid training. As ECEC educators are already required to hold working with children approvals and first aid training, consideration should be given to when educators employed by the ECEC service are also travelling in the vehicle.

We are cognisant that transport may be a barrier to accessing ECEC services for some families, particularly vulnerable and disadvantaged families. While we are confident our current transportation policies and procedures are best practice, we recognise there are cost impacts associated with maintaining high staffing ratios on transport services. We acknowledge that any decision around setting baseline ratio requirements may need to be balanced with the need to ensure offering a transport service does not become cost prohibitive.

## 3.4 Improving children’s safety during emergency evacuations from multistorey buildings

### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✗

<sup>3</sup> Goodstart continuous improvement when it comes to safety, <https://www.goodstart.org.au/news-and-advice/december-2020/continuous-improvement-when-it-comes-to-safety>.

CRIS OPTIONS	GOODSTART POSITION
<p><b>B.</b> Amend the legislation about emergency and evacuation procedures to require that for centre-based services located in multi-storey buildings:</p> <ul style="list-style-type: none"> <li>• appropriate experts (such as fire safety experts, fire safety engineers, or emergency management professionals) are required to be: <ul style="list-style-type: none"> <li>- engaged in the development of emergency and evacuation procedures and/or plans; and</li> <li>- to observe and report on one full emergency evacuation rehearsal at least annually and provide a report (which is made available upon request to the regulatory authority); and</li> </ul> </li> <li>• that the emergency and evacuation procedures must set out additional information in regard to instructions for what must be done in an emergency, staged evacuations, identification of the person-in-charge and staff roles and responsibilities, and</li> <li>• a review and/or risk assessment, following certain prescribed events or a prescribed time period.</li> </ul>	Do not support 
<p><b>C.</b> Strengthen service approval processes to require that, for centre-based services located in multi-storey buildings the regulatory authority, in assessing the suitability of the education and care service premises, is to consider the need for direct egress to safe evacuation areas for very young children and non-ambulatory children.</p> <p><i>This option would also apply to FDC requiring approved providers to assess the FDC residence as part of their approval processes, where located in multi-storey buildings.</i></p>	Do not support 
<p><b>D.</b> Amend service approval processes to require approved providers wishing to operate a centre-based service from premises in a multi-storey building in Victoria or ACT to apply to the regulatory authority for pre-approval of development and building plans for the proposed premises prior to development and construction. (Victoria and ACT only).</p>	Support 
<p><b>E.</b> Enhance national guidance and communication strategies to improve understanding of service approval considerations for centre-based multi-storey buildings and reinforce existing emergency and evacuation requirements for the early childhood education and care sector.</p> <p><i>Guidance would also be prepared for persons involved in third-party planning and building development processes across states and territories.</i></p>	Support 

### Position statement

Goodstart supports all efforts to ensure the safe evacuation of children and centre staff and welcomes the proposal for enhanced guidelines and communication strategies to support this. It is imperative that the level of protection is commensurate with the level of risk and clarity around expectations would support a shared understanding between providers and regulators. Choice and affordability need to be maintained for families and the expectations of some regulatory authorities can make these services unfeasible or affect the availability of sufficient local services, particularly in high population density living environments.

We do not support the proposal to legislate the engagement of experts (Option B), which is already able to be requested by state regulators without a legislative stipulation.

We do not support the proposal around direct egress to safe evacuation areas (Option C) as this may significantly impact families' choice and affordability of ECEC services in metropolitan or high density areas. Implementing this recommendation would likely make the provision of ECEC services in a CBD environment unfeasible.

We strongly support the proposal for pre-approval of development and building plans (Option D) so providers have more certainty when preparing to open new services. We request that this option be implemented in all jurisdictions, not just ACT and Victoria.

In relation to multi-storey buildings, we note the CRIS only presents options in relation to emergency evacuations. However, there are a range of other issues that affect service approvals in these settings, including but not limited to: definitions of 'outdoor' play areas, i.e. simulated or covered, natural light, real plants and flora, etc. We request that enhanced guidelines proposed and communication strategies under Option E also consider these matters and provide clarity for providers and regulators, so both are referring to the same set of requirements.

## **Impacts of the proposed options**

As a national provider operating in every state and territory, we have an intimate understanding of the different approaches and expectations adopted by state regulators in relation to services in multi-storey buildings. We also know that there is a wide variety of families and socio-economic backgrounds who want to access ECEC within built-up cities. What we have observed is significant differences both across and within jurisdictions, sometimes as a result of a high degree of subjectivity from authorised officers. The proposal to provide enhanced national guidance would be invaluable in addressing these inconsistencies and provide more certainty for providers investing time and money into establishing new services to meet the needs of families who want access to ECEC close to where they live and work.

In the planning and preparation to open a new service, providers must conduct considerable due diligence, including around safety, and make decisions about the feasibility of the service based on supply, demand, revenue, service capacity (i.e. licenced places) and operating costs. Often when a regulator inspects the near-complete service to provide a service approval prior to opening, they request adjustments to ratios and/or reduce the number of licenced places based on considerations such as the availability of 'outdoor' play areas or emergency egress and the service approval can be delayed for months. This can have a significant impact on the viability of the service, even to the extent that the provider might not have progressed with the site had these matters been raised earlier in the process. To maintain feasibility, providers often have to adjust their service offering or increase their fees, which directly impacts families. A pre-approval process would help mitigate this occurring, while ensuring a common approach to the quality and safety of services for children and families across the country. We therefore recommend that all state regulatory authorities adopt the Victoria and ACT proposal around pre-approval (Option D).

Goodstart operates around 20 services in multi-storey buildings, predominantly in capital cities in the Eastern States. Within these services, 75% of all the LDC and OSHC standard routine fees are currently above the CCS hourly cap – largely reflecting the higher rent and labour costs associated with inner city locations. These services are also still recovering in the context of COVID, which has resulted in less demand for inner city services. This means that any increase in the cost of delivery could directly impact affordability for families by increasing their out of pocket costs.

National guidance would have the dual micro-economic reform benefit of ensuring nationally consistent minimum expectations around emergency evacuations, while also ensuring an approach that balances the need for ECEC delivered in inner city locations and safety in higher-risk facilities, with reference to established Building Code requirements and other comparable services such as children's hospitals. As a national provider, we support the approach adopted by regulatory authorities in Victoria and NSW. A case study providing further detail is below.

### **Other general feedback regarding this issue**

Establishing services in multi-storey buildings is essential for giving families choice, particularly as more families opt to live in high density living and/or return to work in metropolitan areas. Parents and guardians returning to work in central business districts often choose CBD-based services due to high-commute times and/or so they can have their infants and children close, particularly if they are breastfeeding, so there is a high demand for nursery places. Due to higher rents in CBD areas, these services often have higher fees, particularly in nurseries where staffing costs are also higher due to higher staff-to-child ratios (1:4). There are also fewer sites available in these locations that have ideal features for the establishment of an early learning facility. As the choices families make around living environments and recreation spaces change, so should early learning environments, while still providing high quality and affordable services for children and families.

### **Case study**

*Goodstart operates a state-of-the-art service in a metropolitan location. The service has multiple safe egress options, clear policies and procedures, regular fire drills, safety equipment and other measures to ensure children and staff can be safely evacuated in the event of an emergency.*

*To ensure the safety of our children and staff and in response to requests from the regulator, we have:*

- *removed service for all children under 2 years and other non-ambulatory children (with limited mobility and/or disability), which had a huge impact on their families who live or work in the CBD;*
- *engaged multiple experts – including fire engineers, structural engineers, safety advisors, etc – who confirmed we were not in breach of any building codes and that we had sufficient safety procedures and strategies;*

- increased our staff-to-child ratios to 1:2 for children birth to 2 years and similarly adjusted for children older than 2 years, resulting in almost twice as many staff in the service; and
- employed a full-time security guard who patrols the service to monitor for any fire risks or hazards.

Without a pre-approval process and a consistent, well-documented approach to safety in multi-storey buildings, we have incurred significant unanticipated costs associated with obtaining additional expert advice, increased staffing, additional safety equipment and even structural changes. More importantly, our families' choices are being reduced due to decreased availability or affordability of services. It is also important that families have a clear and consistent understanding of what safety looks like from a quality perspective, so they know what to look for when choosing services for their children.

#### 4.1 Embedding the National Child Safe Principles

##### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘
B. Amend the 'assessment guide' in the Guide to the NQF to align with the assessment of all the National Principles.	Support ✓
C. Amend the National Regulations so that the requirement for services to have in place policies and procedures for providing a child safe environment specifically refers to implementing the National Principles.  Amend the National Regulations and associated guidance so that approved providers will be required to: <ul style="list-style-type: none"> <li>• Ensure that policies and procedures for their service/s address the National Principles for both staff members and volunteers</li> <li>• Ensure all volunteers and staff at their service/s are advised of the existence and application of the National Principles.</li> </ul>	Support ✓
D. Amend the National Regulations and associated guidance to address identified gaps between the Child Safe Principles and the NQF to: <ul style="list-style-type: none"> <li>• Clarify that volunteers must be aware of the existence and application of any child protection law and any obligations held under it.</li> <li>• Require that all FDC co-ordinators complete child protection training prior to commencing employment and undertake annual refresher training.</li> <li>• Include working with vulnerable people/children check details on volunteer staff records.</li> <li>• Clarify that service providers' child safe environment policies and procedures must also cover the creation of a child safe culture.</li> <li>• Require services to develop and implement a policy and procedure around the safe use of online environments.</li> <li>• Require service complaint handling policies to include policies and procedures for managing complaints about children exhibiting harmful sexual behaviours.</li> </ul>	Support ✓

##### Position statement

Goodstart supports the proposal to embed the National Child Safe Principles in the NQF and providing guidance around policies, procedures and identified gaps between the Principles and the NQF. Aligning the NQF with the National Principles would reduce confusion and/or inconsistency, particularly in co-regulatory environments (e.g. Victoria).

Importantly, we support the proposal to amend the assessment guide to help drive child safe practices in the sector through the assessment and rating process. We welcome this proposal as a way to progress and embed the National Principles, which are essential to ensuring all children feel safe and are safe from abuse, neglect and harm.

## Impacts of the proposed options

There is always more that can be done to safeguard and protect children from abuse, neglect and harm and ECEC is an ideal environment to ensure children are informed of their rights and to involve families and communities in promoting child safety and wellbeing. Our already highly-regulated sector can take the lead in progressing implementation and embedding the National Child Safe Principles, noting that the ECEC sector is lower risk than other organisations that are not currently regulated but fall under the definition of a Child Safe Organisation or an entity for the purpose of any reportable conduct scheme (such as sporting clubs).

## Other general feedback regarding this issue

States and territories are at varying stages of consulting on and implementing the governance, oversight and reportable conduct schemes to support the National Child Safe Principles. We note that reportable conduct schemes are just one small dimension of the systems and processes needed to keep children safe from abuse, neglect and harm. We would also suggest that the review of the Early Years Learning Framework should consider opportunities to embed and amplify the National Principles for young children.

We would ask that any changes to the NQF have reference to and complement the processes already underway in each jurisdiction. E.g. If a state determines organisations should have three years to comply with the Principles and/or scheme based on their assessment of awareness and readiness, changes to the NQF should not require compliance to occur in a shorter timeframe without further detailed consultation.

## 4.2 Updating record keeping requirements

### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘
B. Improved guidance to assist providers on record keeping utilising existing best practice instructions developed by relevant Commonwealth, State and Territory Archive Authorities (for example, the National Archives of Australia General Records Authority 41) as per Recommendation 8.3, along with the five high-level record keeping principles recommended by the Royal Commission in Recommendation 8.4.	Support ✓
C. Amend the National Regulations to increase record keeping requirements to 45 years (in relation to relevant records regarding actual or alleged instances of child sexual abuse) in line with the Royal Commission recommended minimum.	Support ✓
D. Require not-for-profit, community and for-profit providers to store records in accordance with recommended standards and timeframes of the Royal Commission.	Support ✓

### Position statement

Goodstart supports the proposal to retain records relating to alleged or actual instances of child sexual abuse for victims to access at a later date, where required.

## Impacts of the proposed options

There will be cost impacts for providers to store relevant records, including costs of ensuring records remain accessible over time, e.g. due to changing technology and/or electronic access.

## Other general feedback regarding this issue

Consideration should be given to how and where records might be stored if a provider ceases to operate and/or the safe transfer and storage of records if a service is transferred to a new provider, particularly given the sensitive and confidential nature of the content.

## 6.1 Assessment and rating of OSHC services

### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘
B. Modify assessment and rating methodology for services whose main purpose is providing education and care to children over preschool age.	Support in principle
C. Development of additional guidance to support the OSHC sector and regulatory authorities with assessment and rating.	Support in principle

#### Position statement

Goodstart provides in-principle support for the NQF assessment and rating methodology to be modified to reflect the uniqueness of the OSHC service setting, so long as the overall quality of the ECEC service remains paramount.

All OSHC services provided by Goodstart are delivered in long day care settings, which are assessed and rated under the NQS. We expect the modified assessment and rating – if agreed – would only apply to standalone OSHC services and not those delivered in other ECEC settings.

### 7.1 Restrictions on short term relief for early childhood educators

#### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Support ✓
B. Extend the requirements for 'short-term' absences to 80 days.	Do not support ✘
C. Broaden the qualification requirements for short-term staff replacements. For example, by allowing primary teachers and/or Certificate III qualified educators to replace diploma qualified educators on a short-term basis.	Do not support ✘
D. Allow Suitably Qualified Persons (SQPs) to replace a third or fourth ECT to address workforce shortages (NSW only).	Do not support ✘

#### Position statement

Goodstart supports 'No change' to short term relief for early childhood educators. Options B, C and D are inconsistent with the objective of the NQF to drive continuous quality improvement and would result in a reduction in qualified educators and teachers for children compared to the current settings.

With regard to Option D, we do not support the replacement of the third and fourth ECT under the current definition of Suitably Qualified Persons (SQP). In the development of the National Workforce Strategy, it may be appropriate for the definition of an SQP to be revisited and broadened to consider other Bachelor-qualified professionals with expertise in child development, such a child and maternal health nurses.

#### Impacts of the proposed options

We acknowledge that the ECEC sector is experiencing critical workforce shortages. The impacts of COVID, a lack of renewal of the national workforce strategy since 2013 and increasing investment in schools and the NDIS have compounded some of the structural challenges associated with our sector. It's also important to acknowledge the significant uplift in qualifications by educators over the last ten years. The workforce issues associated with providing relief for educators (and ECTs in NSW) should be addressed in the National Workforce Strategy, to be finalised this year.

## Other general feedback regarding this issue

The research demonstrates that qualifications are important for delivering quality ECEC<sup>4</sup>. Any strategies put in place to manage short-term absences should not undermine existing qualification requirements and educator-to-child ratios. Broadening, that is to say lowering, the qualification requirements for short-term placements and/or replacing ECTs in NSW dilutes the impact of hard-fought professionalisation and qualification uplift across the sector. Where existing ratios and qualifications are unable to be met, services have the option of applying for waivers.

Further, 80 days is long time in the life and development of a child. Increasing the length of a short-term absence and lowering the qualification requirements for staff backfill have a compounding effect on the quality of ECEC for children.

## 7.2 Educators who are ‘actively working towards’ a qualification

### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘
B. Limit the ‘actively working towards’ provision by:	Support ✓
(i) Introducing a minimum proportion of educators with a completed qualification (as opposed to 50 per cent of educators required within ratios to be qualified or ‘actively working towards’ a qualification); or	Support in principle
(ii) Introducing a timeframe in which staff ‘actively working towards’ a qualification must complete their qualification in order to be counted in ratios; or	Support ✓
(iii) Specifying a threshold staff must meet to make ‘satisfactory’ progress through their course in order to be counted in ratios.	Support ✓
C. Develop guidance for providers to ensure staff who are ‘actively working towards’ qualifications are making satisfactory progress.	Support ✓

### Position statement

Goodstart supports the objectives to drive continuous improvement in quality under the NQF and acknowledges the importance of staffing qualifications and professionalisation of the sector in delivering high quality ECEC for children.

We support in-principle the proposal to increase the proportion of educators who have completed their qualifications (Option B (i)), noting it is aspirational, given the current ECEC workforce climate. We recommend that any decisions around setting proportions of completed qualifications and associated timeframes should be considered in the context of the findings from the National Workforce Census and investment in the National Workforce Strategy. We also recommend that further consultation, including specific feasibility and cost modelling, be conducted with the ECEC sector, once the census has been completed and strategy has been released.

We support improved clarification about what it means to be working towards a qualification, so that educators, providers and regulators have a consistent and shared understanding around satisfactory progress. Guidance should not only define progress and timeframes but also provide for exceptional circumstances where an educator may not be able to make progress, e.g. due to maternity leave or serious illness.

### Impacts of the proposed options

The quality and qualifications of the ECEC sector have significantly improved since the introduction of the NQF. We acknowledge the challenges in achieving some of the quality benchmarks, including the recent changes to require a minimum of two early childhood teachers (ECTs) in each service, particularly in light of workforce shortages across the sector.

<sup>4</sup> Productivity Commission Inquiry Report – Child Care and Early Learning, Vol. 2 (p. 261), <https://www.pc.gov.au/inquiries/completed/childcare/report/childcare-volume2.pdf>.

Continuing this improvement trajectory will require sophisticated strategies and national investment to address the critical workforce shortages across the sector in the short to medium term, as well as improve long-term quality improvements being impacted by high turnover and workforce retention challenges.

#### Other general feedback regarding this issue

The National Workforce Census, due to be conducted in May 2021, will be instrumental in informing the baseline data about the qualifications and progress towards qualifications across the sector. Any decisions about setting a proportion of educators who have completed their qualification should be made in the context of the current workforce and what is achievable with the support of investment through a National Workforce Strategy. Further consultation, including detailed costing with the sector is recommended, once these measures are in place, and additional measures such as wages subsidies for small providers and/or regional and remote services may need to be considered.

### 8.1 The quality ratings system

#### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘
B. Modify the quality rating terminology.	Do not support ✘
C. Introduce a visual representation for communicating and promoting the quality ratings.	Support ✓
D. Provide further guidance and advice to the community about the purpose of quality ratings, and the differentiation between a quality rating and minimum standards required under the National Law.	Support ✓

#### Position statement

Goodstart supports efforts to improve guidance, advice and visual representation of the quality ratings to support families to make informed choices about high quality ECEC for their children.

We do not support the proposal to modify quality rating terminology (Option B), as there is a risk that introducing new terms will only generate increased confusion.

#### Impacts of the proposed options

Goodstart operates more than 670 services nationally, with centres based in every state and territory. As at 15 April 2021, only 11 centres across our network were assessed as 'Working Towards'. While this language is confusing for some families who may presume this means a service is unsafe or low quality, it also incentivises providers to lift the quality of their practice to improve their rating. It also provides an opportunity for services to explain what 'Working Towards' actually means and what they have been doing to improve their service.

#### Other general feedback regarding this issue

The NQF and its associated ratings terminology has been in place for nearly a decade, having been introduced in 2012. In that time, there have been significant efforts by providers, regulators and the national quality authority, ACECQA, to communicate the rating terminology to families. Although public awareness around quality has improved, knowledge and understanding of the NQS remains a work in progress<sup>5</sup>. Feedback in relation to terminology typically relates to the 'Working Towards' rating. Introducing a visual representation of the quality ratings would help support families' understanding of the ratings system and, with regard to Working Towards ratings, clarify which National Quality Standards or elements the service is not yet meeting.

<sup>5</sup> ACECQA NQF Annual Performance Report 2019, Chapter 4, <https://www.acecqa.gov.au/sites/default/files/2019-12/NQF-Annual-Performance-Report-2019.pdf>

A visual representation of the quality ratings would support improved understanding for families as well as improve the accessibility of information, including for families from culturally and linguistically diverse backgrounds, or who have a disability and/or low literacy. Any visual representation should reflect the existing ratings system, rather than introduce a new parallel scheme. Goodstart acknowledges the NSW Star Ratings system reflects and complements the existing NQS ratings system without introducing new language or measures and therefore supports families' improved understanding and awareness of quality.

## 9.1 Changes in fees for regulatory authorities

### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘
B. Create a fourth category of application/annual fee for centre-based services with 101 or more places and FDC services with 61 or more educators.	Support ✔
C. Increase fees for the following: 1. Annual fees 2. Approved provider applications 3. Service approval applications 4. Transfer of service notifications.	Do not support ✘
D. Introduce a new fee for approval applications for amendment to service approval (which is currently free).	Do not support ✘
E. Introduce an annual fee for approved providers that is scaled by the number of services operated by the provider.	Do not support ✘
F. Change legislation to allow states and territories to set their own fees (except for provider application fees).	Do not support ✘

### Position statement

Goodstart supports the introduction of a fourth category of application fee for centre-based services with 101 or more places, to reflect the increased regulatory effort associated with assessment and rating as well as monitoring and compliance of a larger service.

Goodstart does not support increases to existing fees beyond standard inflation rates, noting our primary financing instrument (the CCS) is only indexed by CPI. So, any increases above and beyond CPI would have an impact on affordability for families.

### Impacts of the proposed options

These proposals seek to shift costs of regulation onto providers which will, in turn, have an impact on cost and affordability for families.

Goodstart acknowledges the financial impacts borne by state and territory regulatory authorities in regulating a growing ECEC sector, particularly since the cessation of the National Partnership Agreement on the National Quality Agenda. However, we urge governments to prioritise investment in quality regulation through investment in a new National Partnership Agreement over cost shifting to providers and families.

## 9.2 Changes in application fees for ACECQA functions

### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘

CRIS OPTIONS	GOODSTART POSITION
B. Increase application fee for a review by the Ratings Review Panel of rating level (s145(2)(c)).	Do not support ✘
C. Increase application fee for determination of equivalent qualification (regulation 139).	Do not support ✘
D. Increase application fee for assessment of a course to be included as an approved qualification (regulation 138).	Support in principle
E. Introduce a fee for an application for the highest rating (Excellent rating).	Do not support ✘

### Position statement

Goodstart gives in-principle support to increasing the application fee for assessing a course to be included as an approved qualification. However, we support only an increase in line with inflation, as measured by the Consumer Price Index (CPI).

We do not support the introduction of an application fee for a review nor the reintroduction of an application fee for an Excellent rating (Option E).

### Impacts of the proposed options

The primary financing instrument for the ECEC sector is the Child Care Subsidy, which provides approximately 60% of a service's revenue. As CCS is only indexed annually by CPI, any increases in costs – including regulatory fees – above CPI would likely have a direct impact on affordability for families.

If Option D is adopted, we recommend that the application fee only be increased in line with CPI and be implemented in conjunction with an agreed timeframe for assessing and approving (or refusing) a course to be included as an approved qualification.

The Excellent rating is a rating under the NQS and should be treated the same way at the other ratings, so as not to act as a disincentive for services. If an application fee is introduced, it should be a flat fee for all centres, rather than a scaled fee for different sized providers – as it is the centre that applies, not the provider.

## 10.1 Assessing suitability of individuals to work directly or indirectly with children

### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘
B. Align the matters that must be taken into account in a fitness and propriety assessment under the National Law to be the same as the FAL, including in defining who is a PMC.	Support ✓
C. Specify in the National Law that the regulatory authority can administer questions to an applicant in any format, in addition to the already existing powers to ask the person to provide further information and undertake inquiries in relation to the person.	Support in principle
D. Make provision in the National Law to require applicants to undertake an assessment of their knowledge of the NQF prior to making an application, if requested by the regulatory authority.	Do not support ✘
E. Include an explicit obligation for FDC educators to notify the approved provider of circumstances arising that pose a risk to the health, safety or wellbeing of children of the service and that APs use this information in a risk assessment.	No position (FDC only)

## Position statement

Goodstart supports the proposal to align the fitness and propriety assessments under the National Law and the Family Assistance Law (FAL), noting this may broaden the number of people defined as Person with Management or Control (PMC) and make them subject to new clauses in the FAL, as outlined below.

While we support the intention to ensure services are operating with comprehensive knowledge of the NQF, testing PMC may not be an appropriate mechanism for achieving this outcome, particularly in large organisations operating under a corporate structure.

## Impacts of the proposed options

The PMC test in the FAL could be interpreted as wider than the National Law, which could have legal impacts for people deemed PMC, i.e.:

- If PMC is a broader number of people under the FAL, the suggested change may mean they also become PMCs under the National Law.
- By changing the definition of a PMC, this same new definition will apply to all other clauses, which refer to PMC (outside of the fitness test e.g. obligation to notify changes in PMC and potential liability of PMC).
- In terms of the 'fit and proper' requirements, both pieces of legislation list aspects that must be considered as well as providing the regulator with the discretion to consider anything else they consider relevant.

Where a PMC is a small provider, operating a standalone service and/or a solo operator (e.g. FDC), it may be appropriate to test their knowledge of the NQF. However, consideration should be given to the appropriateness of testing PMC on their NQF knowledge in an organisation operating under a corporate structure, i.e. Board members. We would argue that it would not be appropriate for our Board Members, which include people such as Sir Kevan Collins based in the UK and former Royal Commissioner Lynelle Briggs, to be assessed on their knowledge of the NQF. For organisations like Goodstart, it would be more appropriate for this knowledge assessment to be delegated to the relevant individual or branch responsible for NQF compliance and quality. An outline of the governance arrangements showing the connections to the Board could also be provided, if required.

## 10.2 Cancellation of provider approval under Family Assistance Law

### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘
B. Legislative change that provides for FAL cancellation as explicit grounds for cancellation of provider approval under the NQF in circumstances where the FAL cancellation relates to fitness and propriety and/or a breach of the NQF.	Support ✓
C. Legislative change that provides for refusal of provider approval under the FAL as explicit grounds for cancellation of provider approval under the NQF, where the FAL refusal relates to fitness and propriety and/or a breach of the NQF.	Support ✓

## Position statement

Goodstart supports the alignment of the NQF and FAL in relation to refusing or cancelling provider approval under the NQF where the FAL fitness and propriety conditions are not met.

## Impacts of the proposed options

While this is a logical approach for small providers and/or FDC operators, consideration should be given to how this might apply to larger organisations with corporate structures. We understand this provision is primarily aimed at addressing fraud and quality issues with some FDC operators.

### 10.3 Arrangements to transfer a service to another approved provider

#### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘
B. Develop guidance for services and providers about the service transfer process and how to best advise families about the transfer (for example, in relation to storage of children's records).	Support ✓
C. Minor legislative changes to address challenges associated with timeframes including: 1. Increasing the notification period to 60 days; 2. Allowing the regulatory authority to refuse or delay a transfer if a significant issue arises after the intervention period has ended (intervention period is at least 28 days prior to intended transfer date) but before the transfer date; and/or	Do not support ✘
3. Making it mandatory for transferring and receiving providers to notify the regulatory authority of any change or delay to the intended date of transfer. 4. Increase the notice period to families from 2 to 7 days.	Support ✓
D. Amend the National Regulations to 'deem' the transfer to have occurred based on the advice of the receiving provider only, with receipt of the receiving provider's right to occupy.	Do not support ✘

#### Position statement

Goodstart supports the proposal to develop guidance around service transfer processes (Option B), particularly in relation to the safe and appropriate transfer and storage of child, family and staff member's personal records.

We do not support an increase to the notification period to 60 days (Option C1). We believe 42 days is sufficient time for the regulator to consider and approve a service transfer, particularly as these transfers are to already-approved providers. Any delays can have a commercial impact for both the transferring and receiving provider.

We do not approve changes that would allow regulators to refuse or delay a transfer after the 28 day intervention period (Option C2). Providers rely on this 28 day period and the certainty it affords in the transfer process.

We support the proposals to notify the regulatory authority of any changes or delays to the transfer date (Option C3). We also support the increase in the notice period to families (Option C4).

We do not support the proposal to deem a transfer to have occurred. Both the transferring and receiving provider must lodge the transfer documentation before this can occur.

#### Impacts of the proposed options

Approved providers who are transferring a service rely on the 28 day intervention period as a marker of certainty that no further regulatory action can be taken. This affords the provider confidence to communicate changes with staff and families about the imminent transfer. Any changes to this would remove certainty, which would have commercial impacts for services without any clear benefit for regulators or Governments.

At Goodstart, we generally provide families with in excess of 4 weeks' notice in relation to a transfer, which is far in excess of the proposed increase to 7 days.

### 10.4 Maintaining current information about service delivery

#### Options and positions

CRIS OPTIONS	GOODSTART POSITION
A. No change.	Do not support ✘

CRIS OPTIONS	GOODSTART POSITION
B. Amend the National Regulations to require notification of changes to the ages of children being cared for and nature of care provided to the regulatory authority, with an associated offence for failing to notify.	Support ✓
C. Amend the National Regulations to introduce an approval requirement, which obliges providers to apply to the regulatory authority to change the ages of children cared for and nature of care delivered by a service.	Do not support ✗
D. Regulatory authorities to provide guidance and resources in relation to age-appropriate programs and facility requirements.	Support ✓

### Position statement

Goodstart supports the intention to notify the regulator of changes to the ages of children being cared for but does not believe this warrants an additional approval process.

Providing guidance and resources in relation to age-appropriate programs and facility requirements, combined with increased notifications, should be sufficient for services and regulators to ensure services adhere to expectations.

### Impacts of the proposed options

Option B will slightly increase a provider's reporting and administrative responsibilities but the benefit of a central dataset and improved clarity around programs and facilities outweighs this impost.

Requiring an additional layer of approvals unduly increases administrative burden for providers and regulators and limits a provider's ability to flexibly respond to the needs of children and families in their centre.

### GOODSTART POSITION ON CRIS TECHNICAL AMENDMENTS

CRIS Reference	Proposal	Description	GOODSTART POSITION
11.1	Notice of transport in NQA ITS	Amend the regulation to improve notice requirements during periods of transport using the NQA ITS. Notification to include: whether the service provides transport the circumstances under which transport will be provided, such as the method of transportation confirmation that the service has transportation policies and procedures in place that comply with the National Law and Regulations how risks will be managed and minimised as part of risk assessment requirements confirmation that all children have a valid authorisation to travel from an authorised parent/carer.	Support ✓
11.2	Implementing physical activity guidelines	Amend the National Regulations to require services to implement physical activity policies.	Support ✓
11.3	FDC: Display in venue/ residence	Amend the National Law to require FDC operators to display the approved provider's assessment of a residence/ venue (including risk assessment).	No position FDC only
11.4	Tasmania-specific Amendment	Revoke regulation 353, which was intended to bring Tasmanian school-based kindergartens into line with the NQF. Regulation 353 can either be revoked immediately, or there could be a transition period before revocation.	No position Tas kindy only
11.5	Excellent rating	Amend section 155(5) to extend the validity of an 'Excellent' rating from a period of 3 calendar years, to 5 calendar years.	Support ✓