

# Provider Approvals Policy

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## Document Summary:

This policy outlines how the NSW Regulatory Authority exercises its function of managing provider approvals under Part 2 ('Provider Approval') of the *Children (Education and Care Services) National Law Act 2010* (National Law) and the *Education and Care Services National Regulations* (National Regulations).

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# 1. Purpose

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This policy outlines how the NSW Regulatory Authority (the Regulatory Authority) exercises its function of managing provider approvals under Part 2 ('Provider Approval') of the Children (Education and Care Services) National Law Act 2010 (National Law) and the Education and Care Services National Regulations (National Regulations).

A provider approval acts as a first safeguard for entry into the education and care services sector with the primary objective to ensure the safety, health and wellbeing of children attending education and care services.

The National Law allows the Regulatory Authority to manage the regulation of provider approvals by assessing and approving or refusing applications for provider approval, as well as amending provider approvals and suspending or cancelling provider approvals. An individual, body corporate, eligible association, partnership or prescribed entity may apply to be an approved provider. In assessing and monitoring provider approvals, the Regulatory Authority aims to ensure approved providers:

- Are fit and proper persons to provide an education and care service
- Have, and continue to have, the capability to operate an education and care service.
- Understand their responsibilities and comply with their obligations under the National Quality Framework (NQF).

The information in this policy is intended to clarify:

- What constitutes a complete and valid application in respect to provider approvals
- The circumstances under which the Regulatory Authority will exercise its discretion in respect to provider approvals, and the considerations it must and/or may take into account when exercising that discretion.

## 1.1 Guiding principles

The Regulatory Authority's over-arching principles for implementing its functions are set out in the Guiding Principles policy. Specific principles that apply to provider approvals include the following:

The Regulatory Authority will make decisions relating to the grant of new, and the management of existing, provider approvals having regard to the relevant legislative provisions, and the objectives and guiding principles of the National Law.

Decisions will be made using the Department's risk based approach, which ensures transparent and defensible risk based assessments of each application while having regard to the key regulatory risks.

The Regulatory Authority will only grant applications for provider approval where both the provider and, where the provider is not an individual, the persons exercising management or control of services on behalf of the provider, are fit and proper persons to operate an education and care service.

The Regulatory Authority will assess fitness and propriety with regard to a range of factors including, but not limited to, compliance history, criminal history, management capability, financial viability, and an understanding of, and ability to comply with, the requirements of the (National Quality Framework) NQF.

The Regulatory Authority will only consider an application for a new provider approval or an application in respect to an existing provider approval where the applicant has supplied a complete and valid application. An application is complete and valid when it contains sufficient information that fulfils all legal requirements and enables the Regulatory Authority to make a decision.

The Regulatory Authority may only suspend or cancel a provider approval in the circumstances set out in sections 25, 28 and 31 of the National Law.

## 2. Application

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This Policy applies to both new applicants and existing providers under the National Law and the Children (Education and Care Services) Supplementary Provisions Act 2011 (the Supplementary Provisions).

A provider approval granted under the National Law authorises a person (provided they also have the appropriate service approvals) to operate an education and care service under the National Law and/or the Supplementary provisions. A provider approval granted only in respect to the Supplementary Provisions is not a provider approval for the purposes of the National Law and does not authorise a person to operate an education and care service that is within scope of the National Law.

**In-scope services** are regulated under the National Quality Framework (NQF), which consists of the Children (Education and Care Services) National Law (NSW) (the “National Law”), the Education and Care Services National Regulations (NSW) (the “Regulations”) and the National Quality Standards. In scope services include centre-based services, such as long day care, out of school hours care, preschools, and family day care services.

**Out-of-scope services** (or State regulated services) are regulated under the Children (Education and Care Services) Supplementary Provisions Act 2011 (the State Law). Mobile and occasional care services are the only service types regulated under the State Law. Following changes to the State Law, the National Law provisions apply to out of scope services, with certain modifications. Where the National Law applies, the provisions are referred to as the “National Law Alignment Provisions.”

# 3. Policy provision and implementation

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## 3.1 General Application Information

### 3.1.1 Persons eligible to apply for a provider approval

The National Law requires that a person operating an education and care service must have a provider approval (Section 103 of the National Law). A provider approval authorises the holder to operate an education and care service under the National Law and National Regulations. It is ongoing and recognised in all Australian jurisdictions.

A person must apply to the Regulatory Authority to obtain a provider approval (Section 10 of the National Law). The National Law defines a 'person' as an individual, a body corporate, an eligible association, a partnership or a prescribed entity. One or more persons can apply to become an approved provider (Section 10 of the National Law).

In addition to a provider approval, to operate an education and care service, the approved provider must obtain a service approval for each service it operates. For more information about service approvals, see the Regulatory Authority's policy, Service Approvals.

### 3.1.2 Valid Applications

An application is complete and valid when the applicant has provided all of the prescribed information, including payment of a fee, where relevant.

The prescribed fees are set out in Schedule 2 of the National Regulations. Fees are indexed each year according to published indexation figures. They are available on the ACECQA website before the beginning of each financial year.

Names, addresses and other details must be consistent across all documentation provided. The Regulatory Authority may query any inconsistencies. To avoid processing delays, applicants for provider approval should ensure all information is accurate and consistent before submitting the application.

The timeframe for assessing an application will not commence until the Regulatory Authority has received all prescribed information and has determined that the application is valid. If the applicant has not provided all of the prescribed information, the Regulatory Authority will write to the applicant and advise them of the information required to complete the application. If the applicant does not provide the outstanding information within 14 days of the Regulatory Authority's written request, the Regulatory Authority may invalidate the application. This means that the Regulatory Authority may close the application.

When making a decision to invalidate an application, the relevant officer will consider the principles of procedural fairness. The Regulatory Authority may re-open an invalid application or may waive the fee for a new application where exceptional circumstances exist.

If exceptional circumstances exist, an applicant must provide evidence for their claims and all requests must be made in writing.

Applicants may decide to withdraw an application at any time prior to the Regulatory Authority making a decision on the application. The application may be withdrawn by notice in writing to the Regulatory Authority.

If an applicant withdraws an application, they may request a refund of the application fee. When determining whether a refund is applicable, the Regulatory Authority will consider various factors, such as the reason for the request, the time and resources already expended and any other relevant matter. The Regulatory Authority will notify an applicant in writing once a decision is made on a refund request. For more information, see the Fees and Charges Policy.

### **3.1.3 Application Timeframes**

The National Law sets out timeframes for each application type. It provides that the timeframe does not begin until the Regulatory Authority has received a complete and valid application.

Clause 31 of schedule 1 of the National Law sets out how timeframes are calculated. When calculating the timeframe for processing an application, the day the Regulatory Authority deems the application as valid is excluded. The last day of the timeframe is also excluded.

For the purpose of this section, “days” refer to calendar days, including Saturdays, Sundays and public holidays. However, if the last day of the timeframe falls on a non- business day, the next business day will be the last day.

If further information is required from the applicant (in addition to the prescribed information), the time taken to provide the information is not included in the period for determining the application (Section 14 of the National Law).

As soon as you are aware of any adverse or serious matters you are obligated to disclose this during the application process. The Regulatory Authority will undertake inquiries in relation to these matters. The Regulatory Authority may ask the applicant to provide further information under Section 14 of the National Law. The time taken to make these inquiries will not be considered in the legislated period of time within which the Regulatory Authority must make a decision.

In some instances the Regulatory Authority may request further time from the applicant to process the application (Section 15(4) of the National Law).

### **3.1.4 Provider Approval**

The Regulatory Authority must make a decision on a provider approval application within 60 calendar days of receiving a complete and valid application. If the Regulatory Authority does not make a decision within this time, or within any extended period of time, the application will be deemed to be refused (Section 15(5) of the National Law).

The Regulatory Authority must not grant a provider approval unless it is satisfied as to the applicant's fitness and propriety. Where there is information outstanding relating to serious matters, such as a criminal investigation, the Regulatory Authority may not be able to make a determination on fitness and propriety until an outcome is known or the matter is finalised. If the Regulatory Authority is unable to make a decision within legislative timeframes, the application is taken to be refused.

The Regulatory Authority will give written notice to the applicant of its decision, and of the reasons for the decision, within seven calendar days of making the decision (Section 16 of the National Law).

If an application is refused, an applicant may submit a new provider approval application at any time.

### **3.1.5 Amendment of Provider Approval**

The Regulatory Authority must make a decision on an application to amend a provider approval within 30 calendar days of receiving a complete and valid application.

The Regulatory Authority will give written notice to the applicant of its decision, and of the reasons for the decision, within seven calendar days of making the decision.

### **3.1.6 Voluntary suspension of a Provider Approval**

The Regulatory Authority must make a decision on an application to voluntarily suspend a provider approval within 30 calendar days of receiving the application.

The Regulatory Authority will give written notice to the approved provider of its decision, and of the reasons for the decision, within seven calendar days after making the decision.

### **3.1.7 Application Requirements for a Provider Approval**

For in-scope providers, applications for a provider approval must be made via the NQA ITS portal and must:

be made to the NSW Department of Education, as the Regulatory Authority, if the applicant's principal place of business is located in NSW, and:

- (i) include the prescribed documents as set out in the National Regulations; and
- (ii) include the prescribed fee.

For out-of-scope providers, applications must be made via the application form available at the NSW Department of Education's website at <https://education.nsw.gov.au/early-childhood-education/regulation-and-compliance/regulation-assessment-and-rating/approvals-process>.

The prescribed information to be included in an application for a provider approval made by an applicant who is an individual, can be found at Appendix A, checklist 1. This information must also be provided for all persons with management or control and office holders of an applicant who is not an individual, such as a body corporate (Regulation 14 of the National Regulations).

The prescribed information to be included in an application for a provider approval made by a person other than an individual, for example, an association or corporation, can be found at Appendix A, checklist 2 (Regulation 15 of the National Regulations)

The following documents are required for each entity type:

Type of Entity	Required Documents
Company	Current ASIC Company extract showing office holders and shareholders
Trusts	Trust Deed
	ACNC extract (where relevant)
Incorporated Association	Constitution
	Rules of Association
	Certificate of Registration
	Current Business Name extract
	ACNC extract (where relevant)
	Copy of most recent Annual General Meeting Minutes
Cooperatives	Certificate of Registration
	Constitution
	ACNC extract (where relevant)
	Rules signed by the Chairperson and Secretary of the cooperative certifying approval of the rules
Councils	An extract of the relevant legislation concerning use of the common seal; or a copy of any other legislation or resolution which sets the manner in which the Council can enter into contracts.
Partnership	Deed of Partnership

### 3.1.8 Persons with management or control

#### What is a PMC?

Section 5A of the National Law provides the meaning of a 'person with management or control'. Each of the following persons is a person with management or control of an education and care service:

- A. if the provider or intended provider of the service is a body corporate—
  - a. 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
  - b. any other 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;
- B. if the provider or intended provider of the service is an eligible association—
  - a. 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
  - b. any other 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;
- C. if the provider or intended provider of the service is a partnership—
  - a. 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
  - b. any other 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;
- D. in any other case, any 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.

All PMCs of an education and care service must be 'fit and proper' persons to be involved in the provision of an education and care service (section 12(2)(a)).

In addition, the approved provider entity itself must also be fit and proper to be involved in the provision of an education and care service (section 12(2)(b)). This may include the Regulatory Authority assessing all constituent individual personnel of the approved provider entity for fitness and propriety, regardless of whether the person is determined by the approved provider to be a person with management or control.

A PMC of an education and care service plays an important role under the National Law, and they have significant legal and administrative responsibilities. The onus is on the applicant or provider to identify the PMCs. Whether someone is a PMC is a question of fact and not just based on their position title. As such, when assessing an application for provider approval or when considering a change to the PMCs of an existing provider, an officer of the Regulatory Authority may discuss with an applicant or a provider how they determined who is a PMC, if the officer has any concerns.

Not all board/committee members, office holders, etc. need to be nominated as a PMC, however, they do need to be listed as contacts. A contact is a person who can respond on behalf of the provider, however does not have management or control of an education and care service. Contacts do not have defined responsibilities under the legislation. The Department's policy is to undertake a separate assessment of contacts, to understand the impact they have on the fitness and propriety of the approved provider. Only PMCs are required to undertake the formal knowledge assessment component. At any point in time during the assessment process, PMCs and/or nominated contacts may be required to provide further information, for example via an email, phone call or interview.

Where an applicant has no PMC, the Regulatory Authority will not approve the application. Where an existing approved provider has no PMC, the Regulatory Authority can take compliance action. Under Section 173 (1) (b) of the National Law it is an offence to fail to notify certain circumstances to the Regulatory Authority. An approved provider must notify any appointment or removal of a person with management or control of an education and care service operated by the approved provider.

## 3.2 Assessing a Provider Approval Application

To be granted a provider approval an applicant must submit the prescribed documentation and satisfy the Regulatory Authority that, in the case of an individual, they are fit and proper or, in the case of a non-individual, that the applicant and each PMC is fit and proper (Section 12 of the National Law).

### 3.2.1 Assessing whether the applicant is a 'fit and proper' person

Section 13 of the National Law outlines the considerations to which the Regulatory Authority must and may have regard to in determining whether the applicant and/or a person with management or control is a fit and proper person.

The Regulatory Authority must have regard to the following matters:

- The person's compliance history as it relates to the topics below:
  - the National Law and National Regulations in any participating jurisdiction; and
  - former education and care services law in any participating jurisdiction; and
  - a children's services law in any participating jurisdiction; and
  - an education law in any participating jurisdiction; and
- Any decision under a former education and care services law, a children's services law or an education law of a participating jurisdiction to refuse, refuse to renew, suspend or cancel a licence, approval, registration or certification or other authorisation granted to the person under that law and;
- Any prescribed matters relating to the criminal history of the person to the extent that history may affect the person's suitability for the role of provider of an education and care service; or
- Whether the person is bankrupt, or has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, or in the case of a body corporate, is insolvent under administration or an externally-administered body corporate.

Under 174(1)(a), an approved provider must notify the Regulatory Authority on any change relevant to whether the approved provider is a fit and proper person to be involved in the provision of an education and care service

The prescribed matters relating to criminal history include:

- Whether the person holds a current working with children check; or
- Is a registered teacher under an education law of the jurisdiction; and
- Any matters included in a criminal history record check.

The Regulatory Authority **may** also have regard to the following matters:

- Whether the person has a medical condition that may cause the person to be incapable of being responsible for providing an education and care service in accordance with the Law; and
- Whether the financial circumstances of the person may significantly limit their capacity to meet their obligations in providing an education and care service in accordance with the Law; and
- Whether the person has the management capability to provide an education and care service; and

- Whether certain actions have been taken under the A New Tax System (Family Assistance) (Administration) Act 1999 of the Commonwealth in relation to a child care service approved under that Act, operated by the person or in relation to which the person was a person with management or control.

The Regulatory Authority is not limited to considering only the matters set out above, and may also consider other relevant matters. As such, even if a person satisfies the requirements set out above, the Regulatory Authority may still consider that a person is not fit and proper.

Other matters that the Regulatory Authority considers relevant to an assessment of fitness and propriety, include:

- The person's involvement with services akin to education and care services in non- Australian jurisdictions.
- Any qualifications or training in education or other disciplines.
- Any work experience in education or other disciplines.
- The applicant's knowledge of the National Law, National Regulations, and National Quality Standard.
- The applicant's understanding of their role and responsibilities as an approved provider.

### **3.2.2 History of Compliance with the National Law**

In assessing a person's compliance history, the Regulatory Authority will consider:

- The severity of any issues and how recently they occurred
- The risks posed to the safety, health and wellbeing of children, including their developmental outcomes
- Any pattern of non-compliance
- The person's willingness to comply, for example, whether escalation was required to resolve compliance issues
- If the compliance history relates to a person that is not an individual (such as a company), the individual's role in the Approved Provider or in the incidence of non- compliance.

If a person has been served with an infringement notice for an offence under the National Law and has paid the penalty, the Regulatory Authority cannot take that offence into account when determining that person's fitness and propriety (Section 291 of the National Law).

### 3.2.3 Working With Children Check (WWCC)

A person will not be fit and proper if they do not hold a valid Working with Children Check. If there is a pending application, the application may be refused.

### 3.2.4 Criminal History

The Regulatory Authority will assess a person's criminal history, by considering the extent to which the following matters affect a person's suitability to provide an education and care service:

- Any matters included in a criminal history check
- Whether the person has a current working with children check
- Whether the person is a registered teacher under NSW legislation.

If the person has a recent or substantial criminal history that the Regulatory Authority considers would affect that person's suitability for the role of provider of an education and care service, the Regulatory Authority will not approve the application. The Regulatory Authority will accept a partial disclosure of a criminal history.

If the person does not have a current working with children check, issued by the NSW Office of the Children's Guardian, the Regulatory Authority will not approve the person's application.

When considering a person's criminal history, the Regulatory Authority will ask a person to submit a personal statement as to the circumstances of the offence/s and references. The Regulatory Authority will give greater weight to a reference where the person providing the reference is aware of the applicant's criminal history.

The Regulatory Authority will consider a person's criminal history in the context of the provision of education and care services to children. Offences which give rise to a concern or risk inconsistent with the Objectives and Guiding Principles in Section 3 of the National Law will be considered more serious than other offences. For example, offences that involve sexual misconduct, violence, recklessness or negligence, or offences giving rise to danger to, or disregard for, health and safety (particularly of children) may preclude a finding that a person is fit and proper.

The Regulatory Authority will take the following factors into account in considering a person's criminal history:

- Nature of the offence/s
- Time elapsed since the last offence, including whether any convictions are spent
- Whether there is a pattern of similar offences
- The severity of any sentence imposed
- Whether improper conduct has occurred, is likely to occur, or whether the general community will have confidence that improper conduct will not occur
- The circumstances surrounding the offence
- The age of the offender at the time of the offence
- Whether the type of offence may affect the safety, health and wellbeing of children.

### 3.2.5 Financial Circumstances

In assessing fitness and propriety, the Regulatory Authority will have regard to whether the applicant:

- Is bankrupt, or has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors
- In the case of a body corporate, is insolvent under administration or an externally-administered body corporate.

If the applicant declares that they are bankrupt or insolvent, the Regulatory Authority may conduct further enquiries, such as asking an applicant to attend an interview and/or to provide further information including:

- A statement as to the circumstances of the bankruptcy/insolvency and what mitigating action has occurred since that time.
- Bank statements for cash flow and liquidity
- Business plans for the new service
- Evidence of business or personal loans
- If the applicant is currently running a business:
  - Profit and loss statements
  - Statements of solvency
- Credit score
- Information on capital structure, asset sustainability and debt protection
- Any other relevant information, depending on the circumstances.

In assessing fitness and propriety with respect to financial circumstances, the Regulatory Authority may consider the following:

- The date of discharge of bankruptcy, or the date bankruptcy is to be discharged.
- The time elapsed since the bankruptcy was discharged
- Past circumstances and changes of circumstances
- Whether the bankruptcy occurred as an individual or as part of a business and company, and if so what their role was at the time
- Legal advice about whether the Regulatory Authority is bound by other law
- The person's ability to manage the finances of the business

- The person's ability to run a service which can provide the education and developmental outcomes for the children attending the service
- The person's ability to fund the costs of the business, such as the lease, equipment, employees etc.
- The type of application made to the Regulatory Authority, i.e. notification of PMC, new provider application etc. and the person's intended role.

If the person is currently bankrupt or insolvent, or has been recently discharged from bankruptcy or insolvency and no changes of circumstances that would prevent a future bankruptcy or insolvency are evident, the Regulatory Authority may refuse the application.

Even where an applicant is not bankrupt or insolvent, or has not applied for bankruptcy or insolvency, the information disclosed in the application or obtained through other sources may give rise to concerns about the applicant's financial circumstances. Where this is the case, the Regulatory Authority will consider whether the applicant's financial circumstances may significantly limit their capacity to meet their obligations in providing an education and care service.

Where the Regulatory Authority requires more information to assess the applicant's financial capacity and viability, it may undertake various enquiries, including a check of the National Personal Insolvency Index maintained by the [Australian Financial Security Authority](#).

If the Regulatory Authority considers that the applicant's financial circumstances may significantly limit their capacity to meet their obligations in providing an education and care service, the Regulatory Authority may refuse the application.

### 3.2.6 Medical Conditions

The Regulatory Authority may consider whether the applicant, or a person with management or control, has a medical condition that may cause the person to be incapable of being responsible for providing an education and care service in accordance with the Law.

Consideration will be given in light of the particular medical condition or disability and whether the person could perform the role consistent with the Objectives and Guiding Principles in Section 3 of the National Law.

Applicants are not required to provide medical information in their initial application. Where the Regulatory Authority obtains information about a person's medical condition that give rise to concerns that the person may be incapable of being responsible for providing an education and care service, the Regulatory Authority may ask the applicant to provide a medical assessment by a medical practitioner.

When requesting a medical assessment, the Regulatory Authority will explain why this is necessary.

The Regulatory Authority will give consideration to the particular medical condition or disability, and whether the person would be capable of performing the role, with or without assistance, in a manner that is consistent with the objectives and guiding principles in the National Law.

### 3.2.7 Management Capability

The Regulatory Authority may consider whether the approved provider, or a person with management or control, has the management capability to operate an education and care service in accordance with the National Law.

This may include considering an applicant's:

- resume
- references
- qualifications

Evidence of management capability does not need to relate only to education and care services, or qualifications in education and care. Previous expertise, experience or qualifications in a leadership, governance, administrative or management role in the following areas may be used by an applicant to demonstrate management capability:

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

This may also include experience gained as a volunteer.

The Regulatory Authority has regard to work experience that demonstrates an applicant's understanding of financial information, business management, time management, organisation skills, management of staff and interaction with people, including parents.

The Regulatory Authority may, if necessary, request further information about an applicant's management capability.

### 3.2.8 Actions taken under Commonwealth Family Assistance Law

In assessing an applicant's fitness and propriety, the Regulatory Authority may also take into account certain actions taken under *A New Tax System (Family Assistance)(Administration) Act 1999* (Cth) regarding child care services approved under that Act.

These actions are:

- Any sanction imposed by Section 200 of that Act
- Any suspension imposed by Section 201A of that Act

- Any infringement notice given under Section 219TSL of that Act. To be taken into account, these sanctions, suspensions or infringement notices must have been imposed on the applicant for a provider approval or a person with management or control on behalf of that applicant.

### **3.2.9 Other Matters**

The Regulatory Authority may consider the applicant's awareness and understanding of their obligations under the National Law and Regulations.

A PMC may be required to undertake an online National Law (NL) knowledge assessment to determine the applicant's level of understanding regarding their role and responsibilities as an approved provider. National Law regulators may also administer a NL online knowledge assessment on notification of a new PMC through the receipt of a PA08 form.

knowledge assessments sessions are just one tool the Regulatory Authority has at its disposal and, as such, demonstrating adequate knowledge and understanding of the National Law and Regulations does not, on its own, guarantee the granting of a provider approval. However, if applicants do not demonstrate adequate knowledge and understanding, the Regulatory Authority may refuse the application.

The Regulatory Authority may conduct a further phone, online, or face to face interview to determine or clarify an applicant's knowledge and understanding of the National Law and/or to clarify any adverse findings during the application process.

The Regulatory Authority also has the discretionary power to request further information from an applicant and to consider any other matter when making a determination on fitness and propriety.

### **3.2.10 Re-assessing whether the applicant is a 'fit and proper' person (PMC)**

The Regulatory Authority has the discretion to reassess the fitness and propriety of an approved provider, an existing person with management or control for an approved provider, or a person who becomes a person with management or control at any point in time. If a person with management or control is no longer fit and proper, an approved provider will no longer be fit and proper. The Regulatory Authority may take action to suspend or cancel a provider approval where an approved provider is no longer fit and proper to provide an education and care service. In re-assessing fitness and propriety, the Regulatory Authority will take into account the matters discussed at 4.3 above.

Various events may cause the Regulatory Authority to conduct a reassessment of fitness and propriety. Those events include, but are not limited to, repeat and/or serious non-compliance with the National Law, consistently operating services under the minimum quality rating of Meeting the NQS (i.e. Working Towards or Significant Improvement Required), or a change in circumstances that may affect a person's fitness and propriety. This will be determined on a case by case basis.

If a PMC ceases to have a valid working with children check, their fitness may be re-assessed and may be deemed not fit and proper. If the individual is the sole PMC, the Regulatory Authority may take action to cancel the provider and service approval. The Regulatory Authority has the power

under Chapter 16A, Section 245A of the Children and Young Persons (Care and Protection) Act 1998 (Chapter 16A request) to request the NSW Office of the Children's Guardian send information on why the WWCC was cancelled.

## 3.3 Making a decision on application

The Regulatory Authority may either grant or refuse an application for a provider approval (Section [15 of the National Law](#)).

### 3.3.1 Approval

To grant a provider approval, the Regulatory Authority must be satisfied that the applicant is fit and proper to operate an education and care service.

When granting a provider approval, the Regulatory Authority may place additional conditions (or additional requirements) on that approval. A person holding a provider approval must comply with the conditions on the approval – both those automatically imposed under the National Law and any additional conditions imposed by the Regulatory Authority – to avoid committing an offence under the National Law ([Section 19\(4\) of the National Law](#)).

For more information about conditions on provider approvals, see the [Conditions on Approvals and Waivers policy](#).

Where the Regulatory Authority grants a provider approval, it will provide a copy of the provider approval to the approved provider (Section [20 of the National Law](#)).

When issuing a provider approval, the Regulatory Authority will ensure the approval includes the following details:

- the name of the approved provider;
- if the approved provider is not an individual, the address of the principal office of the provider;
- any conditions to which the approval is subject;
- the date that the provider approval was granted;
- the provider approval number.

The Regulatory Authority will issue the approval document within 7 days of granting the approval.

Once a provider has been issued with a provider approval, they may apply for a service approval. A Service approval is required to operate an education and care service (See [Service Approval Policy](#)).

ACECQA will publish the register of approved providers on its [website](#).

### 3.3.2 Refusal

If an applicant does not meet the requirements for a provider approval, the Regulatory Authority will refuse the application. The consequence of this decision is that the applicant will not be able to operate an education and care service.

If the Regulatory Authority refuses an application, the applicant may seek an internal review of the decision, within 14 days of being notified of the outcome. For further information, see the [Review of Decisions Policy](#).

Alternatively the applicant may wish to re-apply for provider approval. While there is no limit on how many times an applicant may apply, if the Regulatory Authority has refused the application on the basis of an applicant not being able to demonstrate an adequate knowledge and understanding of the National Law, the applicant should familiarise themselves with the regulatory requirements prior to submitting a new application. ACECQA [publishes](#) information on applying to become an approved provider including LMS modules.

## 3.4 Miscellaneous

### 3.4.1 Applications for provider approvals due to the death or incapacity of the approved provider

In some cases, an application for a provider approval will be made due to the death or incapacity of an approved provider.

On the death of an approved provider, the executor of the estate of the approved provider may apply for a provider approval ([Section 39 of the National Law](#)). They also have the option of surrendering or transferring the service approval.

If an approved provider becomes incapacitated, the legal personal representative or guardian of the approved provider may apply for a provider approval ([Section 40 of the National Law](#)).

The Regulatory Authority will make decisions about provider approval applications for executors, legal personal representatives and guardians in the same way as it does for standard applications, which includes an assessment of fitness and propriety. The Regulatory Authority will grant the application, refuse it or grant it subject to conditions.

The Regulatory Authority will limit the provider approvals granted to executors, legal personal representatives and guardians in the following ways:

- They are only eligible to operate the service formerly operated by the incapacitated or deceased approved provider. They are not eligible to apply for additional service approvals or receive service approval transfers from another provider.

- The provider approval may not be granted for more than six months, although it may be extended for further periods of not more than six months.

### **3.4.2 Requirements specific to provider approval applications by executors**

The National Law provides that, on the death of an approved provider, the executor must notify the Regulatory Authority of that death within seven days.

The executor may then apply in writing for a provider approval to operate the relevant services within 30 days of the death of the approved provider. If the executor does not do this, their right to continue to operate the relevant services will cease 30 days after the death of the approved provider.

If the executor does make a provider approval application, they may continue to operate the services until the Regulatory Authority determines their provider approval application. If the outcome of this provider application is a refusal the provider is taken to cease from the date of that decision, and any services run by this provider are taken to cease from this date.

The prescribed information to be included in a written application to the Regulatory Authority for a provider approval made by an executor, where the executor is an individual is included within Appendix A, checklist 3.

The prescribed information to be included in a written application to the Regulatory Authority for a provider approval made by an executor, where the executor is not an individual (the executor may be an association or a corporation) is included at Appendix A, checklist 4

The fees for provider approval applications by executors are available on the [ACECQA website](#).

### **3.4.3 Requirements specific to provider approval applications by personal representatives or guardians**

The National Law states that an application for a provider approval by a legal personal representative or guardian of an approved provider must be in writing and include the prescribed information and payment of the prescribed fee (Section 40 of the National Law).

The prescribed information required by the Regulatory Authority to be included in a written application for a provider approval made by a personal representative or guardian who is an individual, is included within Appendix A, checklist 5

The prescribed information required by the Regulatory Authority to be included in a written application for a provider approval made by a personal representative or guardian who is not an individual, is included within Appendix A, checklist 6

The fees for provider approval applications by personal representatives or guardians are available on the [ACECQA website](#).

## 3.5 Amending a Provider Approval

An approved provider may, at any time after the grant of a provider approval, apply to amend the provider approval (Section 22 of the National Law). Amendments can be made to:

- Change the name of the provider;
- Change the principal office address;
- Remove or vary a condition that was placed on the provider approval.

In most cases it will not be possible to change the legal entity type through an amendment application and the provider will need to submit a new application. In circumstances where the change of the principal office address of the provider approval is located in another state this may change the Regulatory Authority that manages the provider approval. This may trigger a request for further information from the new jurisdiction.

### 3.5.1 Application Requirements

When an approved provider applies to amend their approval, they must submit an application in writing and include the prescribed information. All applications must be submitted online via the NQA ITS portal. The prescribed information is set out in Appendix A, checklist 7.

When applying to amend a provider approval, the applicant must provide reasons for the amendment and may sometimes be required to provide further evidence.

### 3.5.2 Assessment of Application

Once an applicant has submitted a complete application, the Regulatory Authority will assess the application having regard to the prescribed information and the points outlined below. The Regulatory Authority may request additional information from an applicant if it is not satisfied that the applicant has provided sufficient information to support the amendment.

While there are no specific provisions outlining the matters that the Regulatory Authority must consider for the purposes of determining an application to amend a provider approval, in exercising its functions under the National Law, the Regulatory Authority must have regard to the objectives and guiding principles of the National Law, for example, to:

- ensure the safety, health and wellbeing of children attending education and care services;
- improve the educational and developmental outcomes for children attending education and care services;
- promote continuous improvement in the provision of quality education and care

services.

The Regulatory Authority will also consider any provisions of the National Law and Regulations that may be relevant to the particular application.

### 3.5.3 Decision on Application

Once the Regulatory Authority has assessed the application, it will determine the application by:

- amending the provider approval in the way applied for; or
- amending the provider approval in another way, with the applicant's written agreement; or
- refusing to amend the provider approval.

Where the Regulatory Authority considers that approving the application for amendment would be inconsistent with the requirements of the National Law, or inconsistent with the objectives and guiding principles of the National Law, it may refuse the application.

The Regulatory Authority will provide written notice of its decision to the approved provider, including the reasons for the decision, within 7 days of making the decision. Where the Regulatory Authority has approved the application for amendment, it will send the approved provider a copy of the amended approval with the decision letter.

### 3.5.4 Amending a provider approval without an application from the provider

The Regulatory Authority may amend a provider approval at any time without an application from an approved provider. An amendment is a change to the terms of the approval.

The Regulatory Authority may amend a provider approval by:

- placing a new condition (an additional requirement) on the approval, varying a condition or removing an existing condition (Section 19 of the National Law);

The Regulatory Authority will only amend a provider approval without an application where there is a proper purpose to do so, and having regard to the guiding principles.

The Regulatory Authority will provide written notice of its decision to the approved provider, including the reasons for the decision, within 7 days of making the decision. The notice will include a copy of the amended provider approval, which will take effect 14 days after the notice is given, or at the end of another period as specified by the Regulatory Authority.

## 3.6 Suspending a Provider Approval

A provider approval may be suspended for a period of up to 12 months (or six months in the case of an immediate suspension). During this time any service approvals held by the provider are also taken to be suspended, which means that the service cannot operate. A suspension of a service approval, automatically suspended where the provider approval is suspended, ceases if the Department approves a transfer of the service approval (Section 30(6) of the National Law).

A suspension can be either voluntary or involuntary, and the requirements vary significantly between the two.

### 3.6.1 Voluntary Suspensions

An approved provider may apply to voluntarily suspend, “put on hold” their provider approval at any time, for a maximum period of up to 12 months per application (Section 37 of the National Law).

If a provider wishes to voluntarily suspend their provider approval following the initial 12 months, another application is required. The Regulatory Authority will decide whether or not to grant the application after consultation with other jurisdictions where the approved provider operates education and care services, including the jurisdiction that granted the original provider approval.

A decision on the application will be made within 30 calendar days following the receipt of a complete application. Failure to consult with other jurisdictions does not affect the validity of the of the Regulatory Authority’s decision.

### 3.6.2 Application Requirements

The approved provider must submit their application to voluntarily suspend the approval in writing via the NQAITS portal. The application must include:

- the full name of the approved provider;
- the provider approval number;
- the details of a contact person for the application;
- the reasons for the suspension;
- the date on which the suspension is proposed to take effect and the duration of the suspension;
- what is intended to happen to each education and care service operated by the approved provider during the proposed suspension;
- evidence that the approved provider has notified the parents of enrolled children who attend any of their services of the intended closure at least 14 days prior to when the

suspension is intended to take effect;

- payment of the prescribed fee.

### 3.6.3 Assessment and Decision

The Regulatory Authority will decide whether or not to grant the application. If the Regulatory Authority grants the application, the date of the suspension taking effect will be agreed upon between the applicant and the Regulatory Authority.

The applicant will be given notice of the decision in writing and, where approved, it will stipulate the duration of the suspension. The suspension will remain in force for the period specified in the written notice of the suspension. The provider may apply at any time prior to the end date of the suspension to revoke the suspension.

The Regulatory Authority will monitor providers who have voluntarily suspended and contact them prior to the suspension end date to discuss their intentions. Providers may elect to operate again once the suspension ceases, or they may wish to surrender their service and provider approval.

A provider will be in breach of their provider approval if they continue to operate any education and care service while a voluntary suspension is in effect.

### 3.6.4 Completion of suspension

An approved provider can commence operating from:

- the date the suspension was revoked, or
- the completion of the suspension period, as indicated by the date on the written application for voluntary suspension, provided that the Regulatory Authority has not taken action that would prevent the provider from operating.

### 3.6.5 Involuntary Suspension

The Regulatory Authority may suspend a provider approval under section 25 of the National Law. The suspension may be for a period of up to 12 months (or six months in the case of an immediate suspension). A suspension of a provider approval is a significant compliance action.

The Regulatory Authority may suspend a provider approval for any of the following reasons:

- the approved provider has been charged with an indictable offence (or an offence that if committed in NSW would be an indictable offence), or any other circumstance that indicates the approved provider may not be a fit and proper person to provide an education and care service;
- the approved provider has failed to comply with a condition of the provider approval

- The approved provider has failed to comply with the National Law
- The Regulatory Authority is taking compliance action (other than a compliance direction) under Part 7 of the National Law regarding one or more services operated by the approved provider
- The approved provider has not operated any education and care service for more than 12 months (including any period of suspension)
- The approved provider purported to transfer or receive a transfer of an approved education and care service without the Regulatory Authority's consent
- The approved provider has failed to pay any outstanding prescribed fees.

The Regulatory Authority may reduce the period of suspension if the Regulatory Authority is satisfied that there is no longer a risk to children's health, safety and wellbeing.

### 3.6.6 Show Cause Notice

Where the suspension is not immediate, the Regulatory Authority will give the approved provider a Show Cause Notice (Section 26 of the National Law).

The notice must outline:

- the intention of the Regulatory Authority to suspend the provider approval;
- the proposed period of the suspension;
- the reasons for the proposed suspension;
- that the approved provider has 30 days to respond in writing to the proposed suspension.
- An approved provider's response to the show cause notice should set out the reasons why the Regulatory Authority should not suspend the approval, and include any documentation or other evidence necessary to support those reasons. The Regulatory Authority will give careful consideration to any response it receives.

### 3.6.7 Decision after issuing show cause notice

After considering any response to the show cause notice or, if no response is received prior to the conclusion of the 30 days from the date the Show Cause Notice was issued, the Regulatory Authority will make a decision to either suspend or not to suspend the provider approval (Section 27 of the National Law). In making its decision, the Regulatory Authority will have regard to the Guiding Principles as set out in this policy, to ensure the decision is consistent with the objectives of the National Law and Regulations.

Where the Regulatory Authority decides to suspend the provider approval, it will base the length of the suspension time on the following considerations:

- the risk posed to the health, safety or wellbeing of a child or children;
- the approved provider's compliance history;
- the approved provider's willingness and ability to rectify any incidence of non-compliance.

### **3.6.8 Immediate suspension**

The Regulatory Authority may suspend a provider approval on a ground referred to in section 25 of the National Law without issuing a Show Cause notice if the Regulatory Authority is satisfied that there is an immediate risk to the safety, health or wellbeing of a child or children being educated and cared for by an education and care service operated by the approved provider (Section 28 of the National Law).

### **3.6.9 Notice**

The Regulatory Authority must give the approved provider written notice of its decision to suspend a provider approval (Section 29 of the National Law).

The Regulatory Authority will include the following information in such a notice:

- the period of the suspension;
- the date on which the suspension takes effect;
- information about the right to internal review (when a show cause notice has not been issued) or external review (when a show cause notice has been issued).

Generally, the suspension will take effect 14 calendar days from when the decision was made, or at the end of any other period specified by the Regulatory Authority. However, if the provider approval was suspended without a show cause notice, the suspension takes effect when the Regulatory Authority gives notice of the suspension.

The Regulatory Authority will take all necessary steps to ensure that parents of the enrolled children are notified within 24 hours of a service being suspended.

### **3.6.10 Completion of suspension**

The Regulatory Authority will determine on a case by case basis the appropriate course of action once the period of suspension is served. This may include, placing a condition on the provider approval or issuing a show cause to cancel the provider approval.

Note: A suspension of a service approval, automatically suspended where the provider approval is suspended, ceases if the Department approves a transfer of the service approval (Section 30(6) of the National Law).

## 3.7 Celling a Provider Approval

A provider approval may be cancelled under the National Law. This means that the provider is no longer allowed to operate any education and care services. The decision to cancel a provider approval is permanent. A provider approval may be surrendered voluntarily by the approved provider, or cancelled by the Regulatory Authority, and the requirements vary significantly between the two.

### 3.7.1 Surrender of a Provider Approval

A surrender occurs when an approved provider no longer wishes to operate any of their approved services and/or no longer wishes to hold a provider approval. The decision to surrender a provider approval is permanent and the Regulatory Authority cannot re-instate an approval that has been surrendered. If a person wishes to commence operating an education and care service in the future, that person must apply for a new provider approval and a new service approval.

The approved provider must notify the Regulatory Authority in writing of their intention to surrender a provider approval. The written notice must specify a date on which the surrender is intended to take effect. This date must be after written notice is given to the Regulatory Authority and at least 14 calendar days after parents of children enrolled at the approved provider's services are notified of the intention to surrender the provider approval ([Section 36 of the National Law](#)).

Under [Section 38 of the National Law](#), the effect of surrendering a provider approval is that the provider approval is cancelled. This cancellation will occur on the date specified in the provider's written notice of the surrender of the provider approval. All service approvals held by the approved provider are also cancelled from the date of the surrender of the provider approval.

### 3.7.2 Cancellation of a Provider Approval

The Regulatory Authority may cancel a provider approval under [Section 31 of the National Law](#). Cancelling a provider approval is a significant compliance action.

The Regulatory Authority may cancel a provider approval for any of the following reasons:

- the Regulatory Authority is satisfied that the approved provider or a person with management or control of an education and care service operated by the approved provider is not a fit and proper person to be involved in the provision of an education and care service; or
- the Regulatory Authority is satisfied that the continued provision of education and care services by the approved provider would constitute an unacceptable risk to the safety, health or wellbeing of any child or class of children being educated and cared for by an education and care service operated by the approved provider; or

- the approved provider has been found guilty of an indictable offence or an offence that if committed in NSW would be an indictable offence; or
- the approved provider has been found guilty of an offence under this Law as applying in any participating jurisdiction; or
- the approved provider has breached a condition of the provider approval; or
- the approved provider has not operated any education and care service for a period of more than 12 months (including any period of suspension).
- under section 195H(1)(b) of the [A New Tax System \(Family Assistance\) \(Administration\) Act 1999](#) of the Commonwealth, the approved provider's approval as a provider has been cancelled for the reason that the approved provider has not satisfied, or is not satisfying, the provider eligibility rules in section 194C(b), (c) or (d) of that Act; or
- the approved provider has been refused approval as a provider under section 194B(6) of the [A New Tax System \(Family Assistance\) \(Administration\) Act 1999](#) of the Commonwealth for the reason that the provider does not satisfy the provider eligibility rules in section 194C(b), (c) or (d) of that Act.

### 3.7.3 Show Cause Notice

The Regulatory Authority will give the approved provider a Show Cause Notice (Section [32 of the National Law](#)) prior to cancelling the approval.

The notice must outline:

- the intention of the Regulatory Authority to cancel the provider approval;
- the reasons for the proposed cancellation,;
- that the approved provider has 30 days to respond in writing to the proposed cancellation.

An approved provider's response to the show cause notice should set out the reasons why the Regulatory Authority should not cancel the approval, and include any documentation necessary to support those reasons. The Regulatory Authority will give careful consideration to any response it receives.

### 3.7.4 Decision after issuing show cause notice

After considering any response to the show cause notice or, if no response is received prior to the conclusion of the 30 days from the date the Show Cause Notice was issued, the Regulatory Authority will make a decision to either cancel, suspend or not to cancel the provider approval (Section [33 of the National Law](#)).

In making its decision, the Regulatory Authority will have regard to the Guiding Principles as set out in this policy, to ensure the decision is consistent with the objectives of the National Law and

Regulations. The Regulatory Authority will also consider factors such as:

- where applicable, whether any risks posed to children have been largely mitigated; and
- where applicable, whether the approved provider has developed a plan and has taken tangible steps to rectify any non-compliance;
- whether the response from the approved provider has demonstrated exceptional circumstances that do not warrant cancellation;
- whether taking an action other than to cancel the approval would be inconsistent with the objectives and guiding principles of the National Law.

### 3.7.5 Notice

The Regulatory Authority must give the approved provider written notice of its decision. (Section 33 of the National Law). If the Regulatory Authority has decided to suspend the approval, see the “notice” provisions in section 4.7 above. If the Regulatory Authority has decided to cancel the approval, the notice must set out the date on which the cancellation will take effect.

The Regulatory Authority will also take steps to ensure the parents of the enrolled children at any services operated by the approved provider are notified of the cancellation within 24 hours of making the decision to cancel the approval. The Regulatory Authority may request information from the approved provider (Section 35 of the National Law) to enable the Regulatory Authority to notify the parents, and/or it may require the approved provider to give notification to parents.

The decision to cancel a provider approval takes effect at the end of 14 **calendar days** after the date of the decision. Alternatively, it will take effect at the end of another period specified by the Regulatory Authority.

### 3.7.6 Operating a service with a suspended or cancelled provider approval

Sections 103 of the National Law and section 108 of the Supplementary Provisions state that a person must not provide an education and care service unless the person is an approved provider in respect of that service and the education and care service is an approved education and care service. A person must not operate a service without a provider approval or while their provider approval is suspended or cancelled, and it is an offence to do so.

If the Regulatory Authority identifies that a person is operating an education and care service without an approval or while their provider approval is suspended or cancelled, it may take appropriate action, which could include the commencement of prosecution proceedings. The type of action taken will be determined by the extent of the non-compliance and the willingness of the person operating the service to comply with the Regulatory Authority’s directives.

## 3.8 Review

A person affected by the Regulatory Authority's decision regarding a provider approval may be able to challenge that decision by applying to have it reviewed. There are two types of review:

- internal review – by the Regulatory Authority;
- external review – by a relevant tribunal, court or the NSW Ombudsman.

For more information on rights of review, including application processes, the types of review available and the principles that apply to conducting reviews, see the [Review of Decisions Policy](#).

## 4. Approval

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Approved by: Yasmina Kovacevic, A/Director, Regulatory Strategy, Policy and Practice

Designation: Quality Assurance & Regulatory Services



Signed: Yasmina Kovacevic Director RSPP

Dated: 22 September 2023

## 5. Document history

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### 5.1 Document information

Policy title	Provider approvals policy
Current version	3
Approved by	RSPP
Approval date	22 September 2023
Implementation date	Current
Next scheduled review date	TBC
Audience	External

### 5.2 Document version history

Version	Date	Author	Change description
3	September 2023	RSPP	Update to new policy format, include changes to PMC definition and other minor changes

### 5.3 Consultation

Version	Date	Stakeholder	Change description
3	September	RSPP, PRI	N/A

## 5.4 Document linkages

### Legislation and regulation

Key relevant legislation and regulation that determines influences or defines this policy:

Title of legislation
<i>Children (Education and Care Services) National Law (NSW) No 104a of 2010</i>
<i>Education and Care Services National Regulations (2011 SI 653)</i>
<i>Children (Education and Care Services) Supplementary Provisions Act 2011 No 70</i>
<i>Children (Education and Care Services) Supplementary Provisions Regulation 2019</i>

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### Policies and procedures

Internal staff will abide by approved processes and procedures in relation to this policy

## 6. Appendix 1

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### Checklist 1: Information required for provider approval application by an individual (regulation 14)

- |   |
|---|
| <input type="checkbox"/> The applicant's full name, and any former or other name the applicant may be known by  |
| <input type="checkbox"/> The applicant's residential address and contact details  |
| <input type="checkbox"/> The applicant's date and place of birth  |
| <input type="checkbox"/> Proof of the applicant's identity  |
| <input type="checkbox"/> A previous service statement made by the applicant   |
| <input type="checkbox"/> The applicant's NSW working with children clearance number or a copy of the applicant's current Working With Children Check  |
| <input type="checkbox"/> (a) a criminal history record check, with all known names, issued not more than six months before the date of the application, and a criminal history statement in relation to the period after the date on which the check was issued, to the date of the application |
| <input type="checkbox"/> If the applicant lived and worked outside Australia at any time within the previous three years, an overseas criminal history statement made by the applicant  |
| <input type="checkbox"/> A disciplinary proceedings statement made by the applicant   |
| <input type="checkbox"/> A bankruptcy declaration made by the applicant.  |

### Checklist 2: Information required for provider approval application by a person other than an individual (regulation 15)

- The applicant's name and any trading or other name used by the applicant
- The applicant's street address and postal address or, if there is more than one address, the street address and postal address of the applicant's principal office
- The name and contact details of the contact person for the purposes of the application
- Documentary evidence of the legal status of the applicant and its constitution (for example, the partnership agreement for a partnership)
- A financial declaration regarding the applicant
- For each individual who will have management or control of the education and care service, the prescribed information in Checklist 1 must be provided.
- For Each individual who forms part of the applicant (e.g directors, Committees members, partners, officeholders) the prescribed information in checklist 1 must be provided.

### Checklist 3: Information required for provider approval application by an executor who is an individual (regulation 20)

- The applicant's full name, and any former or other name the applicant may be known by
- The applicant's residential address and contact details
- The applicant's date and place of birth
- In relation to the current (deceased) approved provider:
  - (a) their full name
  - (b) provider approval number
  - (c) the date of their death
  - (d) a copy of the death certificate or other evidence of their death
- The proposed duration of the provider approval (cannot exceed six months)
- Proof of the applicant's identity
- The applicant's working with children clearance number or a copy of the applicant's current working with children check
- (a) a criminal history record check issued not more than six months before the date of the application, and a criminal history statement in relation to the period after the date on which the check was issued, to the date of the application; or

<input type="checkbox"/> If the applicant lived and worked outside Australia at any time within the previous three years, an overseas criminal history statement made by the applicant
<input type="checkbox"/> A disciplinary proceedings statement made by the applicant
<input type="checkbox"/> A bankruptcy declaration made by the applicant.

#### Checklist 4: Information required for a provider approval application by an executor who is not an individual (regulation 21)

- The applicant's name and any trading or other name used by the applicant
- The applicant's street address and postal address or, if there is more than one address, the street address and postal address of the applicant's principal office
- The name and contact details of the contact person for the purposes of the application
- In relation to the current deceased approved provider:
  - (a) their full name
  - (b) provider approval number
  - (c) the date of their death
  - (d) a copy of the death certificate or other evidence of their death
- The proposed duration of the provider approval (cannot exceed six months)
- Documentary evidence of the legal status of the applicant and its constitution (for example, the partnership agreement for a partnership)
- A financial declaration regarding the applicant
- For each individual who will be a person with management or control of an education and care service to be operated by the applicant, the information in Checklist 4 above.

#### Checklist 5: Information required for provider approval application by a legal personal representative or guardian who is an individual (regulation 22)

- The applicant's full name, and any former or other name the applicant may be known by
- The applicant's residential address and contact details
- The applicant's date and place of birth
- The current approved provider's full name and provider approval number
- The proposed duration of the provider approval (cannot exceed six months)
- The applicant's working with children clearance number or a copy of the applicant's current working with children card or check
- (a) a criminal history record check issued not more than six months before the date of the application, and a criminal history statement in relation to the period after the date on which the check was issued, to the date of the application; or
- If the applicant lived and worked outside Australia at any time within the previous three years, an overseas criminal history statement made by the applicant
- A disciplinary proceedings statement made by the applicant
- A bankruptcy declaration made by the applicant.

### Checklist 6: Information required for a provider approval application by a legal personal representative or guardian who is not an individual (regulation 23)

- The applicant's name and any trading or other name used by the applicant
- The applicant's street address and postal address or, if there is more than one address, the street address and postal address of the applicant's principal office
- The name and contact details of the contact person for the purposes of the application
- The current approved provider's full name and provider approval number
- The proposed duration of the provider approval (cannot exceed six months)
- Documentary evidence of the legal status of the applicant and its constitution (for example, the partnership agreement for a partnership)
- A financial declaration regarding the applicant
- For each individual who will be a person with management or control of an education and care service to be operated by the applicant, the information in Checklist 6 above.

### Checklist 7: Information required for an application to amend a provider approval (regulation 17)

- Full name of the approved provider
- Provider approval number
- Name and contact details for the contact person for the application
- The details of the amendment applied for
- Sufficient information or documents to support the application for amendment.

## Checklist 8: Information required for an application to suspend a provider approval (regulation 19)

- |  |
|--|
| <input type="checkbox"/> Full name of the approved provider  |
| <input type="checkbox"/> Provider approval number  |
| <input type="checkbox"/> Name and contact details for the contact person for the application   |
| <input type="checkbox"/> The reasons for the suspension  |
| <input type="checkbox"/> The date on which the suspension is proposed to take effect, and the duration of the suspension   |
| <input type="checkbox"/> What is intended to happen to each service operated by the approved provider during the proposed suspension   |
| <input type="checkbox"/> Evidence that the approved provider has notified parents of children enrolled at their services of their intention to apply for a voluntary suspension. |