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# Persons with Management or Control (PMC)

The Regulatory Framework and Your Responsibilities

The NSW Department of Education acknowledges and pays respect to Elders and all NSW Aboriginal and Torres Strait Islander communities. We offer respect to the traditional custodians of the lands on which we live and work and recognise the deep culture and history of First Nations People.



# Overview

Things every PMC needs to know about

1. The National Law and Regulations

2. The National Quality Framework (NQF)

3. The Regulatory Authority

4. National Quality Agenda IT System (NQA ITS)





# National Law and Regulations





# Legislation

## Which laws are relevant to you?

Children (Education and Care Services) National Law (NSW)  
No 104a



### Status information

#### Currency of version

Current version for 1 February 2018 to date (accessed 20 August 2021 at 13:35)  
Legislation on this site is usually updated within 3 working days after a change to the legislation.

#### Provisions in force

The provisions displayed in this version of the legislation have all commenced. See [Historical Notes](#)

#### Note:

The Education and Care Services National Law is applied and modified as a law of NSW by the NSW Children Education and Care Services National Law (Application) Act 2019. This version is the Law as it currently applies in NSW.

#### Responsible Minister

Minister for Education and Early Childhood Learning

#### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the *Interpretation Act 1987*.

File last modified 1 February 2018.

Education and Care Services National Regulations  
[2011-663]



### Status information

#### Currency of version

Historical version for 1 February 2018 to 30 June 2018 (accessed 20 August 2021 at 13:36)  
Legislation on this site is usually updated within 3 working days after a change to the legislation.

#### Provisions in force

The provisions displayed in this version of the legislation have all commenced. See [Historical Notes](#)

#### Does not include amendments by:

*Education and Care Services National Amendment Regulations 2018 (246)* (not commenced — to commence on 1 July 2018)

#### Note:

Minor style changes have been made to headings and other parts of these Regulations in line with formatting requirements for New South Wales legislation. No changes have been made to the substantive text.

#### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the *Interpretation Act 1987*.

File last modified 8 June 2018.

- There are **TWO** important pieces of legislation for education and care services in NSW:
- HINT—‘*section*’ refers to the National Law and ‘*regulation*’ refers to the National Regulations.

### 1 National Law → *Children (Education and Care Services) National Law (NSW)*

- The National Law sets a national standard for children’s education and care in Australia.

[More Info](#)

### 2 National Regulations → *Education and Care Services National Regulations*

- The National Regulations support the National Law by providing details on a range of matters relating to education and care services.

[More Info](#)

# Minimum Legislative Requirements

## Important Minimum Requirements of the National Law and National Regulations

➤ The National Law and National Regulations specify the minimum standards an education and care service must meet in its day to day operations, including:

▶ Adequate supervision of children

Section 165

▶ Appropriate discipline

Section 166

▶ Protection of children from harm and hazards

Section 167

▶ Provision of required educational programs

Section 168

▶ Adequate staffing arrangements

Section 169



# Responsibilities

## What is the responsibility of an Approved Provider

- Legal entity with ultimate legal responsibility for a service. This may be a company, partnership or an individual.

## What is the responsibility of a Person with Management or Control?

- Makes or participates in making decisions that affect the whole, or a substantial part, of the business of the entity; or has capacity to significantly impact the entity's financial position.





# Roles and Responsibilities

What are some of the key roles and responsibilities?

## Approved Provider

- An individual or an entity, such as a company, may apply for a provider approval. An applicant for provider approval must satisfy the Regulatory Authority that they are a fit and proper person to be involved in providing education and care services to children.
- A provider approval authorises the approved provider to operate an education and care service if the approved provider is the holder of the service approval for the service. This means that a person or entity must have a provider approval before they can operate an education and care service.
- An approved provider is a person or entity that has been granted a provider approval by the Regulatory Authority. The approved provider is legally responsible for the operation of an education and care service.





# Roles and Responsibilities

What are some of the key roles and responsibilities?

## Person with Management or Control

➤ Approved providers that are not individuals (such as a company) must have a Person with Management or Control (PMC). A Person in Management or Control (PMC) is generally a person who has the responsibility for managing the delivery of the education and care service. A PMC is a person who makes or participates in making decisions that affect the whole, or a substantial part, of the business of the entity; or who has the capacity to significantly impact the entity's financial position. See Section 5A of the National Law for a complete definition of PMC.

Section 5A

➤ A prospective PMC must satisfy the Regulatory Authority that they are a fit and proper person to be involved in providing education and care services to children.

Section 12



# Key Legal Responsibilities

What are my responsibilities as an approved provider or a person with management or control?

Notifications can be divided into 3 broad categories

Changes to approved providers

Changes to approved services

Other incidents and attendance of additional children

## Relevant Laws

Section 173

Section 174

Section 174A

Regulation 12

Regulation 174

Regulation 175

Regulation 176



# Key Legal Responsibilities

What are my responsibilities as an approved provider or a person with management or control?

## Record Keeping

Record of service's compliance with the Law

Enrolment Records

Policies and Procedures

Incident, Injury, Trauma and Illness Records

Child assessments/evaluations

Attendance Records

Assessment of FDC residences/venues

Medication Records

Staff Records

Record of Visitors

## Relevant Laws

Section 175

Regulation 87

Regulation 145

Regulation 158

Regulation 160

Regulation 161

Regulation 162

Regulation 165

Regulation 171



# The National Quality Framework



# National Quality Framework (NQF)

## What is it?

➤ The NQF was the result of an agreement between all Australian Governments to provide better educational and developmental outcomes for children.

➤ The NQF was introduced in 2012 to raise quality and drive continuous improvement and consistency in children's education and care services.

➤ The service types included in the NQF are:

**Long Day Care**

**Preschool and Kindergarten**

**Outside School Hours Care**

**Family Day Care**

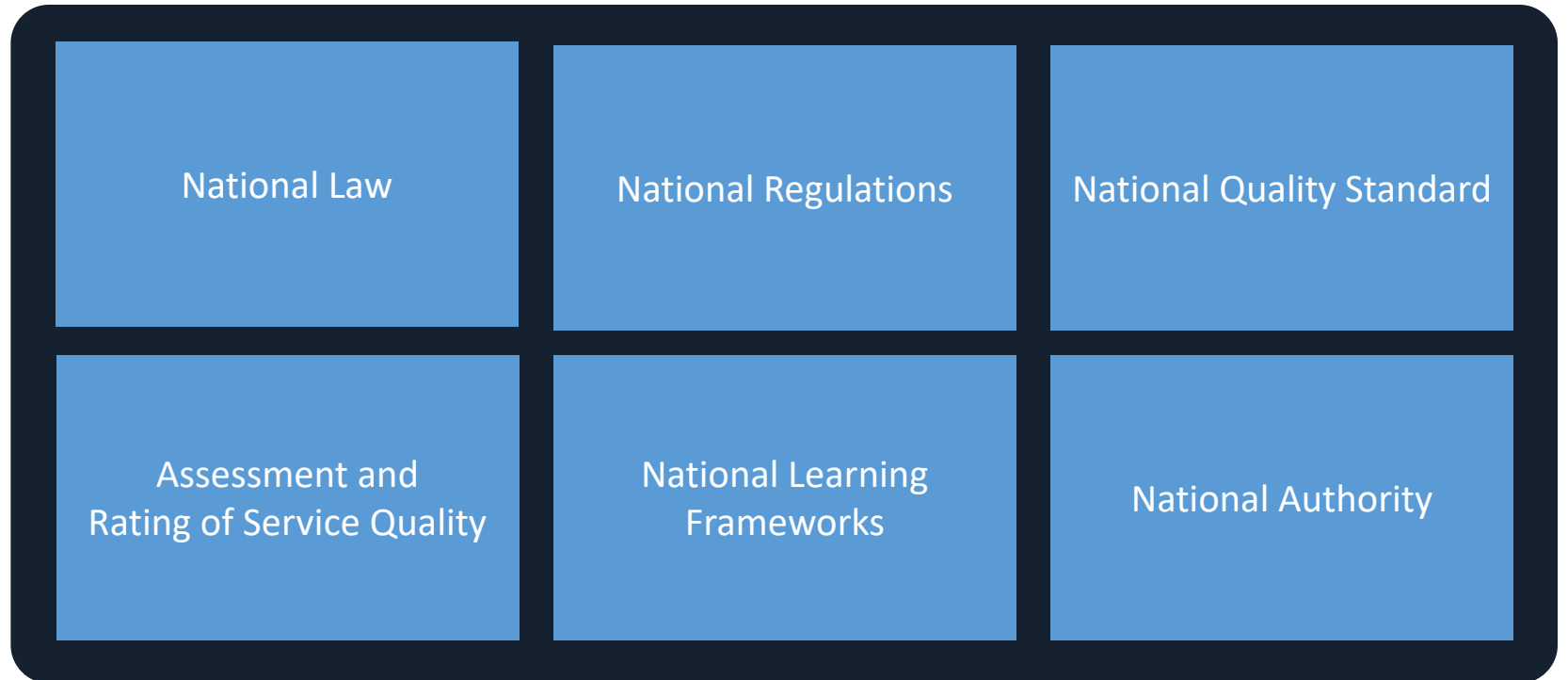
# National Quality Framework (NQF)

What makes up the NQF?



**National  
Quality  
Framework**

[Click on a box to learn more](#)



# National Quality Framework (NQF)

## Who administers the NQF?



**ACECQA**

*Pronounced "ah-see-kwa"*

- The Australian Children's Education and Care Quality Authority (ACECQA) is the National Authority that is responsible for guiding the implementation and administration of the NQF.

### **NSW Regulatory Authority**

- The NSW Regulatory Authority is responsible for administering the NQF. It works with ACECQA to support and promote continuous quality improvements in education and care services in NSW.
- Each State and Territory has their own Regulatory Authority that also works with ACECQA.



# The NSW Regulatory Authority





# NSW Regulatory Authority

## Who Regulates Education and Care Services in NSW?

- The Secretary of the Department of Education is the Regulatory Authority for education and care services in NSW. The Secretary has delegated her functions to the Quality Assurance and Regulatory Services Unit.
- The Regulatory Authority is responsible for the approval and regulation of over 5,800 early childhood education and care services across NSW.
- In administering the NQF, the Regulatory Authority must have regard to the objectives and guiding principles of the NQF, which include ensuring that the safety, health and wellbeing of children is protected, and that their learning and developmental outcomes are supported.



# NSW Regulatory Authority

## What is the Regulatory Authority Responsible for?

► The Section 260 of the National Law

To administer the NQF, including assessing applications for provider and service approvals;

Assess and rate services against the National Quality Standards;

To monitor and enforce compliance with the NQF;

Receiving and investigating complaints under the NQF;

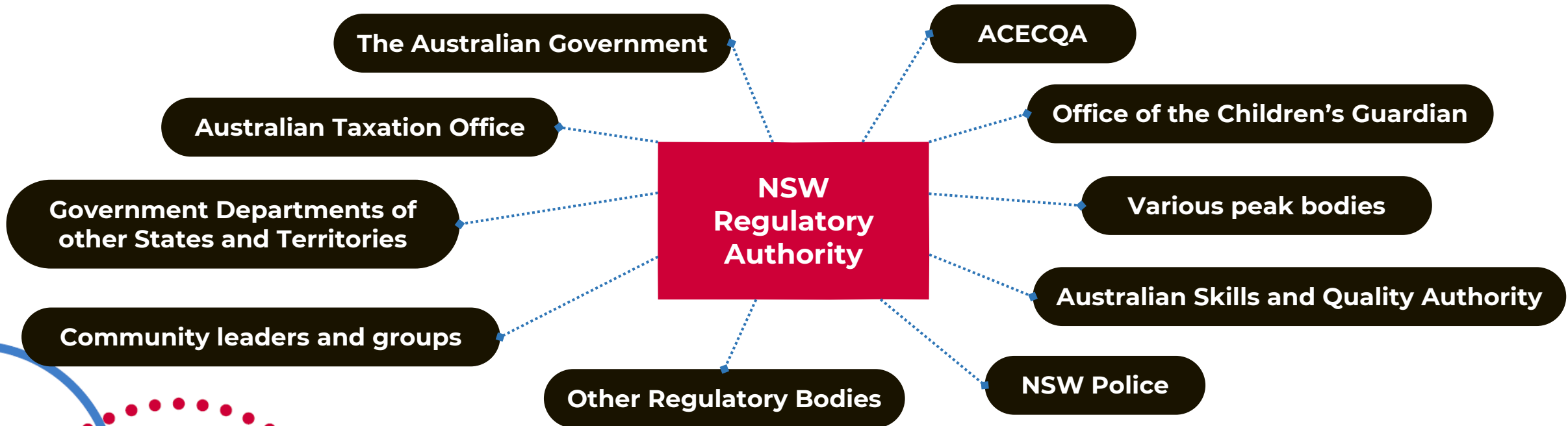
To work with ACECQA to educate and inform services and the community about the requirements of the NQF and to support and promote continuous quality improvements in services.

# NSW Regulatory Authority



## Who else does the Regulatory Authority work with?

- To be able to improve our regulatory capability and build trust and confidence in the early childhood education sector, the Regulatory Authority works with families, communities, services, providers, organisations and other stakeholders.





# NSW Regulatory Authority

## How would you interact with the Regulatory Authority?

- We always look for opportunities to improve how we regulate the early childhood education sector. Your feedback helps us to ensure the safety, health and wellbeing of children who attend early childhood education care and services across NSW.

- If you have any questions regarding your role as a PMC, suggestions or feedback about the Regulatory Authority please contact us.



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# National Quality Agenda IT System



# National Quality Agenda IT System (NQA ITS)

## What is it?

- The NQA ITS is an online tool for providers and educators across Australia.
- It provides online business applications for approved providers to submit documents and notifications to the Regulatory Authority.



- A step-by-step guide can be accessed through ACECQA's website.

**More Info**



# Congratulations!

You have finished this webinar on being a person with management or control

