This fact sheet outlines the requirements for applying for a provider approval to operate an approved family day care service under the Education and Care Services National Law Act 2010 (National Law) and the Education and Care Services National Regulations 2011 (National Regulations).

The Department of Education and Training (the Department) is the Regulatory Authority for Victoria and is responsible for:

- granting provider and service approvals
- carrying out the quality assessment and rating process
- ensuring education and care services meet the requirements of the National Law and National Regulations.

The Australian Children’s Education and Care Quality Authority (ACECQA) is the national, independent statutory authority governing the National Quality Framework. ACECQA’s role includes:

- ensuring the consistent application of the National Quality Framework
- publishing guides and resources for education and care services
- maintaining public registers and lists of approved qualifications.

What is provider approval?

Provider approval is granted under Part 2 of the National Law and, if granted, enables an approved provider to apply for one or more service approvals. A service approval authorises an approved provider to operate an approved service.

Obtaining provider approval is the first step toward operating an approved family day care service. An application for Provider approval can be made by either an individual (e.g. sole proprietor) or a non-individual (e.g. a company, incorporated association or partnership).

An approved provider may apply to the Regulatory Authority for a service approval to operate a family day care service (section 43). The approved provider may only apply for a service approval if they will be:

- the operator of the family day care service
- responsible for the management of the staff members and nominated supervisor of the service (section 43(2)).

The approved provider of an approved family day care service is responsible for:

- ensuring the safety, health and wellbeing of the children being educated and cared for by the service
- meeting the educational and developmental needs of the children being educated and cared for by the service
- ensuring sufficient persons are appointed as family day care co-ordinators
- ensuring each family day care educator is monitored and supported by a family day care co-ordinator.

The Regulatory Authority must not grant service approval unless the provider approval application has been granted. **As such, it is recommended that an applicant waits for the outcome of their provider approval application before submitting an application for service approval.**
Before applying for provider approval

Prior to applying for provider approval a number of decisions need to be made. These being:

- the type of legal entity you make an application under
- the name of the legal entity
- the nomination of at least one ‘person with management or control’ (applies only if the applicant is not an individual (section 12)).

Type of legal entity

An applicant must make a decision before applying for provider approval regarding the type of legal entity they intend to apply under. Any changes to the legal entity type (e.g. changing from an individual to a company) will require a new application for provider approval and for the application fee to be paid again. An applicant should seek their own professional advice regarding which legal entity is appropriate for their circumstances. The Regulatory Authority cannot provide advice on these matters.

Name of the Legal Entity

If an applicant has submitted, or will be submitting an application to the Commonwealth Government for the purpose of seeking Child Care Benefit they must ensure that the legal entity name and type is consistent with the application for provider approval.

Persons with management or control

An applicant for provider approval must nominate person(s) to be a ‘person with management or control’. Each person with management or control must demonstrate that they are a fit and proper person to be involved in the provision of an education and care service (section 12).

Am I ready to apply for provider approval?

Applying for provider approval and establishing a family day care service is an important decision that comes with the responsibility of ensuring that the service and each educator engaged or registered by the approved provider is compliant with the National Law and National Regulations.

As an applicant, the following questions may assist you in determining if you are ready to apply for provider approval:

1. Am I familiar with the Education and Care Services National Law Act 2010 and Education and Care Services National Regulations 2011?
2. What is my legal entity and how will I ensure there are appropriate governance arrangements in place?
3. What is my service philosophy and how am I committed to operating a quality education and care service?
4. How will I engage, monitor, assess and support my educators?
5. What is the National Quality Standard and how will I develop a Quality Improvement Plan?
6. How will I ensure that my educators can plan and deliver an educational program to children?

If you cannot confidently answer all the above questions you may need to undertake further research before applying for provider approval and establishing a family day care service.

Application process

Information session

An information session is delivered to support applicants for provider approval who are proposing to operate a family day care service. Attendance at the information session is strongly encouraged prior to submitting an application for
provider approval. An applicant may register for the next available information session by emailing licensed.childrens.services@edumail.vic.gov.au.

Assessment session

All individuals nominated as a person with management or control are required to attend an assessment session. The Regulatory Authority will invite an applicant to attend an assessment session when the application for Provider Approval meets the minimum requirements of the National Law and National Regulations. The assessment sessions are designed to evaluate a person's fitness and propriety to manage or control an education and care service.

Application submission

The following information must be submitted for an application to meet the minimum requirements of the National Regulations (regulation 14 and regulation 15):

- a complete application for provider approval (form PA01)
- a complete declaration of fitness and propriety for each 'person with management or control' and each person listed as a company director or company secretary, and individual applicants (form PA02)
- a current criminal history notification (not more than 6 months old) for each person with management or control and each person listed as a company director or company secretary, and each individual applicant
- copy of a current Working with Children Check or details of a current VIT Registration for each person with management or control and each person listed as a company director or company secretary
- payment of the prescribed fee.

Prescribed fee


When submitting the application online, the applicant will be prompted to pay the invoice. If payment is not made online, an invoice will be generated and emailed to the applicant.

An application for provider approval will not be assessed until payment is received.

Incomplete application

If an application is incomplete, the Regulatory Authority will issue a letter to the applicant. This letter will contain details about the information required to complete the application. An applicant must respond to this letter and provide the requested information in order for the application to progress.

Assessment of fitness and propriety

An applicant for provider approval must demonstrate they are fit and proper to be involved in the provision of an education and care service; this includes each person who will have management or control of the education and care service. The matters the Regulatory Authority may take into account in assessing the fitness and propriety of a person are set out in section 13 of the National Law, and include:

- the applicants history of compliance with the National Law and other relevant legislation
- any previous adverse decision under the National Law and other relevant legislation
- the criminal history of the applicants to the extent that the history may affect the person's suitability for the role of a provider of an education and care service
- any check of the applicants under a working with vulnerable people law of a participating jurisdiction
- whether the applicants are bankrupt, or have applied to take the benefit of any law for the relief of bankrupt or insolvent debtors
• whether the applicants have 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 National Law

• the financial circumstance of the applicants in so far as they may significantly limit the person’s capacity to meet the person’s obligations in providing an education and care service in accordance with the National Law

• any other circumstances the Regulatory Authority may consider relevant to the assessment of fitness and propriety of a applicants to be involved in the provision of an education and care. In Victoria, this includes the assessment of written responses to scenario questions and referees’ assessments of each person who will be involved with the management and control of the education and care service. This is to evaluate a person’s competence and experience relative to the duties and responsibilities of an approved provider or person with management or control. This includes whether a person possesses the necessary skills, knowledge, expertise and soundness of judgment to undertake and fulfil their roles.

Notification of decision

The applicant will be notified of the decision on application within seven days of the decision being made. If the decision is to grant provider approval, the approved provider will receive a provider approval certificate via email.

Contacting the Regulatory Authority

When contacting the Regulatory Authority regarding a current application please have the application reference numbers ready. These numbers begin with either ‘APP’ or ‘PR’ and will assist in identifying the application.

When submitting further information you must clearly identify your application by including the reference numbers. Information that is received without the correct application reference numbers cannot be matched to your file and will delay the application.

The Regulatory Authority can only discuss an application with the approved provider, primary contact person or the person(s) with management or control of the proposed service.

Resources

Two guides have been developed to assist family day care educators in meeting the requirements of the National Quality Framework. Guide for Family Day Care Educators has been developed to assist educators to understand their roles, obligations and responsibilities under the National Law and National Regulations.

Delivering a Children’s Program in a Family Day Care Service aims to assists family day care educators plan and deliver an educational program that helps children progress in their learning and development in the five learning outcomes.


Further information

The Department of Education and Training is the Regulatory Authority in Victoria.

Phone: 1300 307 415
Email: licensed.childrens.services@edumail.vic.gov.au

The Australian Children’s Education and Care Quality Authority (ACECQA)

Phone: 1300 307 415
Email: enquiries@acecqa.gov.au
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