



# Approving family day care residences and approved family day care venues

Family day care (FDC) approved providers manage the standard of service delivery in a FDC scheme through monitoring, supporting and developing services.

This fact sheet provides an overview of your responsibilities under the Education and Care Services National Law (Queensland) (National Law) and the Education and Care Services National Regulations (National Regulations) with regard to FDC residences and venues.

The National Law allows approved providers to approve FDC residences. Regulation 116(1) of the National Regulations requires approved providers of FDC services to assess each proposed FDC residence before education and care is provided to children to ensure the health, safety and wellbeing of children who are educated and cared for by the service. Approved providers must conduct this assessment at least once every year.

From 1 October 2017, the National Law provides that a FDC service may operate at a venue only in exceptional circumstances and if approved by the Regulatory Authority (Section 50A). The definition of ‘approved

family day care venue’ under Section 5 of the National Law has been amended to reflect this change (refer ‘Important terms’ below).

An approved provider can seek to have an FDC venue approved by the Regulatory Authority as part of an application for a new service approval or, if the approved provider already holds a service approval, by seeking an amendment to request approval of a place as a family day care venue for the service (Regulation 34, National Regulations).

Approved providers that already have a service operating from a venue have until 1 April 2018 to submit a complete application to the Regulatory Authority seeking approval of the existing venue. The Regulatory Authority will make a decision on each application received within six months of receipt of the application.

Under changes to the National Law, an offence now applies to approved providers for the provision of education and care from a place that is not a residence or an approved venue (Section 103A, National Law).



## Children's safety, health and wellbeing is our priority

Section 3 of the National Law sets out the objectives and guiding principles of the National Quality Framework (NQF), including to:

- ensure that the safety, health and wellbeing of children, and the rights and best interests of the child are paramount, and
- improve the educational and developmental outcomes for children attending education and care services.

Approved providers must have these objectives and guiding principles as their key considerations when deciding if a residence is suitable for FDC. When deciding whether to approve a FDC venue, the Regulatory Authority will also have regard to these objectives and guiding principles.

## Important terms – Section 5 National Law

### Is the building a residence or a venue?

A family day care residence means a residence at which a family day care educator educates and cares for children as part of a family day care service. Residence is defined in Section 5 of the National Law as 'the habitable area of a dwelling.'

An approved family day care venue means a place (other than a residence) approved under section 50A or 54(8A) of the National Law as a family day care venue for an

approved family day care service. That is, if education and care is mainly provided in a building, or part of a building, other than the habitable area of a dwelling (i.e. someone does not live in the house/building), then it is not a residence, and must be assessed as a venue.

It is important not to offer education and care services from a proposed venue unless the Regulatory Authority has approved the venue.

Approved providers should familiarise themselves with other important terms used in the National Law:

- an *education and care service premises* - each part of a residence used to provide education and care to children as part of a family day care service or used to provide access to the part of the residence used to provide that education and care
- a *FDC service* - an education and care service that is delivered through the use of 2 or more educators to provide education and care to children; and operates from 2 or more residences.

## Assessing whether a family day care residence is suitable

### Your responsibilities under the National Law and Regulations

Under Regulation 116, the approved provider of a FDC service must conduct an assessment (including a risk assessment) of each proposed residence and each proposed FDC venue of the service before education and care of children is provided at the residence or venue



as part of the service, to ensure that the health, safety and wellbeing of children being educated and cared for are protected.

After that, the approved provider must conduct assessments at least annually to ensure the health, safety and wellbeing of children being educated and cared for are protected.

### Suitable areas in a residence

When deciding whether a residence is suitable, approved providers are encouraged to work with educators to ensure education and care is offered in the habitable areas of the residence - that is, the areas that are lived in.

FDC aims to offer an education and care option in a secure and stimulating home environment.

That's why education and care should be provided in the areas of the house that people usually live in.

Providing education and care in areas such as a garage may not be appropriate, as this is not an area people usually live in.

## Deciding whether a family day care venue is suitable

### The role of the regulatory authority

When deciding whether to approve a FDC venue, the regulatory authority will consider the suitability of the proposed FDC venue, including its location. The regulatory authority may request further information about the venue under Section 45 of the National Law.

If a FDC venue is approved, the location of the FDC venue will be stated on the FDC service approval certificate (Section 52(b)).

If the regulatory authority refuses an application for a FDC venue on the basis that it is not suitable as an FDC service, the regulatory authority will place a condition on the service approval indicating the proposed premises cannot be used as a venue to provide an FDC service.

### Your responsibilities under the National Law and Regulations

As an approved provider, you need to:

- apply to the regulatory authority if you are seeking to operate a FDC service from a venue, either:
  - via an application for a new service approval if you are not currently approved to operate a service; or
  - if you already operate a service from a venue, you will need to submit a complete application to the Regulatory Authority seeking approval of the existing venue prior to 1 April 2018.

- if you already hold a service approval, seeking an amendment to the service approval to request approval of a place as a family day care venue for the service.

- conduct annual assessments (including risk assessments) of each approved FDC venue (Regulation 116)
- ensure the proposed venue is safe and suitable for the number and ages of children proposed
- ensure the proposed venue meets the requirements under the National Law and National Regulations
- consider the safety, health and wellbeing of children and the rights and best interests of the child as the most important within the objectives and guiding principles of the National Law
- ensure the proposed venue meets local planning, development and building laws (administered by the local authority)
- have a policy and procedure on the assessment, approval and re-assessment of approved family day care venues (Regulation 169) that ensures the venues are suitable for the purpose of caring for children and do not compromise the safety, health and wellbeing of children
- include on a register the address of any residence or approved family day care venue and indicate whether it is a residence or a venue (Regulation 153)
- notify the regulatory authority of any proposed change to a family day care venue (this does not apply to a family day care residence) (Section 173(2)).

## Does the venue meet the requirements under the National Law?

The physical environment requirements for FDC venues outlined within the National Regulations include:

- Regulation 103 – Premises, furniture and equipment to be safe, clean and in good repair
- Regulation 104 – Fencing
- Regulation 105 – Furniture, material and equipment
- Regulation 106 – Laundry and Hygiene facilities
- Regulation 107 – Indoor space requirements (3.25m<sup>2</sup> per child)
- Regulation 108 – Outdoor space requirements (7m<sup>2</sup> per child)
- Regulation 109 – Toilet and hygiene facilities
- Regulation 110 – Ventilation and natural light.

An approved provider must assess and re-assess their FDC residences and venues to ensure the health, safety

and well-being of children are protected in accordance with requirements of Regulation 116, including:

- Regulation 116(2)(b) – the suitability of the residence or venue
- Regulation 116(2)(c) – the suitability of nappy change facilities
- Regulation 116(2)(d) – existence of water hazards
- Regulation 116(2)(e) – any risks posed by animals
- Regulation 117 – glass panelling accessible to children.

## Does the venue building meet requirements of local planning and development laws?

Any building proposed to be used as a family day care venue must comply with relevant planning and development requirements imposed by the local authority (e.g. local council). Requirements can depend on the local authority but typical considerations may include matters not set out in the National Regulations such as specific ratios of car spaces, maximum land lot sizes or maximum allowable occupancy rates at the premises.

Approved providers should contact their local council for information about the considerations that may apply to any building they are seeking to use as a FDC venue.

## How is the venue building classified?

The Building Code of Australia (BCA) outlines building classifications that provide requirements for specific building types and purposes.

Class 9 buildings include education and care services (class 9b), schools, school assembly halls, churches or community halls etc. Approved providers should consider the BCA as a guide to decide if a building to be used as a FDC venue is suitable, and seek the advice of a building practitioner.

Approved providers must ensure children are safe in buildings used as venues for education and care. Factors to consider when deciding whether a building is suitable for children include:

- Are the children able to be protected from the weather and potentially dangerous pests?
- Are there enough entries and exits to allow for safe entry/exit during an emergency?
- Are the children able to be secured from the presence of unauthorised adults who may not have been assessed for suitability?

For these reasons, approved providers should note that it is the position of the Queensland regulatory authority that the following classification of building types may not typically be suitable FDC venues:

- Class 1b (e.g. guest or boarding house)
- Class 3 (e.g. hotel or motel)
- Class 7 (e.g. car park, storage etc.)
- Class 10 (e.g. garage, shed or other non-habitable structure).

## More information:

Contact the Family Day Care Association on telephone 07 3847 6900 or visit their website at [www.fdcqld.org](http://www.fdcqld.org)

### ACECQA

- visit the website [www.acecqa.gov.au](http://www.acecqa.gov.au)
- call the hotline on 1300 422 327 in business hours

### Queensland Regulatory Authority

- visit the website [www.det.qld.gov.au/earlychildhood/service-providers/framework/regulations/building-requirements](http://www.det.qld.gov.au/earlychildhood/service-providers/framework/regulations/building-requirements)
- contact your local DET regional office [www.qld.gov.au/education/childcare/contacts/pages/regional.html](http://www.qld.gov.au/education/childcare/contacts/pages/regional.html)
- subscribe to the A to Z of Early Childhood e-newsletter <https://det.qld.gov.au/earlychildhood/news-publications/atoz/subscribe>

