

Written Submission for the NQF Review

Consultation Regulation Impact Statement (CRIS)

Name and/or organisation

Early Childhood Australia (ECA)

In which state(s) are you based?

All states and territories (National office – Canberra)

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

National peak body

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About ECA

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Early Childhood Australia (ECA) is a not-for-profit organisation that has been a voice for children since 1938. We have a federated structure with branches in every state and territory in Australia and our membership includes individual professionals, early childhood services and schools, as well as public, private and not-for-profit organisations that share a commitment to young children.

Our vision is that every young child is thriving and learning. To achieve this, we champion the rights of young children to thrive and learn at home, in the community, within early learning settings and through the early years of school.

Our work builds the capacity of our society and the early childhood sector to realise the potential of every child during the critical early years from birth to the age of eight. ECA specifically acknowledges the rights of Aboriginal and Torres Strait Islander children and their families, and the past and current injustices and realities for them around Australia.

ECA members contributed to the development of this submission.

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Relevant ECA submissions:

2021 – [Streamlining Early Childhood Education and Child Care Approval Processes across Jurisdictions](#)

2019 – [Review of the National Quality Framework](#)

SAFETY, HEALTH AND WELLBEING

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

Impacts of the proposed options

ECA supports a combination of Options D and E. This would provide a manageable approach to ensuring the safety of children during transitions between services, recognising that in this context, the duty of care is shared between parents, schools and early childhood education and care (ECEC) services. The safety of children must be paramount, with staffing, policies and procedures in place to support this.

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| D | Require that where relevant, an education and care service has a policy and procedures for the transition period between education and care services (for example between school and OSHC, or OSHC and preschool), including a risk assessment process. |
| E | Develop further guidance to support policies and procedures relating to the delivery of children to, and the collection from, education and care service premises, with an emphasis on transition periods between services, as well as further guidance for parents and families around notifying when a child is unable to attend an education and care service. |

Feedback in response to the CRIS prompts

ECA member feedback:

- Two adults (one driver and one supervisor) should be a minimum requirement. Services that provide transition services incur costs for staffing to escort and follow up on absent children. Some services assign a staff member each afternoon to follow up on children's whereabouts by phone.
- Shared duty of care in relation to children during transitions implies there should be a collaboration between parents, the school and the ECEC service.
- There is a need to consider why a child might be unaccounted for; has the child made a choice?
- Communication is a key issue; parents often forget to advise outside school hours' care (OSHC) services when children are not attending.
- There is widespread recognition amongst Members that children's safety is paramount during transitions.
- Services need to have a comprehensive policy and undertake risk assessments.
- There is a need to clarify whether a school is responsible for ensuring children actually board their bus to get to OSHC or if that is the OSHC service's responsibility.

'It seems reasonable that there would be an expectation on both school and service to make appropriate transition arrangements/plans—working this out and agreeing on what works together.'

'What we do need is clear guidance and policies around what happens when children don't arrive, notifying absence.'

Other general feedback regarding this issue

ECA member feedback:

- Members are concerned that legislative change in this area could lead to schools becoming less responsible, and ECEC and OSHC services becoming more responsible.
- Members recognise that this issue can be difficult for services to manage.

- It is important for services to have sound policies and procedures that are well understood by all staff, including relief staff.
- There is a need for regular counting and roll-calls of children during the transition period.

‘We have two staff from 3pm–4pm who are on the phones tracking down students.’

3.2 Sleep and rest requirements

Impacts of the proposed options

ECA supports a combination of Options C and E. This would recognise safety issues and the importance of supporting families with safe sleeping practices.

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| C | Further guidance developed to support policies and procedures for sleep and rest, and to provide information to families on safe sleeping practices. |
| E | Amend the National Regulations to require a risk assessment be conducted in relation to sleep and rest, including matters that must be considered within that risk assessment. |

Feedback in response to the CRIS prompts

ECA Member feedback:

- Most service policies already reflect the SIDS recommendations.
- It is important to recognise children have individual sleeping patterns and therefore sleep must be managed across the day, and focused on the children’s needs.
- Members are concerned about the challenges of attracting sufficient staffing and the cost of supervising children but recognise that safety is most important.
- Approaches to training staff in safe sleeping practices and managing sleep vary among services.
- There are unique challenges in family day care (FDC) settings; educator-to-child ratios mean being able to see and hear infants at all times during sleep can be impractical.
- Induction processes are important, especially for ongoing and relief staff. Existing resources are available.
- There are discussions about the ongoing use of purpose-built sleep rooms in services and consideration of their impact on provision of care to children.
- Further clarity is needed around what constitutes ‘direct supervision’ of children sleeping.

‘There is a need for additional training regarding sleep, and for further guidance on how/when to check on children sleeping, including use or non-use of technology.’

‘Adequate supervision requires educators to be able to respond immediately if there is harm; educators must be present when children are sleeping. I know it is hard but a huge part of early childhood is ensuring children are being protected from harm and hazard.’

Other general feedback regarding this issue

ECA Member feedback:

- This topic generated a lot of discussion about the various ways services manage sleep and rest.
- The cost of sleep training, including annual refresher training, can be prohibitive for some services.

- It is important to ensure that settling strategies are included as part of compulsory training for educators. Safe sleeping on its own does not ensure that this quality area is met and rigor around ensuring that educators understand how to settle babies and children is required to ensure unsafe practices do not occur. An example of this is overwrapping babies because educators do not know how to use infant mental health responsive settling strategies. A recent survey by the consultancy Safe Sleep Space found 75% of educators asking for settling strategies.
- There are also complexities in managing family expectations and cultural practices, such as children wearing teething beads which may pose a choking hazard when they are resting and sleeping. Is increased supervision needed or should beads be removed? Educators need clearer guidance and support.

'It should be what works best for the child and not what works best for the adults in the space.'

'It's one thing to understand the safety, but many of the services we work with don't understand how to settle children.'

'We need to marry the safety and the settling together.'

3.3 Improving children's safety during regular transportation

Impacts of the proposed options

ECA supports a combination of Options D and F to support improvements to children's safety during regular transportation. The safety of children must be paramount, with staffing, policies and procedures in place to support this.

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| D | Legislative change to require the presence of a staff member of the service (other than the driver) when children are embarking and disembarking from the vehicle at the service. |
| F | Further guidance around adequate supervision/risk assessment as it relates to transportation. |

Feedback in response to the CRIS prompts

ECA member feedback:

- There should be at least two responsible adults to ensure children's safety during regular transportation (one being the driver and one the supervisor).
- There is a need for regular roll-calls and counting of children.
- It can be challenging and impractical for a driver to also supervise children.
- There are costs associated with transporting children safely and some services may not be in a position to be able to do so. Services should not offer to transport children if they are unable to do so safely.
- Members have mixed views on whether staff involved in transportation should hold qualifications, due to workforce issues and the need for flexibility vs. applying staffing requirements at all times.

Other general feedback regarding this issue

ECA member feedback:

'Additional staff, timing and costs all need to be considered if you have to have a staff member on the bus at all times.'

'In recent years, when I was coordinating an early childhood service, we needed to transfer a child to and from one early childhood service to another three times each week. To ensure the safety of this child, we undertook a full risk management process and the only way we thought the safety could be ensured was to employ an educator for an additional two hours [per] day to accompany the child and return to the initial centre. Costly, but we could all sleep at night!'

3.4. Improving children's safety during emergency evacuations from multi-storey buildings

Impacts of the proposed options

ECA supports Options B and D to support the best interests of children. ECA also strongly recommends the careful consideration of the ages and abilities of children in future approvals of ECEC sites in multi-storey buildings.

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| B | <p>Amend the legislation about emergency and evacuation procedures to require that for centre-based services located in multi-storey buildings:</p> <ul style="list-style-type: none"> • appropriate experts (such as fire safety experts, fire safety engineers, or emergency management professionals) are required to be: <ul style="list-style-type: none"> • engaged in the development of emergency and evacuation procedures and/or plans; and • to observe and report on one full emergency evacuation rehearsal at least annually and provide a report (which is made available upon request to the regulatory authority); and • that the emergency and evacuation procedures must set out additional information in regard to instructions for what must be done in an emergency, staged evacuations, identification of the person-in-charge and staff roles and responsibilities, and • a review and/or risk assessment, following certain prescribed events or a prescribed time period. |
| D | <p>Victoria and ACT only</p> <p>Amend service approval processes to require approved providers wishing to operate a centre-based service from premises in a multi-storey building in Victoria or ACT to apply to the regulatory authority for pre-approval of development and building plans for the proposed premises prior to development and construction.</p> |

Feedback in response to the CRIS prompts

ECA member feedback:

- Change is necessary to ensure stringent management of risk to children during evacuations of ECEC sites in multi-storey buildings.
- There is a need for clear and consistent policies based on expert advice.
- While cost is a consideration, the safety of children is vitally important.
- How will changes, if any, impact on existing services in multi-storey buildings?
- Option D should apply to providers in all jurisdictions prior to development and construction.

Other general feedback regarding this issue

ECA member feedback:

- Some ECEC sites are in multi-storey buildings and these seem to be increasing in number.
- The safety of children with disability in the evacuation of ECEC sites in multi-storey buildings should be carefully considered.

ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

4.1 Embedding the National Child Safe Principles

Impacts of the proposed options

ECA supports Option D. Despite being the most prescriptive approach, it is likely to be the soundest approach with respect to the consistent operation of the Principles.

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| D | Amend the National Regulations and associated guidance to address identified gaps between the Child Safe Principles and the NQF to: <ul style="list-style-type: none">• Clarify that volunteers must be aware of the existence and application of any child protection law and any obligations held under it.• Require that all FDC co-ordinators complete child protection training prior to commencing employment and undertake annual refresher training.• Include working with vulnerable people/children check details on volunteer staff records.• Clarify that service providers' child safe environment policies and procedures must also cover the creation of a child safe culture.• Require services to develop and implement a policy and procedure around the safe use of online environments.• Require service complaint handling policies to include policies and procedures for managing complaints about children exhibiting harmful sexual behaviours. |
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Feedback in response to the CRIS prompts

ECA member feedback:

- There is strong agreement that the National Child Safe Principles need to be embedded in the NQF.
- Members recognise there is a gap in knowledge of some parts of the sector on the National Child Safe Principles.

4.2 Updating record keeping requirements

Impacts of the proposed options

ECA supports Options B, C and D being implemented together to support the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

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| B | Improved guidance to assist providers on record keeping utilising existing best practice instructions developed by relevant Commonwealth, State and Territory Archive Authorities (for example, the National Archives of Australia General Records Authority 41) as per Recommendation 8.3, along with the five high-level record keeping principles recommended by the Royal Commission in Recommendation 8.4. |
| C | Amend the National Regulations to increase record keeping requirements to 45 years (in relation to relevant records regarding actual or alleged instances of child sexual abuse) in line with the Royal Commission recommended minimum. |
| D | Require not-for-profit, community and for-profit providers to store records in accordance with recommended standards and timeframes of the Royal Commission. |

Feedback in response to the CRIS prompts

ECA member feedback:

- ECA members expressed some concerns about service capacity to ensure storage, retrieval and accessibility of records for 45 years.
- Members shared views that a centralised record keeping system such as the National Quality Agenda IT System (NQA IT System) would strengthen the record keeping requirements.
- Privacy issues were raised as a related concern.

Other general feedback regarding this issue

ECA member feedback:

- There is a need for clarity about what records must be kept (paper, electronic, video or audio). A key question is: should all records be digitised annually?

FAMILY DAY CARE

5.1 FDC Register and notification requirements

Impacts of the proposed options

ECA supports Option B to ensure regulatory authorities have access to FDC register information.

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| B | Amend the register requirements so that the FDC register is kept within the NQA IT System, and records information such as: <ul style="list-style-type: none">• Names and Dates of Birth of children attending the service.• Names and contact phone numbers of educators, co-ordinators and educator assistants.• Days and hours of care and number of children attending per session.• Relevant dates (e.g. residence assessment date, educator commencement/end dates).• Educators operating above ratio (and the applicable approved provider approved exceptional circumstance as per proposal 5.2).• FDC educators' and coordinators' PRODA numbers. |
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Feedback in response to the CRIS prompts

ECA member feedback:

- Members recognise that regulatory authorities need access to FDC register information.
- Members support the use of the NQA IT System as a vehicle to ensure streamlined collection of information for the FDC register.

Other general feedback regarding this issue

ECA member feedback:

- Some members felt this change was related to fraud issues in FDC and thought it should be focused on quality outcomes for children.
- The language used in the CRIS is not reflective of FDC. For example, it refers to educators as staff.
- Members noted that the information is already kept by services and this is duplication of effort.
- Quality of information is important; who in the service is responsible for data input?
- A vehicle for data input would support consistency in the information provided to regulatory authorities.
- Members understand the benefit is to ensure regulatory authorities have access to information.
- Are there implications for software providers? If so, what are they?
- The ease of providing information to the regulatory authorities is a critical issue.

5.4 Safety of glass used by services in Family Day Care Sleep and rest requirements

Impacts of the proposed options

ECA supports Option D.

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| D | <p>All <u>new</u> FDC residences and venues to comply with 1m height requirement from [date regulation comes into force].</p> <p>FDC residences/venues approved before [date regulation comes into force] subject to the 0.5m and 0.75m requirements to be transitioned into the new 1m requirement by [sunset date].</p> <p><i>(This will eventually require all approved FDC residences and venues to comply with a height requirement of 1m by putting in place an expiry date for the 0.75m and 0.5m requirements to allow these residences and venues time to comply with the 1m requirement)</i></p> |
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Feedback in response to the CRIS prompts

ECA member feedback:

- Guidance about what constitutes a barrier should be clearer. The current legislation does not define 'barrier' and this leads to varying interpretations.

CENTRE BASED CARE – OUTSIDE SCHOOL HOURS CARE

6.1 Assessment and rating of OSHC services

Impacts of the proposed options

ECA supports a combination of Options B and C. ECA strongly supports the full and effective inclusion of OSHC services in the NQF. However, the inclusion of OSHC must always reflect the unique purpose and operating environment in this sub-sector.

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| B | Modify assessment and rating methodology for services whose main purpose is providing education and care to children over preschool age. |
| C | Development of additional guidance to support the OSHC sector and regulatory authorities with assessment and rating. |

Feedback in response to the CRIS prompts

ECA member feedback:

- The importance of school age care services for children and families is well recognised; the standards should not be eroded.
- Assessment and rating must recognise the needs of children in middle childhood and the hours individual children may attend OSHC.
- Children as young as three years of age are attending OSHC in some Australian jurisdictions.
- Play is recognised as a powerful education tool and is a key part of OSHC.
- Members recognise that a child may attend 1,280 hours of OSHC in a school year if attending before- and after-school care, and vacation care.

Other general feedback regarding this issue

- Describing OSHC as leisure and play downplays the importance of OSHC in children's lives.

'I'm wary that the push for play and leisure is coming from extremely large organisations that are far removed from the sector.'

WORKFORCE

7.1 Restrictions on short term relief for early childhood educators

Impacts of the proposed options

ECA supports Option A because qualification requirements should be maintained, and providing further exemptions to requirements will not address the longstanding workforce issues. ECA recognises the challenges for rural and regional services. In March 2021, 11.1% of long day care services had a staffing waiver, according to evidence given to the Senate Education and Employment Legislation Committee on 25 March 2021.

Early childhood workforce issues are complex and reaching crisis point. ECA notes the development of the National Workforce Strategy is currently underway.

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| A | No change. |
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Feedback in response to the CRIS prompts

ECA member feedback:

- Members acknowledge that there is a workforce shortage and the solution is not going to be found by increasing the 60-day relief period to 80 days.
- An extension from 60 to 80 days should only be for rural and regional areas, and carefully considered on a case-by-case basis.
- Government funding to match early childhood teachers' (ECT) wages to school wages would support ECTs to work in ECEC services.
- It is important that an educational program be implemented when an ECT is replaced by a person without a teaching qualification.

Other general feedback regarding this issue

ECA member feedback:

- Some employers rely on the 60-day provision as a cost-saving measure.
- The number of waivers in place is a clear indicator of the inability to attract and retain ECTs.

7.2 Educators who are 'actively working towards' a qualification

Impacts of the proposed options

ECA supports a combination of Options B (iii) and C to improve support for staff 'actively working towards' a qualification. The combination of these options would introduce support for staff actively working towards a qualification while also requiring providers to ensure they are making satisfactory progress. This must be carefully managed to ensure that educators make reasonable progress towards completing their qualification rather than an open-ended approach. ECA would support the adoption of time limits for completion, perhaps with extension options for groups facing educational disadvantage due to cultural, linguistic or geographic challenges. The 'actively working towards' designation is insufficient to address workforce shortages in ECEC.

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| B (iii) | Limit the 'actively working towards' provision by: <ul style="list-style-type: none"> Specifying a threshold staff must meet to make 'satisfactory' progress through their course in order to be counted in ratios. |
| C | Develop guidance for providers to ensure staff who are 'actively working towards' qualifications are making satisfactory progress. |

Feedback in response to the CRIS prompts

ECA member feedback:

- Members agree that qualification requirements are essential and a foundation of the quality system. Research demonstrates that the education, qualifications and training of the workforce have the greatest impact on the quality of early education received by young children.
- A clear definition of 'actively working towards' is needed. Agreement on what satisfactory progress looks like is very important.
- Generally, members support a timeframe for completion of qualifications but are concerned about impact on a workforce that is predominately made up of women and has many casual employees. It is important that staff are well supported and monitored by the service provider and registered training organisation (RTO), and this should be checked by regulators.
- Members are concerned about the quality of some training and that trainees not always given adequate support and training on the job.
- Members have concerns regarding potential legal liability for staff 'working towards' a qualification.
- Members are concerned that too often, qualified staffing shortages are being 'fixed' through the use of exemptions to the regulations, thereby weakening their application.

Other general feedback regarding this issue

ECA member feedback:

- Having a clearer outline of 'actively working towards' would be helpful for organisations which are willing to support and encourage staff to upskill. Services would welcome further clarity.
- Some members contend the 'actively working towards' designation should be ceased.

'On the point of "training teachers or teachers working towards qualifications" being used to replace qualified teachers: I think it is essential that every exception should be carefully assessed. For example, if a person with a Diploma has worked at the centre for three years and they are moving onto degree training, it seems reasonable to allow them to get an exemption for a limited time. However, if a person is one semester into a degree, they should not be allowed to be used in the ratio as a teacher until they finish a larger block of their education. In addition, [the question of] how many staff have or are applying for this exemption at this service needs to be considered, and is there a qualified teacher on the premises to support this person?'

7.3 Minimum qualification requirements for educators in FDC

Impacts of the proposed options

ECA supports option C, recognising the importance of qualified educators, and that FDC educators work alone.

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| C | Require educators in FDC services to have completed at least an approved certification III qualification within 24 months of commencement in an FDC educator role. (Not applicable to South Australia) |
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While recognising that educators holding a Certificate III before commencing is most desirable, for most services this would be very challenging because of location and demand for care. Some services already require educators to be qualified.

Feedback in response to the CRIS prompts

ECA member feedback:

- Members spoke about the unique nature of FDC, in that an educator works alone.
- The very important role of the provider in supporting and monitoring FDC educators is seen as a key factor in the quality of education and the risk of harm to children.
- Quality of training is very important and a concern for the sector.

Other general feedback regarding this issue

ECA member feedback:

- The quality of training provided to educators is a key concern.
- The importance of monitoring and supporting educators while they are studying is seen as very important.

UNDERSTANDING OF QUALITY RATINGS BY FAMILIES

8.1 The quality ratings system

Impacts of the proposed options

ECA supports Option D. This maintains existing language and supports improved knowledge of quality ratings. ECA considers that until families of young children understand and appreciate the intent and outcomes of the NQD, the system can only be considered partially effective. ECA supports the translation of ratings and related materials for parents.

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| D | Provide further guidance and advice to the community about the purpose of quality ratings, and the differentiation between a quality rating and minimum standards required under the National Law. |
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Feedback in response to the CRIS prompts

ECA member feedback:

- An understanding of the main concepts in the NQS is very useful for families in this regard. Families are also consumers, and need to understand NQS ratings in order to make informed decisions about which ECEC services to use.
- A lot of additional engagement work would be required in order for families to understand the purpose of quality ratings as opposed to minimum legal requirements.
- Some members felt that no change is needed but the sector needs to communicate more effectively with families.

'The ratings are only relevant when there are opportunities to choose other services.'

'When families are seeking ECEC they don't ask about ratings; they ask: "Do you have a spot?"; "How much do you cost?"; and "Will my child be safe?"

Other general feedback regarding this issue

ECA member feedback:

- The families of children attending ECEC services are very important contributors to their children's learning, and they benefit from participating in informed partnerships with their children's educators.
- Some members questioned the value of the rating system because of the timing of ratings.
- The structure of determining the overarching rating can be very difficult for some services.

'I can't see it being rational for a parent to add another 30 minutes on their trip to get their child from a 'Meeting' to an 'Exceeding' service.'

CHANGES IN FEES WITHIN THE NQF SYSTEM

9.1 Changes in fees for regulatory authorities

Impacts of the proposed options

ECA emphasises that such a change would require careful consideration of the needs and interests of all parties, notably those of ECEC services and families. ECA understands, and fully supports, the need for regulatory authorities to be well resourced, in order to administer the NQF to a high standard. On the other side of the equation, many ECEC services are highly sensitive to changes in costs and may be forced to increase fees charged to families. Perhaps Regulatory Authorities could consider differentiation in fees based on service type, size and turnover or another appropriate metric to make sure that services working with vulnerable population cohorts are not forced to pass on costs.

9.2 Changes in application fees for ACECQA functions

Impacts of the proposed options

ECA emphasises that such a change would require careful consideration of the needs and interests of all parties, notably those of ECEC services and families. ECA understands, and fully supports, the need for ACECQA to be well resourced, in order to administer the NQF to a high standard. However, some services are unable to absorb any cost increases – particularly smaller services working with vulnerable communities. Perhaps ACECA could consider differentiation in fees based on service type, size and turnover or another appropriate metric to make sure that services working with vulnerable population cohorts are not forced to pass on costs to families.

OVERSIGHT AND GOVERNANCE OF SERVICES AND PROVIDERS

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

ECA recognises the need for regulatory settings that allow regulators to properly and consistently identify responsible persons. ECA recommends any changes to current requirements carefully consider the various types of providers, including individuals, corporations and others.

10.3. Arrangements to transfer a service to another approved provider

Impacts of the proposed options

ECA supports Options B and C to increase timeframes to support information sharing about transfers, in particular to timely information and advice to parents.

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| B | Develop guidance for services and providers about the service transfer process and how to best advise families about the transfer (for example, in relation to storage of children's records). |
| C | Minor legislative changes to address challenges associated with timeframes including: <ul style="list-style-type: none">Increasing the notification period to 60 days;Allowing the regulatory authority to refuse or delay a transfer if a significant issue arises after the intervention period has ended (intervention period is at least 28 days prior to intended transfer date) but before the transfer date; and/orMaking it mandatory for transferring and receiving providers to notify the regulatory authority of any change or delay to the intended date of transfer.Increase the notice period to parents from 2 to 7 days |

10.4 Maintaining current information about service delivery.

Impacts of the proposed options

ECA supports Option B to require notification of changes to the regulatory authority.

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| B | Amend the National Regulations to require notification of changes to the ages of children being cared for and nature of care provided to the regulatory authority, with an associated offence for failing to notify. |
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Feedback in response to the CRIS prompts

ECA member feedback:

- Keeping the regulatory authority informed about the ages and grouping of children is sensible, but shouldn't be subject to an application process.
- Notification of changes is essential and, if necessary, the regulatory authority can conduct a compliance visit if concerned about the change.
- There is a field for this information in the NQA IT System; it could be made mandatory to provide it.

Other general feedback regarding this issue

ECA member feedback:

- Members supported the need for regulatory authorities to have access to accurate information about the type of care provided.