



National Quality Framework Review and Next Steps – ECE Connect session FAQs

Definition of a person with management or control of an education and care service

Question	Answer
<p>Where can I find the new definition of a ‘person with management or control’ of an education and care service under the National Law?</p>	<p>The definition of a ‘person with management or control’ of an education and care service is outlined under new section 5A of the National Law.</p> <p>New section 5A of the National Law expands the definition of a ‘person with management or control’ to ensure that regulatory authorities can assess the suitability of all persons that have authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the approved provider’s education and care service. For some providers, there will be no change in the individuals who meet the expanded ‘person with management or control’ definition.</p>
<p>Why did the definition of a ‘person with management or control’ of an education and care service change?</p>	<p>The need to expand the definition of a ‘person with management or control’ of an education and care service was considered and agreed by all State and Territory governments via the 2019 National Quality Framework Review.</p> <p>While the previous definition was based on specific, defined roles within the corporate structure of the approved provider entity, the expanded definition allows identification of other individuals that have authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the approved provider’s education and care service.</p>
<p>Who is responsible for determining a ‘person with management or control’ under the new definition?</p>	<p>Under section 173 of the National Law, the approved provider must notify the regulatory authority of any appointment or removal of a</p>

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	<p>‘person with management or control’ of an education and care service operated by the approved provider. Prior to notifying the regulatory authority, it is the approved provider’s responsibility to consider who meets the definition of a ‘person with management or control’ in their unique operating context.</p> <p>All persons with management or control identified by the provider as meeting the definition must be, and must remain, fit and proper persons to be involved with the provision of education and care. The NSW Regulatory Authority for the early childhood education and care sector will assess a person’s fitness and propriety using a risk-based approach. In addition to the documentation submitted, relevant information may be obtained by interview, knowledge assessment, or both.</p>
<p>Where a person does not manage all services operated by the approved provider, is this person considered to be a ‘person with management or control’ under the new definition?</p>	<p>The expanded definition of a ‘person with management or control’ relates to a ‘person with management or control’ of an education and care service, rather than the approved provider. Therefore, a ‘person with management or control’ is a person that has authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the approved provider’s service(s).</p> <p>A person will be considered a ‘person with management or control’ if the person meets the definition for one or more services operated by the approved provider.</p>
<p>Where a person performs ancillary support roles such as finance, human resources, professional learning, and project management, is this person considered to be a ‘person with management or control’ under the new definition?</p>	<p>A person who holds other operational management roles in an education and care service would not meet the expanded definition simply by holding these roles in the service. People holding these roles will only meet the ‘person with management or control’ definition if they also participate in executive or financial decision-making or have 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.</p>

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<p>What resources are available to support the sector in determining any changes to their persons with management or control?</p>	<p>The State and Territory regulatory authorities, the Australian Government, and ACECQA have developed national guidance and resources to support the identification of a ‘person with management or control’ of an education and care service under the new definition for both existing and prospective providers, which can be accessed from the 2019 National Quality Framework Review Explore the DRIS webpage.</p> <p>The Guide to the National Quality Framework (page 20) was also updated to provide guidance on the expanded ‘person with management or control’ definition under section 5A.</p>