FAMILY DAY CARE AUSTRALIA

SECTOR VIABILITY BRIEF

Family DAY CARE AUSTRALIA

1 PURPOSE

The purpose of this briefing paper is to support ongoing, collaborative dialogue with state, territory and Commonwealth governments around how Family Day Care Australia (FDCA), the family day care sector, policy decision makers and regulators can work together to further promote:

- increased quality of family day care service provision;
- growth in higher quality service provision; and
- the long term viability of the family day care sector.

The paper provides important background about FDCA and the family day care sector (Section 2), highlights key factors threatening the long-term viability of the sector (Section 3) and outlines a number of recommendations for addressing these issues (Section 4).

2 BACKGROUND

2.1 ABOUT FAMILY DAY CARE AUSTRALIA

FDCA is an apolitical, not for profit, national member association representing 13,550 family day care educators and 510 approved family day care services.[1] Our mission is to represent, support and promote the family day care sector in delivering high quality Early Childhood Education and Care (ECEC) to more Australian children.

In our work FDCA publicly supports the National Quality Framework governing the ECEC sector and, as a national peak body, shares many objectives in common with governments and regulatory agencies including:

- promotion of continuous improvement in the provision of quality education and care services;
- reduction of the regulatory and administrative burden for education and care services, whilst simultaneously improving the efficiency and cost effectiveness of the regulation of ECEC; and
- measures to build a highly skilled workforce.

2.2 ABOUT FAMILY DAY CARE

The family day care sector plays a vital role in meeting the diverse and changing child care needs of a significant proportion of Australian families responding to parents' desire for a 'home-based' and 'family-like' environment for their children.[2] While educators are registered with approved services, they effectively run their own small business, working from their own homes with small groups of no more than four children under school age, with the option to care for an additional three school aged children outside of school hours. This provides educators with a unique opportunity to personalise learning programs and to develop strong connections with children and families.

FAMILY DAY CARE SNAPSHOT

PROPORTION OF CHILDREN AND FAMILIES USING FAMILY DAY CARE

Family day care is an option of choice for more than 83,810 or 9.1% of Australian families using approved child care, responding to parents' desire for a 'home-based' and 'family-like' environment for their children. Of the 1,304,760 children who attend approved child care services nationally, 9.5 %, or 124,490 children attend family day care settings.[3]

1 FDCA Family Day Care Sector Profile, June 2019
2 Pascoe, S. Brennan, D. (2017) *Report of the Review to Achieve Educational Excellence in Australian Schools through Early Childhood Interventions*
3 Department of Education, Child Care in Australia – March quarter 2019

3 KEY FACTORS AFFECTING VIABILITY

FDCA acknowledges the impact of fraudulent and unscrupulous operators over recent years and has been an advocate for proportionate reform. However, we maintain it is equally important that regulatory measures that aim to ensure a high quality ECEC sector do not constrain legitimate business growth so that family day care services are able to continue to meet the needs of families for whom high quality, flexible and affordable child care in a professional home learning environment is their preferred or only choice. This is a critically important point when considered against a backdrop of expected workforce shortages in the ECEC sector more broadly over the next 5 years.[4]

FDCA is confident that if governments, relevant statutory authorities and FDCA work closely together to support the sector to improve quality, reduce barriers to legitimate growth, and improve viability, the family day care sector will continue to greatly assist in supporting broader objectives of government to increase workforce participation, increase ECEC service delivery in regional areas and areas of high socio-economic disadvantage, and improve access to high quality, affordable and flexible ECEC options to meet the changing needs of Australian families.

KEY FACTORS AFFECTING VIABILITY:

- Sustained decreases in numbers
- Increased regulatory/ compliance burden
- Market restrictions
- Barriers to entry
- Support for quality provision

TABLE 1. FDCA RECOMMENDATIONS

RECOMMENDATIONS	RESPONSIBILITY
Apply the same formula that is applied to the original long day care fee cap calculation (i.e. applying a 17.5% loading to the mean) and apply an additional loading of 20% for non–standard hours family day care.	Australian Government
Support quality growth through regulatory incentives by allowing a 1:5 educator to child ratio for Diploma qualified educators.	States and Territories
Review the current National Quality Framework (NQF) provider and service approval process and Child Care Subsidy (CCS) provider approvals process for family day care services.	Australian Government States and Territories
Conduct a review of the implementation of the educator cap condition from the perspective of consistency and with consideration of potential impacts on legitimate business growth. Amend unreasonably low educator cap benchmarks for newly approved family day care services to allow for a minimum of 30 educators to be registered with the approved service.	States and Territories
Amend regulation 123A to allow for a "buffer" of 10 additional educators to be registered (for a 1:25 ratio service) and 5 additional educators registered (for a 1:15 ratio service) prior to the requirement to employ an additional FTE coordinator. Develop guidance relating to regulation 123A that allows for coordinators to take short term leave without the service having to engage another FTE coordinator.	States and Territories
Standardise educator notice periods and sampling methodologies for the assessment and ratings process, allowing family day care services to nominate a shortlist of educators to be assessed based on length (e.g. at least 12 months) of service and ensure that educators chosen to be assessed are notified within the same timeframes as educators of long day care services, that is, at least 4 weeks ahead of the visit.	States and Territories

4 According to forecasts by Skills IQ, there will be 2.2 million children under five years of age in Australia by 2031, and by 2051, there will be 2.6 million. This population growth in Australia will translate into increasing demand for ECEC in the future. Skills IQ notes that meeting demand is already a challenge in some areas, especially in rural and regional Australia.

FAMILY DAY CARE SNAPSHOT

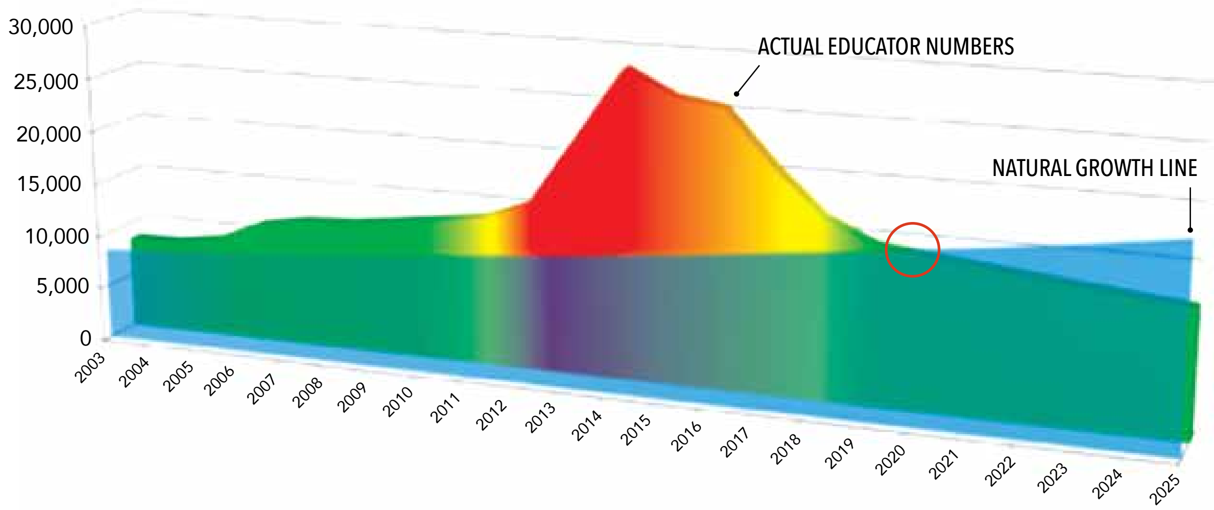
FLEXIBILITY OF CARE OFFERED

The family day care sector offers considerably higher levels of flexible sessions than long day care. For example, 84.7% of family day care services offer shorter sessions (up to 6 hours) compared to only 17.2% of long day care services.[5] 94% of family day care services also offer longer sessions (7-12 hours), with 65.3% allowing for the swapping of days/sessions or sessions to be added or changed at short notice, compared to 51% and 50.2% of long day care services respectively.[6] This flexibility is critical for catering now and in the future for the needs of Australian families, especially in facing changes in the nature of work.

3.1 SUSTAINED DECREASES IN NUMBERS

There has been a strong and sustained downward trend in educator and service numbers occurring since 2016. FDCA's quarterly Family Day Care Sector Profile reports show that over the past two years alone there has been a 33% decrease in the number of services and a 35% decrease in the number of educators. What is exceptionally alarming is that the actual numbers of educators in the family day care sector is now, as of late 2019, dipping below what should have been the "natural" projected growth line of educator numbers in the sector, according to internal modelling undertaken by FDCA, depicted in Figure 1 below. The drop in educator numbers below the natural growth line can be seen where the two separate lines intersect.

FIGURE 1: NUMBER OF FAMILY DAY CARE EDUCATORS: ACTUAL EDUCATOR NUMBERS AND NATURAL GROWTH LINE, 2003 - 2025



It is imperative to address the issues that may be affecting the downward trend in availability of family day care now so that supply and quality is supported into the future.

3.2 INCREASED REGULATORY/ COMPLIANCE BURDEN

Recent feedback from FDCA members indicates that an increased regulatory and compliance burden has led to increasingly tightened opportunities for sustainable growth and financial viability for many services and, as a result, many legitimate services are now exiting or considering exiting the sector. While a robust regulatory framework is certainly supported by FDCA and the sector more broadly, given the levels of unscrupulous and/or fraudulent activities that were previously rife within the sector, there must be a certain balance to allow sustainable growth to be able to cater for the needs of Australian families.

3.3 MARKET RESTRICTIONS AND BARRIERS TO ENTRY

There are a number of issues associated with the implementation of the national compliance and regulatory framework coupled with reduced funding that is creating barriers to both market entry and legitimate business growth and ultimately, the future viability of the family day care sector.

It has become evident that there have been significant barriers imposed on the family day care sector in relation to prospective new entrants seeking provider approval for both CCS and under the National Law. FDCA is aware that as of July 2019, and since 2 July 2018, only 1.1% of new services approved and operating from the commencement of the Child Care Package were family day care services. This is significantly disproportionate to the composition of approved services across the ECEC sector and if this trend continues it will result in the demise of the sector over time.

5 Baxter, J., Budinski, M., Carroll, M., Hand, K., Rogers, C., Smart, J., Bray, J.R., Gray, M., Blaxland, M., Katz, I., & Skattebol J. (2019) *Child Care Package Evaluation: Early monitoring report*. (Research Report). Melbourne: Australian Institute of Family Studies.

6 Ibid.

FAMILY DAY CARE SNAPSHOT

PROVISION OF MUCH NEEDED SERVICES IN RURAL, REGIONAL AND REMOTE COMMUNITIES

The family day care sector provides much needed ECEC for Australian families in areas of high disadvantage, with 22.6% of educators providing family day care in areas that are ranked in the two highest deciles on the SEIFA index and over half of educators (51.4%) being located in areas ranked in the first five deciles of the SEIFA index.[7] Furthermore, 24.3% of family day educators operate in regional and remote areas of Australia.[8] In some of these areas, family day care is the only option available for child care.

Conditions of service approval such as educator caps and educator-to-coordinator ratios also potentially restrict legitimate growth of some services. Whilst FDCA may agree in principle with the regulations that allow for these powers broadly, the manner in which they are being implemented has been, at times, excessively limiting to the business operations of family day care services.

3.4 SUPPORTING QUALITY PROVISION

FDCA acknowledges that while in some cases there remains work to be done at the provider level in actively pursuing continual improvement in operational and pedagogical practice, amendments should also be considered from a regulatory perspective to ensure that the processes surrounding assessing and benchmarking quality against the NQS are not disproportionately skewed against the family day care sector.

In early 2019, FDCA commissioned ARTD Consultants to undertake a review to better understand the experience of its members participating in the NQS assessment and ratings process with a view to contributing to continuous improvement in the family day care sector. The review was focussed on how the assessment process is undertaken across jurisdictions, how the process is applied to the family day care sector compared with the long day care sector and whether any specific mechanisms should be explored in the interest of improving the process. The review concluded that, while there was no evidence of systematic bias against certain types of family day care providers in the assessment and rating process based on their location or type of service, there was substantial variation in some of the key structural aspects of how the process is applied. As it stands, the assessment and ratings process appears to provide long day care services with a greater opportunity to perform well in an assessment than family day care services.

Consideration should be given to strategies to incentivise the sector's capacity to grow, deliver flexible, affordable care without compromising quality or encouraging unscrupulous operators to re-enter the market. We explore some strategies in Section 4.

4 RECOMMENDATIONS

As outlined above, the evidence is clear that the family day care sector is a highly valued, flexible and responsive form of ECEC that is well-positioned to assist greatly in achieving some of the key objectives of governments. However, it is also evident that there are considerable issues facing the sector and limiting its capacity to grow and further achieve these objectives.

4.1 RAISING THE CCS CAP FOR FAMILY DAY CARE

FDCA recommends that the CCS fee cap for family day care be recalculated. The primary assumptions and/or rationales underpinning the initial calculation of the fee cap for family day care are no longer applicable or disproven.

The current cap price for family day care was calculated differently than other service types. In short projected mean fees (post removal of top 5% of fees) were increased by 5.75% for family day care and 17.5% for other service types. FDCA sought clarification of the rationale for this significant differentiation. In summary, the Australian Government Department of Education and Training advised that this approach was taken due to:

- Inappropriate practices in the family day care sector;
- Family day care sessions of care were typically 10 to 12 hours long;
- Lower overheads; and
- Fees charged for non-standard hours were lower or similar to standard hours.[9]

At the time FDCA accepted that the "inappropriate practices" in the sector would have impacted the data set, and thereby not provide an accurate picture of legitimate fee practices. However, due to the Department's significant work over recent years in eradicating fraudulent behaviour in the sector, it is prudent now to review the above rationale and assumptions (following the closure of over 400 services). A much cleaner data set now shows that the average hourly rate for family day care is higher than that of the long day care sector: $10.20 as opposed

7 FDCA Family Day Care Sector Profile, June 2019
8 Ibid.
9 Letter from the Department of Education and Training dated 9 December 2016.

FAMILY DAY CARE SNAPSHOT

CARE DURING NON-STANDARD HOURS

Family day care offers considerably higher levels of non-standard hours care as compared to the long day care sector. 88.2% of family day care services offer sessions of care on weekdays before 7am or after 6pm, compared with 45.7% of long day care services.[10] Significantly, 85.5% of family day care services offer care on weekends, compared with a mere 0.5% of long day care services.[11] Additionally, 47.5% of family day care services offer overnight care, as compared with 0% of long day care services.[12]

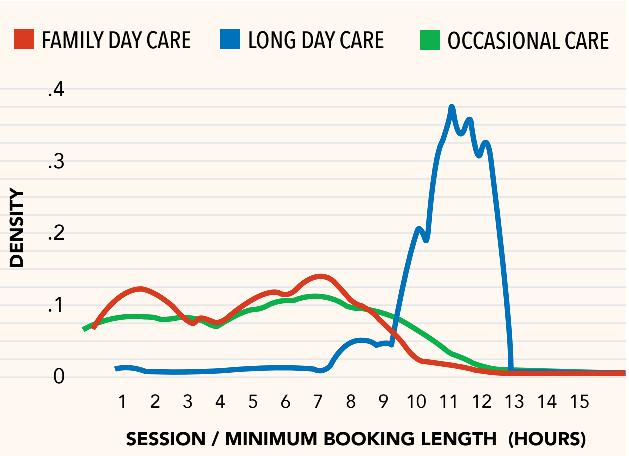
to $9.95.[13] FDCA contends that this is a much more indicative picture of legitimate fee charging practices, and that the primary reasons for a higher mean fee comparatively are:

- That overheads in family day care are on par if not more than long day care;
- Family day care charges significantly closer to actual usage (majority of session less than 8hrs); and
- Family day care is the primary ECEC option delivering non-standard hours care.

SESSIONS OF CARE

The mean fee for family day care is higher than long day care as generally sessions of care for family day care are shorter and a closer reflection of actual usage. The existing cap calculation was predicated upon the assumption that family day care services typically charged for sessions of care that were "10-12 hours long". However the cleaner data set now shows a much clearer picture. The Australian Institute of Family Studies (AIFS) *Child Care Package Evaluation: Early monitoring report* (2019), as depicted in Figure 2 below, indicates that unlike long day care, family day care does not typically charge 10-12 hour sessions. In fact the vast majority charge for 8 hour sessions or less, which is clearly much closer to actual usage hours.

FIGURE 2: DISTRIBUTIONS OF SESSION LENGTHS OR MINIMUM BOOKING LENGTHS, BY SERVICE TYPE



Source: Australian Institute of Family Studies (AIFS) *Child Care Package Evaluation: Early monitoring report* (2019; 49)

OVERHEADS

FDCA has always refuted that family day care had "lower overheads" than centre-based care. The overheads of both services and educators must be taken into account. Educators as sole traders have significant overheads including, but not limited to, equipment, property maintenance, insurances (home and contents, public liability, health, personal accident/income protection, car etc), bookkeeping and accounting expenses, leave entitlements and superannuation. When combined with the overheads of the service itself, the costs of running a quality family day care service in its entirety are certainly comparable to those of running a centre-based service.

NON-STANDARD HOURS OF CARE

It should be a priority for governments to incentivise and adequately remunerate this type of family day care service delivery given it is the primary regulated and Commonwealth approved ECEC option that can cater for non-standard hours and there is an increasing need for families to access this type of care due to the changing nature of the Australian workforce.[14] 88.2% of family day care services offer sessions of care on weekdays before 7am or after 6pm and 85.5% of family day care services offer care on weekends.[15] It is clear from previous member consultations that fees for non-standard hours are significantly higher than standard hours.[16]

Taking into account all of the above, FDCA recommends that the Australian Government now apply the same formula that is applied to the original long day care fee cap calculation (i.e. applying a 17.5% loading to the mean). If this was applied to family day care, based on the March 2019 average fee, the fee cap for family day care would sit around $11.98,[17] which is the current CCS fee cap for long day care and outside school hours care.

While the current average hourly fee for family day care is greater than that of centre-based care, FDCA would support parity in the CCS hourly fee cap between the service types as this would be significantly beneficial to the Australian consumer, better reflect the actual cost of providing family day care and would not prejudice any of the approved ECEC service types that provide ECEC under the National Law.

In addition, FDCA also recommends that a loading of 20% for non–standard hours care be adopted.

10 Ibid.
11 Ibid.
12 Ibid.
13 Department of Education, Child Care in Australia report March quarter 2019
14 Productivity Commission (2014: 198) Childcare and Early Childhood Learning, Inquiry Report No. 73, Canberra.
15 Australian Institute of Family Studies (2019; 50) *Child Care Package Evaluation: Early monitoring report*, Baseline Survey of Early Learning and Care Services (SELCS), Wave 1.
16 Consultation undertaken by FDCA with FDCA members in late 2017 indicated that the average hourly fee for non-standard hours family day care was $13.90 at this time.
17 Subject to the removal of outliers.

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GROWING PROFESSIONALISM

According to recent research conducted by Survey Matters on behalf of FDCA,[18] more than half of family day care educators currently hold higher than the minimum qualifications in early childhood education and care: fifty four percent (54%) have attained Diploma level qualifications or higher. These results are in marked contrast to the qualification profile of educators in 2010 when 23% held Diploma or higher qualifications. A growing proportion of family day care educators also now have experience in other settings - nearly half (45%) of survey respondents who became educators within the last three years have previously worked in a long day care centre.[19]

4.2 SUPPORTING QUALITY GROWTH THROUGH REGULATORY INCENTIVES

In 2018 the Social Policy Research Centre (SPRC), on behalf of the Education Council, sought to explore potential regulatory incentives that might be considered to assist in improving quality in the family day care sector. FDCA provided input to this research, though we would also request that the Education Council consider allowing for a 1:5 educator-to-child ratio where an educator holds a Diploma level qualification. In line with regulation 123 under the Education and Care Services National Regulations, which applies to centre-based care, this should be accompanied by age restrictions, for example, the 1:5 ratio could not be applied in instances whereby there is more than one child aged under 24 months.

Such a regulatory incentive would not only immediately result in more child care places available, but more importantly, would simultaneously incentivise educators to undertake higher qualifications and improve quality practice and hence outcomes for children. While elements of process quality, that is, the nature and quality of interactions with children appear to correlate strongly with better learning and developmental outcomes, elements of structural quality (most significantly, qualification levels) are also considered one of the strongest predictors of quality in ECEC settings.[20] Incentivising professionalisation in this way is a tangible mechanism to improve the quality of learning and developmental outcomes for children in family day care.

4.3 REVIEW THE CHILD CARE SUBSIDY PROVIDER APPROVAL AND NQF APPROVALS PROCESSES

As outlined in Section 3 above, it has become evident that there have been significant barriers imposed on the family day care sector in relation to prospective new entrants seeking both provider and service approval under the NQF and subsequently CCS provider approval.

While FDCA understands that in the wake of the fraudulent activity in the sector tougher compliance enforcement actions were necessary, adequate mechanisms must also be put in place that do not unreasonably limit potential new entrants that meet all fitness and propriety conditions under family assistance law. The family day care sector must be allowed to grow proportionately to other ECEC sector types, which is not currently the case. It is evident (as outlined in section 3.3 above) that few prospective entrants to the family day care sector are making it through the NQF provider and service approvals process (72 out of 1,500) to the CCS approvals process, and of these only a limited number are being granted CCS approval, having already been assessed as fit and proper persons/entities to be granted provider and service approval processes under the NQF. There are evidently barriers in these processes that is not allowing for reasonable growth in prospective suitable entrants to the sector.

As such, FDCA requests a transparent and parallel review of both the NQF provider and service approval process and CCS provider approvals process in order to ensure that potential entrants to the sector are being assessed fairly and appropriately.

4.4 AMEND UNREASONABLY LOW EDUCATOR CAPS BENCHMARKS

Under the current legislation, state and territory Regulatory Authorities are allowed to impose a limit on the maximum number of educators that may be engaged or employed by a service as a condition on a family day care service approval, under Section 51 (5) of the National Law and 32A of the National Regulations.

While FDCA appreciates the need for regulators to manage risk, family day care services are businesses like any others and legitimate expansion needs to be an option to remain viable in a competitive, demand driven and dynamic market. Inequitable market restriction mechanisms such as a cap on educator numbers, can unreasonably limit competition and hence does not align with Principle 4 of the Principles of Best Practice Regulation outlined in the COAG Best Practice Regulation Guide. In some jurisdictions, new family day care services have a condition of service approval setting a maximum of as few as 10 educators, which in FDCA's view appears, prima facie, to be extremely and unreasonably restrictive on business operations.

FDCA proposes a review of the implementation of the educator cap condition be undertaken from the perspective of consistency and with consideration of potential impacts on legitimate business growth.

18 Family Day Care Australia (2019); *Family Day Care Australia: Attracting the next generation of family day care educators.*

19 Ibid.

20 Torii K, Fox S & Cloney D (2017). *Quality is key in Early Childhood Education in Australia.* Mitchell Institute Policy Paper No. 01/2017. Mitchell Institute, Melbourne: Hunstman, L. (2008) *Determinants of quality in child care: A review of the research evidence.* NSW Department of Community Services, Sydney.

FAMILY DAY CARE SNAPSHOT

QUALITY IS IMPROVING

While the family day care sector remains behind the long day care sector in terms of overall quality ratings against the National Quality Standard (NQS), the proportion of approved family day care services assessed as Working Towards NQS (52%) continues to decline incrementally, down from 54% in June 2018.[21] Looking over the past 12 months there have been improvements in the reduction of the overall proportion of services rated as Significant Improvement Required (3% down to 1%) and an increase in the number of services rated as Meeting NQS (from 27% up to 34%). Additionally, the proportion of services rated Meeting NQS or above has increased from 43% to 48% over this time.[22]

A review of this matter would support adherence to Principle 6 of the Principles of Best Practice Regulation outlined in the COAG Best Practice Regulation Guide, that is, to ensure that "regulation remains relevant and effective over time".

FDCA also recommends that newly approved family day care services have a condition of service approval imposed that, at a minimum, allows for 30 educators to be registered with the approved service. For a provider to be approved in the current, compliance-sensitive approvals environment, a person or entity has clearly proven that they are fit and proper and should thus be afforded the opportunity to operate and expand their business and have the financial capacity to not only be viable, but to ensure compliance.

4.5 INTERPRETATION OF THE EDUCATOR TO COORDINATOR RATIO

Under Regulation 123A, a mandatory ratio of coordinators to educators of 1:15 for the first 12 months and 1:25 thereafter applies. FDCA maintains that the business compliance costs were not adequately considered in the implementation of the regulation and that unreasonable interpretation of the regulation is excessively impacting on the capacity of some services to operate.

While it may be appropriate that one FTE coordinator be engaged by the service for every 15 or 25 educators registered with the services, FDCA contends that it is entirely unreasonable that the commonly held interpretation of the regulation by Regulatory Authorities is that if, as an example, a service (with a 1:25 coordinator ratio) that has 25 registered educators, and hence one FTE coordinator, decides to register one more educator, they are required to engage another FTE coordinator. As such, FDCA recommends that regulation 123A be amended to allow for a "buffer" of 10 additional educators to be registered (for a 1:25 ratio service) and 5 additional educators registered (for a 1:15 ratio service) prior to the requirement to employ an additional FTE coordinator. This would reflect a fair and proportionate interpretation of the regulation.

FDCA also recommends that guidance be developed relating to regulation 123A that allows for coordinators to take short term leave without the service having to engage another FTE coordinator.

4.6 STANDARDISING EDUCATOR NOTICE PERIODS AND SAMPLING METHODOLOGIES

FDCA maintains that consistency of implementation of the NQF across jurisdictions and transparency of decision making are foundational to the NQF's continued validity and reliability as a national framework and critical to ensuring the NQF continues to achieve its objectives into the future.

Research undertaken by ARTD Consultants on behalf of FDCA shows that there is a remarkable degree of variation in the experience of family day care services participating in the assessment and ratings process, that is unrelated to the jurisdiction in which they operate or the type of service they operate. Variation in subjective experience is inevitable; yet if the variance in individuals' experiences stems from systemic variance in the administration of structural processes, this may call into question the validity and accuracy of the ratings system as a whole. The key structural variance is the discrepancy in notification periods of the educators being selected for visits as part of the assessment process, which varies across jurisdictions significantly and is not in line with the timeframe afforded to centre-based services.

The research report makes the following recommendation:

"Family day care providers should have a similar level of control to long day care services regarding which educators participate in assessments. This could be achieved by:

- *Allowing family day care services to nominate a shortlist of educators to be assessed based on length (e.g. at least 12 months) of service.*
- *Ensuring that educators chosen to be assessed are notified within the same timeframes as educators of long day care services, that is, at least 4 weeks ahead of the visit.*
- *An alternative would be for unannounced assessment visits for both family day care educators and centre-based services."*

FDCA supports ARTD's recommendations in this area. Implementation of these measures would assist significantly in amending some of the key structural inconsistencies in the assessment process that provide an inequitable "playing field" between jurisdictions and between family day care and long day care in the assessment process.

21 FDCA Family Day Care Sector Profile, June 2019

22 Ibid.