



# Child Care Subsidy Approval – Fit and Proper Requirements for Child Care Providers and their Personnel

## Fit and proper personnel are an eligibility requirement for CCS Provider Approval

Sections 194C and 194D of the *A New Tax System (Family Assistance) (Administration) Act 1999* (the Act) specify that, in order to be eligible for CCS approval, the provider and its key personnel meet the Fit and Proper requirements set out at Section 194E of the Act.

## What are the fit and proper requirements?

When assessing a CCS Application for approval, the Department of Education, Skills and Employment (DESE) will decide whether the provider and its key personnel are fit and proper by taking into consideration the following matters:

- any non-compliance with a law of the Commonwealth or a state or territory;
- any proceedings currently before a court or tribunal;
- any adverse decision made under a law of the Commonwealth or a state or territory relating to child care;
- any conviction, or finding of guilt, for an offence against a law of the Commonwealth or a State or Territory,
- any order to pay a pecuniary penalty (i.e. a fine) for the contravention of a civil penalty provision of a law of the Commonwealth or a State or Territory;
- any act involving fraud or dishonesty;
- arrangements in place to ensure that the person complies with the family assistance law;
- arrangements in place to ensure that any person being managed by key personnel comply with the Family Assistance Law;
- the record of administering of Commonwealth, state or territory funds;
- any debts to the Commonwealth (whether or not the debt has been discharged);
- the record of financial management including any instances of bankruptcy, insolvency or external administration.

- in regard to a *Person with Management or Control of the Provider* - the experience and expertise in the operation of a child care service;
- any possible conflict of interest resulting from a business interest in a Registered Training Organisation or other child care related business enterprise.

In determining if an FDC or IHC Educator is Fit and Proper, DESE will only take into account:

- any act involving fraud or dishonesty;
- arrangements in place to ensure that the person complies with the Family Assistance Law;
- arrangements in place to ensure that any person being managed by key personnel comply with the Family Assistance Law.

## **Which personnel must be checked for fit and proper?**

A provider applying for CCS approval is required to supply evidence of fitness and propriety checks as part of their CCS application for approval.

### **For Persons with Management or Control of the Provider**

- A copy of the results of a bankruptcy search conducted through the Australian Financial Security Authority website.
- A copy of the results of an Australian National Police Criminal History Check obtained from the relevant state or territory police service or an agency accredited by the Australian Criminal Intelligence Commission.
- A current and historical personal name extract obtained through the Australian Securities and Investments Commission website.
- Evidence that the person does not appear on the banned and disqualified register held by the Australian Securities and Investments Commission (in the form of a computer printout of the results of the search).
- Where the provider is a Family Day Care or In-Home Care provider, a declaration of any existing conflict of interest circumstances regarding the Person with Management or Control and their interest in a Registered Training Organisation or other child care related enterprise.
- Details of the working with children cards that are required under state or territory regulation.

### **For Persons with Responsibility for Day-to-Day Operation of the Service**

- A copy of the results of an Australian National Police Criminal History Check obtained from the relevant state or territory police service or an agency accredited by the Australian Criminal Intelligence Commission
- Details of the working with children cards that are required under state or territory regulation.

## For Family Day Care and In-Home Care Educators

- A declaration by the provider that all proposed Educator are fit and proper persons having regard to any prior actions involving fraud or dishonesty and their capacity to comply with the family assistance law.
- Upon request of DESE, a copy of the results of an Australian National Police Criminal History Check obtained from the relevant state or territory police service or an agency accredited by the Australian Criminal Intelligence Commission.

Details of the working with children cards that are required under state or territory regulation.

## Summary of Fit and Proper evidence required in an application for CCS Approval

\*Note: A certified copy of the certified police check **must** be made available upon request.

Checks made of all persons with:	Australian National Police Criminal History (police check)	Working with Children Card	A current and historical Personal name search of the <u>Australian Security Investment Commission</u>	National Personal Insolvency Index Bankruptcy search of the <u>Australian Financial Security Authority</u>	Banned and Disqualified Register search of the <u>Australian Security Investment Commission</u>
<b>Management or control of a provider</b>	A certified copy of a police check dated no more than 6 months before the application	Details of each card, if required to be held under State and Territory law	An extract of the search dated no more than 3 months before the application	An extract of the search dated no more than 3 months before the application	An extract of the search dated no more than 3 months before the application
<b>Day-to-day operational responsibility of a service</b>	A certified copy of a police check dated no more than 6 months before the application	Details of each card, if required to be held under State and Territory law	Not required for this role	Not required for this role	Not required for this role
<b>Family Day Care and In Home Care Educators</b>	A declaration that they are fit and proper having regard to a police check dated no more than 6 months before the application*	Details of each card, if required to be held under State and Territory law	Not required for this role	Not required for this role	Not required for this role

## Personnel must continue to be fit and proper

Section 55 of the *Child Care Subsidy Minister's Rules 2017* requires that providers notify DESE of any change in circumstance that results in key personnel not meeting fit and proper requirements. The provider may become aware of these changes as the result of a fitness or propriety check, such as Police Check, or because an event occurs where the provider would reasonably become aware that a person may no longer meet fit and proper requirements.

The legislation requires that the provider notify DESE within a certain time period of becoming aware of the change in a person's circumstances in regard to fitness and propriety.

Notifiable Event	Time period for the provider to notify DESE
<p>The provider becomes aware following a fitness or propriety check that a person:</p> <p>a) has a conviction or finding of guilt for any of the following offences under a law of Australia or of a foreign country:</p> <ul style="list-style-type: none"> <li>i. an indictable offence punishable by a maximum of 2 years imprisonment or 40 penalty units;</li> <li>ii. an offence involving violence, or a sexual offence;</li> <li>iii. an offence involving fraud, stealing or dishonesty; or</li> </ul> <p>b) is an undischarged bankrupt; or</p> <p>c) was a director or secretary of a corporation when the corporation went into administration, receivership or liquidation, or at any time during the 12 months beforehand.</p>	<p>Within 7 days after the provider receives a record of the check.</p>
<p>An event or circumstance in relation to a person with management or control of the provider or a person responsible for the day-to-day operation of any of the provider's approved child care services that reasonably indicates that the person is not likely to be a fit and proper person to be involved in the administration of CCS and ACCS.</p>	<p>Within 7 days after the provider becomes aware of the event or circumstance.</p>
<p>An educator obtains a qualification from a Registered Training Organisation in which the provider or a person with management or control of the provider has involvement or association.</p>	<p>Within 7 days after the provider becomes aware of the matter</p>
<p>A provider or person with management or control of the provider obtains, or is likely to obtain, an interest with a Registered Training Organisation or other child care related business enterprise.</p>	<p>Within 7 days after the provider becomes aware of the matter.</p>

Notifiable Event	Time period for the provider to notify DESE
Change in the status of a working with children card for each individual who is required to have such a card under section 195D of the Family Assistance Administration Act.	Within 24 hours after the provider becomes aware of the change of status.
The provider enters into administration, receivership, liquidation or bankruptcy.	Within 24 hours after the event.
<p>A serious conviction or finding of guilt of:</p> <p>a) a person with management or control of the provider or a person responsible for the day-to-day operation of any of the providers child care services; or</p> <p>b) an FDC educator, or another educator, at any of their services.</p>	Within 24 hours after the provider becomes aware of the charging, conviction or finding of guilt.

## More information

Information about [how to apply to become a CCS approved service](#) is available through the Department of Education, Skills and Employment website.

If you need additional information or assistance, you contact the department's CCS Assessment Team by email at [CCSAssessments@dese.gov.au](mailto:CCSAssessments@dese.gov.au)