

## Regulation Assessment and Service Quality

Guide for Approved  
Providers and FDC educators



# Fencing requirements at a family day care residence

Most early childhood education and care services in Queensland are regulated under the National Quality Framework (NQF) which includes the Education and Care Services National Law (National Law), Education and Care Services National Regulations (National Regulations) and the National Quality Standard. The NQF applies to family day care services.

Family day care (FDC) aims to offer an education and care option in a secure and stimulating home environment. Before a FDC educator can commence providing education and care, an approved provider of a FDC service must conduct an assessment, including a risk assessment, of a proposed FDC residence. The approved provider must have regard to the matters outlined in regulation 116(2) of the National Regulations, including the physical environment of the premises, to ensure the safety, health and wellbeing of children attending the service.

This fact sheet provides an overview of an approved provider's responsibilities under the National Regulations in regard to fencing requirements at FDC residences.

## Fencing requirements

Each FDC residence should have access to a suitable and appropriate outdoor play space that meets the needs of the children being provided education and care in each family day care residence in terms of their age, development and the program being offered. There is ample evidence to support the view that access to outdoor space is an important part of children's physical, mental and social development, as well as providing good educational experiences.

Regulation 104 requires an approved provider to ensure that any outdoor space used by children at an education and care service premises is enclosed by a fence or barrier that is of such a height and design that children of preschool age, or under, cannot go through, over or under it.

The intent of regulation 104 is that, even when the service fails to provide adequate supervision, children under school age should not be able to leave the premises unaccompanied or undetected. In this respect, the regulation is designed to ensure that service perimeters (fences) are failsafe.

For this reason the Regulatory Authority takes a very strict view of the requirement for appropriate fencing.



## What is an education and care service premises?

Section 5 of the National Law defines education and care services premises, in relation to a family day care service, as each part of a residence used to provide education and care to children as part of a FDC service or used to provide access to that part of the residence used to provide education and care. This includes the outdoor space adjoining the residence if it is to be used by the children as part of the education and care service.

## Who needs to have a fence?

A FDC educator who is providing education and care to a child under preschool age and who uses the outdoor space at the family day care residence to provide education and care to children as part of a family day care service must have a fence in accordance with Regulation 104.

## Who does not need a fence?

A FDC educator who provides education and care to only children over preschool age is not required to have a fence or barrier enclosing the outdoor space at the education and care premises.

It is reasonable for a FDC educator who resides in a dwelling, such as a unit or apartment, that does not have an outdoor space (where an outdoor space is not available or suitable on the premises) to have regular access to a nearby park or playground, if the required risk assessment and parental permission forms are in place.

## Excursions and regular outings are not substitutes for fences

The excursion and regular outing provisions must not be used to enable children at the service to access the outdoor space at the education and care service premises.

## Excursions

An **excursion** means ‘an outing organised by an education and care service or family day care educator’. (Regulation 4 of the National Regulations)

An example of an excursion could be taking children on a trip to the museum as part of the educational program being offered by the service. This type of outing requires the approved provider to conduct a risk assessment and obtain written parental authorisation before taking a child outside the service’s premises. The risk assessment identifies risks and control measures relating to the destination for the excursion, including taking the appropriate records and equipment, such as emergency contact numbers, a first aid kit and a mobile phone.

The excursion provision must not be used to access the outdoor space at the education and care premises as it undermines the intent of Regulation 104 and renders it virtually unenforceable.

## Regular outing

A **regular outing** means ‘a walk, drive or trip to and from a destination that the service visits regularly as part of its educational program; and where the circumstances relevant to the risk assessment are the same on each outing’. (Regulation 4 of the National Regulations)

An example of a regular outing could be a daily visit to a local park or library. There may be locations on larger rural properties to which an educator regularly accompanies children, such as a visit to the chicken pen or a horse paddock, beyond the fenced outdoor space at the residence. As such outings are regular in nature, the relevant risk assessment for each destination is required to be reviewed and parental authorisation obtained on an annual basis.

Excursions or regular outings must not be used to access the outdoor space adjoining the educator’s residence so that children can play outside. The use of excursions or regular outings in this way undermines and frustrates the intention of the legislation, specifically in this case, the requirement to have an appropriate fence or barrier as outlined in Regulation 104.

## More information

Contact your local regional office of the Department of Education at <http://www.qld.gov.au/families/babies/childcare/contacts/pages/regional.html>