

School Council and Board Approved Providers: Understanding the Additional Responsibilities

Purpose

School Councils and Boards are incorporated under the **Education Act 2015 (NT), Part 6 'Parent and Community Involvement in Government Schools'**

Where a School Council or Board also chooses to become the **Approved Provider** of an education and care service, it takes on **additional legal and regulatory responsibilities that sit outside its ordinary school governance role.**

The purpose of this information is to help members understand:

- the separate legal role the school body has taken on;
- where those responsibilities come from;
- the main areas of responsibility and risk;
- what information and assurance the school body should receive;
- where regulatory guidance should be sought; and
- when specialist governance or legal advice may be required.

The key legal distinction

ACECQA states that the Approved Provider is the legal entity that is approved to operate an education and care service and is legally responsible for managing the service. ACECQA also makes clear, including in its guidance about engaging others to manage a service, that the Approved Provider retains its legal responsibilities under the National Law.

For School Councils and Boards, it is about understanding the responsibilities that come with being the Approved Provider, establishing appropriate governance and assurance arrangements, and ensuring those responsibilities are not treated as having transferred to the principal because the principal manages or supports aspects of the service.

This distinction is important. The School Council or Board must understand and govern the Approved Provider role it has chosen to hold. The principal should not become the default person expected to carry the Approved Provider's governance, assurance and risk responsibilities merely because the service operates at the school or because the principal supports its operation.

Different roles, different legal frameworks

School Council or Board governance role

The School Council or Board's functions and governance arrangements sit within the NT government school governance framework, including the:

- Education Act 2015 (NT), Part 6
- Education Regulations 2015 (NT), Part 5
- School Council/Board Guidelines

- **School Council/Board Constitution**
- **Department of Education and Training policies and procedures**
- **Financial and Resource Management for Schools (FARMS) Manual**

NTCOGSO and the Department provide advice and support to School Councils and Boards within this school governance framework.

This is already a substantial governance role. It includes governance of school finances and resources, including oversight of School Held Funds, community use of facilities after hours and the other responsibilities carried by the school body under the Education Act and Departmental framework.

Approved Provider role

Where the School Council or Board is also the Approved Provider of an education and care service, additional responsibilities arise under the:

- **Education and Care Services National Law**
- **Education and Care Services (National Uniform Legislation) Act 2011 (NT)**
- **Education and Care Services National Regulations**
- **National Quality Framework**, including the National Quality Standard and assessment and rating process
- **Commonwealth Family Assistance Law**, where the service is approved for Child Care Subsidy

Where a school body chooses to hold Approved Provider responsibility, it must understand the additional legal and regulatory obligations that come with that role, determine how it will govern and oversee the service, and obtain appropriate regulatory or legal advice where needed.

These responsibilities are additional to the School Council or Board's existing school governance responsibilities. They can also create additional workload and cost. Where Approved Provider functions require substantial involvement from the principal or Business Manager, that work can draw time away from their core responsibilities in leading, operating and administering the school. Approved Provider arrangements may also involve additional costs associated with staffing, training, compliance, professional advice, insurance and other service requirements.

For this reason, a decision to become or remain the Approved Provider should include consideration of whether the school body has the governance capacity, information, resources and support required to carry that additional role.

Where to go for education and care regulatory guidance

Where a matter concerns an education and care service, such as outside school hours care, **Quality Education and Care NT (QECNT)** is the NT Regulatory Authority and provides information and guidance about obligations under the National Law, National Regulations and National Quality Framework.

QECNT also identifies current areas of non-compliance and directs providers and services to relevant guidance and resources, including ACECQA material.

ACECQA provides national guidance and resources for Approved Providers, including governance and management, child safety, supervision, assessment and rating and other National Quality Framework requirements.

A further Northern Territory legal framework

The **Personal Injuries (Liabilities and Damages) Act 2003 (NT) (PILDA)** contains separate provisions concerning institutional liability for child abuse.

Part 3A applies to institutions exercising care, supervision or authority over children. The Northern Territory Department of the Attorney-General and Justice guidance expressly identifies education and care services, **including outside school hours care services**.

Where the issue concerns potential institutional civil liability under PILDA, specialist legal advice may be required.

Key risk areas for School Council and Board Approved Providers

When a School Council or Board becomes or remains the Approved Provider of an education and care service, it takes on responsibilities that are additional to its ordinary school governance functions.

The purpose of identifying these risks is to help members understand the Approved Provider role, the areas in which the school body carries responsibility, what assurance it should receive, and when regulatory or specialist advice is needed.

The risks below identify matters the School Council or Board needs to understand in deciding how it will discharge its responsibilities as Approved Provider.

1. Understanding the role being taken on

Members may be familiar with their responsibilities under the Education Act, Education Regulations, School Council/Board Guidelines, Constitution and departmental policies.

The Approved Provider role sits within a **separate** legal and regulatory framework.

Members need to understand that distinction and know where to obtain information and advice about the responsibilities attached to the service.

The additional role should also be considered in the context of the school body's existing workload. School governance already includes significant governance and financial responsibilities. Taking on Approved Provider responsibility adds another statutory governance framework that must be understood and managed.

2. Responsibility and information may sit in different places

The School Council or Board remains the Approved Provider even where the day-to-day operation of the service involves the principal, Nominated Supervisor, service director, employees or other people.

The key distinction is:

- the **principal may manage or support the day-to-day operation of the service**, depending on the local arrangements;
- the **School Council or Board remains the Approved Provider** and cannot treat its governance responsibility as having shifted to the principal; and
- the **principal should not become the default person expected to design, maintain and evidence the Approved Provider's entire governance, assurance and risk framework** because the service operates at the school.

Where the principal has a separate role or responsibilities in the management of the service, those responsibilities need to be clearly identified within the service arrangements. They do not transfer the Approved Provider role from the School Council or Board to the principal.

The Nominated Supervisor and other service leadership may also provide operational information and assurance.

The School Council or Board needs to understand what it is responsible for as Approved Provider, what information and assurance it needs to receive, and ensure there are clear arrangements for:

- who provides that information;
- how often it is provided;
- what matters must be reported or escalated; and
- what matters require a decision by the Approved Provider.

Those arrangements should be established by the Approved Provider and should not rely on an assumption that the principal will carry the responsibility because the service is located at the school.

3. Child safety is part of Approved Provider governance

The National Quality Framework places child-safety responsibilities directly on the Approved Provider.

From 27 February 2026, children's safety, rights and best interests must be the paramount consideration in decisions and actions concerning the operation and delivery of the service.

This includes governance decisions concerning matters such as:

- staffing;
- resources;
- training;
- physical environments;
- online environments;
- policies and procedures; and
- other decisions affecting operation of the service.

ACECQA specifically states that Approved Providers should be able to demonstrate how the paramount consideration is applied in decision-making and quality improvement, including how financial and operational decisions uphold it.

This is particularly relevant to School Councils and Boards because financial governance is already a substantial part of their school governance role. Decisions relating to the education and care service introduce an additional statutory consideration into financial and operational decision-making.

4. Operational child-safety and compliance risks remain significant

The National Law and National Regulations contain detailed requirements covering areas including:

- supervision;
- staff and volunteer screening and training;
- inappropriate conduct;
- digital technologies and images of children;
- incidents, complaints and notifications;
- policies and procedures; and
- regulatory compliance.

These requirements are not a checklist for individual School Council or Board members to personally administer.

The school body does, however, need appropriate assurance that significant obligations are being met and that serious child-safety, regulatory or compliance matters are brought to its attention.

QECNT is the NT Regulatory Authority and provides regulatory information and guidance on these requirements.

QECNT's current compliance and monitoring information demonstrates that these are active regulatory issues. From May to July 2026, QECNT identified recurring non-compliance relating to inappropriate conduct, inappropriate discipline, supervision, Persons with Management or Control and Nominated Supervisors.

5. The school body needs assurance without taking over service operations

The School Council or Board, as Approved Provider, is responsible for ensuring appropriate governance and management arrangements are in place for the service. ACECQA states that the Approved Provider has primary legal responsibility for good governance and management of the service.

This does not mean members are expected to personally undertake or monitor every operational compliance activity.

Day-to-day management responsibilities sit with the people appointed or authorised to perform those roles within the service, including the Nominated Supervisor. ACECQA identifies the Nominated Supervisor as responsible for day-to-day management of the service and for a range of operational requirements.

The School Council or Board needs to establish how it will receive sufficient information and assurance to understand whether:

- significant child-safety or compliance issues have arisen;
- serious incidents or regulatory matters require attention;
- identified risks are being addressed;
- significant non-compliance remains unresolved; and
- a decision or action is required from the Approved Provider.

The Approved Provider is responsible for establishing these governance and reporting arrangements. Who provides the information will depend on the service's documented management structure and the responsibilities held by the people involved.

The purpose of those arrangements is to give the School Council or Board sufficient information to exercise its Approved Provider responsibilities without requiring volunteer members to manage the service themselves and without making the principal the default holder of the Approved Provider's governance, assurance and risk responsibilities.

6. PILDA creates a separate potential civil liability risk

PILDA operates separately from the National Quality Framework.

For the statutory duty, where qualifying child abuse occurs, the relevant institution may need to establish that reasonable preventative precautions were taken.

The Northern Territory Department of the Attorney-General and Justice guidance states:

“This means that it is the institution, not the victim, who must prove that the institution has met all its obligations to prevent child abuse occurring.”

This makes preventative systems, action and evidence important.

It does not mean individual school body members should attempt to construct or personally administer a PILDA compliance checklist.

Which entity or entities constitute the relevant institution in the NT government school context should be clearly established.

7. Responsibility cannot always be transferred by handing an activity to someone else

The Department of the Attorney-General and Justice guidance states:

“Institutions cannot avoid the duty by delegating their care, supervision or authority of children to other institutions.”

PILDA may also provide for vicarious liability in specified circumstances for abuse by employees or individuals performing sufficiently similar roles.

Members need to understand that contracting, delegating or allocating operational work does not necessarily remove the legal responsibilities associated with the service.

A School Council or Board may arrange for other people to undertake functions associated with operating the service, but it needs to understand which responsibilities continue to sit with it as Approved Provider.

8. Records and evidence matter

The School Council or Board does not need to personally hold or inspect every operational record.

It does need confidence that appropriate systems exist and that evidence of compliance, preventative measures, reporting and corrective action is maintained where required.

This is particularly important because the National Quality Framework **expects Approved Providers to be able to demonstrate how child safety is reflected in governance and decision-making**, while PILDA may require the relevant institution to establish what preventative precautions were taken.

9. Insurance and indemnity need to be understood

Before taking on or continuing the Approved Provider role, School Councils and Boards should understand both the legal protections and the practical resources required to support the role. This includes what insurance and indemnity arrangements apply to:

- the incorporated school body;
- the education and care service;
- potential regulatory liabilities;
- potential civil claims; and
- members acting in their governance capacity.

10. Resourcing and impact on core school business

The school body should also understand the resourcing implications of holding Approved Provider responsibility. This may include additional staff time, training, compliance activity, professional advice, insurance and administrative support.

Where responsibility for service administration or management falls heavily on the principal or Business Manager, there is also an **impact on core school business**. Time spent administering the education and care service is time that is not available for their core work in leading, operating, financially managing and administering the school.

The level of involvement, resourcing and impact on their school responsibilities should be recognised when the School Council or Board considers the **capacity and sustainability of its Approved Provider arrangements**.

11. Members need to know where to go for advice

Where a matter concerns obligations arising from operating an education and care service, including Approved Provider responsibilities under the National Law, National Regulations and National Quality Framework, QECNT is the NT Regulatory Authority and provides regulatory guidance. ACECQA provides national guidance and resources.

Where the issue concerns potential institutional civil liability under PILDA, specialist legal advice may be required.

The important point for members is that **being an Approved Provider is a separate legal role from being the governing body of an NT government school.**

School Councils and Boards that choose to hold that role need to understand:

- what additional responsibilities they have taken on;
- what information and assurance they should receive;
- how those responsibilities will be governed;
- what resources and capacity are required to support the role;
- how the Approved Provider role affects the workload of the school body, principal, Business Manager and school staff;
- where to obtain authoritative regulatory guidance; and
- when specialist governance or legal advice is needed.

Important limitation

Approved Provider compliance with the National Law and National Regulations does not automatically establish that an institution has taken all reasonable steps required under PILDA.

Likewise, PILDA compliance does not replace National Quality Framework requirements.

The two legal frameworks need to be considered separately, even where the same child-safety systems and practices are relevant to both.