

# **Determining a Fair Outcome: The Role of the Review Process in Ensuring the Accreditation Decision Accurately Reflects the Practices of the Childcare Centre**

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Standards of quality can influence the way childcare is both implemented and viewed by families. In Australia, childcare services are required to participate in a process of accreditation in order for their families to be eligible to receive Commonwealth government Childcare Benefit payments that assist them with the cost of childcare. The accreditation process determines if the practices the services implement are in line with agreed elements of quality care practices and such practices protect the rights of the child. Of equal interest however, are the strategies the nation has in place to protect the child care service itself from potential unfair/unjust assessment of its practices. The concepts of procedural fairness, if the service considers an unjust/unfair assessment of their practices has been made, are rightly addressed in the Australian Child Care Accreditation System (CCAS). This final step within CCAS is one which is quite unique in the international context. This paper addresses the framework, implementation, and issues that need to be faced in delivering a fair and just review of a service's Accreditation Decision, along with the role the review process plays in the nation's accreditation system for childcare. Data from review applications submitted by services over a nine year period was analysed to determine if childcare services who considered the assessment of their practices was unfair/unjust, was supported following an evidence based review of its practices by the review agency. Conclusions highlighted a range of issues such as assessment practices, subjectivity of assessment and relevance of assessment to context that require further research. Such findings can be utilized to inform policy development on the ongoing development of holistic accreditation systems internationally.

Key Words : accreditation, childcare quality, review

This paper argues the importance of embedding a review process in any accreditation system so as to ensure a 'fair outcome' for services participating in the

accreditation process. Therefore, the suppositions presented in this paper could be considered relevant to:

- i) Services who already possess an Accreditation system/standards of quality;
- ii) Services who are undergoing a review of their Accreditation system/standards of quality;
- iii) Services who are just beginning to implement their Accreditation system/standards of quality; and
- iv) Services who are thinking about developing an Accreditation system/standards of quality.

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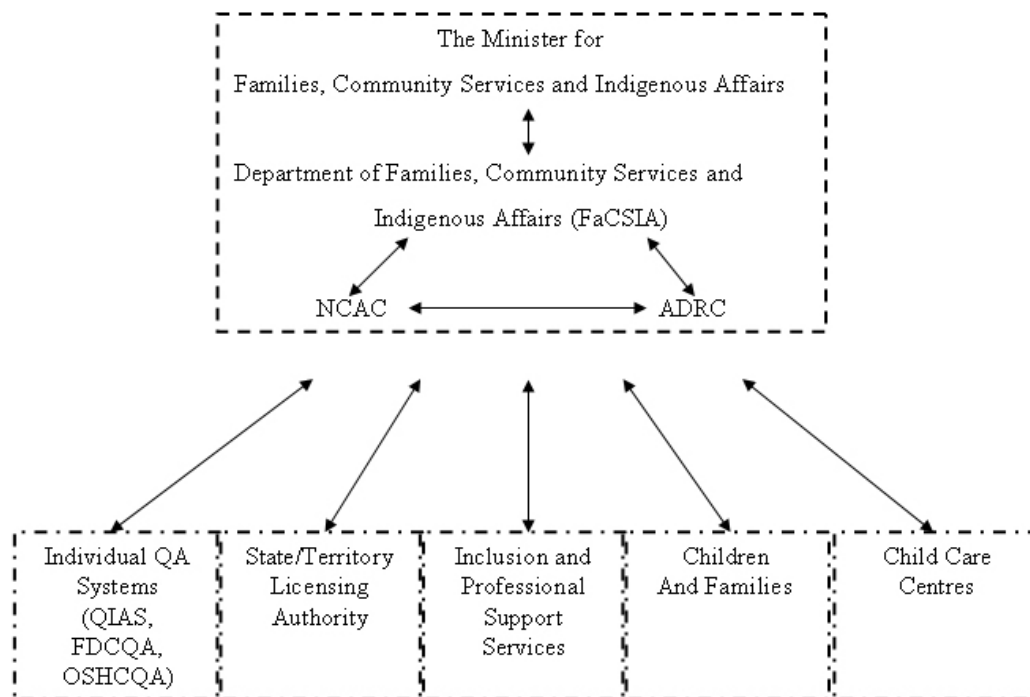


Figure 1. Australian Child Care Accreditation System

Note. From Department of Families, Community Services and Indigenous Affairs

Such a review process is embedded in the Australian Child Care Accreditation System (CCAS) and thus provides for services to submit an Application for Review of their Accreditation Decision should they consider the Accreditation Decision was an *unfair/unjust assessment of their practices*. CCAS comprises three core partnerships with interlinking and individual responsibility for the day to day management, monitoring and implementation of the individual QA systems and those services, structures and customers that deliver and use quality child care in Australia. These relationships are shown in Figure 1.

Firstly, it is necessary to provide a picture of the context within which the review process is located and this requires a short review of the historical background to the Child Care Accreditation System in Australia. Secondly, in light of the legislative boundaries the review process conceptual framework and implementation of that conceptual framework is presented. Thirdly, issues that have arisen from the implementation of delivering a fair and just review of a service's

Accreditation Decision are presented and discussed in the light of data obtained from 2002-2007, noting complete data sets that enable cross referencing of data are only available from 2004.

## Historical Context

The Child Care Act 1972 (Commonwealth) provided the legislative basis for commonwealth funding of child care services in Australia. In 1993, the Australian government established the National Childcare Accreditation Council (NCAC) with the main objective being to establish and implement the Quality Improvement and Accreditation System (QIAS) approved by the Commonwealth for all long day child care centres eligible for Childcare Assistance in Australia (Scott, 2004; Wangmann, 1995).

All child care centres were required to register in QIAS to be eligible to receive commonwealth funding being, Childcare Assistance. This initiative was significant

on an international scale because the Australian government was the first government to link, through legislation, Quality Assurance Systems for childcare directly to commonwealth funding. So as to provide a legal basis to the link, the Guidelines for Determination of Eligible Child Care Centres (Childcare Assistance) were first tabled in Parliament in October 1993 with an amended version of the Guidelines tabled in December 1993. These Guidelines gave the relevant Minister the power to determine the eligibility of child care centres to receive commonwealth funding. Further legislation to require all approved child care centres, receiving commonwealth funding, to participate in QIAS was introduced in 1999 being, A New Tax System (Family Assistance) (Administration) Act 1999 (Commonwealth). However, these guidelines required both rules to determine the eligibility of child care services to become and remain, approved child care services for the purposes of Childcare Assistance along with sanctions against those child care services that did not comply with eligibility criteria. Such rules were provided in August 2000 being, The Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Determination 2000 made under subsection 205(1) of the ANTS Act and The Child Care Benefit (Breach of Conditions for Continued Approval) Determination 2000 made under subsection 200(5) of the ANTS Act (Child Care Quality Assurance History, 2004)

Although the NCAC was determining decisions on the Accreditation status of childcare services since 1993 it was not until 1997 that the federal government approved the establishment of a process, under the Child Care Act 1972-1973, PART V - ADVISORY COMMITTEES, s16 being, the Accreditation Decisions Review Committee (ADRC). With such a process in place, services who considered an unjust/unfair assessment of their practices had been made and the ensuing Accreditation Decision made by NCAC not reflective of the services practices, now had the right to be heard. From ADRC's creation in 1997 until 1998, this important review committee was located within the accrediting body (NCAC) as a separate committee with

recommendatory powers. However, it became clear that if a review committee was to provide an objective review of Accreditation Decisions of NCAC and promote fairness and equity in the administration of the child care quality assurance system, it needed to be a separate and independent body. Consequently, in 1998 the commonwealth government revised the Terms of Reference of ADRC to provide ADRC the status of an independent review committee with recommendatory powers. As with recommendatory powers (Douglas, 2006), ADRC could not bind the decision making body (NCAC) to reconsider its accreditation decision in the light of its recommendations. The right to determinative decision-making powers, like the powers provided to the review process in the Council of Accreditation for Children and Families (COA) in US (Frisino, 2002), still eluded ADRC.

The COA possesses many similarities to the Australian CCAS. Similar to NCAC the COA objective is to promote standards, champion quality services for children, youth, and families, and advocate for the value of accreditation with a review process embedded in its accreditation process. Although the Australian CCAS considers appeal mechanisms are crucial to the integrity of its accreditation system the notion that the review process may uphold the underlying decision; or remand the issue to the original decision making body for further consideration who will either: reaffirm its original position; accept the recommendation of the designated review body; or arrive at a new decision based on the written concerns and new materials (Frisino, 2002, p. 3) has not as yet been supported. However, dissimilar to the COA, service participation in and outcome of, are not directly linked to any form of federal funding as in the Australian CCAS.

Notwithstanding its inability to possess such powers as the COA, the establishment of an independent committee to review the Accreditation Decisions of the NCAC could have been considered to be more than promoting fairness and equity in the administration of a child care quality assurance system. Such a move placed ADRC on equal footing with NCAC, that is, the decision

reviewer on the same level as the decision maker. As all child care services are required to participate in the Child Care Accreditation System to receive commonwealth funding, all services participating were now provided with the right to seek a review of that Accreditation Decision, knowing the process was independent of the decision maker.

## **ADRC Conceptual Framework**

With the legislative requirements now in place to inform and direct the practices of a review process, a conceptual framework to guide the work of ADRC was required. Polit and Hungler (1995) suggest a framework is an efficient mechanism for drawing together and summarizing accumulated facts and, a set of coherent ideas or concepts organized in a manner that makes them easy to communicate to others, thus ensuring such a framework can be understood and implemented by all stakeholders. The stakeholders are identified in the Australian CCAS as children and families; services delivering the childcare; the wider community; and the government entities in the quality assurance system. More importantly the implementation of the framework must be internally consistent in what McLeod (1987) refers to as description (what we say we do) and action (what we really do).

The ADRC framework is built on a logical progression of ideas. Thus in order to understand the framework the progression of ideas needs to be examined. The framework consists of two main elements being i) rules of procedural fairness and ii) the concepts that result and flow logically from these rules.

Procedural fairness is concerned with the procedures used by a decision maker, rather than the actual outcome reached... and is that it is highly likely that a decision maker who follows a fair procedure will reach a fair and correct decision (Ombudsman of Western Australia, 2005, p. 1). The rules of procedural fairness, as Phillips (1998) purports, are comprised of a number of requirements including, to hear (both) sides

of the case; to act impartially; to consider all relevant information and to disregard irrelevant information. Furthermore, according to Dyer (1993) and Douglas (2006), these requirements of procedural fairness must be flexible and depend upon what is fair in the circumstances of the particular case as presented for review.

The ADRC conceptual framework is built on the two rules of procedural fairness as identified by Douglas (2006), Groves and Lee (2007) being:

i) right to be heard [ the hearing rule] (Douglas, 2006, p. 200). This requires ADRC to possess procedural rules to enable the service to have a fair hearing and be given a reasonable opportunity to present a case against the Accreditation Decision that was made and in particular, the opportunity to inspect and respond to any documentation that was referred to in making the original Accreditation Decision (Douglas, 2006, p. 200). For ADRC, the service is able to submit their case in writing rather than to an oral hearing within 20 working days of receiving their Accreditation Decision (FaCSIA, 2007).

ii) right to an unbiased decision [no bias rule] (Douglas, 2006, p. 208). This requires ADRC to act fairly and put aside any personal prejudices or dislikes in relation to the practices of the service or NCAC. ADRC must review all documentation relating to the Accreditation Decision and through its implementation processes and procedures ensure a proper examination of all credible, relevant and disputed issues (Ombudsman of Western Australia, 2005, p. 3).

From the rules of procedural fairness discussed above, concepts to guide the work of ADRC were identified. In general usage the term concept mainly denotes 'idea' or 'notion' inferred or derived from specific instances. For ADRC, the concepts were identified in the Terms of Reference (FaCSIA, 2007), as functions when reviewing an Accreditation Decision and the Terms of Appointment (FaCSIA, 2007), as the role and responsibilities of members.

1) The principle functions identified in the Terms of Reference being:

- (a) review the available evidence relating to an Accreditation Decision made by NCAC;
- (b) determine in relation to a Quality Area or components of a Quality Area appealed by a service whether:
  - (i) the Indicator assessments recorded in the Validation Report and their consistency with any written evidence that may be recorded in that report and whether any amendments are warranted on this basis;
  - (ii) the Indicator assessments recorded in the Validation Report should be amended in the light of additional evidence provided either in the Validation Evaluation Form or the Accreditation Decision review documentation;
  - (iii) the Moderation ratings and their consistency with the evidence available at the time of Moderation and whether any amendments are warranted on this basis; or
  - (iv) the Moderation ratings should be amended in the light of evidence contained in the appeal documentation.
- (c) advise the service of its recommendations in relation to 1(b)
- (d) advise NCAC of its recommendations in relation to 1(b); and
- (e) provide feedback to the NCAC on Childcare Quality Assurance issues as they arise.

2) Other functions identified in the Terms of Reference being:

ADRC may only consider evidence concerning the conduct or management of the Validation Visit if, in the opinion of ADRC, the Validator omitted to allow the service's delegate adequate opportunities to enter comments on the Validation Report thus resulting in NCAC's Accreditation Decision being based on biased evidence or incomplete evidence. Complaints concerning NCAC's administrative practices would not otherwise constitute grounds for a review of the Accreditation

Decision.

ADRC cannot consider any evidence that pertains to service practices/policies that have occurred or have been developed after the date of the Validation Visit.

Valid grounds for a review of the Accreditation Decision exist where:

- (a) the application was made within 20 working days of receipt of the NCAC Accreditation Decision by the service.

In the Terms of Appointment, concepts outlining the role and responsibilities of the chair and members in undertaking a review of the Accreditation Decision provide the guidelines for the implementation of the review process.

As discussed earlier in this paper the ADRC conceptual framework is built on a logical progression of ideas. The two main elements of this conceptual framework being i) the rules of procedural fairness - the right to be heard and the right to an unbiased decision; and ii) the concepts that result and flow logically from these rules being those derived from the Terms of Reference and the Terms of Appointment.

With the conceptual framework in place, processes and procedures for undertaking a review of a service's Accreditation Decision were developed. Of particular importance in this development was the need to ensure internal consistency in what ADRC said it was undertaking (description of its action) and what ADRC actually did (the action it undertook) as postulated by McLeod (1987). The extent of such operational processes and procedures is not the focus of this paper but suffice to say can be extracted in detail from the ADRC website [<http://www.adrc.org.au>].

Through the examination of the historical and conceptual framework of ADRC it is clear the review process is embedded in the Australian CCAS with the decision reviewer (ADRC) on the same level as the decision maker (NCAC). Although it currently only possesses recommendatory powers and *thus does not have authority to overturn an Accreditation Decision of*

*NCAC, nor to direct NCAC to amend its Accreditation Decision* (FaCSIA, 2007), the fact that such a review mechanism is in place is supportive of the notion that appeal mechanisms are crucial to the integrity of an accreditation system.

Services can only come to ADRC after NCAC has determined their Accreditation status. Upon receipt of the NCAC Accreditation Decision services who consider the Accreditation Decision made by NCAC was unfair/unjust/not representative of the practices at their service on the day of the Validation Visit made by a NCAC Validator, have 20 working days to prepare and submit an appeal to ADRC. ADRC reviews all submitted documentation from both the service (appellant) and NCAC relating to the how the Decision was made and prepares a Report with recommendations which is sent to the service and to NCAC. NCAC considers the ADRC Report with recommendations and then determines the final Accreditation Decision for the service. As noted earlier, ADRC cannot bind NCAC to accept its recommendations nor reconsider its original Accreditation Decision in the light of ADRC recommendations.

Over a nine year period (1998-2007) since ADRC was granted status as an independent review committee with recommendatory powers, ADRC has accepted in excess of 480 Applications for Review from services (long day care; family day care; and outside school hours care) requesting a review of their Accreditation Decision as they considered the Accreditation Decision

was an unfair/unjust assessment of their practices. As Table 1 shows (period 2004-2007 when complete data sets are available for comparison), the volume of appeal submissions to ADRC has increased, which would be expected as the CCAS now incorporates long day care, family day care, and outside school hours care. The grounds that services presented as reason for review focused on the three issues of Assessment practices, Subjectivity of assessment and Relevance of assessment to context. However, of note is the number of recommendations ADRC made to NCAC to recommend an amendment in favour of the service and NCAC's acceptance of the ADRC recommendation. The basis for such recommendations in favour of the service focuses on issues of Assessment practices and Subjectivity of assessment.

Through such a volume of data, ADRC has identified a number of issues that require further analysis in reference to ensuring a 'fair outcome' for services participating in the accreditation process.

### Issues for Continued Debate

The issues identified in the data can be allocated to the following clusters:

i) *Assessment practices – how the service was assessed as to whether it was meeting the intent of the quality indicator/standard.*

50% of services stated insufficient time was allocated

Table 1  
*Outcome of appeals submitted to ADRC 2004-2006*

	2004-2005	2005-2006	2006-2007
Input (Appeals received)	45	42	82
Output (Appeals competed)	44	36	80
Output total recommendations made	521	658	888
Output recommendations made in favour of service	79 (15%)	156 (24%)	211 (24%)
Acceptance by NCAC of ADRC recommendations	98%	96%	98%

*Note.* Recommendations are made against each request for review made by the service whether it be Indicators of Quality or Principles of quality care.

for the service to discuss issues of concern with the Validator assessment/s following the completion of the assessment process; 25% of services considered all documentation was not taken into account when the assessment of their practices was made; 20% of services stated proper consideration was not given to documentation that was presented to the Validator and/or accrediting body; and 5% of services stated unrelated reasons as to why the service was assessed as not meeting the intent of the quality Indicator. As noted by Douglas (2006) and Groves and Lee (2007), procedural fairness would require the service to have a reasonable opportunity to present their case, that the intent of the quality Indicator was being met at the time of the Validation Visit, to the accrediting body.

ii) *Subjectivity of assessment – potential for bias.*

As the service's practices are assessed by the Validator to be occurring or not occurring, there is potential for bias based in interpretation. The Validator is expected to be neutral and unbiased when deciding whether the practice in question is occurring or not occurring. However, as Douglas (2006, p. 208) notes ..there is inherent difficulties in this concept of neutrality. The Validator needs to interpret the intent of the quality Indicator and then apply that interpretation to determine whether the practice in question is occurring. Even though Validators undergo extensive training and are required to demonstrate competency by the accrediting body - NCAC (NCAC, 2006, p. 15) the concept of neutrality is ever present. This is highlighted by the following comment made by a service: We have concern about the Validator interpretation of the principles and quality Indicators; opinions can differ and the Validator had said to us that she had to mark on how she interprets the points and acknowledged that we may see it differently.

iii) Relevance of assessment to context – respect given to individual needs/contexts of services.

As stated earlier in this paper, according to Dyer (1993) and Douglas (2006), the requirements of procedural fairness must be flexible and depend upon what is fair in the circumstances of the particular case as

presented. NCAC noted in its Annual Report 2005/2006, (NCAC 2006, p. 10) there were 8,386 services, as at 30 June 2006, registered to participate in the Accreditation system. Of these, 318 were family day care schemes; 3025 were outside school hours care services; and 5043 were long day care centres. These services represent the diversity in child care services in Australia but it is the diversity of context within the service types that relates to the issue of relevance to context. If, as Wangmann (1995) considers that quality is multifaceted and a complex interplay of many factors, is interpretation of the intent of the quality Indicator, as required to be undertaken by the service and the Validator, entirely possible in the light of points i) and ii) above? Can fairness in interpretation of practices be possible? Services commented in their Applications for Review: Being a rural service we do not have access to lots of resources but we do have resources and use what is in our local environment – it that not enough?; Just because the Validator does not know about our type of project curriculum it should not mean it does not meet what is required – its just does it differently; Our service is in a inner city area with a lot of transient children and parent participation is a major problem for us but we do try and have shown that we try. Some of the quality indicators require parent participation in policies and management issues –there is no way this will happen but we run a quality service with what we have.

The ways in which ADRC addressed such issues as presented by services was varied and most often dependent on the quality of the argument and evidence in support of their claim as presented by the service. As Table 1 indicates, ADRC recommendations in favour of the service are quite small (15-24%). However, it demonstrates to services participating in CCAS, that there is a place in CCAS to address unjust/unfair assessments of their practices in fair and rational manner. More importantly, ADRC is able to provide specific feedback to NCAC (the accrediting body) relating to the three issues of Assessment practices, Subjectivity of assessment and Relevance of assessment to context

discussed earlier. Such a relationship clearly works towards improving and refining the development and implementation of the CCAS for all services in Australia.

However, the Australian CCAS is still developing and there are still many questions to be addressed and further research to be undertaken when determining if the Accreditation Decision not only accurately reflects the practices of the childcare centre but is a fair outcome for the service. For such discussion, between all players identified in Figure 1 and ensuing data to be considered purposeful, the question of how such findings can be utilized to inform policy development on the ongoing development of holistic accreditation systems internationally needs to be raised.

It would seem, in the light of the discussion presented in this paper, accreditation systems for child care may undertake reflection on the following issues:

1. Examine how the service is to be assessed. How is the intent of the quality Indicator/Standard to be demonstrated by the service and assessed by the Validator? Are the rules of procedural fairness followed? Was the Decision on whether the practice was occurring based on evidence?

2. Examine the objectivity of the assessment. What strategies are in place to limit potential for bias and misinterpretation?

3. Revisit and reflect on HOW the quality Indicator/Standard is written. Is the INTENT clear to service providers? Can it be easily interpreted by all stakeholders?

4. Are the quality Indicators/Standards applicable and relevant to the diversity of contexts in your region? Are individual needs/contexts of services respected?

5. Is there a strategy/process in the Accreditation system for the service to request a review of the Accreditation Decision? Has the service been given a reasonable opportunity to present a case against the Accreditation Decision that was made? More importantly is such a review process transparent to ensure services, who consider an unjust/unfair assessment of their practices has been made, understand the process of review.

## **In summary**

This paper has argued the importance of embedding a review process in any accreditation system so as to ensure a 'fair outcome' for services participating in the accreditation process. Through providing a historical picture of the context within which ADRC, the review process, was legislated the concept of embedding of the review process within the Australian CCAS was clarified. In light of the legislative boundaries the ADRC conceptual framework was presented. As the conceptual framework is built on a logical progression of ideas, this progression of ideas was further explored. It was noted the conceptual framework consists of two main elements being rules of procedural fairness and the concepts that result and flow logically from these rules. From the rules of procedural fairness, concepts to guide the work of ADRC as stated in the Terms of Reference, as functions when reviewing an Accreditation Decision, and the Terms of Appointment, as the role and responsibilities of members, were discussed. Through the data gathered over nine years of operation, a number of issues around clusters of assessment practices; subjectivity of assessment; and relevance of assessment were identified as requiring further analysis to ensure a 'fair outcome' for services participating in the accreditation process. However, it was noted that for such discussion and ensuing data to be considered purposeful, the findings may, through the reflection of a number of issues raised, inform policy development on the ongoing development of holistic accreditation systems internationally.

However, whichever road is travelled there remains the challenges of accountability for all stakeholders in an accreditation system and for such accountability comes justification.

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## Note

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<sup>1</sup> Cth. means Commonwealth and is used to cite Commonwealth Acts of Parliament.