

Early Learning Commission

Services Rated Significant Improvement Required – The National Quality Standards Policy

NSW Early Learning Commission

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Early Learning
Commission

Acknowledgement of Country

The Early Learning Commission acknowledges the Traditional Custodians of the lands where we work and live. We celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of NSW.

We pay our respects to Elders past, present and emerging and acknowledge the Aboriginal and Torres Strait Islander people that contributed to the development of this Policy.

We advise this resource may contain images, or names of deceased persons in photographs or historical content.

Services Rated Significant Improvement Required – The National Quality Standards Policy

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1 Purpose

The NSW Early Learning Commission (the Commission) regulates more than 6,000 Early Childhood Education and Care (ECEC) services in NSW so that children attending those services receive safe and high quality education and care.

The protection of the rights and best interests of each child and the children attending education and care services must be the paramount consideration in giving effect to the National Law, including in making decisions or otherwise exercising functions under this Law. The protection of the rights and best interests of each child and the children attending education and care services prevails over the financial interests of approved providers; and other fiduciary duties owed by persons with management or control of education and care services.

The Commission expects all services to deliver safe, high-quality education and care and takes strong regulatory action where these expectations are not met. The Commission adopts a prevention-led and risk-informed approach to regulation to protect children from harm and acts with integrity, confidence and courage to ensure children's safety.

The purpose of this policy is to specify the Commission's approach to regulating approved providers with services rated Significant Improvement Required under the National Quality Standard. The policy also specifies the Commission's approach to regulating services and providers who are least likely to comply with the National Law and other statutory obligations.

Specifically, this policy:

- articulates the Commission's zero tolerance of a provider's failure to control serious risks to children in the context of a service rated Significant Improvement Required
- provides clear information on what the regulated sector, providers, and their service staff, and families that access ECEC can expect once a service is assessed and rated at Significant Improvement Required.
- guides the Commission to effectively exercise its statutory authority while applying a responsive risk-based approach to its regulatory functions
- supports the Commission in making informed decisions about the most effective use of resources to ensure compliance and enforcement activities focus on the severity and likelihood of risks to children presented by services rated as Significant Improvement Required under the National Quality Standard.

2 Application

This policy applies to ECEC services regulated under the National Quality Framework and the National Law that have been assessed and rated at the level of Significant Improvement Required in NSW.

The Commission will take timely action to ensure that any significant risks impacting on the safety, health and wellbeing of children are managed appropriately for services rated Significant Improvement Required. The regulatory action/s or interventions and their timeframes will be determined by the findings of the assessment and rating process and the immediacy and severity of the risks to children at the service.

The safety, health and wellbeing of children attending education and care services is paramount and guides all decision making. A rating of Significant Improvement Required presents an unacceptable risk and therefore the focus of the Commission will be mitigating these concerns and taking strong, decisive action to compel the provider to improve safety and quality at the service.

3 Scope

The Early Learning Commission is the Regulatory Authority for New South Wales (NSW) for regulating the ECEC sector. The Commissioner has delegated the exercise of powers and functions to officers across NSW in accordance with the Commissioner's delegations.

The Early Learning Commission exercises its regulatory functions under the following legislation:

National Legislation

- Children (Education and Care Services) National Law (NSW) 2010 (the 'National Law')
- Education and Care Services National Regulations (NSW) 2011 (the 'National Regulation')

NSW State-based Framework:

- Children (Education and Care Services) Supplementary Provisions Act 2011
- Children (Education and Care Services) Supplementary Provisions Regulation 2024

Most ECEC services for children around Australia are regulated, under the National Quality Framework. Service types covered by the National Quality Framework are regulated under the National Law and National Regulations. These services include Family Day Care, Long Day Care, Out of School Hours Care and Preschools. The National Quality Framework also includes the National Approved Learning Frameworks and the National Quality Standards against which education and care services are assessed and rated. The Guide to the National Quality Framework is designed to support education and care providers, educators and authorised officers understand and apply the requirements of the National Quality Framework.

Occasional care services, Multifunctional Aboriginal Children's Services (MACS) and Mobile services are out of scope of the NQF and are regulated under the state-based framework. These types of services are referred to as 'state regulated' services. In NSW, this means they can expect the same regulatory oversight as other services. National Law Alignment Provisions are applicable to NSW state regulated education and care services.

Assessment for rating purposes

Assessment and rating evaluates how a service's practices align with the National Quality Standards and the requirements of National Law and Regulations. The National Quality Standards includes seven (7) quality areas and services are given a rating against each quality area and an overall rating.

The Commission assigns the following prescribed rating levels in accordance with Section 134 of the National Law and Regulation 57:

- Significant Improvement Required
- Working Towards NQS
- Meeting NQS
- Exceeding NQS

Approved providers have the right to request a review of the final quality rating issued for their service. The Commission will continue with compliance action/s irrespective of any first or second tier review process. Once a review decision has been finalised, the Commission may adjust some or all compliance action/s to align with the determination of the review.

For more information on assessment and rating, and related review processes, refer to:

- Assessment and rating in NSW,
- NSW assessment and rating first tier review process, and

- ACECQA's second tier review process.

It is critical that ratings assigned to a service provide families and the broader community with a genuine reflection of service safety and quality. The Commission will continue to take active steps to ensure currency and accuracy of ratings that are reflective of service practice.

4 Guiding Principles

The Commission's over-arching principles for the exercise of its powers and functions are set out in the Guiding Principles policy.

In exercising its powers and functions, the Commission must uphold the objectives and guiding principles set out in section 3 of National Law. In accordance with the NSW Children (Education and Care Services National Law Application) Amendment Act 2025, the rights and best interests of each child attending ECEC services are the paramount consideration. The Commission ensures this paramountcy principle informs all its decisions and the exercise of all functions under the National Law.

The Commission is also guided by the Child Safe Standards, which are regulated by the NSW Office of the Children's Guardian, and is committed to upholding the safety of children through its regulatory decision making.

5 Policy

5.1 Significant Improvement Required Rating

The NSW Early Learning Commission will assess and rate a service Significant Improvement Required where there is an unacceptable risk to the safety, health and wellbeing of children being educated and cared for by the service. The rating is defined under Regulation 59 of the National Regulations.

The Significant Improvement Required rating applies to a service where:

- it does not meet one of the 7 quality areas or a section of the legislation and;
- it does not meet that quality area in a way that constitutes a significant risk to the safety, health and wellbeing of children.

The Commission will issue an immediate suspension where the concerns warrant this form of intervention to ensure the safety of children attending the early learning service.

Where there is an immediate risk to the safety, health or wellbeing of children, the Commission will issue an immediate suspension to ensure children are protected. Where there is an unacceptable risk, the Commission will issue a show cause notice proposing regulatory action, which may include cancellation of the service approval and, in some circumstances, the provider approval.

Approved providers are required to take reasonable and timely actions to address non-compliance and rectify poor-quality practices. The ongoing operation of any service by an approved provider that does not prioritise the rights, safety, and best interests of children and fails to take immediate and effective steps to meet the National Quality Standards, is unacceptable.

The Commission will not tolerate services with a Significant Improvement Required rating if the approved provider does not demonstrate immediate action to address the identified concerns and commit to genuine and proactive efforts toward sustained safety and quality improvement.

5.2 Responsive Regulation of Significant Improvement Required Services

A risk-based, proportionate, and outcome-focused approach is used when determining regulatory interventions and enforcement tools. All regulatory actions are tailored to the unique circumstances of each service and provider and prioritise the safety, health, wellbeing, rights and best interests of children.

To determine regulatory actions the Commission will consider:

- the severity of incidents or complaints, and any immediate and unacceptable risks to children's safety, health and wellbeing
- services with consecutive Significant Improvement Required including those demonstrating improvement and those not
- providers who own multiple services or are connected with related services rated Significant Improvement Required or Working Towards National Quality Standards.

For more information on the Commissions [approach to regulating Working Towards services](#) visit our [website](#).

5.2.1 Regulatory Intervention tools

It is the provider's legal responsibility to ensure a service operates in compliance with the National Law and Regulations, and to take action, by engaging with intervention programs, resources and tools to uplift quality practice to meet the National Quality Standards.

In the case of a service that has been rated Significant Improvement Required the Commission will take immediate and serious action to ensure any risks to children are immediately corrected by the provider and that sustained efforts to improve service delivery occur. The Commission uses a broad suite of interventions to ensure providers compliance with the National Law and Regulations and to promote continuous quality improvement, including but not limited to:

- **Compliance letters and notices:** Show cause notice, Issuance of an Emergency Action Notice, breach, warning, or caution letters; and compliance directions or notices requiring corrective actions.
- **Conditions:** Imposition of conditions on provider or service approvals, including requirements for transparency about ownership, governance, and quality compliance history.
- **Regulatory education and improvement programs:** Voluntary or mandated participation in tailored education or improvement initiatives, delivered with sensitivity to cultural practices and service context. Participation and engagement in programs will be monitored and considered if further regulatory escalation is required.
- **Monetary penalties and disciplinary orders:** Application of financial penalties and disciplinary measures to address non-compliance and deter future breaches.
- **Suspension, cancellation, and prohibition:** Suspension or cancellation of provider or service approvals, and prohibition orders against individuals to protect children's safety and welfare. Suspension or revocation of service ratings during an investigation.
- **Prosecution:** Referral of serious breaches for legal proceedings where warranted.
- **Information sharing and cross-agency collaboration:** Coordinating with other government agencies to address systemic risks or persistent non-compliance.

5.2.2 Expectations of approved providers and persons with legal responsibility

Approved providers and persons with legal responsibility must:

- Engage meaningfully and promptly in regulatory processes, including support programs and compliance actions.
- Provide timely, adequate responses and evidence of remedial actions within specified statutory timeframes.
- Comply with mandatory training, notification, and transparency obligations as prescribed by law.
- Disclose related entities and ownership structures to the Commission and demonstrate transparency to families and the community.
- Demonstrate quality improvements aligned with the National Quality Standards and regulatory requirements.

Failure to meet these expectations in the specified timeframe will result in escalation of enforcement actions, including monetary penalties, conditions, directions or approval cancellations.

5.2.3 Consecutive Significant Improvement Required ratings

Consecutive Significant Improvement Required National Quality Standard ratings will not be tolerated and steps will be taken to suspend or close the service and impose further enforcement action on the provider.

5.2.4 Providers with multiple services rated Significant Improvement Required and Working Towards the National Quality Standards

Approved providers managing multiple services rated Significant Improvement Required and Working Towards National Quality Standards face stronger regulatory enforcement as result of patterns of poor performance. The Commission will expect:

- prompt, concerted quality improvement efforts from capable approved providers.
- escalate enforcement for failure to engage meaningfully including approval suspension or cancellation.
- implement enforcement tools to compel compliance, including restrictions on service growth to limit the number of services that can operate in NSW.

5.3 Cross-agency regulatory response

To ensure a coordinated approach to quality uplift the Commission collaborates with the Australian Government, other state government agencies and other state and territory ECEC regulatory agencies through targeted referrals and information sharing. This may include sharing information with the NSW Department of Education or Australian Government in relation to funding arrangements such as, but not limited to, the Child Care Subsidy and Start Strong funding. Cross-agency regulatory responses may occur when:

- the safety and welfare of children in ECEC is compromised
- there are patterns of deteriorating quality or recurrent Significant Improvement Required National Quality Standards ratings.
- there is unwillingness or failure to engage meaningfully with regulatory directions.
- the behaviour of the provider is inconsistent with National Quality Framework obligations and the best interests of children.

6 Enquiries

For enquiries about this policy, please contact the NSW Early Learning Commission Information and Enquiries team 1800 619 113 (toll free) or information@earlylearningcommission.nsw.gov.au

7 Approval

Approved by: Daryl Currie, A/Commissioner, NSW Early Learning Commission

Designation: A/Commissioner, NSW Early Learning Commission

Dated: 26 February 2026

8 Document history

Table 1. Document information

Document title	Services Rated Significant Improvement Required – The National Quality Standards Policy
Document type	Policy
Version number	1.0

Regulatory Approach to Services Rated Significant Improvement Required

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