

Early Learning Commission

# Guiding Principles for Exercise of Powers and Functions of the NSW Early Learning Commission

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NSW Early Learning Commission

Version 1.0

26 February 2026



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We advise this resource may contain images, or names of deceased persons in photographs or historical content.

Guiding Principles for Exercise of Powers and Functions of the NSW Early Learning Commission

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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 owned 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 articulate the fundamental principles that guide the Commission in the exercise of its powers and functions pursuant to the National Law and Regulations, and NSW's Supplementary Law and Regulations. The guiding principles are modelled and aligned with contemporary principles for modern, risk-based regulation.

The Commission's guiding principles outlined in this instrument aim to:

- elevate and uphold the rights and best interests of the child as the paramount focus in the exercise of all its powers and functions.
- confirm the Commission's intended regulatory approach in accordance with best practice standards and the parameters of legislated powers and functions.
- communicate expectations and consequences for early childhood education and care (ECEC) providers and their early childhood education and care services operating within the National Quality Framework regulatory regime.
- provide open information to the regulated ECEC sector, educators and the community about the Commission's intended application of its powers and functions and its current regulatory posture and by doing so, encourage and promote safety, quality, accountability, and public confidence within the ECEC sector.

The Commission expects every ECEC provider to provide safe, high-quality education and care services, and applies strong enforcement tools when expectations are not met.

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# 2 Scope

The NSW 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:

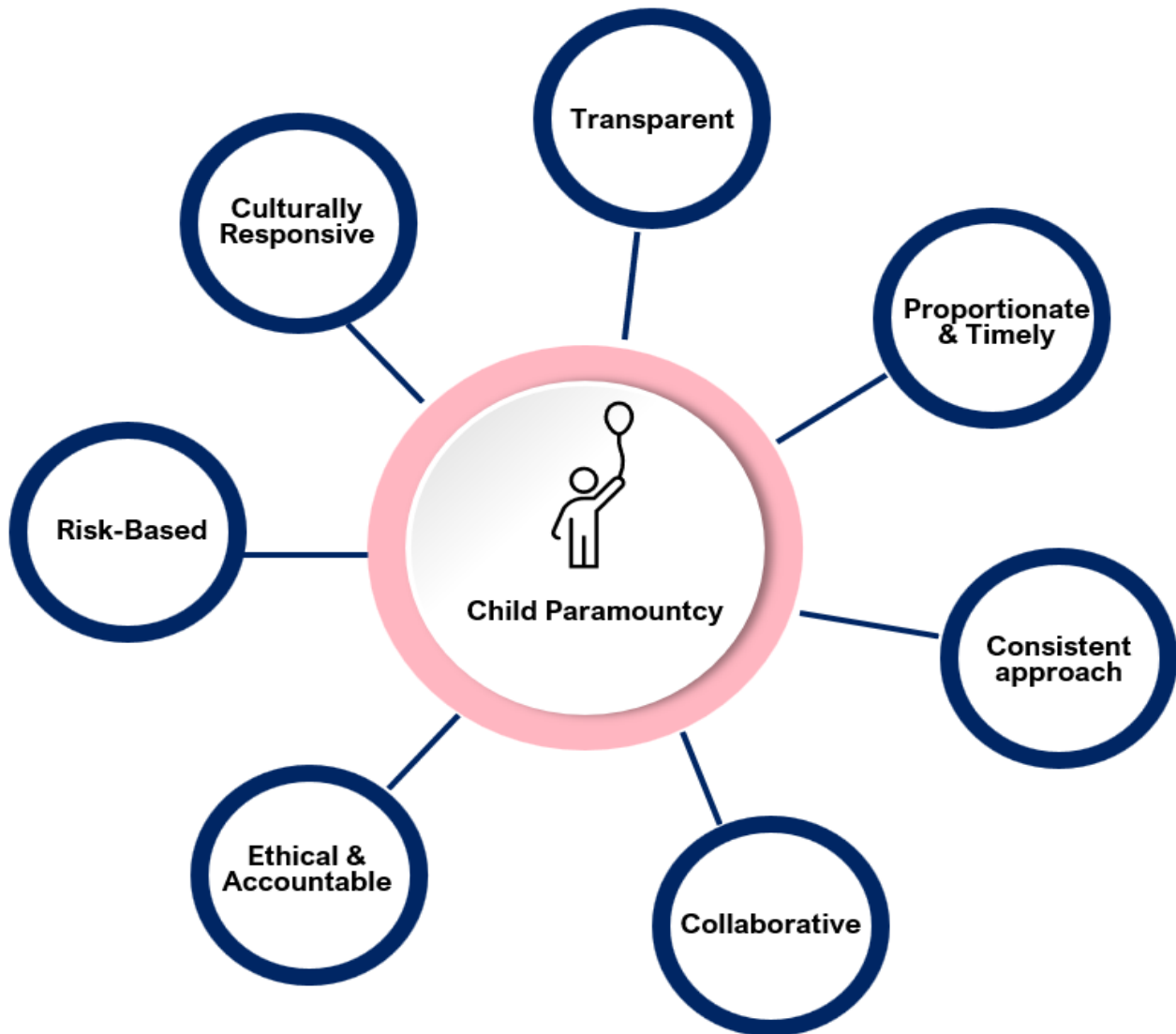
- Children (Education and Care Services) Supplementary Provisions Act 2011
- Children (Education and Care Services) Supplementary Provisions Regulation 2024

Most education and care 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 Standard 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.

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## 3 Guiding Principles



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 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.

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## 3.1 Child-Paramountcy

The Commission prioritises protecting the rights and best interests of all children in ECEC services and will achieve this through the following approaches:

- **Child safety is prioritised:** Every regulatory decision prioritises children’s safety, health and wellbeing above all other factors. The Commission will act decisively where a child may be at risk.
  - **Protection of children as a prevailing interest:** Children’s rights and best interests in ECEC services take precedence over all other interests from the regulated sector, external agencies, or any individuals or groups.
  - **Decisive action:** The Commission acts promptly and firmly to protect children at risk and uses strengthened powers without hesitation.
  - **Shared Responsibility:** Protecting children requires strong, purposeful partnerships across agencies, including early and frequent intelligence sharing and coordinated protective actions.
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## 3.2 Risk-Based

The Commission has adopted a risk-based model for regulating the ECEC sector. The risk-based regulatory model is achieved through:

- **Implementing preventative strategies:** Proactively educate and inform ECEC providers and services on their requirements under the National Quality Framework. Proactively use performance data and other available information to identify and mitigate risks early through a range of regulatory tools, before serious harm occurs. Regulatory oversight includes planned quality rating assessment and risk-based no-notice visits.
  - **Data-driven risk identification:** Analysis of compliance history, complaints, incident reports, and other data sources to target ECEC providers needing closer monitoring or intervention. The Commission promptly responds to emerging risks, incidents, complaints, and whistleblower reports with visits and investigations, applying appropriate measures to restore compliance. Effective risk controls are applied throughout the ECEC lifecycle, from provider entry, daily operations, and changes within services, to voluntary or involuntary exits. All controls prioritise the best interests and safety of children.
  - **Proportionate enforcement:** Responses can range from education and guidance to formal prohibitions according to nature, severity, and frequency of non-compliance. Providers demonstrating low engagement or responsiveness face rapid escalation to stronger enforcement actions, consistent with a child-first approach.
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## 3.3 Transparent

The Commission is committed to transparency and public access to information about its actions and decisions, following an ‘open by design’ principle aligned with the NSW Information Access Commission<sup>1</sup>. Its approach includes:

- **Open Communication:** Clearly informs ECEC providers about their decisions, the evidence required, performance expectations, and the consequences of non-compliance or ongoing poor-quality practices. Open communication extends to ensuring families can

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<sup>1</sup> <https://www.ipc.nsw.gov.au/information-access/open-government-open-data-public-participation/statement-of-principles>

see how decisions are made and what is being done to keep children safe, so families experience clarity, speed and respect.

- **Publishing a range of regulatory actions and enforcement outcomes:** To maintain public trust and sector accountability, the Commission publishes information about its various regulatory actions such as prohibitions, prosecutions, enforceable undertakings, directions, compliance notices, emergency action notices, and cancellations or suspensions of providers and services. This transparency also helps families make informed decisions for their children.
- **Enforcing transparency requirements of ECEC providers:** Actively monitors and enforces legal requirements for ECEC providers to publicly share and display their service compliance and quality ratings.
- **Proactively publish information on the sector's performance and the Commission's performance:** Promotes public accountability by publishing progress towards Ministerial expectations of both the sector and the Commission.

### 3.4 Proportionate & Timely

The Commission is guided by principles of proportionality and timeliness in the full range of its regulatory actions and decisions.

- **Responses to non-compliance are proportionate:** The regulatory response is appropriately selected to respond and remedy the risk or incident, in the interest of child safety, health and wellbeing.
- **Consideration of circumstances and history:** Factors such as provider compliance history, provider capability and willingness to improve, and intelligence from other agencies are considered in the context of imposing proportionate responses to a provider's non-compliance.
- **Adhering to Timeframes:** Adheres to statutory and policy-imposed timeframes in the full range of regulatory decision making with prompt communications with affected parties wherever possible. When delays are unavoidable the Commission communicates transparently with affected parties.

### 3.5 Consistent approach

The Commission and its Authorised Officers consistently apply their powers and functions as prescribed in law, and adhere to policies, procedures and guidelines to support good administrative decision making. This principle is supported through:

- **Training & quality assurance:** Ongoing professional development, training programs and quality assurance of processes and decisions promote consistency across the workforce.
- **Clear policies and procedures:** Operational procedures across the breadth of functions ensure officers have role specific instructions to guide their actions and decision making.
- **Audit and feedback:** Results from reviews, audits, data reports and stakeholder feedback provide the Commission with insights to identify and remedy issues.

### 3.6 Collaborative

The Commission collaborates and lawfully shares relevant information with other state and territory regulators, the Australian Children’s Education and Care Quality Authority (ACECQA), and other government agencies. Collaboration is supported by:

- **Interagency cooperation:** Fosters active working relationships with key agencies, such as but not limited to NSW Health, the Department of Communities and Justice, the NSW Office of the Children’s Guardian and the Australian Government Department of Education, to support child-centred decisions and enable coordinated actions across multiple regulatory bodies where relevant.
- **Sector and stakeholder voice:** Engages frequently and meaningfully with the ECEC sector, stakeholders and peak bodies to educate and guide on the requirements of the National Quality Framework and invite diverse perspectives and insights from stakeholders inside and outside the sector across a range of issues, particularly those impacting children in ECEC.
- **Feedback from families:** Feedback from families informs the Commission’s approach across all functions, with results from surveys, other research and complaints analysed for continuous improvement.

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## 3.7 Ethical and Accountable

The Commission exercises its powers and functions impartially, free from bias, personal interests, or external pressures, to uphold public trust and confidence in its administrative decision-making. To maintain this integrity, the Commission:

- **Welcomes public and government scrutiny of its actions and decisions:** Responds to requests for information to inform public inquiries, government-led reviews or other processes focused on the effectiveness of the Commission’s regulation of the ECEC sector.
- **Adheres to ethical conduct:** All employees of the Commission adhere to its Code of Conduct, and the Code of Ethics and Conduct for NSW Government Sector Employees.
- **Models NSW public service values:** Exemplifies NSW public service values, including integrity, trust, service, and accountability, which are actively understood and demonstrated by all staff.
- **Enables whistleblowers to report:** Mandates and encourages the reporting of alleged misconduct or unethical behaviour by any Commission employee, providing protections against retaliation. Additionally, the Commission monitors and enforces ECEC providers’ obligations to implement whistleblower provisions within their services to enhance child safety and prevent serious harm.
- **Continuous Professional Development:** Ensures its staff remain informed on ethical standards, legal updates, and contemporary best practice approaches to regulation.

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## 3.8 Culturally Responsive

The Commission regulates in a culturally responsive manner, and:

- **Embeds acknowledgement and respect:** Aboriginal and Torres Strait Islander peoples are recognised and respected within all

regulatory functions, and the harm caused by past government policies and approaches is acknowledged. The Commission also recognises and respects the cultural identities, values, languages, and practices of children, families, communities, and service providers from all cultural backgrounds.

- **Builds cultural intelligence:**  
Across the Commission’s workforce through ongoing training developed by Aboriginal and Torres Strait Islander peoples.
- **Works in partnership:**  
Works meaningfully with Aboriginal communities and other culturally diverse stakeholders, including through co-design of an Aboriginal cultural safety framework, and consultation on programs, or initiatives that impact children in early childhood education and care.
- **Ensures accessible and inclusive engagement:**  
Communicates regulatory expectations and decisions in ways that are accessible and inclusive, including through culturally appropriate engagement approaches and consideration of language, communication needs, and community norms.

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## 4 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](mailto:information@earlylearningcommission.nsw.gov.au)

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## 5 Approval

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

**Designation:** A/Commissioner, NSW Early Learning Commission

**Dated:** 26 February 2026

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## 6 Document history

Table 1. Document information

<b>Document title</b>	Guiding Principles for Exercise of Powers and Functions of the NSW Early Learning Commission
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