

Early Learning Commission

# Information Sharing with External Agencies Policy

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NSW Early Learning Commission

Version 1.0

26 February 2026



Early Learning  
Commission

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We advise this resource may contain images, or names of deceased persons in photographs or historical content.

Information Sharing with External Agencies 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 care. The Early Learning Commission sees the lawful exchange of information with relevant external agencies as an essential component of effective risk-based regulation.

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 how the Commission shares information with external agencies.

This policy is intended to clarify:

- the legislative and regulatory framework that allows the Commission to share information,
- what we mean by information sharing,
- why information sharing is necessary and under what circumstances, and
- how we facilitate the information sharing between the Commission and external agencies, including information requests, and the use and retention of sensitive information.

Where relevant, information sharing activities will be handled by the Delegated Authorities pursuant to the Commission's Delegation Schedule derived under the *National Law and Children (Education and Care Services) Supplementary Provisions Act 2011*.

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# 2 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 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.

This policy applies to staff within the Commission, in particular, those who perform information sharing activities with external agencies.

This policy is supplemented by internal staff procedures that guide the information sharing process, including safe storage and retention of relevant information in accordance with the State Records Act 1998 (NSW).

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## 2.1 Key External Stakeholders

The key external stakeholders for the purposes of this policy include (but are not limited to):

### State-based

- NSW Department of Education
- NSW Department of Communities and Justice (DCJ)
- NSW Office of the Children's Guardian (OCG)
- NSW Police Force
- NSW Health
- NSW Education Standards Authority

### Nationally

- Australian Children's Education and Care Quality Authority (ACECQA)
- Australian Federal Police
- Australian Government Department of Education
- National Disability Insurance Scheme Quality and Safeguards Commission (NDIS Commission)
- Australian Skills Quality Authority (ASQA)
- Other State and Territory NQF regulatory authorities

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## 2.2 Relevant Legislation and other Instruments

The legislative, regulatory and government requirements that apply to this Policy include:

### Legislation

- Children (Education and Care Services) National Law (NSW) 2010
- Children (Education and Care Services) Supplementary Provisions Act 2011
- (referred to as ‘State Law’)
- Children and Young Persons (Care and Protection) Act 1998 (namely, Ch 16A)
- Children (Criminal Proceedings) Act 1987 (NSW)
- Child Protection (Working with Children) Act 2012 (NSW)
- Privacy and Personal Information Protection Act 1998 (NSW)
- Children’s Guardian Act 2019 (NSW)
- Government Information (Public Access) Act 2009 (NSW)
- State Records Act 1998 (NSW)
- Health Records and Information Privacy Act 2002 (NSW)
- Crimes Act 1900 (NSW) (e.g. s 316A)
- Freedom of Information Act 1989 (NSW)
- Work Health and Safety Act 2011 (Cth)
- Privacy Act 1988 (Cth)
- Young Offenders Act 1997 (NSW) (particularly, section 66)
- Teaching Service Act 1980 (NSW)
- Inclosed Lands Protection Act 1901 (NSW)

### Regulations

- Education and Care Services National Regulations 2011
- Children (Education and Care Services) Supplementary Provisions Regulation 2024
- (referred to as ‘State Regulations’)
- State Records Regulations 2010 (NSW)

### Government Instruments

- NSW Early Learning Commission Code of Conduct
- Memorandum of Understanding between NSW Department of Education and NSW Early Learning Commission
- Memorandums of Understanding (current and proposed) between the NSW Early Learning Commission and Key External Stakeholders

Examples of how the Commission applies legislation, regulations or government instruments for the purposes of information sharing can include:

- Receiving and requesting information pursuant to Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998 (NSW).
- Undertaking information collection, review and reporting under s 260(g)(iii) of the National Law.

- Receiving or providing information in relation to ‘reportable conduct’ with the Office of the Children’s Guardian (“OCG”), or reportable incidents with the NDIS Commission.
- Mandatory reporting to, and receiving from, the NSW Department of Communities and Justice (“DCJ”), Risk of Significant Harm (ROSH) reports.
- Providing information to support a prosecution or investigation, with NSW Courts and Tribunals.
- Sharing information in relation to education and care services with ACECQA, Regulatory Authorities in other states and territories, and the Australian Government.

Where information is shared with other agencies, the processes that safeguard sensitive information from improper use are upheld by stringent internal procedures. Relevant training is also provided to ensure consistency and compliance.

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## 3 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.

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## 4 Policy

### 4.1 Information Sharing

For the purposes of this policy, information sharing relates disclosure of information between the Commission and another agency for regulatory or child safety purposes, in accordance with laws and regulations. This may include information about incidents, events, individuals, or related parties that (currently or previously) worked in, or operate an ECEC service, or who access ECEC services.

Some examples of the type of information we may exchange with external agencies in accordance with relevant legislation might include but is not limited to:

- child-level data or information to inform an investigation of an incident that has occurred at an ECEC service
- information on individuals working within the ECEC sector, seeking to operate an ECEC service, for example a Working With Children Check (WWCC) status
- a serious allegation that may involve reportable conduct or incidents
- sensitive information to inform tactical compliance campaigns or joint operations with NSW Police Force or other agencies where appropriate.

At all times, each information sharing activity will align with the guiding principles and adhere to relevant legislation.

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## 4.2 Information sharing as a key component of effective regulation

The Commission is prevention-led and risk-informed identifying emerging risks to take early action to protect children from harm. To do this effectively, the Commission shares information with external agencies where appropriate. The NSW ECEC sector is large and diverse, and effective regulation depends on the Commission's ability to access reliable information and relevant evidence when making regulatory decisions.

While most ECEC services adhere to best practice principles and maintain high-quality standards, cases of non-compliance activities or wrongdoing are identified through standard monitoring and compliance activities. When more serious events, behaviours or incidents occur, the Commission may need to conduct further investigations to determine a proportionate regulatory response.

Effective information sharing enables the Commission to make the best possible decisions based on complete and accurate information. In line with the child-paramountcy principle, this approach ensures that children's safety, health and wellbeing are the primary consideration and supports the Commission in safeguarding children while maintaining the integrity and reputation of the ECEC sector. Conversely, poor information sharing practices can lead to serious unmanaged risks that may endanger children and diminish public trust in the sector.

By facilitating timely and lawful information sharing between agencies, the Commission helps ensure best interests, children's safety, health and wellbeing, builds public confidence in the sector and enhances access to high quality, early childhood services that give children a strong start to life.

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## 4.3 Privacy and confidentiality

The Commission complies with applicable privacy laws.

Staff that conduct information sharing with external agencies will be accountable for the lawful storage and retention of any sensitive information in accordance with the State Records Act 1998. Any personal information obtained shall only be used for the purpose intended in accordance with the Privacy and Personal Information Protection Act 1998 (NSW) and the Commonwealth Privacy Act 1988.

The key legislation in respect of privacy of personal information include:

- Privacy Act 1988
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- Government Information (Public Access) Act 2009

The IPC is an independent statutory authority that administers legislation dealing with privacy and access to government held information in NSW.

For further information about how privacy laws are applied, contact the Information and Privacy Commission NSW (IPC) on 1800 472 679 or [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au).

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## 5 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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## 6 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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## 7 Document history

Table 1. Document information

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