

Early Learning Commission

Approach to visits of ECEC service premises Policy

NSW Early Learning Commission

Version 1.0

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We advise this resource may contain images, or names of deceased persons in photographs or historical content.

Approach to visits of ECEC service premises 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 and reasons for conducting visits of ECEC service premises. The policy also clarifies expectations and responsibilities of approved providers in the context of the Commission's visits to their ECEC services.

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 visits to ECEC premises by the Commission for services regulated under National Law and State Law.

The Commission has specific functions prescribed under Section 260 of the National Law¹ this is outlined in section 5 of this policy.

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.

4 Policy

4.1 Relevant Legislation

The National Law provides the Commission with powers for the monitoring and enforcement of the National Law, including, but not limited to, the power to enter an ECEC service for a range of reasons. The relevant provisions are contained in [Part 9, Division 2 of the National Law](#).

Specifically, an Authorised Officer may exercise the power to enter an ECEC service to:

- conduct approvals and amendment related processes
- monitor compliance with the National Law and Regulations
- support review of a case or complaint about the service
- conduct an assessment for the purposes of quality rating of an approved ECEC service
- obtain information about the contact details of the parents/carers of all children enrolled at the education and care service where the Commission has issued a show cause notice; and
- investigate an approved ECEC service if the Commission reasonably suspects that an offence may have been or may be committed against the National Law.

When entering an ECEC service, an Authorised Officer may do any of the following:

- inspect the premise and any plant, equipment, vehicle or other thing
- photograph or film, make audio recordings or make sketches of, any part of the premises or anything at the premises
- inspect and make copies of, or take extracts from, any document kept at the premises
- take any document or any other thing at the premises

¹ <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2010-104a#sec.260>

- take a thing, or a sample of or from a thing, at the premises for analysis, measurement or testing
 - take into or onto the premises any person, equipment and materials the Authorised Officer reasonably requires for exercising its power
 - require the occupier of the premises, or a person at the premises, to give the Authorised Officer information to help the Authorised Officer in conducting the investigation; and
 - require the occupier of the premises or a person at the premises to answer a question to the best of that person's knowledge, information and belief or to take reasonable steps to provide information or produce a document.
-

4.2 Authorised Officers

Authorised Officers may visit an ECEC premise for any reason prescribed within the National Law.

In NSW, Authorised Officers are persons who the Commission is satisfied are appropriate persons to be an Authorised Officer for the purposes of enforcing the National Law. Authorised Officers are employees of the Commission. As such, an Authorised Officer in NSW will have:

- relevant qualifications and experience required for the role, including a thorough assessment of capabilities
 - undertaken training relevant to obtaining and maintaining their authorised status
 - undergone relevant probity checks, including a criminal record check and a current verified working with children check in NSW
 - completed mandatory training
-

4.3 Purpose of visiting an ECEC premises

As set out in the Commission's *Monitoring and Enforcement of Compliance in ECEC* policy, visiting ECEC premises are a core element of effective regulatory oversight that families expect and rely on for children to have access to a safe and high quality early education and care experience.

The Commission is committed to visiting all services regularly, and there is no pre-determined schedule that is the same for all services. Providers are expected to maintain a safe, high quality service at all times, with information as prescribed by the National Law readily available if requested by an Authorised Officer. The frequency of visits and the material that may be requested is informed by the Commission's risk-based regulatory model and influenced by several factors including, but not limited to:

- the compliance history of the service and/or service provider
- patterns of behaviour or practices that compromise children's safety and best interests
- significant changes to how the service operates
- the level and frequency of contact with the service, including a change of provider entity or new management structure of an existing provider
- any complaints about the service and/or provider, including particular individuals
- the ages of the children attending the service
- the service model (e.g., single educator model)
- time elapsed since the last quality rating assessment and any other regulatory contact, and
- any other matters where risk may have been or is currently posed to children's safety, health and wellbeing.

The Commission endeavours that visits to ECEC service premises occur with minimal disruption to the service's operations, as far as possible.

4.4 Unannounced and announced visits of ECEC

The Commission conducts unannounced visits of ECEC premises as an essential component of regulatory activity involving active monitoring to ensure providers meet their responsibilities in relation to harm prevention and safety of children.

As set out in the Commission's *Monitoring and Enforcement of Compliance in ECEC policy*, most visits of ECEC premises are unannounced to allow for effective oversight of routine daily operations of ECEC services. Providers of ECEC services can expect unannounced visits because of a reported incident, as part of an investigation or in the context of regular proactive compliance monitoring.

In specific circumstances, the Commission may notify the service in advance of the visit occurring, although this is not required. For instance, inspecting ECEC premises as part of an application for new ECEC service approval or changed circumstances in the service, or where a particular individual is required to participate in an investigative process. In these cases, an Authorised Officer is likely to contact the service ahead of the planned visit.

4.5 Selection of services for assessment and rating visits

The Commission applies a risk-based approach to all regulatory processes. Assessment and rating visits are prioritised according to risk and guided by the *Guide to the NQF*.

When scheduling assessment and rating visits, the Commission considers risks associated with, but not limited to, the following factors:

- The quality rating from previous assessments, including results at the quality area, standard, and element levels. For instance, services with multiple quality areas rated as Working Towards the National Quality Standard may be reassessed more frequently than those with fewer or no such ratings.
- Services holding a 'Provisional – Not Yet Assessed' rating, particularly for new services. For example, new services operating for more than 12 months with this rating will be prioritised for reassessment.
- Services with a suspended rating.
- Changes in service attributes that could reasonably impact the quality of the service, such as changes in provider ownership or service management.
- Events occurring at the service that may affect quality, including an increase in serious incidents, a rise in complaints or compliance issues, or evidence of sustained quality improvements.
- The elapsed time since the last assessment, recognising that quality ratings may become less reflective of current practices over time – whether due to improvements or declines in quality – potentially limiting their usefulness to families seeking information about the education and care provided.
- Participation in quality improvement programs.
- Requests for reassessment and re-rating initiated by the education and care service and/or the Commission.

The Commission manages the assessment and rating schedule in a responsive and adaptive manner, adjusting priorities as new information becomes available to ensure effective regulatory oversight.

4.5.1 Requests from services to postpone assessment and rating

The Commission will assess requests to postpone an assessment and rating visit on a case-by-case basis. The Commission will consider the reason for the request, whether the service has made any previous request(s) to postpone assessment and rating, and the factors outlined in section 5.1.

After consideration, the Commission may deny or accept the request for postponement. Where the request is denied, the service's scheduled assessment and rating visit will proceed. Any request to review the Commission's decision will be escalated to a senior Manager to consider.

Where the postponement request is accepted, the service's scheduled assessment and rating visit will be postponed to a later date, as determined by the Commission.

4.5.2 Postponement by the Commission due to unforeseen circumstances

The Commission may postpone a scheduled assessment and rating in the event of unforeseen circumstances, including but not limited to:

- illness or absence of the Authorised Officer
- natural disasters, such as bushfires or floods
- circumstances that may impact the health and safety of services and staff member.

The Commission remains responsive to local conditions to ensure the safety and wellbeing of services and staff. The Commission will postpone and adjust assessment and rating visits as necessary and advise services if a postponement is required.

4.5.3 Postponement by the Commission due to ongoing investigations, inquests, prosecutions, other serious matters

The Commission may postpone a scheduled assessment and rating in anticipation of a decision or finding from serious matters such as an ongoing investigation, inquest, or prosecution proceedings against the approved provider, including those undertaken by a third party. The Commission will assess each situation on its own merits.

Where the Commission decides to postpone a scheduled assessment and rating, the Commission will continue to use other strategies to monitor the safety, health and wellbeing of children. This may include, but is not limited to:

- the issuing compliance actions
- imposing conditions on the provider or service approval (subject to enforceable service conditions)
- conducting targeted monitoring and compliance visits of the service
- requiring services to engage with a quality improvement program or other relevant supports.

Where the investigation, inquest or prosecution proceedings have been completed, the Commission will re-consider when the assessment and rating should be undertaken, and the visit will be scheduled.

4.5.4 Timeframes for decisions on postponement requests

Under the National Law and National Regulations, there are no legislated timeframes for the Commission to decide whether to postpone a scheduled assessment and rating visit. The Commission will ensure that decisions are made within a reasonable time and that approved providers and services are notified of the outcome.

4.5.5 Requests from Approved Providers to have a service assessed on all 7 quality areas (full reassessment)

The Regulatory Authority applies a risk-based approach to all regulatory activities. Assessment and rating visits are prioritised according to risk and guided by the [Guide to the NQF](#).

The type of assessment and rating, including the number of and which quality areas are to be assessed, is determined by a range of factors including compliance history, time since last assessment and current quality rating.

In instances where a service is scheduled and has been notified of an assessment of less than 7 quality areas (a partial reassessment) and requests for all 7 quality areas to be reassessed instead

(a full assessment), the request to increase the number of quality areas to be reassessed is unlikely to be accepted.

The approved provider may apply to the Commission to have the service (including any aspect or element of the service) reassessed and re-rated against the National Quality Standard after the final outcome report has been received. A fee may apply, and an application for reassessment can only be made once every 2 years.

4.6 Expectations of Conduct

4.6.1 Conduct of Authorised Officers

Authorised Officers are required to conduct their regulatory functions in line with the National Law. Further, as Commission employees, Authorised Officers are expected to comply with the Commission's Code of Conduct, as well as the Code of Ethics and Conduct for NSW government sector employees (Public Service Commissioner Direction No 1 of 2015 under the Government Sector Employment Act 2013).

Authorised Officers from the Commission have key legislated and procedural responsibilities when visiting and inspecting ECEC premises. This includes:

- showing their identity card upon entry
- introducing themselves and explaining the purpose of the visit
- signing the visitors register, if applicable; and
- making reasonable requests and, where applicable, providing feedback, directions and regulatory guidance.

Additionally, in line with the Commission's expectations under its Code of Conduct, Authorised Officers are expected to:

- be professional, approachable, respectful and timely in dealings
- listen and communicate respectfully; and
- clearly explain the purpose and be clear on what next steps are involved.
- Model NSW public service values, including integrity, trust, and accountability

Additionally, officers are expected to:

- lead their discussions and communication in a culturally safe manner, including forming respectful relationships with Aboriginal peoples, communities and services; and
- acknowledge and respect cultural protocols.

To enable Authorised Officers to confirm a service's practice and level of compliance, they may exercise their powers under the National Law to:

- make notes of what they observe, discuss and sight
- walk around the service and speak with educators and staff during the visit
- ask questions to management, staff, children and families to clarify practices
- take photographs, film, make an audio recording or make a sketch of the service premises and documents
- inspect and make copies or take extracts from documents at the premises; and
- take a document or anything at the service premises.

The exercise of the above powers may include observing and/or taking webcam, CCTV or other audio/visual footage, and other documents in digital form. In NSW, Authorised Officers use a Commission issued computer or other smart device to record information about the visit.

At the conclusion of a visit, Authorised Officers:

- explain the findings of the visit to the nominated responsible person of the service
- advise of any matters where the approved provider and any other responsible persons under law are required to rectify identified issue/s and the timeframe to do so
- explain any likely further action, including the processes or expectations that may follow.

Information and resources on the [investigation, feedback and complaints](#) processes are available [via our website](#).

4.6.2 Conduct of Providers and their Service Staff

The Commission expects all providers and their service leaders, educators and staff to engage with Commission staff with courtesy and respectful conduct, and to comply with lawful requests by an Authorised Officer. This includes:

- supporting the officer to undertake their duties; and
- displaying professional courtesy and communicating respectfully with the officer.

Inappropriate behaviour may call into question a provider or nominated supervisor's fitness and propriety and may result in action being taken. The Commission may direct an approved provider, nominated supervisor, or family day care educator to exclude a person from service premises while children are being educated or cared for if the Commission is satisfied the person is an inappropriate person.

An inappropriate person, as defined in [Section 171 of the National Law](#) is a person who may pose a risk to the safety, health or wellbeing of any child or children being educated and cared for by the ECEC service; or whose behaviour or state of mind or whose pattern of behaviour or common state of mind is such that it would be inappropriate for him or her to be on the ECEC service premises while children are being cared for by the ECEC service.

It is also an offence for a person:

- to obstruct an Authorised Officer ([Section 207](#))
- fail to assist an Authorised Officer ([Section 208](#)) and
- to provide an Authorised Officer false or misleading information or documents ([Section 295](#)).

To make a complaint about the Commission, an Authorised Officer or another member of the Commission's staff, you can call us on 1800 619 113 or email information@earlylearningcommission.nsw.gov.au. You are also encouraged to review the Commission's [Complaint Handling Policy](#).

4.7 Crises and Unexpected Circumstances

During times of crises, the Commission may suspend non-urgent visits of ECEC premises according to its risk-based approach.

An Authorised Officer may use other strategies, such as the use of technology to support their work at this time.

The Commission may also postpone a visit of ECEC premises in the event of unforeseen circumstances, including but not limited to the following:

- illness or absence of the Authorised Officer
- natural disasters, such as bushfires or floods, and
- circumstances that may impact on the safety and health of services and staff members.

The Commission remains responsive to local conditions and where possible, works with the sector to enable the continuation of suitable regulatory functions in the best interests of children.

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

6 Approval

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

Designation: A/Commissioner, NSW Early Learning Commission

Dated: 26 February 2026

7 Document history

Table 1. Document information

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