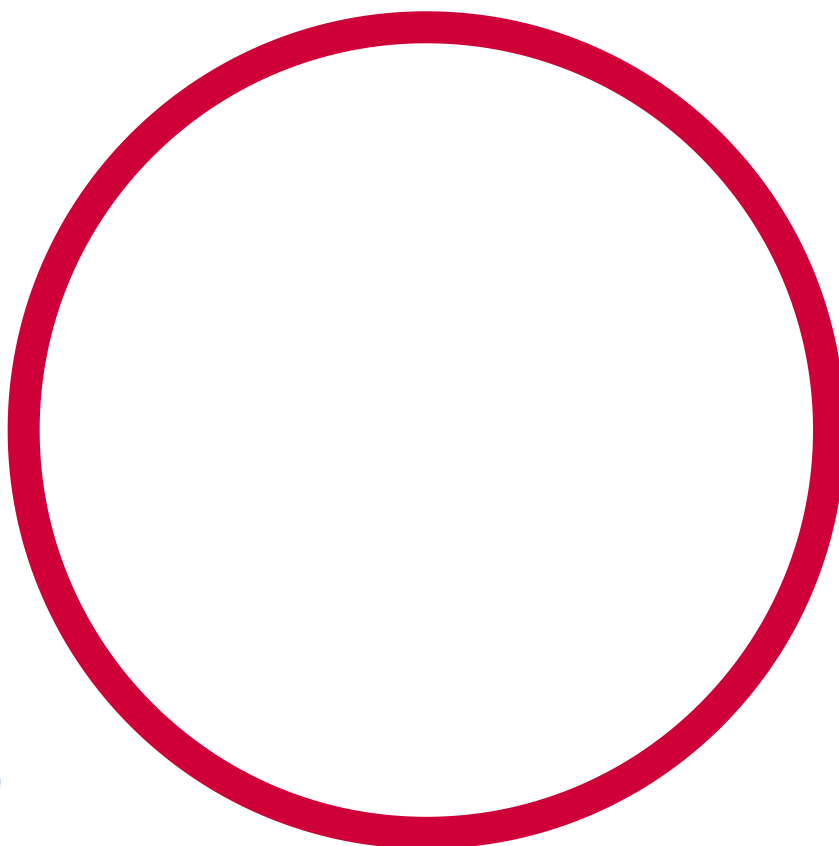
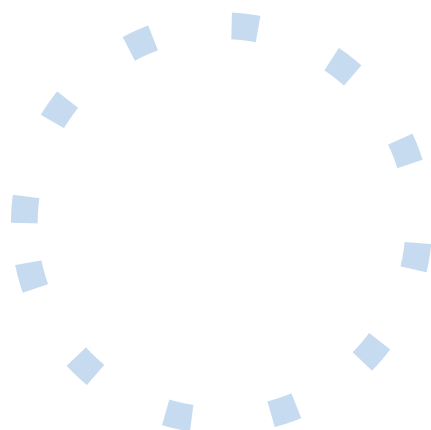
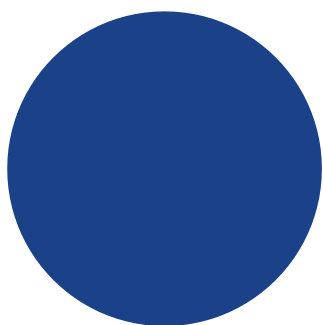


Regulatory Authority Visits Policy

NSW Early Childhood Education and Care Regulatory Authority

21 February 2025



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1 Purpose

The NSW Early Childhood Education and Care Regulatory Authority (the Regulatory Authority) regulates more than 6,000 early childhood education and care (ECEC) services in NSW so that children attending those services receive healthy, safe and quality care.

This policy outlines the Regulatory Authority's approach to on-site visits of ECEC service premises, including the approved provider's responsibilities and expectations of the Regulatory Authority.

2. Context

The Secretary of the NSW Department of Education (the department) is the Regulatory Authority for ECEC services in New South Wales. The Secretary has delegated powers and functions to a distinct business directorate within the department, the NSW Early Childhood Education and Care Regulatory Authority. Officers of the Regulatory Authority exercise functions across NSW in accordance with the Secretary's delegations.

The Regulatory Authority exercises its regulatory functions under the following legislation and regulations:

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 (NQF). Service types covered by the NQF 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 NQF also includes the [National Approved Learning Frameworks](#) and the [National Quality Standards](#) (NQS) against which education and care services are

assessed and rated.

The [Guide to the National Quality Framework may assist in understanding the NQF.](#)

Occasional care services, Multifunctional Aboriginal Children's Services (MACS) and mobile services are out of scope of the NQF and regulated under the state-based framework. National Law Alignment Provisions are applicable to NSW state regulated education and care services. These types of services are referred to as 'state regulated' services.

3 Scope

This policy applies to visits of ECEC premises by the Regulatory Authority for services regulated under National Law and the State Law.

Regulatory Authority Functions

The Regulatory Authority has specific functions prescribed under Section 260 of the National Law¹. The Regulatory Authority functions relevant to ECEC service visits can be found in section 5 of this policy.

4 Guiding principles

The NSW ECEC Regulatory Authority's over-arching principles for implementing its functions are set out in the [Guiding Principles policy](#). The specific principles that apply to on-site visits of ECEC premises, confirm the Regulatory Authority:

- achieves outcomes that promote the objectives of the National Law
- prioritises ECEC service visits (including assessment and rating visits) according to the level of risk, the length of time since the previous visit and in response to incidents, notifications and complaints
- uses information and data to drive a proactive schedule for monitoring of all services and providers
- aligns actions to documented policies and procedures
- authorised officers have the necessary skills and are trained and supported; and
- authorised officers conduct themselves in accordance with the department's Code of Conduct, the NSW ECEC Regulatory Authority's Guiding Principles, and any other relevant policies and guidelines.

For more information, see [Guiding Principles Policy](#).

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

5 Policy

5.1 Relevant Legislation

The National Law provides the Regulatory Authority 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:

- monitor compliance with the National Law and Regulations
- conduct a quality assessment of an approved ECEC service to rate or re-rate it
- obtain information about the contact details of the parents of all children enrolled at the education and care service where the Regulatory Authority has issued a show cause notice; and
- investigate an approved ECEC service if the Regulatory Authority reasonably suspects that an offence may have been or may be being committed against the National Law.

In entering an ECEC service, an authorised officer may do any of the following:

- inspect and/or search the premises (or any part of the premises) and any plant, equipment, vehicle or other thing
- inspect, measure, test, photograph or film, or make audio recordings or make sketches of, any part of the premises or anything at the premises
- take a thing, or a sample of a thing, at the premises for analysis, measurement or testing
- inspect and make copies of, or take extracts from, any document kept at the premises
- take any document² or any other thing at the premises
- 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.

² **NOTE:** A document includes any disc, tape or other article or any material from which sounds, images, writings, or messages are capable of being reproduced (with or without the aid of another article or device).

5.2 Authorised Officers

Authorised officers may inspect ECEC premises individually or with a second authorised officer.

In NSW, authorised officers are persons who the Regulatory Authority is satisfied are appropriate persons to be an authorised officer for the purposes of the National Law. Authorised officers are employees of the department. As such, an authorised officer in NSW will have:

- undergone relevant probity checks
- completed mandatory training, for example, Code of Conduct, and Child Protection
- the relevant vaccination status required by the department
- relevant qualifications and experience required for the role; and
- undertaken training relevant to obtaining and maintaining their authorised status.

5.3 Purpose of inspecting ECEC premises

As set out in the NSW ECEC Regulatory Authority's [Approach to Compliance policy](#), inspecting ECEC premises are a core element of effective regulatory oversight that families expect and rely on for children to have safe and high quality early education and care.

ECEC service visits conducted by the Regulatory Authority are essential in supporting the Regulatory Authority's functions under the National Law. Regulatory functions that generally require an authorised officer to visit an ECEC service premises include, but are not limited to:

- making decisions on new service applications
- making decisions in response to notifications where an aspect of the service operations may have changed
- assessing and rating the service's quality under the National Quality Standards
- responding to and investigating complaints
- determining the service's compliance with the National Law and the National Regulations; and
- undertaking formal investigations arising out of serious incidents, complaints or other events.

Decisions relating to the frequency and the material that may be requested are centered around the Regulatory Authority's risk-based approach and are influenced by several factors including, but not limited to:

- the compliance history of the service and/or service provider
- patterns of behaviours or practices that compromise children's safety
- 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
- how long the service has been operating; and
- any other matters where risk may have been or is currently posed to children's health, safety, and wellbeing.

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

5.4 Unannounced and announced visits of ECEC

The Regulatory Authority conducts unannounced visits of ECEC premises as an essential component of regulatory activity involving active monitoring to uphold providers' responsibilities in harm prevention and safety of children. Unannounced visits of ECEC premises represent standard practice across many other regulatory schemes.

As set out in the NSW ECEC Regulatory Authority's [Approach to Compliance 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 as a result of a reported incident, as part of an investigation or in the context of regular proactive compliance monitoring.

In specific circumstances, the Regulatory Authority may notify the service in advance although this is not required. For instance, assessment and rating, or inspecting ECEC premises as part of an application for new ECEC service approval or changed circumstances in the service. In these cases, an authorised officer is likely to contact the service ahead of the planned visit.

Please refer to the [Assessment and Rating Scheduling Policy](#) for information on selection and postponement of Assessment & Rating.

5.5 Expectations of Conduct

5.5.1 Conduct of Authorised Officers

Authorised officers are required to conduct their regulatory functions in line with the National Law. Further, as department employees, authorised officers are expected to comply with the department's [Code of Conduct Policy](#), 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 Regulatory Authority 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 inspection
- signing the visitors register, if applicable; and
- making reasonable requests and, where applicable, providing feedback, directions and regulatory guidance.

Additionally, in line with the department's expectations under its Code of Conduct, authorised officers are expected to:

- be approachable, fair, respectful and timely in dealings
- listen and communicate respectfully; and
- clearly explain the purpose and be clear on what next steps are involved.

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
- request a tour/walk around of the service and to be introduced to educators and staff during the inspection
- 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 computer or other smart device to record information about the inspection.

At the conclusion of a visit, authorised officers:

- provide summaries and explain the findings to the nominated responsible person of the service
- advise of any matters where the service can rectify the issue/s and the timeframe to fix the issue/s
- 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 the department's early childhood education website pages.

5.5.2 Conduct of Providers and Services

The Regulatory Authority expects all providers and services engaging with regulatory staff to display respectful conduct and 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. It may also indicate that a person may be an inappropriate person, as defined in [Section 171 of the National Law](#). Section 171 of the National Law provides that an inappropriate person means 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](#)).

5.5.3 Complaints about Authorised Officers

The Regulatory Authority's staff are committed to excellence and professionalism in the delivery of their duties and in the exercise of their regulatory functions. Should a service, provider or a member of the public wish to raise a concern about the Regulatory Authority or its staff, they can do so through several channels.

For information on processes regarding complaints about the conduct of a staff member working in the Regulatory Authority, please see the [department's website](#).

Complaints are managed in accordance with the Regulatory Authority's [Complaints Handling Policy](#).

Complaints about an authorised officer will not result in a change of authorised officer visiting that service unless the Regulatory Authority determines that this is warranted through its review of the complaint.

Note that complaints are handled separately to any requests for reviews of regulatory decisions.

5.6 Crises and Unexpected Circumstances

During times of crises, the Regulatory Authority 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. This is undertaken in consultation with the service.

The Regulatory Authority may also postpone an inspection 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 the health and safety of services and staff members.

The Regulatory Authority remains responsive to local conditions and where possible, works with the sector to enable the continuation of suitable regulatory functions.

6 Enquiries

If you have any enquiries about this policy, please contact NSW ECEC Regulatory Authority Information and Enquiries Team, 1800 619 113 (toll free) or ececd@det.nsw.edu.au.

7 Document Version Control

Policy Owner	Version	Approved By	Date last reviewed
Director, Regulatory Strategy, Policy and Practice	1.1	Executive Director, Quality Assurance and Regulatory Services	10 Nov 2022
Director, Statewide Operations Network	2.0	Executive Director, Early Childhood Education and Care Regulatory Authority (ECEC RA)	21 Feb 2025