



# Regulating for quality: The regulation of approved early childhood education and care services policy

**Version:** 1.0 | **Version effective:** 13/03/2019

## Audience

Early childhood education and care sector

## Purpose

This policy supports the Department of Education's (the department) role as the Regulatory Authority responsible for the regulation of approved early childhood education and care (ECEC) services in Queensland. This role is undertaken in line with the key objectives of the [National Quality Framework](#) (NQF) and the department's own [Regulating for Quality \(R4Q\)](#) risk-based framework.

## Policy statement

Research shows that quality education and care lays the foundation for a great start to life for children and contributes to better social, educational and employment outcomes across their life span. The R4Q risk-based approach to regulation is a key element of the department's commitment to ensuring all Queensland children have the opportunity to benefit from quality early years services and successfully transition to school. The R4Q framework aims to ensure that the department maximises its regulatory impact by targeting risks to children and tailoring its approach to regulatory practice.

## Principles

Under the R4Q Framework, the department's approach to regulation is underpinned by the following guiding principles, which are based on best practice principles of modern regulation:

Principles	What this means for the department
<b>Proportionality</b>	We take regulatory action in response to the level of risk or harm to children attending ECCE services, and at a cost justified by that risk.
<b>Transparency</b>	We take regulatory action in a way that demonstrates operational consistency, unbiased decision-making and the public provision of regulatory information.
<b>Defined outcomes and priorities</b>	Regulatory priorities, objectives, actions and indicators of effectiveness are clear for all stakeholders.
<b>Risk-based approach embedded</b>	Risk identification and management is integrated into strategy, planning decision-making, communication and processes, supporting an agile and problem-centric approach to regulation.
<b>Effective stakeholder relationships</b>	Regulatory philosophy promotes and values reciprocal engagement and communication with all stakeholders, incorporating their voices in decisions that affect them.
<b>Effective information management</b>	We collect, retain and analyse data in a way that helps identify, manage and communicate risk through all regulatory actions.
<b>Measure, review, continually improve risk management</b>	The <a href="#">Performance improvement and accountability framework</a> supports our leaders to review findings to continually improve.

## Requirements

### 1. Early childhood education and care services regulated within the scope of this policy

Under this policy, the department regulates approved services under the [Education and Care Services National Law](#) and the [Education and Care Services National Regulations](#), as well as those services operating under the [Education and Care Services Act 2013 \(Qld\)](#).

The department undertakes the following regulatory functions in relation to these services:

- assessment and issuing of provider and service approvals
- assessment and ratings of services in accordance with the [National Quality Standard](#)
- monitoring and enforcing compliance with the legislation
- receiving and investigating complaints.

#### Types of services regulated under National Law

Services regulated under the [Education and Care Services National Law](#) and the [Education and Care Services National Regulations](#) include the following:

- family day care

- kindergarten
- long day care
- outside school hours care.

### Types of Services regulated under Queensland Law

Services regulated under the [Education and Care Services Act 2013 \(Qld\)](#) include the following:

- Services funded by the Queensland Government to provide limited hours care
- Occasional care services
- Services that were previously in receipt of Budget-based funding and were not an approved child care service under the [A New Tax System \(Family Assistance\) \(Administration\) Act 1999 \(Cwlth\)](#)
- Services that are also disability services funded under the [Disability Services Act 2006 \(Qld\)](#).

## 2. The department's risk-based approach to regulation of ECEC services

Ensuring that ECEC services in Queensland provide safe, high quality learning environments is a shared responsibility between the approved providers of those services and the department as regulatory authority.

The department focuses its monitoring and enforcement activities on those services that pose the greatest risk to the safety, education and care of children. This is consistent with the department's [Enterprise Risk Management Framework](#), which makes it clear that the department's lowest appetite is for risks associated with the safety of children and students.

Under the [R4Q risk-based framework](#), the department focuses particularly on risks to the key objectives of the NQF:

- ensuring the safety, health and well-being of children attending education and care services
- improving educational and developmental outcomes for children attending education and care services
- promoting continuous improvement in the provision of quality education and care services.

The department applies its risk-based approach to the following areas of regulatory activity:

- Application-based activities – including assessment of provider and service approval applications, temporary and service waivers, and amendments.
- Proactive activities – including monitoring and assessment and rating of approved services.
- Reactive activities – responding to notifications, complaints and other intelligence; assessing the information, investigating non-compliance and taking action where necessary, including enforcement action.

Services that are willing and able to comply receive less contact from the department than non-compliant services. Non-compliant services and those identified as high risk are actively monitored and, when breaches of the legislation are identified, the department takes enforcement action when required.

When determining the most appropriate enforcement action, the department uses a suite of enforcement tools to ensure that the response is proportionate to the level of risk. Enforcement responses can range from verbal advice and guidance through to a prosecution.

### 3. Reviews, complaints and reporting

#### Reviews

A number of regulatory decisions made by the department are subject to internal review and/or external review. Whenever a right to review applies, the department will advise the approved provider in writing, and internal reviews are always undertaken by a new decision maker.

#### Complaints

In carrying out their regulatory activities, departmental staff must act with absolute integrity and in accordance with the [Code of Conduct for the Queensland Public Service](#) and the [Department of Education's Standard of Practice](#). The roles, powers and responsibilities of the department's authorised officers are set out in the National Law and Regulations and in the ECS Act.

Complaints about the action or conduct of departmental staff are called customer complaints and are covered by the department's [Customer Complaints Management Framework](#).

Complaints about early childhood education and care services are covered by the [Early Childhood and Care Complaints Management Policy](#).

#### Reporting

The department encourages voluntary compliance by producing an annual statement that identifies current issues, emerging risks and areas of regulatory focus for the year ahead. The annual statement reports on the regulatory performance of the ECEC sector in Queensland, as well as the department's performance as the regulatory authority.

### Definitions

Term	Definition
<b>National Quality Framework</b>	This <a href="#">framework</a> sets out the national approach to regulation for early childhood education and care including outside school hours care services across Australia.
<b>The National Law and Regulations</b>	The <a href="#">Education and Care Services National Law</a> and <a href="#">National Regulations</a> apply to most long day care, family day care, kindergarten/preschool and outside school hours care services in Australia. The law and regulations detail the operational requirements for an education and care service.
<b>Regulatory authority</b>	In Queensland, the regulatory authority is the Department of Education, which is responsible for administering and enforcing the NQF and the <a href="#">Education and Care Services Act 2013 (Qld)</a> .

Term	Definition
<b>Regulating for Quality</b>	This <a href="#">framework</a> sets out the department's risk-based approach to regulation. It is designed to effectively identify and assess risks to the quality of ECEC services and ensure that the department focuses its regulatory efforts effectively on areas that present the greatest risk to the health, safety and wellbeing of children.
<b>Approved providers</b>	An individual or organisation that holds an approval that allows them to provide one or more early childhood and care services.
<b>Early childhood education and care</b>	This encompasses all service types regulated in Queensland under the <a href="#">NQF</a> and the <a href="#">Education and Care Services Act 2013 (Qld)</a> .

## Legislation

- [Education and Care Services National Law](#)
- [Education and Care Services National Regulations \(NSW\)](#)
- [National Quality Standard](#)
- [Education and Care Services Act 2013 \(Qld\)](#)
- [Education and Care Services Regulations 2013 \(Qld\)](#)
- [Disability Services Act 2006 \(Qld\)](#)
- [A New Tax System \(Family Assistance\) \(Administration\) Act 1999 \(Cwlth\)](#)

## Delegations/Authorisations

- [Director-General's delegations - Education and Care Services Act 2013 \(Qld\)](#)
- [Executive Director's authorisations - Education and Care Services National Law \(Qld\)](#)
- [Director-General's delegations - Education and Care Services National Law Act 2011 \(Qld\)](#)
- [Director-General's delegations - Education and Care Services National Regulations](#)
- [Chief Executive of the Regulatory Authority's nomination - Education and Care Services National Regulations](#)
- [Director-General's delegations - Education and Care Services Regulation 2013](#)
- [Director-General's delegations - Education and Care Services National Law \(Qld\)](#)

## Policies and procedures in this group

- Nil

## Supporting information for this policy

- Nil

## Other resources

- [Regulating for Quality Framework](#)
- [Early Childhood Education and Care Complaints Management policy](#)
- [Customer Complaints Management Framework](#)
- [Code of Conduct for the Queensland Public Service](#)
- [Department of Education's Standard of Practice](#)
- [The Australian Children's Education and Care Quality Authority](#)
- [The National Quality Agenda IT System \(NQA ITS\)](#)
- [Qld Government Early Childhood Education and Care](#)
- [Performance improvement and accountability framework](#)

## Contact

For further information, please contact:

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## Review date

13/03/2024

## Superseded versions

*Previous seven years shown. Minor version updates not included.*

1.0 Approvals under the *Education and Care Services Act 2013* procedure

1.0 Approvals under the Education and Care Services National Law procedure

1.0 Assessment and rating under the Education and Care Services National Law procedure

2.0 Complaints management and compliance under the *Education and Care Services Act 2013* procedure

1.0 Monitoring, compliance and enforcement under the *Education and Care Services Act 2013* procedure

1.0 Complaints management and monitoring compliance under the Education and Care Services National Law procedure

1.0 Internal reviews under the Education and Care Services National Law procedure

1.0 Reviews under the *Education and Care Services Act 2013* procedure

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