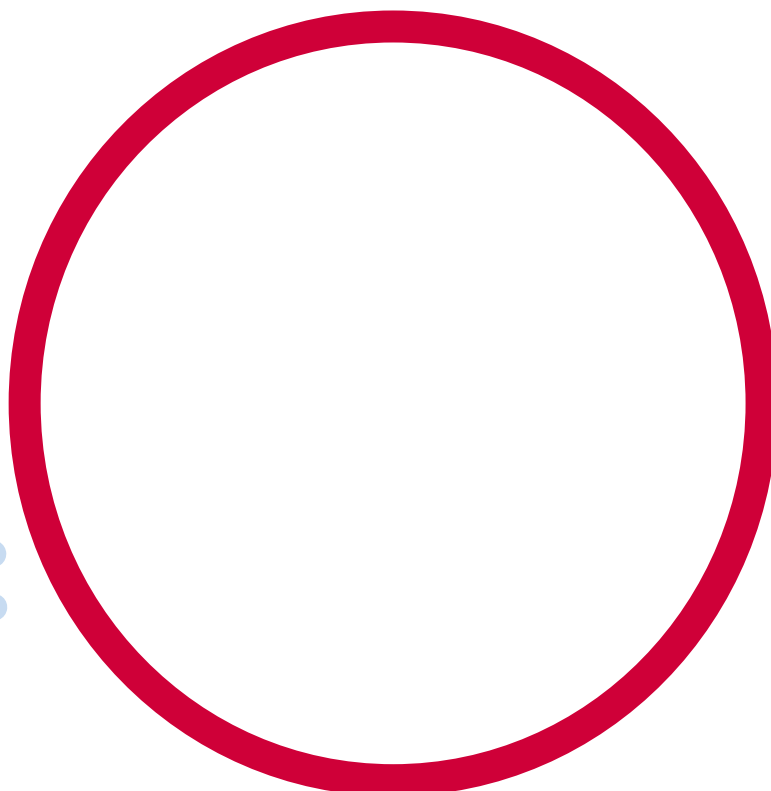
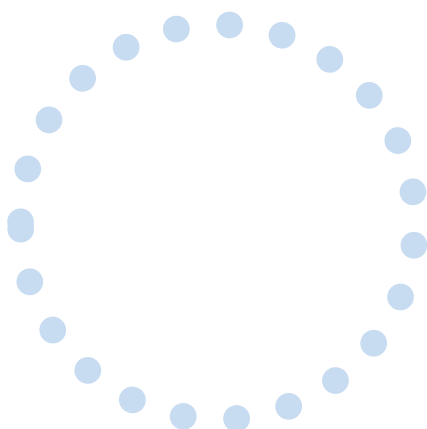
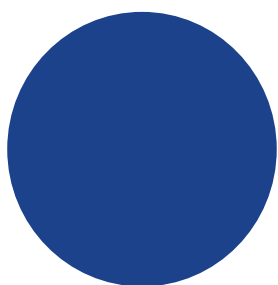


Complaint Handling Policy

Early Childhood Education Quality Assurance and Regulatory Services Directorate



This policy outlines the complaint handling approach for the NSW Regulatory Authority of early childhood education, and outside school hours care services.

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1. Purpose

The Policy outlines:

- the types of complaints that can be managed or investigated by the NSW Regulatory Authority, and;
- how the NSW Regulatory Authority manages these complaints, including the expected timeframe for acknowledgement, investigation and resolution.

2. Context

The Quality Assurance and Regulatory Services (QARS) Directorate within the NSW Department of Education acts under delegation as the NSW Regulatory Authority for early childhood education and care services.

The NSW Regulatory Authority is responsible for administering the National Quality Framework (NQF) and has a range of powers and tools to facilitate continuous improvement in the provision of education and care services and to ensure compliance with the NQF.

The NSW Regulatory Authority will exercise its functions and powers in a manner that is fair, consistent, objective, and in line with its [Guiding Principles](#), as well as standards outlined in the *NSW Government Sector Employment Act 2013*, internal policies and procedures and the Code of Conduct.

Appropriately managing complaints to the NSW Regulatory Authority is critical to ensuring that the public interest is upheld in an ethical, impartial and apolitical manner.

3. Scope

This Policy applies to:

- complaints received about in scope and out of scope education and care services in NSW
- complaints received regarding NSW Regulatory Authority staff, policies, processes or communications to the sector or public.

In-scope services are regulated under the National Quality Framework (NQF), which is comprised of the *Children (Education and Care Services) National Law* (NSW) (the “National Law”), the *Education and Care Services National Regulations* (NSW) (the “Regulations”), and the National Quality Standard. In scope services include centre-based services, such as long day care, outside school hours care (including vacation care) and preschools, and family day care services.

Out-of-scope services (or State regulated services) are regulated under the *Children (Education and Care Services) Supplementary Provisions Act 2011* (the “State Law”). Mobile and occasional care services are regulated under the State Law. Following changes to the State Law, the National Law provisions apply to out of scope services, with certain modifications. Where the National Law applies, the provisions are referred to as the “National Law Alignment Provisions”.

4. Guiding Principles

The overarching principles of the NSW Regulatory Authority for implementing its functions through best practice, risk based regulation are set out in the [Guiding Principles Policy](#). Specific principles that apply to complaint handling include the following:

Transparency

The NSW Regulatory Authority will ensure the complaints handling process is transparent and accessible to all complainants. This includes ensuring that complainants are aware of the complaint handling process, including an expected timeframe for resolution of the complaint.

The NSW Regulatory Authority [policy framework](#) is based on best practice, the requirements of the National Law and the principles of good decision making. The NSW Regulatory Authority will ensure that all complaints received are handled in accordance with the NSW Regulatory Authority Complaint Handling Policy and associated procedures.

Outcomes focused

The NSW Regulatory Authority is responsible for implementing the NQF, the objectives of which include ensuring the safety, health and wellbeing of children attending education and care services, and promoting continuous improvement in the provision of quality education and care services in NSW.

The NSW Regulatory Authority will handle all complaints to ensure that the issues raised are given proper consideration and are responded to in an appropriate manner.

Timely

The NSW Regulatory Authority is committed to responding to complaints in an effective and timely manner. Where there is a possibility that the NSW Regulatory Authority may not meet an expected timeframe, the NSW Regulatory Authority will make direct contact with the complainant as soon as practicable.

This policy is also framed by values outlined in the NSW Department of Education [Complaints Handling Policy](#).

5. What is a complaint?

According to the Australian and New Zealand Standard Guidelines for complaint management in organisations (AS/NZS 10002:2014), a complaint is an ‘*expression of dissatisfaction made to or about an organisation related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required*’ (NSW Ombudsman, 2018).

6. Complaints managed by the NSW Regulatory Authority

The NSW Regulatory Authority is able to manage complaints about:

- non-compliance with the National Law and Regulations by education and care services, including but not limited to personnel such as the approved provider, educators, and other members of staff;
- NSW Regulatory Authority staff;
- NSW Regulatory authority policies, processes or communications.

If there is an issue or concern relating to an education and care service, the complainant should first consider raising the issue with the approved provider or nominated supervisor of the service.

Note: *Regulation 173 Prescribed information to be displayed*

Under *Regulation 173(2)(b)*, approved providers are required to display the name and telephone number of the person at the service to whom complaints may be addressed. And under *Regulation 173(2)(e)*, the contact details of the Regulatory Authority.

Regulation 175 Prescribed information to be notified to Regulatory Authority outlines the approved provider’s responsibilities to notify the NSW Regulatory Authority where they have received notifications and where incidents have occurred.

Under the National Law and Regulations, approved providers of education and care services are required to maintain policies and procedures for dealing with complaints (Regulation 168(2)). When a complaint is received, the approved provider is required to notify the NSW Regulatory Authority, and proceed to investigate and resolve the complaint promptly.

If the complainant has lodged a complaint with the approved provider and feels that an adequate response has not been received, or feels that the complaint will have an adverse

or negative impact on the relationship with the service, the complainant can also lodge a complaint with the NSW Regulatory Authority.

In the event that the Regulatory Authority receives information that suggests that the safety, welfare or well-being of a child may be compromised, it may, Under Chapter 16A of the [Children and Young Persons \(Care and Protection\) Act 1998](#) (the CYPCP Act), provide information or make referrals to internal business units or other relevant agencies.

7. Complaint matters that are out of scope for the NSW Regulatory Authority

The NSW Regulatory Authority cannot manage complaints about education and care services or other matters that are not covered by the National Law or Regulations, including matters such as:

- the fees charged by education and care services;
- the level of government preschool program funding allocated for an education and care service;
- an unsuccessful government grant funding application lodged by an approved provider;
- the Child Care Subsidy (CCS), including any issues relating to applications and eligibility;
- educator or other sector relevant employment conditions, including remuneration.

For complaints about the Child Care Subsidy (CCS), the complainant can contact the Commonwealth Department of Education, Skills and employment (DESE) via email ccshelpdesk@dese.gov.au, telephone 1300 667 276 or online via the [Child Care Subsidy](#) page.

Complaints about child care fees can be directed to NSW Fair Trading on 13 32 20.

For complaints about industrial relations matters or employment conditions in an education and care service, the complainant can contact the Fair Work Commission on 13 13 94.

Complaints about NSW service level government funding, or grant funding are best referred to the NSW Department of Education through the Feedback Assist widget on the department's [website](#).

If the complainant is unsure whether the NSW Regulatory Authority can deal with the complaint, the Information & Enquiries (I&E) team on 1800 619 113 will be able to provide advice, or refer complainant to the appropriate agency.

8. Complaints about an education and care service

Complaints can be made about an education and care service, any of its staff or management. These complaints may concern their behaviour, an incident at the service, or other aspects of the service's operations under National Laws and Regulations, including a service's:

- physical environment
- quality of education
- interactions between staff and children including inappropriate behaviours or inappropriate discipline.

All early childhood education and care service related complaints will be recorded into the designated IT system and progressed for further action based on the complaint issues reported. For those complaints that require further action, the NSW Regulatory Authority will allocate actions to the relevant business areas. These follow up actions may include telephone calls, service visits, or formal investigations for more serious complaints.

The NSW Regulatory Authority will risk assess and prioritise complaints to ensure the provision of an appropriate response proportionate to any risks presented.

9. Complaints about the NSW Regulatory Authority

All staff working in the NSW Regulatory Authority 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](#)).

Complaints about the conduct of staff working in the NSW Regulatory Authority will be managed in accordance with the Department's [Complaints Handling Policy](#).

10. How to make a complaint to the NSW Regulatory Authority

Complaints about early childhood education and care services can be lodged through:

- direct communication to a hub coordinator or any Department of Education staff member

- the Feedback Assist widget on the NSW Department of Education [website](#)
- email to ececd@det.nsw.edu.au inbox, or
- the Information & Enquiries (I&E) line on 1800 619 113.

Complaints about NSW Regulatory Authority staff, policies, processes or communications can be lodged through:

- the Feedback Assist widget on the NSW Department of Education [website](#)
- the Information & Enquiries (I&E) line on 1800 619 113
- email to ececd@det.nsw.edu.au inbox.

11. Timeframes for complaint handling

Handling complaints in a timely manner ensures that the NSW Regulatory Authority continues to service the needs of the community, while ensuring the effective resolution of concerns.

All complaints will be acknowledged by the NSW Regulatory Authority within five business days, preferably by email.

When acknowledging a complaint about an education and care service or an approved provider, the complainant will be provided with a reference number to allow for follow up during the complaints handling process.

During the investigation process, the NSW Regulatory Authority may need to contact the complainant to obtain further clarification of the complaint issue or to obtain further evidence. In some cases, the investigation process may take longer in order for the complaint to be adequately resolved and concluded.

Complaints are considered resolved when the NSW Regulatory Authority has, to the best of its ability, acknowledged, assessed and provided a resolution to the complainant.

In some instances, the NSW Regulatory Authority may not be able to notify the complainant of the specific outcome of an investigation. This is due to legislative restrictions under the National Law and Regulations and privacy requirements in accordance with the *Privacy Act 1988* (Cth). In all cases, the NSW Regulatory Authority will inform the complainant when the matter has been investigated and considered resolved. Where possible, the complainant will be advised of the outcome.

The NSW Regulatory Authority will provide you with an outcome in 20 working days, if not sooner. Some complaints may require a more detailed investigation and therefore, it may take longer for the NSW Regulatory Authority to advise you of an outcome. If this is

expected, the NSW Regulatory Authority will contact you as early as possible in the complaint handling process to ensure you are aware of the anticipated timeframe.

The NSW Regulatory Authority will aim to resolve complaints as quickly as possible. If an investigation is expected to take longer than 20 working days, the NSW Regulatory Authority will provide an update to the complainant, and the revised timeframe for resolution.

12. Complaint handling relating to child protection and child safety

When the NSW Regulatory Authority receives a complaint that indicates there may be a significant risk of harm to a child (or children) at a service, it will assess the complaint and identify whether the service has made the appropriate reports.

If the complaint is related to the conduct of an educator and relates to a child protection matter, the NSW Regulatory Authority will confirm with the service whether they have contacted the NSW Department of Communities and Justice (DCJ) and the NSW Office of the Children's Guardian (OCG). The NSW Regulatory Authority may also contact and notify these agencies.

If a complaint is received about the conduct of a staff member in the NSW Regulatory Authority which allege a risk of significant harm to a child, the complainant will be advised to speak to their relevant workplace manager and, if appropriate, report the incident to the Child Protection Helpline (132 111).

Complaints concerning NSW Regulatory Authority staff members which allege a risk of significant harm to a child will be managed in line with the Department's policy, [Child Protection: Allegations Against Employees](#).

13. Privacy and requests for information

The NSW Regulatory Authority will endeavour, where possible, not to disclose the identity of complainants.

The NSW Regulatory Authority will maintain confidentiality where practicable, however the NSW Regulatory Authority may need to provide information about the complaint to relevant parties. For example, in line with the principles of procedural fairness, where a complaint is investigated, the NSW Regulatory Authority may need to disclose the general

nature of the complaint so that the person/entity being complained about has sufficient information in order to respond to the allegations against them.

When receiving a complaint, the NSW Regulatory Authority will ask whether the complainant requires a response, and whether the complainant would like to remain anonymous.

The privacy of complaints and complainants is handled in line with the Department's [Code of Conduct Policy](#) and related internal staff procedures.

The privacy of complainants regarding education and care services is also managed in accordance with the Australian Privacy Principles under the *Privacy Act 1988* (Cth), as well as Sections 261, 271 and 273 of the National Law.

In the event that findings of a complaint result in prosecution proceedings, the NSW Regulatory Authority (NSW Department of Education) may need to subpoena the complainant to provide evidence.

The NSW Regulatory Authority (NSW Department of Education) may also be required to disclose information regarding a complaint, the process of an investigation, or information around the overall complaint handling process if a request for information is lodged under the *Freedom of Information Act 1982* (Cth) or the *Government Information (Public Access) Act 2009*.

14. Review

The NSW Ombudsman is responsible for investigating complaints made about NSW public service agencies in an independent and impartial manner.

If a complainant feels that the NSW Regulatory Authority has not adequately or appropriately investigated a complaint to the best of its ability, complainants can request a review of the NSW Regulatory Authority investigation process by lodging a complaint with the NSW Ombudsman.

See the NSW Ombudsman's [website](#) for further information, including the types of complaints that NSW Ombudsman can accept.

Relevant Legislation

- *Children (Education and Care Services) National Law (NSW)*
- *Children (Education and Care Services) Supplementary Provisions Act 2011 (NSW)*
- *Children and Young Persons (Care and Protection) Act 1998 (NSW)*
- *Education and Care Services National Regulations (NSW)*
- *Freedom of Information Act 1982 (Cth)*
- *Government Information (Public Access) Act 2009 (NSW)*
- *Government Sector Employment Act 2013 (NSW)*
- *The Privacy Act 1988 (Cth)*

15. Document Version Control

Policy owner	Version	Approved by	Date last reviewed
Director, Regulatory Strategy, Policy and Practice	1.0	Executive Director, Quality Assurance and Regulatory Services	5 May 2021