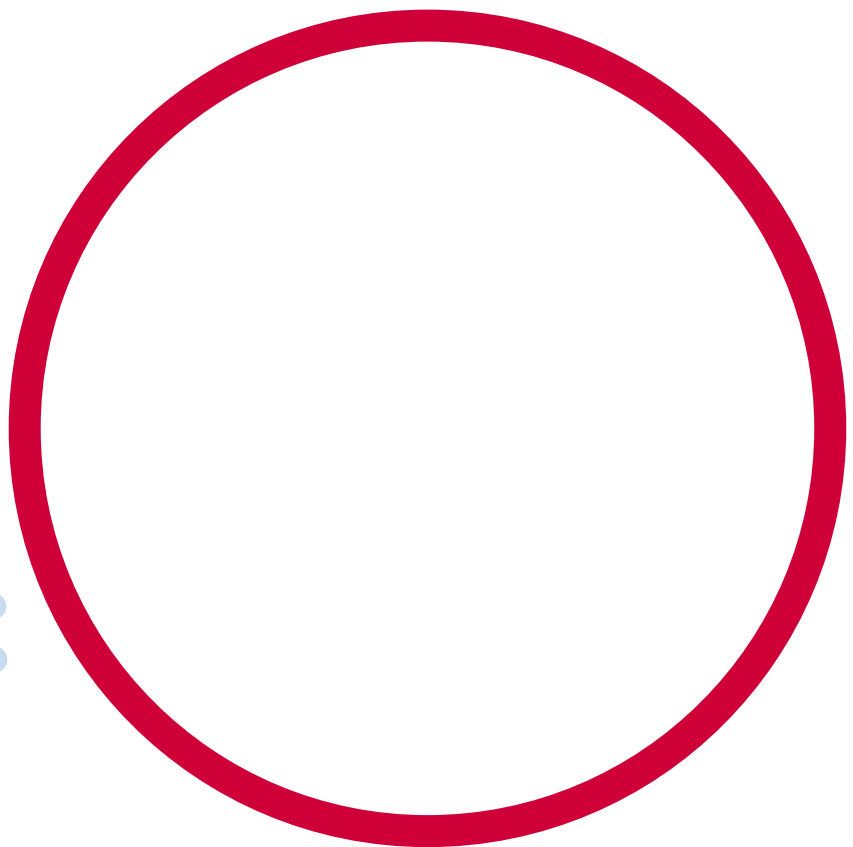
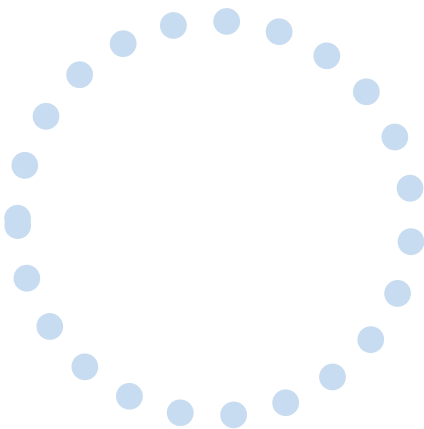
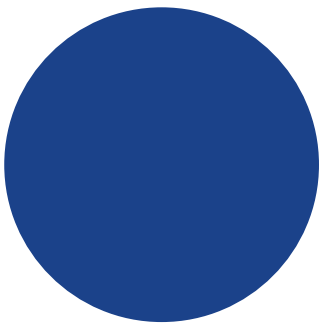


# Fees and Charges Policy

## Early Childhood Education Quality Assurance and Regulatory Services Directorate



## Contents

<b>1. Purpose</b> .....	<b>2</b>
<b>2. Scope</b> .....	<b>2</b>
<b>3. Guiding principles</b> .....	<b>2</b>
<b>4. Policy statement</b> .....	<b>3</b>
4.1 Fee Types .....	3
4.2 Collection of Fees.....	5
4.3 Alternative Arrangements.....	5
4.4 Non-payment of Fees.....	6
<b>5. Review</b> .....	<b>6</b>
<b>6. Appendix A</b> .....	<b>6</b>
<b>7. Version Control</b> .....	<b>7</b>

# 1. Purpose

This policy outlines how the Regulatory Authority exercises its powers in relation to fees.

The information in this policy is intended to clarify the circumstances under which the Regulatory Authority will exercise its discretion in respect to collecting, waiving, reducing and refunding fees, entering into agreements regarding fees, and outlines the considerations it may take into account when exercising that discretion.

## 2. Scope

This Policy applies to both in-scope and out-of-scope services in NSW.

In-scope services are regulated under the National Quality Framework (NQF), which consists 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 Standards. In scope services include centre-based services, such as long day care, out of school hours 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 the only service types 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.”

## 3. Guiding principles

The Regulatory Authority’s over-arching principles for implementing its functions are set out in the Guiding Principles Policy. Specific principles that apply to the Regulatory Authority’s management of fees and charges include the following:

- The Regulatory Authority will collect fees in all cases unless there are exceptional circumstances in which the collection of the relevant fee (or the full amount of the fee) would not be appropriate. Where exceptional circumstances exist, the Regulatory Authority has a discretionary power to waive, reduce or defer fees. (Further information on exercising discretionary power can be found in the Guiding Principles policy). When exercising a discretion in respect to fees, the Regulatory Authority will have regard to whether the decision will support the objectives and guiding principles of the National Law.

- The Regulatory Authority will consider any request to waive or defer a fee on a case by case basis. The Regulatory Authority will not grant ongoing exemptions from fees.
- The Regulatory Authority may refund fees in cases of an error by the Regulatory Authority or the applicant, such as a duplicate payment.
- Where fees are reduced, deferred, waived or refunded, a record will be made on the Regulatory Authority's record management system to indicate the reason that the relevant action was taken and the approval of the decision.
- In making decisions about applications for waiver, reduction, deferral or refunding of fee/s, the Regulatory Authority will advise the person to which the fees relates of its decision.
- Where fees are to be reduced, the amount by which the fees are reduced will be assessed on a case by case basis, having regard to the nature of the exceptional circumstances involved.
- Where fees are to be deferred until a later point, the later point for payment of fees will be determined on a case by case basis, having regard to the nature of the exceptional circumstances involved.
- Where fees are to be refunded, the Regulatory Authority will do this in a timely manner.

## 4. Policy statement

The collection of fees allows the Regulatory Authority to recover some of the costs that are associated with its functions and activities including the national quality rating and assessment process, monitoring and compliance activities as well as many basic transactions, such as processing applications.

### 4.1 Fee Types

The Regulatory Authority collects annual fees and transaction fees, known as prescribed fees (Regulation 232 of the National Regulations). The prescribed fees are set out in schedule 2 of the National Law and are indexed each financial year. The current year's fees can be found on the [ACECQA website](#).

- **Annual fees** apply to all approved in-scope and out-of-scope services and are collected once a year.

Relevant Law	Fee type
Section 53 (National Law)	Annual Fees (in-scope)
Section 53 (National Law Alignment Provisions)	Annual Fees (out-of-scope)

- **Transaction fees** are one-off fees, which apply to applications and other transactions. For example, applications for a provider or service approval, or a waiver will attract a prescribed fee.

Relevant Law	Fee type
Section 11(d)	Application for provider approval
Section 44(1)(e)	Application for service approval
Section 59(2)(c)	Notification of intended transfer of service approval
Section 88(c)	Application for service waiver
Section 95(c)	Application for temporary waiver
Section 98(4)	Application to extend a temporary waiver
Section 139(2)(c)	Application for reassessment and re-rating
Section 145(2)(c)	Application for review by Ratings Review Panel
Section 152(3)(c)	Application for highest rating
Section 159(3)(c)	Re-application for highest rating

The Regulatory Authority may also charge a fee for the below applications, however there is no prescribed fee.

Relevant Law	Fee Type
Section 22(2)(c)	Application to amend provider approval
Section 37(2)(c)	Application to voluntarily suspend provider approval
Section 39(6)(c)	Application by executor for provider approval
Section 40(3)(c)	Application by legal personal representative or guardian for provider approval
Section 54(2)(c)	Application to amend service approval
Section 85(2)(c)	Application to voluntarily suspend service approval
Section 141(4)(d)	Application for review by Regulatory Authority

## 4.2 Collection of Fees

### Annual Fees

An approved provider must pay the annual service approval fee to the Regulatory Authority for each service approval the provider holds. The fee must be paid on or before 1 July each year. Prior to the due date, the approved provider will be issued with an invoice outlining the amount of the fee and the payment methods available.

The Regulatory Authority may charge a late payment fee services if the approved provider does not pay the fee by 1 July of the relevant year. The late fee is 15% of the annual fee for each 30 days (or part thereof) that the payment is overdue.

### Transactions Fees

Transaction fees apply when a provider submits an application and a prescribed fee is payable. Payment of the prescribed fee forms part of the application, which will not progress unless the fee has been paid.

Transaction fees relating to in scope services and providers are paid by credit card at the time of application through the public portal. Fees relating to out of scope services and providers are paid manually by credit card.

## 4.3 Alternative Arrangements

Section 261(e) of the National Law and Section 27B of the Supplementary Provisions allows the Regulatory Authority to **collect, waive, reduce, defer, and refund fees** (including late payment fees) and to enter into agreements in relation to the prescribed fees under the National Law.

A person seeking to have fees waived, reduced, deferred or refunded, or to enter into agreements in relation to fees, must make an application in writing and provide sufficient information to enable the Regulatory Authority to make a fully informed decision. Sufficient information includes a statement about the reasons for the application, together with any other relevant supporting documentation.

The Regulatory Authority may waive or refund the whole, or any part, of the annual or transaction fee if it is satisfied that there are exceptional circumstances that justify waiving the whole or part of the fee. Further information on exceptional circumstances can be found in the [Guiding Principles policy](#).

Such exceptional circumstances may include but are not limited to:

- Where the collection of the whole or part of the fee would lead to undue financial hardship in the exceptional circumstances applying to the service and the waiver or refunding of the application fee (or annual fee) would not be contrary to the principles of this Policy.
- Relocation of a service due to a natural disaster or other emergency.
- Death or serious illness of a provider or person with management or control of a provider where the application needs to be withdrawn after commencement of work on the application by the Regulatory Authority.
- Where the application has been withdrawn prior to the Regulatory Authority validating the application.
- Where the fee payment has occurred due to an error.

The Regulatory Authority will exercise its fee powers impartially, reasonably, in good faith and for a proper purpose, and having given proper and genuine consideration to the merits of the particular case.

## 4.4 Non-payment of Fees

Where a provider fails to pay a transaction fee, such as an application fee, the Regulatory Authority will not progress the application, which will be invalidated.

Where a provider fails to pay an annual fee, the Regulatory Authority may take further action. In the first instance the Department will attempt to make contact with the provider and advise that payment has not been made. In some circumstances a late fee may apply.

If a provider continues to fail to pay the fee, the Regulatory Authority may take action to suspend or cancel the provider approval or service approvals. The Department will issue a “Show Cause Notice” prior to suspending or cancelling an approval for non-payment of fees.

## 5. Review

Decisions made by the Regulatory Authority regarding fees are not subject to review.

## 6. Appendix A

**A waiver of a fee** means that the annual fee or transaction fee is not charged for the current year or relevant transaction.

**A reduction of a fee** means that the annual fee or transaction fee is set at a reduced amount. The amount by which the fees are reduced will be considered in view of the exceptional circumstances that exist.

**The deferral of a fee** means that the annual fee or transaction fee will be collected at a later date that is determined by the Regulatory Authority. The later point for payment of fees will be considered in view of the exceptional circumstances that exist.

**The refund of a fee** means that the annual fee or transaction fee that has been collected will be returned to the person who paid the fee (which may include a company).

## 7. Version Control

Policy Owner	Version	Approved by	Date last reviewed
Director, Regulatory Strategy and Performance	1.0	Executive Director, Quality Assurance and Regulatory Services	24 August 2020