

8. Regulating for quality

Key points

- ✳ **Governments regulate the quality of early childhood education and care (ECEC) services to ensure children's safety and promote their development. Aspects of ECEC quality can be difficult to discern by families and poor quality can bring significant risks of harm (such as for child safety). Well-designed regulation can promote trust in services and reduce risks.**
- ✳ **The regulatory system already has several mechanisms that promote efficiency, transparency and accountability, but there is room for further improvement.**
 - Annual reporting by state regulatory authorities would improve system-wide transparency and accountability. Reporting should include information on funding and performance metrics (including approvals, assessments and ratings, and other monitoring and compliance measures).
- ✳ **Assessment and rating processes should be improved, in order to provide a reliable indication of ECEC quality.**
 - Under-resourcing of regulatory authorities has prevented timely assessment and rating visits. Most services that are found to not meet the National Quality Standard (NQS) go more than three years before they are reassessed. This leads to missed opportunities for quality improvement and reduces the accuracy of information available to families on quality. An independent review should assess whether additional funding is required.
 - Many inquiry participants have expressed concern over the accuracy, consistency, and efficiency of assessment and rating processes. While efforts are underway to address some of these issues, their effectiveness is unclear. A review of the National Quality Framework should seek to identify opportunities for further improvement.
- ✳ **Ratings against the NQS are seldom used by families to choose between services.**
 - The communication of information on quality should be more effective. This could include communicating NQS ratings to families in more circumstances, with greater levels of detail and clearer wording.
- ✳ **The regulatory system deals well with serious underperformance, but more support could be offered to services that are not meeting the NQS. The system could do more to reward providers of demonstrated quality seeking to expand.**
 - In July 2023, 11% of rated ECEC services were not meeting the NQS. Most services that do not meet the NQS subsequently meet the NQS in their next rating. But in July 2023, 5% of services not meeting the NQS had held this rating for 10 or more years.
 - Higher quality providers should be prioritised when regulators consider new service approvals.

Governments regulate early childhood education and care (ECEC) services primarily to improve the quality of education and care that they provide, including through the provision of information on the quality of services to inform families' decisions.

The National Quality Framework (NQF) is the primary vehicle for ECEC quality regulation, setting out a regulatory system for most long day care (LDC),¹ family day care, preschool and outside school hours care (OSHC) services. The NQF itself is covered in paper 2, including the appropriateness of its educator ratios and qualification requirements, the scope of its coverage and whether it is fit for purpose for OSHC.

This paper considers the effectiveness and efficiency of regulation under the NQF, including:

- why and how the quality of ECEC services is regulated, and a framework for the assessment of this regulation (8.1)
- whether the quality regulation system is operating with efficiency, accountability and integrity (8.2)
- the performance of the assessment and rating system, including its accuracy, consistency, efficiency and timeliness (8.3)
- the extent to which families use National Quality Standard (NQS) ratings (8.4)
- how the quality regulation system supports and takes action against underperforming services (8.5).

This draft paper focuses on key issues relating to the quality regulation system raised by inquiry participants. The Commission is seeking further information on a number of issues that will be considered in the final report of this inquiry.

8.1 Regulation aims to improve the quality of ECEC

The potential for market pressures alone to ensure and enhance ECEC quality is limited by a range of factors. Where families struggle to discern the quality of services, competition may not take place on the basis of quality. Families often do not have multiple available and accessible places to choose between based on quality (to the extent that they can gauge it). And the benefits of ECEC quality are difficult to measure, long-term and extend beyond the individual family that pays for the service.

Well-designed quality regulation is necessary to promote children's health, safety and development. Providing better information on quality can inform families and, to some extent, strengthen providers' incentives to provide a high quality service. Direct guidance, requirements and support can lead to quality improvements even when the potential for competition on quality is limited. And serious risks to safety can be managed.

Of course, regulation creates costs and, unless operating effectively, may not lead to benefits. The remainder of this section covers actions taken by regulators to promote quality, and a framework within which these actions may be assessed.

¹ The NQF categorises service types differently to the classification system used for the Child Care Subsidy (CCS), which has been adopted throughout this report. Long day care services refer to centre-based services providing all-day care to children. Some CCS approved centre-based day care services also offer shorter sessions or occasional care.

The current regulatory system

Since 2012, quality in the Australian ECEC system has been regulated under the NQF.² The NQF provides a nationally consistent framework covering:

- the application of quality benchmarks through the NQS
- the assessment and rating processes against the NQS
- the process of provider and service approvals
- national approved learning frameworks for use in ECEC settings (paper 2).

The framework is set out in the *Education and Care Services National Law Act 2010* (Vic) (the National Law) and the *Education and Care Services National Regulations 2011* (NSW) (National Regulations).³

The NQS consists of 40 elements, which are grouped into 15 standards, and in turn are part of seven quality areas.

1. Educational program and practice – requires the service to use and document an approved learning framework and develop an educational program.
2. Children’s health and safety – relates to policies and procedures regarding hygiene practices, healthy eating, physical activity, preventing harm to children and dealing with injury or illness.
3. Physical environment – requires the design of indoor and outdoor areas to be safe, suitable and provide a diverse range of experiences, and for the service to use sustainable practices.
4. Staffing arrangements – relates to educator to child ratios, staff qualification requirements and professional staff interactions.
5. Relationships with children – relates to interactions with and support for children.
6. Collaborative partnerships with families and communities – includes relationships with and information provided to families, engagement with the local community and facilitation of access to support assistance.
7. Governance and leadership – includes governance arrangements and the development of key documentation, records and administrative systems.

The NQF underwent a major review in 2014. In response to the review, the number of elements in the NQS was reduced from 58 to the current 40, in 2018. More minor changes to regulatory processes and requirements were made in response to the 2019 review, with others awaiting implementation.

Under the NQF, each service is periodically assessed by its local state- or territory-based regulatory authority. In most states and territories, ECEC services are assessed and rated by a regulator within the jurisdiction’s Department of Education. The exceptions are Western Australia (whose regulator is within the WA Department of Communities) and South Australia (which uses an independent regulator, the Education Standards Board) (appendix C).

Each regulatory authority assesses and rates ECEC services in their jurisdiction. The possible ratings are:

- Significant Improvement Required – the service does not meet one of the seven quality areas or a section of the legislation and there is a significant risk to child safety, health and wellbeing
- Working Towards the NQS – the service provides a safe program but there are one or more elements of the NQS that it does not meet
- Meeting the NQS – the service meets all 40 elements of the NQS

² Appendix C outlines the NQF in more detail.


³ The National Law was passed by all jurisdictions except Western Australia, which passed the *Education and Care Services National Law (WA) Act 2012*, with some minor variations.

- Exceeding the NQS – the service exceeds the NQS in at least four quality areas, with at least two of these being quality areas 1, 5, 6 or 7, and meets the NQS in all other quality areas.

Services that exceed all seven quality areas of the NQF can apply to the Australian Children’s Education and Care Quality Authority (ACECQA) for a further rating of Excellent. These ratings must be displayed by the service and are published through the national registers (which can be viewed on ACECQA’s website), and on the Starting Blocks website.

The state and territory regulatory authorities have various monitoring, compliance and enforcement powers, ranging from the ability to assess and rate services and monitor their compliance with the National Law and National Regulations, to the ability to issue infringement notices, prosecute people committing offences against the National Law, or cancel a service or provider’s approval to operate (figure 8.1). Other than the assessment and rating of services, these powers are primarily used for breaches of the National Law and Regulations (for example, due to serious child safety concerns), and this is typically separate to the assessment and ratings process.

Figure 8.1 – Powers and other measures used by regulatory authorities

Monitoring	Compliance and enforcement
<ul style="list-style-type: none"> • Targeted campaigns • Service assessments and ratings • Scheduled and unscheduled visits • Investigations into services 	<p>Actions that can be taken if an approved provider breaches the NQF</p> <ul style="list-style-type: none"> • Infringement notice • Emergency action notice • Compliance direction • Compliance notice • Enforceable undertaking • Direction to exclude inappropriate people from service premises • Adding conditions to or amending service approval • Prosecution • Suspension or cancellation of service or provider approval <p>Actions if a nominated supervisor breaches the NQF</p> <ul style="list-style-type: none"> • Infringement notice • Enforceable undertaking • Direction to exclude a person from service premises • Prosecution <p>Actions if a staff member or educator breaches the NQF</p> <ul style="list-style-type: none"> • Enforceable undertaking • Prosecution • Family Day Care educators: Infringement notice, enforceable undertaking, direction to exclude a person from service premises
<p>Other measures to promote quality</p> <ul style="list-style-type: none"> • Quality Improvement Plans • Risk Assessment and Management Tool • Support, education and resources for services 	

Source: Based on ACECQA (2020, pp. 495–499, 2023g).

Services also conduct some self-assessments of their performance and quality. For example, services must develop (and update at least annually) a Quality Improvement Plan in which they assess their programs and practices against the NQS and National Regulations, identify areas for improvement and include a statement about the service’s philosophy (ACECQA n.d.). Other measures, such as the Risk Assessment and

Management Tool, are encouraged but not compulsory⁴ – services can use the tool to help identify, assess and manage the risk of harm for the service’s children, staff and families (ACECQA 2023g, p. 3).

Waivers allow services to operate where they are unable to meet some regulatory requirements

Waivers help maintain the supply of ECEC services to families while the service deals with special circumstances or unexpected events. A service can seek a waiver for specific components of the National Regulations that relate to staffing requirements or the physical environment, with the overwhelming share of waivers in force relating to staffing (appendix C).

Waivers are overwhelmingly held by private for-profit operators: 76% of all services with at least one waiver are private for-profit, despite only accounting for 51% of the sector (table 8.1).

Table 8.1 Ratio of waivers to services

Management type	Proportion of all waivers	Proportion of all services
Catholic schools	1%	1%
Independent schools	1%	3%
Private for-profit	76%	51%
Private not-for-profit community managed	9%	20%
Private not-for-profit other organisations	9%	13%
State/Territory and Local Government managed	3%	7%
State/Territory government schools	1%	4%

Source: Productivity Commission estimates based on ACECQA data (unpublished).

A framework for assessing the regulatory system

Several elements make up a well-functioning regulatory system (box 8.1). This includes the intent, operation and practices that support the effectiveness of a regulation.

When the National Partnership on the National Quality Agenda for Early Childhood Education and Care (NQA) was first agreed by the Council of Australian Governments (COAG) in 2009, it outlined several principles of best practice regulation.

1. The system will operate in a transparent, accountable, efficient, effective and fair manner.
2. ECEC and outside school hours care (OSHC) service providers will have certainty about the regulatory requirements associated with the NQA.
3. The regulatory requirements on ECEC and OSHC care service providers will be consistent across Australia.
4. To the greatest extent possible legislative requirements contained under other laws will not duplicate the NQA’s regulatory requirements.
5. Joint governance arrangements will provide scope for individual jurisdictions to have their perspectives considered.
6. Jurisdictions will not move unilaterally to change standards or fees in the future.

⁴ Services are required under the National Law to undertake ongoing risk management practices using regular risk management and safety checklists, regularly updating maintenance logs, planning new experiences for children and identifying emerging risks and actively supervising children – but are not required to use the Risk Assessment and Management Tool for this (ACECQA 2023g, p. 8).

7. The NQS will include provision to recognise location specific conditions in particular circumstances (COAG 2009a, pp. 7–8).

This paper focuses on some aspects of the regulatory system that were raised most often by inquiry participants. Namely, it examines the extent to which:

- the regulatory system operates efficiently and with transparency and accountability
- service quality is reviewed and rated in a timely manner
- the ratings system provides useful information to families
- the system supports quality improvement and effectively deals with underperformance.

8.2 Does the system operate efficiently and with transparency and accountability?

One of the principles of any well-functioning regulatory system is that it operates efficiently and with integrity and accountability. This means that regulations should be understandable and have clear objectives, with clear roles, responsibilities and requirements of regulators, and that those who apply regulation are accountable for its performance (box 8.1).

Box 8.1 – Principles of good regulation

Governments typically have well-established principles that guide good regulation. While there is variation in the exact principles, they generally outline common themes.

- **Transparency:** regulation should be understandable and have clear objectives, with clear roles, responsibilities and requirements of different regulatory authorities.
- **Accountability:** regulation should have criteria against which its effectiveness can be judged and those who apply the regulation should be held accountable for its performance.
- **Proportionality:** regulation should be appropriate for the issue being addressed.
- **Consistency:** regulation should be consistent within itself and with other regulation.
- **Targeted:** regulation should focus on the problem it aims to address while minimising unnecessary complexity and costs on businesses and people. Enforcement of regulation should be based on risk, and regulation should be regularly reviewed to ensure it is fit for purpose.

Other principles guide appropriate governance and conduct of regulatory authorities specifically, including that regulators are free of undue political interference, are adequately resourced and have the capabilities needed to perform their role, use resources efficiently and keep administrative costs at an appropriate level.

Source: COAG (2007); PC (2020, p. 99).

For the most part, the role of national and state entities in the ECEC regulatory system are clear. ACECQA oversees the NQS, and the state regulatory authorities assess services against the NQS, and more broadly enforce the National Law and Regulations.

Some aspects of the ECEC regulatory system already promote efficiency. For example, the risk-based approach that regulatory authorities take in assessing and monitoring ECEC services tends to prioritise

underperforming services for more regular review (section 8.3). And the National Quality Agenda IT System also improves efficiency through a national system with data on ECEC services and providers, and by providing a portal through which services can provide information, such as notification of a serious incident (ACECQA n.d.; Lucas 2021).

One of the ways in which the system could improve efficiency is through better consistency in how the states and territories enforce the National Law and National Regulations. Significant differences exist in measures such as the time taken between reassessments of services (section 8.3) and the level of support given to underperforming services (section 8.5). Such inconsistencies not only create unequal treatment of services by jurisdiction, but can also impose unnecessary costs on service providers that operate across multiple jurisdictions.

The ECEC regulatory system enshrines some accountability and transparency principles, but there is room for development. For example, ACECQA publishes the detailed rating of every service, and various indicators based on this (for example, the proportion of services in each jurisdiction with each NQS rating). And some of the operations of each state regulatory authority (such as the number of services assessed) are also included in state government department annual reports. But some information on the actions and funding of regulatory authorities is not readily available in many jurisdictions.

In South Australia, the regulatory authority publishes an annual report that details the regulator's funding and outcomes such as the number of visits, assessments and other activities performed in a year (ESB 2022). This allows various stakeholders, including all levels of government, families and ECEC services, to better understand how quality is being regulated in that jurisdiction, and how ECEC services are performing. To promote transparency and accountability, all regulatory authorities should be required to publish an annual report detailing how the regulator delivered on broader objectives, including metrics on the number of assessments performed, average time between assessments, funding and other monitoring, compliance and enforcement activities.



Draft recommendation 8.1

State and territory regulatory authorities should improve their performance reporting

To improve the transparency of the ECEC regulatory system, all regulatory authorities should publish an annual report detailing progress against key objectives, including metrics on the number of assessments performed, average time between assessments, funding and other monitoring, compliance and enforcement activities.

At the system level, there is no entity with clear responsibility for quality. It appears that both ACECQA and the state regulatory authorities influence quality, though this creates a risk of diluting the overall level of accountability for quality in the system. There may be some merits to states having primary responsibility for ECEC quality in their jurisdiction - as recommended by the South Australian *Royal Commission into Early Childhood Education and Care* – given that states also regulate ECEC quality in their own jurisdiction (SA Government 2023, p. 6). However, the Commission considers that there are also merits to the Australian government having overarching responsibility for quality in the sector, given that it is part of a national system, and there is a need for consistency across jurisdictions. System-level quality could be included as an explicit responsibility in the proposed ECEC Commission, as is considered in paper 9. This will be explored further in the final inquiry report.

8.3 Are assessment and rating processes working well?

The assessment and rating of services against the NQS is at the heart of the NQF. These processes can ensure services follow the National Law and the National Regulations, assess the quality of the education and care they provide and allow this information to be used to drive quality improvement directly (through support and compliance) and indirectly (by informing families' choices).

Views on the accuracy of ratings are mixed

Since it took effect, providers' support for the broad framework of the NQF has been consistent and strong, remaining at over 95% for a decade (ACECQA 2022b). Many inquiry participants also conveyed strong support for the NQF (for example, The Creche & Kindergarten Association, sub. 155, p. 14; Family Day Care Australia, sub. 66, p. 6; Goodstart Early Learning, sub. 125, p. 16; KU Children's Services, sub. 83, p. 6; SDN Children's Services, sub. 63, p. 5). But some expressed scepticism about the ability of NQS ratings to measure quality accurately.

These concerns included the potential for the 'gaming' of assessment and rating visits. Until recently, guidance was for regulatory authorities to provide four weeks' notice before a visit, and there had been reports of providers temporarily moving equipment – or even staff – to a service before assessment (Child Development Education and Care Research Group, sub. 19, p. 8). The potential for this may be limited by the introduction of shorter notice periods of 1 to 5 days before most assessment and rating visits (ACECQA 2023b, p. 353), although some regulatory authorities have not yet implemented this change. Educators and centre directors, while acknowledging the issue (with one noting that 'importing an A team' during assessment and rating preparation time is a widespread practice in the sector), had mixed views on whether a shorter notice period would address this (ACA NSW 2023).

Concerns also relate to the extent to which the assessment and rating process relies on documentation, rather than observations of interactions between educators and children. This is reflected in one inquiry participant's statement that 'assessment and rating is a joke - if you have time to write, [you're] sitting pretty. It's not a real reflection of many services or how they operate day to day' (brief comment 96). Documentation may not even have been produced at the service being assessed, with reports of services copying and pasting material including quality improvement plans (ACA NSW 2023).

Other inquiry participants have been sceptical of whether the quality improvement suggested by changes in ratings data over time (paper 2) reflects a true improvement, for example arguing that authorised officers can be convinced that a service is high quality by centre directors who know the right 'lingo' of quality, or if the physical premises of a service are new and modern, even if the quality of education and care provided to children is mediocre.

It is difficult to determine how closely aligned NQS ratings are to the 'true' quality of a service.⁵ There is no perfectly accurate measure of quality against which NQS ratings can be compared, and alternative measures of quality seem to have at most a minor role in explaining how different ECEC programs have led to different effects on children's outcomes (paper 1).

There are plans for the introduction of a Preschool Outcomes Measure for children attending a preschool program in the year before full-time school, with a trial set to take place in 2025 (DoE nd). This measure

⁵ There are many conceptions of what comprises ECEC quality, and what the aims of ECEC should be (for example, Dahlberg, Moss and Pence 2013). This report would refer to one service as higher quality than another if it would improve the outcomes of children, on average, to a greater extent – noting that each child's experience will be unique, and that many outcomes can be affected by ECEC.

could be used to compare the pace of children's learning between centres with different NQS ratings, at least for older children, and provide some indication of the relevance of these ratings for children's outcomes.

It is unclear how effectively efforts at promoting consistency are operating

Many inquiry participants have stated in consultations and in submissions that there is inconsistency within or between jurisdictions in the assessment and ratings process (for example, G8 Education, sub. 68, p. 11; Goodstart Early Learning, sub. 125, p. 31; The Y Australia, sub. 127, p. 13). For example, it has been argued that 'authorised officers often impose their own interpretations and biases onto the assessment process, deviating from established guidelines and regulations' (Centre Support, sub. 113, p. 3).

Promoting consistency in the application of the NQF is one of the primary functions of ACECQA, and efforts are already in place to support this objective. Authorised officers must go through nationally consistent training delivered by ACECQA, and 'drift tests' are conducted in attempts to ensure that authorised officers continue to carry out processes consistently.

But in a 2015 trial, 20% of authorised officers gave an overall service rating that differed from that of the ACECQA lead assessor who was shadowing them (ACECQA 2016a). It is possible that the degree of reliability between the ratings of two authorised officers would be lower, and unclear how consistency between authorised officers may have changed since that trial was conducted, including with the introduction of the 2018 NQS.

When ratings are inconsistent, they are less useful for families. Inconsistency may also misdirect quality improvement efforts, as inadequacies go unrecognised or are falsely identified. And any incentives to improve quality will be dampened if this improvement risks going unnoticed and unrewarded.

How are assessment and rating processes affecting educators and services?

Some degree of regulatory burden is necessary to ensure ECEC is high quality, provide reliable information to families and promote a culture of continual improvement. But the resources this requires can be significant – particularly as the time educators spend producing evidence that will be used in assessment and rating processes is time that cannot be spent providing education and care to children.

In 2022, about half of providers who responded to an ACECQA survey indicated that they experienced a high level of burden from complying with the NQF. Assessment and rating visits were the component of the NQF that was reported to lead to high levels of burden by the largest share of providers (64%). Only 37% considered that the benefits of assessment and rating visits outweighed their costs (ACECQA 2022b).

Inquiry participants have argued that providing high quality ECEC is sometimes in opposition to convincing regulators that high quality ECEC is being provided. For example, the Commission heard from one provider that considered but eventually decided against seeking a rating of Exceeding due to a perception that it would require using resources to *demonstrate* quality that could otherwise be spent *improving* quality, to the detriment of children.

Educators and centre directors are often frustrated with the documentation requirements of the assessment and rating process:

Educators are required to do so much paperwork rather than spending quality time with children. (brief comment 79)

The level of paperwork required in early childhood education is voluminous and though we endeavour to minimise this, takes away qualified staff from the children. (brief comment 102)

The paper work side and assessment and rating process needs to change though. Focus needs to be on the children not what paper work needs to be completed. (brief comment 54)

A common source of complaint is the assessment and planning cycle element of the NQS, which requires documentation of children's learning, and has been specifically mentioned by many providers as a source of administrative burden (ACECQA 2022b). The Commission heard arguments that this documentation is often produced as a box-ticking exercise and can go unused, while taking up a significant proportion of educators' time.

The NQF was designed as an outcomes-based regulatory framework (ACECQA 2022c, p. 3). But the outcomes against which services are assessed are not children's outcomes, with the contribution of ECEC towards these being difficult to assess. Instead, the assessed outcomes are the elements and standards of the NQS. For example, element 1.2.1 states that 'educators are deliberate, purposeful, and thoughtful in their decisions and actions' (ACECQA 2023b, p. 127); authorised officers must determine whether this is the case.

Authorised officers are limited in their ability to directly observe whether such statements are true, particularly as visits may only last six hours, and in that time educators know they are being assessed. The assessment and ratings process leads to production of written documentation that authorised officers may consider, such as the written program, team meeting minutes, documented examples of practice, planning documentation and documentation monitoring children's progress. While philosophically the NQF may be outcomes-based, its application seems to place a significant role on inputs.

Guidance on what is required to meet elements of the NQS is high-level and vague, and does not include the expected quantity and level of detail for documentation. Where expectations are unclear, services may feel a need to produce an unnecessary amount of documentation, as otherwise there is a chance that an authorised officer may feel that there is insufficient evidence of their quality. Inquiry participants, including many educators, have expressed a desire for greater clarity.

Proper and appropriate guidance needs to be given for programming and planning for children and a clear expectation of what [assessment and rating] wants. (brief comment 114)

A recently introduced move to greater use of partial reassessments against particular quality area/s of the NQS may affect the experiences of educators and services, with less comprehensive but potentially more frequent visits. Some researchers have suggested that particular aspects of the NQS may be more significant than others, and could be prioritised (Child Development Education and Care Research Group, sub. 19, p. 8, Molloy et al. 2020).

The current version of the NQS has never been comprehensively reviewed, despite having a central role in the quality regulation system.

A future NQF review could consider if educator time and provider resources could be freed up by simpler, clearer and more consistent assessment against the NQS. Five-yearly reviews were a feature of the NQA and were mandated by a National Partnership Agreement between the Australian, state and territory governments. But this agreement has expired, and there has been no commitment to a future review.

The current version of the NQS was excluded from the 2019 NQF review, as many recommended changes from the 2014 review took until 2018 to be implemented (ESA 2019, pp. 10, 34–36). The Commission, as it works towards the final report in this inquiry, will further consider the scope of and time between reviews of the NQF, given the impact of consultation for these reviews on the sector, and the time required to implement changes to the NQF and observe their effect.



Draft recommendation 8.2 A new review of the National Quality Framework

Australian, state and territory governments should, through the Education Ministers Meeting, commission ACECQA to review the National Quality Framework, with a specific focus on the way in which services are assessed against the National Quality Standard, and if assessments could be made more accurate, consistent and efficient.

NQF reviews should be conducted on a regular basis to enable regulators to incorporate feedback from ECEC providers as well as new findings from research on links between ECEC quality and children's outcomes.

Assessments are too infrequent

In the National Partnership Agreement on the National Quality Agenda, which established the NQF, it was envisaged that Working Towards, Meeting, and Exceeding services would be reassessed every one, two and three years, respectively (COAG 2009a). Many inquiry participants have argued for a target of reassessments every year for Working Towards services and every three years for Meeting and Exceeding services (for example, Early Learning Association Australia, sub. 48, p. 25; Early Learning and Care Council of Australia, sub. 153, p. 12; Goodstart Early Learning, sub. 125, p. 41; The ParentHood, sub. 122, p. 4).

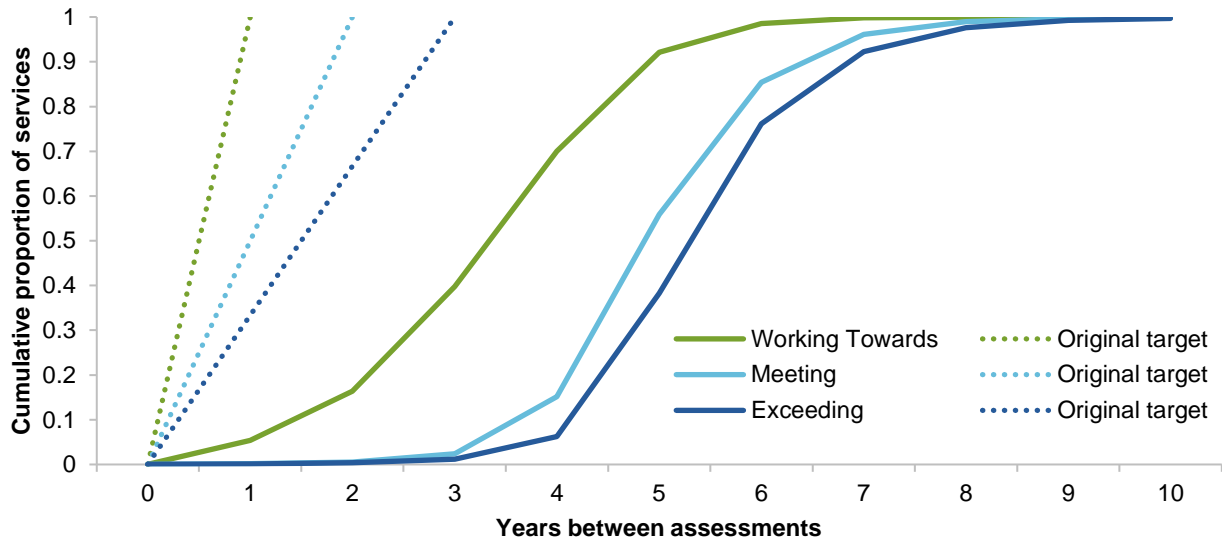
Neither of these targets are near being met. There are considerable lags between assessment and rating visits, and many services' NQS ratings are significantly outdated (figure 8.2). Even for services that are Working Towards the NQS, almost a third go more than four years between assessments (ACECQA 2023e). And in some jurisdictions, lags are significantly longer, for example in South Australia where the average time between assessments for services with a rating of Meeting or Exceeding is about eight years (figure 8.3).

Long lags between assessments are particularly problematic for services that are Working Towards the NQS. Although most of these services are, upon reassessment, found to have improved their quality (section 8.5), until that reassessment takes place their rating may be misleading to families. For services that have not improved, their lack of progress may go unnoticed.

Assessment delays are a risk to quality even for services currently rated as Meeting or Exceeding. Many that are doing well could still be doing better. And some of these services will not have their current quality levels reflected by their rating. When services with a previous rating of Meeting are reassessed, 16% are rated as Working Towards. For services previously rated as Exceeding, 9% have their rating downgraded to Working Towards (ACECQA 2023d, p. 13). Many services with a good but old rating may have their quality levels overestimated by families, or not be aware that they need to improve in certain areas.

Almost one in ten services has never been assessed. While many of these have only recently been approved, about half have been approved for more than a year without being assessed. Unrated services are more prevalent in some states, for example comprising one in every six services in Western Australia (ACECQA 2023c, p. 6).

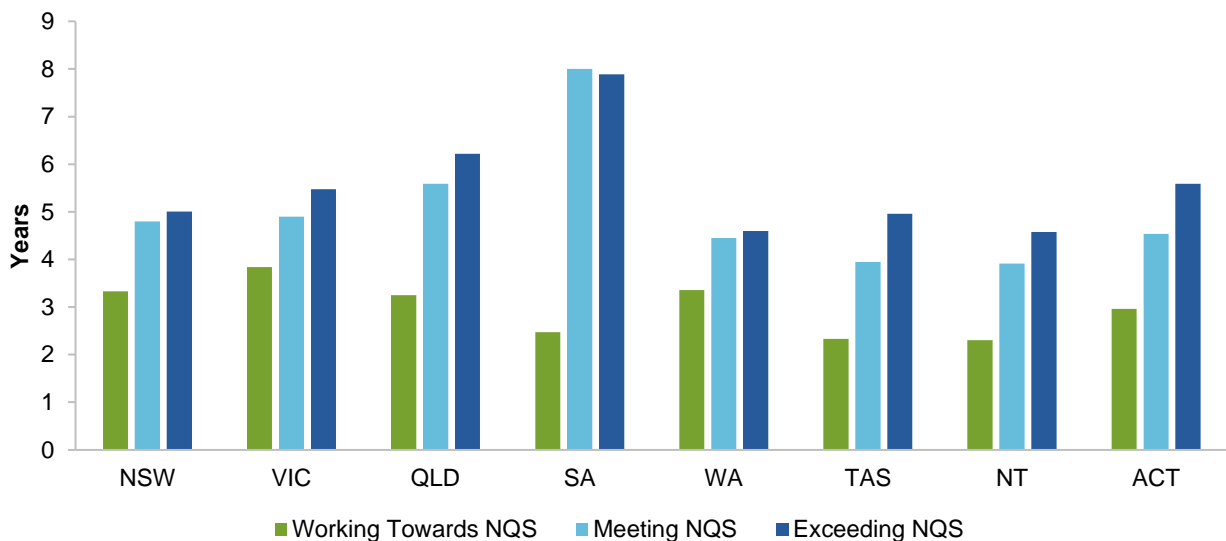
Figure 8.2 – Reassessments are much slower than was originally envisaged^{a,b}
Cumulative proportion of reassessed services by years between assessments and by previous rating, at July 2023 (solid lines), and NQA benchmarks (dotted lines)



a. The National Partnership Agreement on the National Quality agenda included an expectation that services that were Working Towards, Meeting and Exceeding the NQS be assessed every one, two and three years, respectively. Although this has been represented in the figure as taking place at a consistent rate, meeting these expectations would be more likely to involve a disproportionate number of assessments at the end of these timeframes. **b.** Only includes the about 71% of services that have been assessed at least twice.

Source: Productivity Commission estimates based on ACECQA data (2023a).

Figure 8.3 – Delays in reassessment are particularly long in some jurisdictions
Average years between ratings (by state and territory, and previous rating)



Source: Productivity Commission estimates based on ACECQA data (2023a).

Notwithstanding long intervals between assessments, there is little evidence to determine how often reassessments should take place. Rating visits' requirements on service and educator time, fiscal costs, and use of regulatory authority resources (which could be spent on supporting rather than assessing services) must be balanced against the benefits of more up-to-date ratings. When results from the Preschool Outcomes measure become available, the development of a timeline could be informed by how the relationship between NQS ratings and children's learning weakens as ratings age, and how this relationship is affected by other risk factors.⁶

But while a clear basis for determining optimal reassessment timeframes may not be available now, it is clearly a problem when services can go several years without assessment, and most long day care services that are found to be Working Towards the NQS go more than three years before they are reassessed (figure 8.2). More frequent assessments are necessary for an accurate indication of the performance of services and would be a powerful tool to increase the quality of education and care that children receive.

Improvements in the efficiency of the ratings process could increase the number of assessment and rating visits that can take place for a given level of funding. An increase in the use of partial reassessments that commenced from 2023 may lead to services that are Working Towards only a small number of elements to have these elements reassessed sooner (ACECQA 2022a). And broader efforts to reduce the time taken by assessment and rating visits may be desirable. But efficiency improvements alone are unlikely to be sufficient for timely ratings.



Draft finding 8.1

The timeframe between service assessments is too long

The time between ECEC quality assessments undertaken by state regulatory authorities is unacceptably long. This increases the risk of poor quality service provision and undermines the relevance and value of quality ratings.

Regulatory authorities need to be better resourced

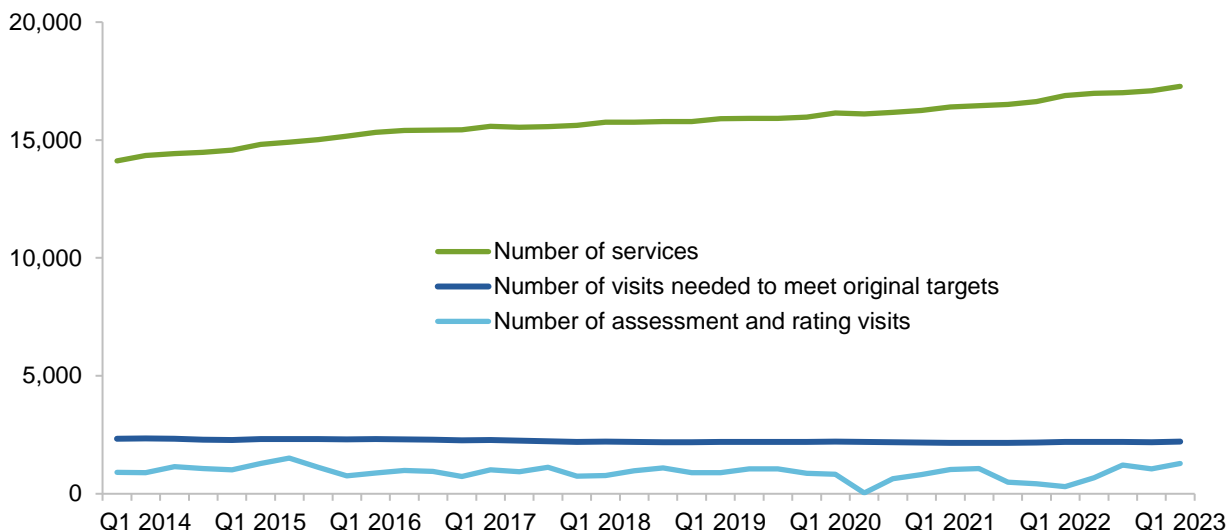
The resources provided for regulators to carry out assessment and rating visits, alongside other functions, do not seem to be sufficient to allow for the large number of operating services to be assessed in a reasonable timeframe (figure 8.4). Previously, through the National Partnership Agreement on the National Quality Agenda, the Australian government provided funding to each state and territory government to support the operation of their regulatory authority (COAG 2009a, 2016). The most recent agreement expired in 2018, and has not been replaced with any other mechanism for Australian government funding.

Goodstart Early Learning argued that this 'removed the Australian Government's key lever to influence and work with state-based regulators', and that 'as a result, regulators are underfunded, and basic regulatory tasks (such as assessment and rating) have fallen behind the originally intended three-year cycle' (sub. 125, p. 37).

⁶ For example, a two-year-old rating of a service that has continued operating in a consistent manner may be a better indication of service quality than a one-year-old rating of a service that has changed ownership and undergone considerable staff turnover. While rating age is a key factor in prioritising assessments, it is not the only factor.

Figure 8.4 – The number of services has grown; the number of assessment and rating visits has not^{a,b}

Approved services, number of assessment and rating visits, and number of visits needed to meet National Quality Agenda targets in each quarter, 2013-2023



a. The number of visits required to meet NQA targets has fallen slightly despite a greater number of services as ratings against the NQS have improved, and these targets include longer periods between visits for better-rated services. **b.** This chart treats unrated services as rated, with their ratings assumed to follow the same distribution as rated services. This will underestimate the required number of visits to meet NQA targets, as the NQA included an expectation that new services would be rated three to six months after approval. However, this approach allows for easier comparisons across time, as otherwise the proportion of unrated services shortly after the introduction of the NQF would create a short-term pattern in the early years of the NQF that would mask long-term trends.

Source: Productivity Commission estimates based on ACECQA data (2023a).

Inadequate resourcing, and the resulting inability of regulatory authorities to carry out core functions with sufficient frequency, needs to be addressed as a matter of priority. An independent review should examine the additional resourcing that would be required for reassessments to occur in a reasonable timeframe, and the Australian government should fund the shortfall given its role in the establishment of the NQF, its greater revenue-raising capacity and the potential for coordinated funding to be used to further promote consistency in the application of the NQF.

As discussed above, there is no straightforward way to quantify the costs and benefits of changes to rating frequency. Reforms to assessment and ratings processes, and particularly an increased use of partial reassessments, further complicate the setting of targets. The Commission, as it prepares its final report, will further consider timeframes for reassessment, and how these should vary by NQS rating.



Draft recommendation 8.3

Ensure regulatory authorities are adequately resourced

The operations of the state and territory regulatory authorities that administer the National Quality Framework should be independently reviewed. This review should examine the timeliness of assessments, and whether additional funding is required to enable authorities to improve timeliness.

Based on the outcomes of this review, the Australian Government should ensure additional funding is provided to state and territory regulatory authorities, to provide updated assessments within agreed timeframes.

8.4 Are the ratings produced by regulators useful to families?

NQS ratings are seldom used in families' decision-making

A key impetus for the inclusion of the rating system in the National Quality Framework was to enable families to make informed decisions based on these ratings, strengthening services' incentives to improve their quality (COAG 2009b, pp. 8, 56; ECDWG 2010, p. 31). The rating system does not seem to be fulfilling this objective meaningfully.

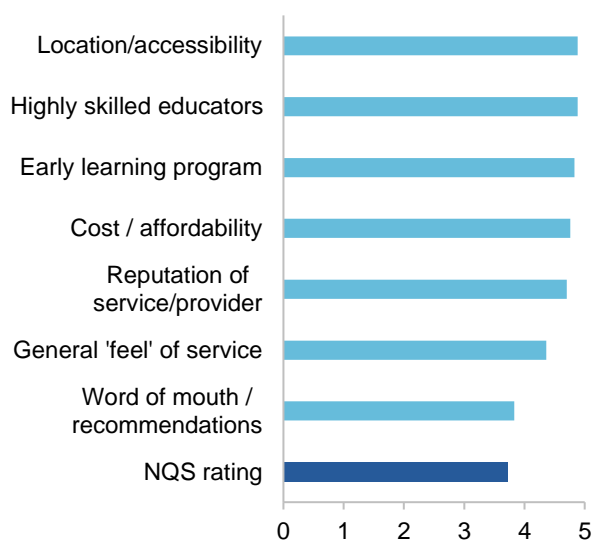
Families' use of NQS ratings is low. In 2021, 45% of those surveyed by ACECQA were not aware of the existence of the rating system. 66% were either unaware of the system, or did not know the rating of the service they used or planned to use. 72% were either unaware of the rating system, unaware of the specific service's rating or did not find this rating helpful in making their choices (ACECQA 2022b, pp. 46–47).

These figures are for parents who chose to respond to a survey from ACECQA, and may not be representative of most families. Of the several dozen focus group participants in a research project aiming to understand families' use of NQS ratings, not a single one indicated that they had used NQS ratings to inform their choice of service (Hall & Partners 2018, p. 49). Providers expressed to the ACCC's childcare inquiry that families 'place low or no significance on formal quality ratings' (ACCC 2023b, p. 95), also consistent with views expressed by participants in the Commission's inquiry.

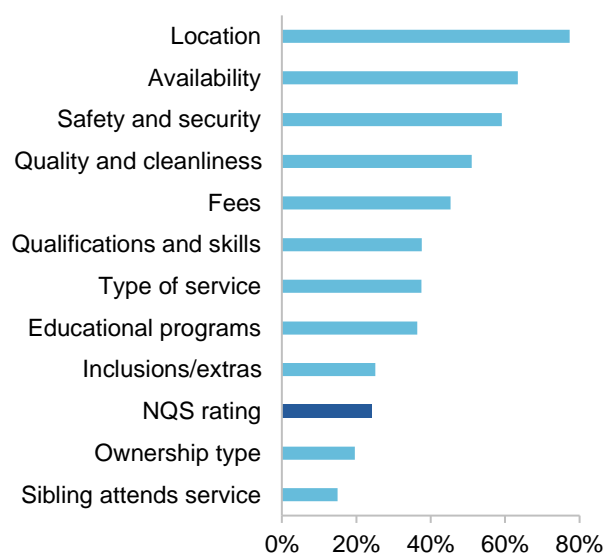
Families do care about ECEC quality. They just do not seem to care much about NQS ratings as measures of quality. Instead, they tend to rely on other sources of information, such as word of mouth, the 'feel' of a service or online ratings from other families (figure 8.5). While the weight that can be placed on any quality measure will be limited by accessibility, as many families do not have a large number of services to choose between that are nearby, affordable and have an available place, this cannot explain why NQS ratings are viewed as less important than other quality measures.

Figure 8.5 – NQS ratings are among the least important factors in families’ ECEC decisions^{a,b}

a. Weighted average ranking of factors when choosing a service (higher = more important), ACECQA families’ survey



b. Proportion ranking each factor for choosing a CBDC service in their top five factors, ACCC parents and guardians survey



a. Ratings from 4026 respondents in a 2021 survey from ACECQA, including some who were not currently using an ECEC service. **b.** Excludes the categories ‘Accommodates complex needs’, ‘Accommodates CALD children’ and ‘Accommodates First Nations children’ due to very low proportions of respondents including these in their top 5.

Source: ACCC (2023a, p. 65); ACECQA (2022b, p. 49).

While other sources of information on service quality can be of some use, the information they are able to provide is limited. Before enrolling their child at a service, families may only directly observe the operations of that service during a scheduled visit, where the centre knows they are being observed by a prospective customer. Word-of-mouth recommendations or online reviews from families currently using the service can be informed by observations during pick-up, drop-off or visits, but almost all the time children spend in ECEC settings goes unobserved by families. And children themselves may not be able to assess service quality.

The extent to which educators’ interactions with children promotes their development is also difficult for parents to gauge. In a Peruvian study where parents rated the quality of their children’s educators, they did not seem to be able to identify educators who offered a higher quality experience to children, and did not give higher ratings to educators that improved the developmental outcomes of the children under their care to a greater extent than their colleagues (Araujo, Dormal and Schady 2019, pp. 18–19). And one US reform that improved the quality of interactions between educators and children led to *lower* online ratings, with reviews becoming more likely to mention the price of the service (which rose due to the reform) while not being any more likely to mention the quality of the learning environment (Herbst and Brown 2023, p. 5).

NQS ratings (if they are sufficiently up to date) may give families a stronger indication of the quality of services. Ratings are based on 40 elements across seven quality areas, developed with consideration of international evidence on children’s development (COAG 2009b). The authorised officers assessing services against these elements are trained in the assessment of quality and often have experience as educators. NQS ratings could be expected to be more informative than other indicators of quality – but they are still seldom used.

Why do families tend to disregard NQS ratings?

Many factors could be playing a role in families' minimal use of NQS ratings.

- As discussed above, about half of families may not know that a quality rating system even exists. In many cases, a lack of use of NQS ratings may reflect a lack of awareness, rather than an informed rejection of their significance.
- Families often misunderstand the rating system. For example, the Commission has heard of cases where it is assumed that, as there is a quality assessment system in place, all providers meet a minimum standard, and so it is unnecessary to look for regulatory information on service quality.⁷ Families also sometimes misinterpret a rating of Working Towards as meaning that a service has not yet been rated against the NQS, not that it does not meet the NQS.
- NQS ratings are not always communicated alongside explanatory information. Families may search online for a service they are considering using and see a webpage for that service on ACECQA's national registers stating: 'Quality Area 7: Working Towards NQS'. But they are unlikely to be aware that Quality Area 7 is governance and leadership, or what it means in practice that a service is working towards the governance and leadership quality area.
- NQS ratings, and how they are communicated, will not always allow for families to distinguish between all the services that they can access.
 - As services almost always receive one of three ratings, and about 90% are either rated as Meeting or Exceeding, all the services that a family is choosing between could have the same rating.
 - Services with the same rating can still be of very different quality, even if these ratings are both up to date. A service that meets 39 of the 40 elements will be rated as Working Towards, but so will be another that only meets 6 of 40 elements. Services with overall ratings of Meeting or Exceeding can also differ substantially in the number of individual NQS standards they exceed. But ACECQA's national registers of services and Starting Blocks website, which is intended to help families choose between services, provide no way of determining how many elements of the NQS a service is working towards or how many standards they are exceeding.
- Ratings are often many years old (section 8.3). They can also change substantially between assessments. Services can go from Exceeding the NQS in all quality areas to meeting between two ratings, or to go from Working Towards to Meeting the NQS in all quality areas. Given that ratings are often outdated, in many cases it may be rational for families to not place much weight on them – although it seems unlikely that many families do not use ratings because of their frequency given so many families are not aware of the rating system at all.
- Ratings may not be perceived as accurate. Common survey responses in those aware of services' ratings but who did not find them to be helpful included a belief that NQS ratings were subjective and not a true indication of service quality (ACECQA 2022b). Families also expressed concern that ratings may be gamed, and that complying with regulatory requirements took up time that could be spent caring for and educating children (Hall & Partners 2018, p. 39).

As noted by the ACCC, 'more targeted and accessible use of National Quality Framework information may help families' decision making in respect of childcare services' (ACCC 2023b, p. 32). Over time, there is some indication that families' knowledge of, use of, and belief in the value of the rating system has been

⁷ An absolute minimum standard does exist, as services that do not provide a safe environment for children may have their registration cancelled – but although this can also occur for services that are consistently Working Towards the NQS, the Commission has not heard of this power being exercised solely for this reason, despite some services holding a rating of Working Towards for many years (section 8.5).

improving (ACECQA 2022b, pp. 46–49). But the pace of this has been slow, and more could be done to realise the potential of NQS ratings to drive improvement in the quality of ECEC services.



Draft finding 8.2

Families tend not to use information about service ratings

Families are usually unaware of or do not value ratings against the National Quality Standard when choosing between ECEC services, preferring other indicators of quality. Families would benefit from more detailed, accessible information on service ratings.

How could ratings be made more useful to families?

There is a wide range of options that could make NQS ratings more useful to families. The accuracy of ratings could be improved, particularly through sufficiently resourcing regulatory authorities to allow for frequent ratings (draft recommendation 8.3). But simple changes to when and how information on NQS ratings is provided to families could also increase their use.

For example, there is no requirement for NQS ratings to be mentioned on the website of a provider. And services are under no obligation to inform families of their NQS rating prior to their child's enrolment at that service, or to inform families with children currently at the service when they receive a new rating, even if they are found to be Working Towards.

Where information is provided, it could often be provided in a more meaningful and accessible way. For example, ACECQA's national registers could name each quality area, rather than refer to them by their number, which families are unlikely to know. And the national registers, as well as the Starting Blocks website, could mention the specific element/s in each quality area that a service is Working Towards or the standard/s that they are Exceeding, alongside a clear explanation of each element or standard.⁸ The ACCC recommended that the Australian government reconsider the presentation of information on the Starting Blocks website, including 'more targeted and accessible use of National Quality Framework information' (ACCC 2023b, p. 32).

The wording of overall ratings could also be made clearer. It is not apparent to all families what it means when a service is rated as Working Towards the NQS. If a service does not meet the quality standards, the rating it is given could simply state this – although it should still be clear that these services were considered safe enough to remain in operation.

These are only some of the many options that could improve families' use of NQS ratings. While these examples may help achieve this goal, there may be better alternatives, or complementary options that have not been mentioned. The Commission is seeking feedback on how NQS ratings could be communicated in order to make them most useful to families.

⁸ If too much information is provided by default, this could make it overwhelming or confusing to access information on service quality. But, for example, a drop-down list could allow for each element's rating to be viewed without showing this by default, as could a 'tooltip' that only provides an explanation of what is covered by an element when the user of a website hovers their cursor over it. Varying levels of detail and methods of presenting information could be trialled, for example by the Behavioural Economics Team of the Australian government, as discussed by the ACCC (2023b, p. 32).

Of course, increasing the use of NQS ratings will only be desirable if these ratings provide accurate and meaningful information. It may be necessary to delay the implementation of some of these options until issues with the timeliness of ratings are addressed to prevent choices being made based on outdated assessments.

Even then, barriers to accessibility will inevitably limit the extent to which NQS ratings can be used. But some families are still in a position to choose between services and should be able to do so based on a clear understanding of the best information on the quality of those services. Effective communication of NQS ratings could improve families' understanding of service quality, informing their decisions and providing an incentive for services to improve their quality.



Information request 8.1

The Commission is seeking information on how service ratings information could be made more useful and more accessible to families. For example:

- requiring services to display ratings information on their website
- changing how ratings information is communicated:
 - to specify which element/s of the National Quality Standard a service did not meet
 - to make clearer what is meant by a rating of Working Towards
- requiring services to inform:
 - prospective families of their current National Quality Standard rating
 - current families of a new National Quality Standard rating.

Would these changes be desirable, and how would they best be implemented? Are there other options that should be considered?

8.5 How does the system deal with underperformance?

While many ECEC services are high quality, it is essential that the regulatory system is equipped to appropriately deal with underperforming services – ranging from services that are safe but not meeting the NQS, to services that generate serious concerns (such as urgent child safety concerns). This is especially important when the market does not incentivise services to deliver high quality services, such as in areas where there is a shortage of ECEC places compared to demand. The state and territory regulatory authorities are responsible for dealing with services that do not meet the NQS or breach the National Law and National Regulations.

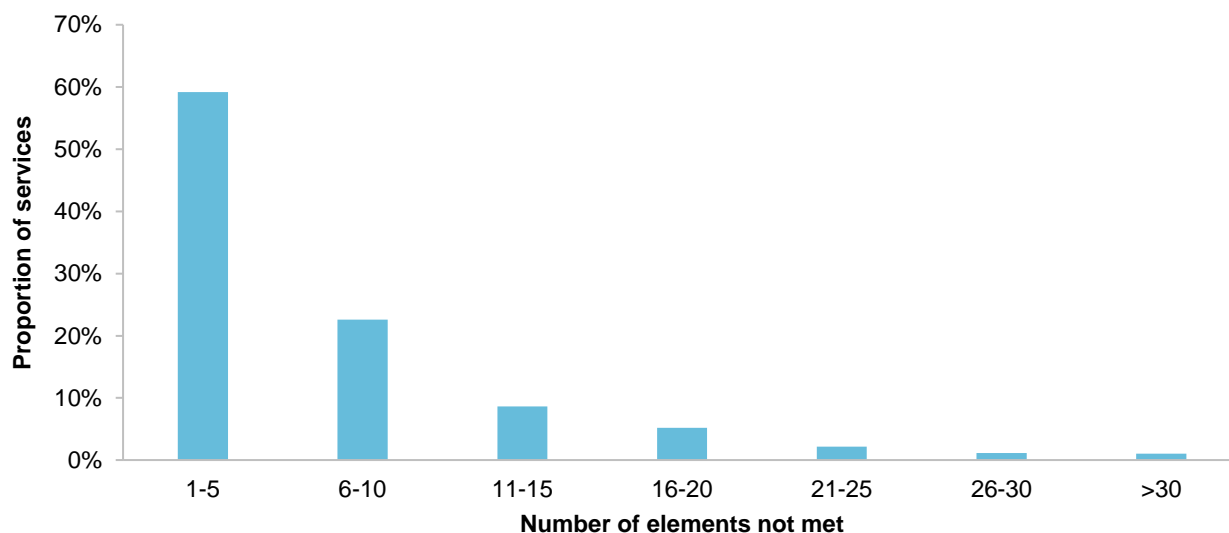
The regulatory system provides some rewards for quality ECEC services, though these have limitations. Being rated as Meeting or Exceeding the NQS (or the Excellent rating awarded by ACECQA) allows services to differentiate themselves from their competitors and attract families. But for services to attract more families based on their rating, families must first be aware of and value service ratings, and families must also have a choice about which service they use – but in practice this is often not the case. Regulatory authorities also tend to take a risk-based approach to assessing and rating services – which means higher-rated services tend to be reassessed less frequently than lower-rated services. This can reward higher-rated services with an 'earned autonomy' for their performance, though the long times between assessments for all services

(including those not meeting the NQS), can diminish the relative reward for higher quality services. This means that other measures are necessary to compel services to provide quality ECEC.

A significant minority of services are not meeting the NQS

While most ECEC services are either Meeting or Exceeding the NQS, a sizeable minority are not meeting the standards - in July 2023, about 11% of rated ECEC services were not meeting the NQS⁹ (ACECQA 2023c, p. 14). Many of these were only failing to meet a handful of elements of the NQS (figure 8.6) – and about 47% of services rated as Working Towards the NQS in 2023 were only failing to meet one or two quality areas (ACECQA 2023c, p. 20). The most common quality areas that services do not meet are Quality Area 1 (educational program and practice), Quality Area 7 (governance and leadership) and Quality Area 2 (children’s health and safety) (ACECQA 2023c, p. 17).

Figure 8.6 – Most ‘Working Towards’ services are not meeting five or fewer NQS elements
Proportion of services and number of elements not met, at July 2023



Source: ACECQA (2023a).

The services that do not meet the NQS are diverse. They exist across all types of providers and services, and in every geographic category from major cities to very remote areas (paper 2). But some characteristics are overrepresented in services that do not meet the NQS, which are more likely to be:

- school or private for-profit providers
- family day care and OSHC services
- located in remote and very remote areas
- located in areas with relatively higher levels of disadvantage (paper 2, figure 2.6).

But the proportion of services not meeting the NQS at a point in time does not show the full picture. Most services that previously did not meet the NQS demonstrate improvements in their rating when they are next assessed – in 2023, 68% of services previously rated as Working Towards the NQS had improved their overall rating at reassessment to either Meeting or Exceeding the NQS (ACECQA 2023c, p. 13). Similarly,

⁹ ‘Not meeting’ the NQS refers to both services rated as Working Towards NQS and Significant Improvement Required – noting that at July 2023, only one service was rated in the latter category.

there is some evidence that services are more likely to move from Working Towards the NQS to Meeting or Exceeding the NQS if they are not-for-profit providers (relative to for-profit providers), and large providers (relative to smaller providers, including standalone providers) (Harrison et al. 2023, pp. 17–18). In some circumstances, underperformance may reflect a lack of resources – particularly in regional or remote areas, where workforce shortages may exacerbate a service’s ability to raise quality (paper 3) – and a need for additional support, before regulators resort to enforcement measures.

However, a small but persistent minority of services have been underperforming for an extended period of time. In July 2023, about 5% of services rated as not meeting the NQS had held this rating for 10 or more years – or about 80 services – though some of these services had not been assessed for several years (ACECQA 2023a). Over three quarters of these services were operated by for-profit providers, and 81% were long day care services – despite for-profit providers and long day care each making up just over half of all services (ACECQA 2023a). While ratings data has some limitations given many services have not been assessed for several years, and some new services have not been rated at all (section 8.3), it still suggests that the existing regulatory system is not lifting or incentivising quality among all services as effectively as it could be.

Regulatory authorities are most equipped to deal with extreme cases

Regulatory authorities have a range of enforcement powers that they can use for serious breaches of the National Law and the National Regulations (figure 8.1). Most of these powers are for breaches that are not based on a service’s rating – for example, prosecution based on the actions of a service or an educator, or financial penalties for failing to comply with certain national regulations (ACECQA 2023b, pp. 551–552).

Some inquiry participants suggested that the regulatory system should provide stronger penalties for services that are rated Working Towards the NQS.

More attention must be placed on services not meeting the National Quality Standard (NQS) with timely assessment of new services and more frequent assessment of services rated as Working Towards NQS... There must be less tolerance for services not meeting the standard. (KU Children’s Services, sub. 83, p. 6)

Implement stronger consequences for services rated as Working Towards for two or more cycles in a row... Management and funding consequences for services that do not meet quality measures. (Goodstart Early Learning, sub. 125, p. 6)

When a service does not meet the NQS, there are some measures that regulatory authorities can use. If a service is rated as Significant Improvement Required, meaning that ‘there is a significant risk to the safety, health and wellbeing of children’, ACECQA indicates that ‘the regulatory authority will take immediate action’ (ACECQA n.d.). This action could involve suspending a service’s approval to operate (effectively shutting it down for a period of time), or accepting a written undertaking from a service provider to take or refrain from taking certain actions. These measures seem appropriate given the serious nature of the Significant Improvement Required rating.

When a service is rated as Working Towards the NQS, the consequences are more limited – and services do not typically face enforcement measures for a Working Towards rating alone. Regulators have some enforcement powers when a service is rated Working Towards – for example, they can suspend a service’s approval to operate, or compel a service to agree to take or refrain from taking certain actions, if it has been rated as Working Towards the NQS and has not improved its rating (and a service waiver does not apply in relation to the non-compliance) (ACECQA 2020, p. 528). But the Commission is not aware of any examples of this occurring in practice. This is because a Working Towards rating alone does not generate serious concerns about the service. ACECQA suggests that Working Towards services are still providing a ‘safe

education and care program', and that a Working Towards rating is not a 'failure', because 'the assessment and rating process was not designed to be a pass-fail system. Rather, it is a system that examines a broad range of quality measures and encourages continuous improvement' (ACECQA 2016b, n.d.c).

However, the NQS sets a minimum standard services should meet, and regulatory authorities should use an appropriate combination of support and enforcement measures to ensure that those services take steps to improve quality – especially given that the time between assessments can be very long. The appropriate response by regulatory authorities will depend on the individual circumstances of the service, and requires regulators to weigh up various risks, costs and benefits including:

- any risks that the service poses for children's safety, health and wellbeing
- possible detrimental effects on child development from a lower quality service (and benefits to children from an improvement in service quality)
- effects on the service, families and children if enforcement measures were used (for example, if a service's approval was suspended or cancelled, or a service faced financial penalties that affected its ability (or cost) to operate).

Given that most services that are rated as Working Towards the NQS improve their rating in their next assessment, support may be more appropriate than compliance and enforcement measures in the first instance – with the onus placed on the service to demonstrate that it has raised quality. However, services should automatically face increased scrutiny from their regulatory authority if they are rated as Working Towards for more than one consecutive assessment, and stronger enforcement and compliance measures should be considered by the regulator if support to the service is unsuccessful. The Commission is seeking more evidence about the best course of action in instances where services are not meeting the NQS across multiple assessments (information request 8.2).



Information request 8.2

The Commission is seeking views about the most appropriate regulatory actions for serial underperformers, while considering the effects on families and children from more severe measures (such as service closure). Specifically:

- are serial underperformers enough of a problem in the sector to warrant stronger regulatory actions?
- if serial underperformance of some services is a problem, would this be best addressed by additional powers for regulatory authorities, or by regulators making more use of existing powers?

Regulators should balance enforcement measures with support for services

Services are primarily responsible for meeting the NQS. But when services are only marginally not meeting the NQS and there are no serious concerns (for example, child safety concerns), additional support from regulatory authorities may be more appropriate than compliance and enforcement measures in the first instance.

An improved rating and assessment cycle will lift quality more rapidly in conjunction with systemic support for services 'working towards' the NQS. (ELACCA, sub. 153, p. 12)

At present, the level and type of support that regulatory authorities provide to services varies. For example, in New South Wales, the State Department of Education offers the Quality Support Program in partnership with ACECQA. The program offers up to 18 weeks of free professional development and support (which is

provided by ACECQA) for all ECEC service types, and includes in-person visits, online training, workshops, follow-up online and telephone support and other resources to support quality improvement. Services can be eligible if they have received a rating of Working Towards the NQS or are currently rated Working Towards the NQS, with priority given to services that:

- do not meet six or more NQS elements
- are in disadvantaged areas
- have been Working Towards the NQS for longer periods of time (four or more years)
- have been rated Working Towards the NQS twice or more
- services operated by a single provider (ACECQA 2023f).

The results of the first four stages of the program (held over 2018 to 2022) indicated that 73% of the participating centre-based services subsequently achieved a rating of Meeting NQS or above – and were 2.6 times more likely to be rated Meeting NQS or above compared to similar services that did not participate in the program. The results for participating family day care services were not substantially different from similar services that did not participate – though among all service types, service leaders reported significant increased rates of confidence in what they needed to do to meet the NQS following the program (NSW Department of Education and ACECQA 2022, pp. 7–12). The results of this program suggest it may be a more effective way of raising quality among some types of ECEC services than regulatory actions alone.

ACECQA also provides a range of educational material to both regulatory authorities and services, to help services understand what is required to meet the NQS (ACECQA, sub. 6, p. 6).

In their submission, Goodstart Early Learning suggested that one goal of a new national partnership-style agreement should be to ‘work more directly with services to raise quality, especially in areas where quality is likely to be lower (such as in low SEIFA and remote areas)’ (sub. 125, p. 6).

In instances where services are rated as Working Towards the NQS but there are no serious concerns with the service, additional support may be a more desirable measure to improve quality than enforcement measures alone, given that service closures will create costs and challenges for families and children. The Commission is seeking evidence about the extent to which services need more support to meet the NQS, and the types of support required.



Information request 8.3

The Commission is seeking information and evidence about the extent to which services need more support to meet the NQS, and the types of support required. For example, would the Quality Support Program offered in New South Wales provide the type of support needed by services in other states to meet the NQS?

New service approvals should prioritise higher quality providers

Some inquiry participants argued that the incentives for services to deliver high quality ECEC should be higher (Goodstart Early Learning, sub. 125, pp. 6, 88; KU Children’s Services, sub. 83, p. 6). One of the ways in which services could be rewarded for providing quality services over time is through the service approval process. At present, regulatory authorities are not required to consider the ratings of a provider’s existing services when considering an application from that provider to open new services – though they may

do so to consider whether there are any serious safety concerns as part of the approval process (for example, NSW Department of Education 2021, pp. 16–17). Some participants suggested that providers' existing services should have to meet a certain quality requirement to be approved to open new services.

Provider would not be granted a new service approval unless 90% of their existing services Meet or Exceed the National Quality Standard, which could be increased over time to 95%. Exceptions could be made for new operators where the operator has previously owned or managed a service that was assessed as meeting NQS; or where the service is not-for-profit and meets national priorities around quality and inclusion. (Goodstart Early Learning, sub. 125, p. 88)

That [improving ECEC quality] should also include making sure that new service approvals only go to providers with a proven record of delivering quality services. (The ParentHood, sub. 122, p. 4)

As the ECEC system moves towards universal access (paper 5), quality must be maintained as services expand. Regulatory authorities should be required to consider the ratings of a provider's existing services when considering an application for a new service, with priority (such as fast-tracked approvals) given to providers that have a track record for providing high quality services over providers that have lower average ratings across their existing services. This process should not exclude or penalise new (or small) providers, or services that do not have a provider already operating other services.

There are also other potential avenues through which higher quality services could be rewarded. For example, services need approval under the *Family Assistance Legislation Amendment Act 2017* (Family Assistance Law) to receive CCS funding. This process also does not require the service's quality rating to be taken into account.



Draft recommendation 8.4 **Incentivise quality provision in new ECEC services**

State and territories regulatory authorities should be required to consider the performance of a provider's existing services when making decisions on an application to approve new services from that provider, and prioritise new service approvals from higher rated providers over those with lower existing service ratings.

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