

First tier review - policy and guidelines

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Read this policy with the Assessment and Rating Policy and the Assessment and Rating Procedures.

1. Policy

Quality Education and Care NT (QECNT) as the Northern Territory (NT) Regulatory Authority conducts first tier reviews as prescribed by the *Education and Care Services National Law* (National Law), sections 141-143 of the National Law. One of QECNT's responsibilities includes the assessment and rating of education and care services in accordance with the National Law and Education and Care Service National Regulations (National Regulations).

Approved providers can apply to the regulatory authority for a first-tier review of the service's quality rating if they disagree with the final rating given in the notice of assessment and rating under section 136 of the National Law. This policy explains this process and the requirements.

2. Business Need

This policy and its associated procedures provide information on how approved providers can apply for a first-tier review if they disagree with the notice of rating provided to them by the regulatory authority. An approved provider can apply if they:

- disagree with a rating based on the evidence described in the final report
- have additional contextual information about the evidence described in the final report
- believe the authorised officers or officers did not consider all the relevant evidence available at the time
- believe the service was not given adequate opportunity to demonstrate how it meets an element or standard.

3. Definitions

Term	Definition
ACECQA	Refers to the Australian Children's Education and Care Quality Authority. ACECQA works with all governments to provide guidance, resources and service to support the sector to improve outcome for children.
Approved provider	Means the one who holds the provider approval for a service. This can be an individual, a body corporate, an eligible association, a partnership or an entity such as a local council. The approved provider can have service approvals for multiple services in one, or multiple jurisdictions.
Assessment and rating	Means the assessment and rating of services assessed by the regulatory authority against the National Quality Standard. Services are given a rating for each of the seven (7) quality areas and an overall rating an assessment, re-assessment or partial re-assessment of an approved education and care service.

Term	Definition
Authorised officer	Means a person employed by the Regulatory Authority to provide services as defined in the Education and Care Services National Law. An Authorised Officer is known as a Senior QECNT Assessing Consultant or Compliance Advisor in the Northern Territory.
Centre based service	Means an education and care service other than a family day care service. For the purpose of the National Law, this includes most centre based services including long day care, outside school hours care and preschool.
Desktop assessment	Means reviewing information provided by the approved provider, online and via documented methods as part of an assessment and rating process. This process normally applies to the partial reassessment process. In some instances, a physical visit may not be required.
Desktop review	Means gaining an understanding of the service before a visit by conducting an analysis of the service's documents. Documents provided could be the service's Quality Improvement Plan (QIP), assessment history and compliance history.
Excellent rating	Refers to the highest overall rating awarded under the NQS assessment and rating process. This level of rating is awarded by ACECQA.
Family day care	Means an approved education and care service that is a family day care. Operating from two or more residences and a principal office.
Minor adjustment	Means providing the approved provider an opportunity to make minor changes to the assessment and rating report before the final rating is granted. Minor adjustments do not pose a risk to the safety, health and wellbeing of children and are not considered non-compliances against the Law and Regulations.
National Law	Refers to the <i>Education and Care Services (National Uniform Legislation) Act 2011</i> which sets a national standard for children's education and care across Australia.
National Quality Agenda IT System	The National Quality Agenda IT System, a national database system used by the Regulatory Authority and providers and services to submit online applications and notifications that are approved (or seeking approval) under the National Quality Framework.
National Quality Framework	Is a national benchmark for early childhood education and care and outside school hours care services in Australia. Services are assessed and rated by their regulatory authority against the National Quality Standard and given a rating for each of the 7 quality areas and an overall rating based on these results.

Term	Definition
National Quality Standard	Means the National Quality Standard prescribed by the National Regulations.
National Regulations	Refers to the Education and Care Service National Regulations. They outline the legal obligations of approved providers, nominated supervisors, and educators and explain the powers and functions of the state and territory regulatory authorities and ACECQA.
Partial reassessment and re-rating	Means reassessing and re-rating only an aspect or an element of the service. This can include individual quality areas or specific elements or standards.
Person with management or control	Means a person/partner/ executive committee or body cooperate responsible for managing the education and care service's delivery. This may be a person or group of people responsible alone or with others.
Reassessment	Means the process of re-rating a service or any aspect or element of the service. A reassessment refers to a full assessment and rating or a reassessment of all seven (7) quality areas.
Territory Records Management	Territory Records Management is the government official electronic document and records management system.

4. Scope

This policy applies to approved providers regulated under the National Law in the Northern Territory. It provides clarity for approved providers on how to apply for a first-tier review and how the review is conducted by the Regulatory Authority.

4.1. Out of scope

Items out of scope of this policy include:

- applications for internal reviews of a reviewable decision under section 190 of the National Law
- matters that do not materially affect a service's rating.

These matters can be managed through different processes, including the regulatory authority complaints process or through a reassessment of a service's ratings.

5. Roles and Responsibilities

The Senior Executive Director, Quality Standards and Regulation, as the delegated officer is responsible for:

- determining the outcome of the first tier review application

- reviewing and approving the 'Statement of reasons' report before it is sent to the approved provider by the Assistant Director, Quality.

The Assistant Director, Quality is responsible for:

- acknowledging the approved provider's application for first tier review in writing
- ensuring the first tier review is conducted by a regulatory officer who was not involved in the original assessment and rating of the service.
- ensuring the review is conducted in accordance with the National Law, National Regulations and [ACECQA Guide to the National Quality Framework](#)
- conveying the outcome of the review to the approved provider in writing within 30 calendar days of the first tier review decision being made
- informing the approved provider in writing of their right to seek a second tier review conducted by ACECQA, if they are still not satisfied with the outcome.

The Authorised officers who form the panel are responsible for:

- conducting a first tier review of an assessment and rating as a panel and reaching a decision within 30 calendar days of receiving the approved provider's application;
 - the time frame may be extended by up to 30 calendar days by agreement between the approved provider and the Regulatory Authority, or if the Regulatory Authority requests further information
 - the timeframe may be extended by up to 60 calendar days when the Regulatory Authority considers there are exceptional circumstances.
- recommending the outcome of the review to the delegated officer to enable them to make a final decision.

6. Guidelines

A first tier review is a review of the initial point-in-time assessment of the service against the National Quality Standard (NQS); it is not a reassessment of the service. The regulatory authority can consider new information during a first tier review, but that information must relate to the facts at the point in time when the assessment was conducted.

Any changes made to the service since the first assessment and rating visit, which may have improved the service's quality, cannot be considered at first tier review.

6.1. What to consider before applying for a review

Before applying for a review, approved providers must ensure that matters out of scope considered. An approved provider can apply for a review if they:

- disagree with a rating based on the evidence described in the final report
- have additional background information about the evidence described in the final report
- believe the authorised officer did not consider all relevant evidence available at the time
- believe the service was not given adequate opportunity to demonstrate how it meets an element or standard.

6.2. Applying for a first-tier review

An approved provider must include the following criteria when applying for a first-tier review of service's quality ratings.

6.2.1. First-tier review criteria

The application should be in accordance with regulation 68 and must:

- be submitted in writing, within 14 calendar days of receiving the final assessment and rating report
- be submitted through the NQA ITS
- include the name and contact details of the contact person for the application
- set out the grounds on which the review is sought
- set out the quality areas to which the grounds for review relate.

There is no application fee associated with this application. The Guide to the National Quality Framework and Australian Children's Education and Care Quality Authority (ACECQA) provide recommended procedures for this process.

6.3. The regulatory authority's obligations

The first tier review must be conducted within 30 calendar days of receiving the request by the approved provider.

A 30 day extension may be granted by agreement.

An extension of up to 60 calendar days may be granted in exceptional circumstances by QECNT.

The regulatory authority must ensure that the following persons are not involved in conducting the first-tier review, section 142 of the National Law:

- the authorised officer who conducted the original assessment and rating
- the delegate who moderated the draft assessment and rating report
- the delegate who approved and signed the final assessment and rating report.

Once the regulatory authority has reviewed the submissions and made its decision, it must notify the approved provider within 30 calendar days.

6.4. How a review is conducted

QECNT's approach to reviewing an application is detailed below, noting that the National Law or National Regulations do not prescribe how a review must be conducted.

Step 1: Acknowledge application

- the regulatory authority acknowledges the application received from the NQA ITS portal by sending an acknowledgement in writing to the approved provider.

Step 2: Assign a panel

- a panel of authorised officers are assigned by the Assistant Director Quality and Director to conduct the first tier review. All panel members will not have taken part in the conduct of any aspects of the assessment and rating of the service.

Step 3: Review preparation

- the panel reviews the application and addresses the request by considering the identified quality areas, standards or elements to be considered.

Step 4: Conduct the review

- the panel analyses and assesses the evidence against the NQS, the National Law and National Regulations. The panel must refer to the element and standard descriptors and assessment guides in Section 3 of the Guide to the National Quality Framework (NQF) which set out the types of evidence that can be used to support element and standard ratings. Evidence can include:
 - the service's QIP
 - evidence gathered during the assessment and rating
 - draft assessment and rating report
 - feedback from the approved provider to the draft report
 - final assessment and rating report
 - application for first tier review
 - additional evidence submitted with the application for the first tier review.

Step 5: Review outcomes

- the panel determines the rating based on the evidence submitted and provides recommendations to the delegated officer on the outcome of the review. The panel completes a first tier review assessment template to document the decision making.

Step 6: Draft the Statement of Reasons and briefing documentation

- the panel then drafts a 'Statement of reasons'; that includes the decision notice letter. The statement must outline the findings and outcome of the review.
- the statement must identify the panel members who have conducted the first tier review.
- the panel completes a First tier Review briefing document to attach with the statement of reasons/decision notice letter to be approved by the delegated officer for signing and approval

Step 7: Approval process

- the panel provides the documents to the delegated officer for signing and consideration for approval.

Step 8: Notification

- the endorsed copy of the 'Statement of reasons' together with the First Tier notice of decision letter is sent to the approved provided by the delegated officer within 30 days.

6.5. The appeals process

The notice of decision advises the approved provider of the process to seek further review, a second tier review, if they do not agree with the final outcome.

Second tier reviews are conducted by a Ratings Review Panel established by ACECQA from an established pool of panel members.

Applications for a second tier review must be made within 14 calendar days of receiving the notice of decision. An application fee is applicable.

7. Related policy, legislation and documents

7.1. Policy

- Assessment and rating policy
- First tier review procedures

7.2. Legislation

- *Education and Care Services National Law Act 2010* sets out the National Law - <https://www.legislation.vic.gov.au/in-force/acts/education-and-care-services-national-law-act-2010/017>
- *Education and Care Services (National Uniform Legislation) Act 2011* adopts the *Education and Care Services National Law Act 2011* in the NT - <https://legislation.nt.gov.au/Legislation/EDUCATION-AND-CARE-SERVICES-NATIONAL-UNIFORM-LEGISLATION-ACT-2011>
- *Education and Care Services National Regulations* - <https://legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653>
- National Quality Framework
- National Quality Standards

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Acronyms	Full form
ACECQA	Australian Children’s Education and Care Quality Authority
NQA ITS	National Quality Agenda IT System
NQF	National Quality Framework
NQS	National Quality Standards
NT	Northern Territory
QECNT	Quality Education and Care, Northern Territory
QIP	Quality Improvement Plan
TRM	Territory Records Management