Meet the Regulator: Questions and Answers

The following questions were raised during the *Meet the Regulator* event in June 2026. The responses below provide information about the Education Standards Board's regulatory role, the assessment and rating process, compliance requirements and other matters of interest to education and care services.

Question: What is the difference between a Regulatory Officer and an Authorised Officer?

A **Regulatory Officer** is the *role* (or job title), while an **Authorised Officer** is the *legal authority* that enables that person (or others) to exercise powers under the National Law.

Regulatory Officer

A **Regulatory Officer** is a role or position within the regulatory authority.

The ESB defines Regulatory Officers as staff who are authorised to perform specific regulatory activities, including:

- coordinating and undertaking regulatory activities
- assessing and rating service quality
- assessing applications
- providing guidance to support compliance with legislation.

Not all regulatory work requires authorised powers, but any activity involving entry, inspection or enforcement must be undertaken under Authorised Officer powers.

Authorised Officer

An **Authorised Officer** under the Education and Care Services National Law Act 2010 is a person authorised by a regulatory authority as an appropriate person for the purposes of the law. Their powers, functions and responsibilities are prescribed in legislation, not by job title, including:

- assessing and rating services
- monitoring compliance
- investigating incidents or complaints.

They also have specific legal enforcement powers, such as:

- entering premises
- inspecting documents and equipment
- gathering evidence and required information.

Being appointed as an Authorised Officer gives a staff member the legal authority to exercise powers under the National Law when carrying out regulatory activities.

When exercising their functions, an Authorised Officer must carry their official identity card at all times. The identity card must be produced before exercising a power of entry and, upon request, while exercising any other power under the National Law.

Question:

How does the training differ between Authorised Officers who undertake compliance and investigations work and those who conduct quality assessments and ratings?

All Authorised Officers participate in:

- training in the national legislative framework and South Australian legislation
- a structured proficiency program that develops capability over time
- ongoing professional development and coaching
- communities of practice and peer learning, including shadow visits where officers accompany colleagues to better understand the education and care environment through a regulatory lens.

To ensure assessments are conducted consistently and in accordance with the National Quality Framework (NQF), Authorised Officers in quality assessment undertake rigorous training including but not limited to:

- Authorised Officer training delivered by the Australian Children's Education and Care Quality Authority (ACECQA)
- a 16-week induction program combining online learning, classroom style presentations, mentoring and supervised fieldwork across assessment, compliance and regulatory practice
- targeted training on Quality Areas 1 and 5, and child development theory.

Authorised Officers in compliance and investigations undertake specific training to ensure that they are able to appropriately execute powers under the legislation. This training includes:

- a rigorous induction and onboarding program that develops capability in compliance and enforcement activities, including investigations and evidence gathering
- regulatory practice and compliance training, including:
    - risk-based regulation
    - proportionate enforcement
    - responsive regulation principles
    - regulatory decision-making frameworks.
- supervised field experience that allows Authorised Officers to shadow experienced compliance officers during service visits, investigations, compliance monitoring activities and enforcement discussions
- targeted training on Quality Areas 1 and 5, and child development theory
- additional role-specific induction training for investigators

Question:

What factors does the ESB consider when assessing fencing requirements, and how are potential risks associated with loop-top fencing being addressed?

While fencing plays an important role in the safety of children at services, the ESB will also consider overall supervision practices and whether appropriate risk assessments are in place.

For assessment and compliance purposes, best-practice fencing should:

- meet Regulation 104 by **preventing children from going through, under or over the barrier**
- eliminate foreseeable entrapment, strangulation and climbing risks
- support active supervision and sightlines
- be regularly maintained and checked
- avoid loop-top or decorative designs that create openings capable of trapping a child's head, neck or clothing
- be supported by a documented risk assessment.

Loop-top designs can create entrapment and strangulation hazards, particularly when children attempt to climb using nearby objects. To minimise these risks, the ESB encourages fencing designs that incorporate the following features:

- vertical uprights or palings
- no gaps or openings that could allow head, neck or limb entrapment
- non-climbable profiles
- smooth upper edges without decorative loops, projections or openings.

If loop fencing already exists, services should undertake a documented risk assessment to mitigate any potential hazards and consider suitable control measures, including but not limited to:

- children's ages and developmental stages
- potential entrapment hazards
- climb ability
- proximity of movable objects
- supervision arrangements
- opportunity for retrofit modifications that improve safety.

As part of the Child Safety Review, the Tranche 2 child safety reforms relating to fencing have highlighted the need for clear and nationally consistent guidance to support uniform application across jurisdictions.

Stakeholder consultation identified strong support for greater specificity on key requirements, including approved fencing materials, minimum fence heights, internal and external fencing standards, gate requirements and fencing arrangements for services located in high-rise buildings. Decisions on these reform areas are expected in the coming months, with further information to be provided on any proposed changes to fencing requirements.

Question:

How are the Exceeding themes assessed during the assessment and rating (A&R) process, and what does Exceeding practice look like in a service?

The Exceeding themes are assessed as part of the A&R process and are aligned with the requirements of the National Quality Framework (NQF). The Australian Children's Education and Care Quality Authority (ACECQA) provides a range of resources to help services understand what is required to achieve an Exceeding rating, including case studies of Exceeding practices. See the information sheet on 'Demonstrating and assessing Exceeding National Quality Standard'.

An Exceeding rating reflects practice that goes above and beyond meeting the National Quality Standard (NQS). Services must demonstrate all three Exceeding themes:

1. **Embedded in practice** – practices are evident, consistent and integrated into the service's everyday operations.
2. **Informed by critical reflection** – practices are regularly reviewed, analysed and strengthened through meaningful reflection.
3. **Shaped by meaningful engagement with families and/or the community** – practices are tailored and responsive to the needs of the children, families and the community.

Authorised Officers use *Questions used by Authorised Officers to establish Exceeding NQS practice* to determine if themes are awarded, which are available in the Guide to the NQF. Officers consider these questions when analysing practices. All three themes must be demonstrated in service practice, at the Standard level to be rated as Exceeding NQS.

If all Standards within a Quality Area are rated Exceeding NQS, the rating for the Quality Area will be Exceeding NQS. If four or more Quality Areas are rated Exceeding, with at least two of these being Quality Areas 1, 5, 6, or 7, the overall rating will be Exceeding NQS.

Continuous improvement is embedded in the A&R process. Quality improvement notes are provided in areas where the officers can see opportunities and encourage services to critically reflect and inform change and decision making.

Services can also use the Exceeding themes as a framework for self-reflection and to identify opportunities for quality improvement. Research from the 2019 Quality Improvement Research Project commissioned by ACECQA demonstrated that meaningful engagement with the assessment and rating process was a key driver for practice change, critical reflection and promoted ongoing continuous improvement.

Question:

How does the assessment and rating (A&R) process work, and how may it differ depending on the type of service?

The ESB will contact your service when an A&R process is commencing and will explain the process, expectations and next steps. The A&R process is designed to assess the quality of education and care against the National Quality Standard (NQS) while supporting continuous improvement and professional reflection.

This approach reflects recent enhancements to the ESB's assessment and rating process, designed to improve transparency, consistency and engagement with services. Further information is available in the ESB Sector Alert: Enhancements to our assessment and rating process.

Approved providers and services will receive five business days' notice before an A&R visit. Notification will be provided by telephone and confirmed in writing where the assigned Authorised Officer will request the service's current Quality Improvement Plan (QIP).

Services will be asked to provide their QIP within one business day of receiving notification. For services that do not operate five days per week, this timeframe will be based on the service's operational days.

The QIP should reflect the service's ongoing self-assessment and quality improvement processes.

Under Regulation 56, approved providers are required to review and revise their QIP at least annually and should not simply update their QIP for A&R purposes.

Opportunity to meet your assigned officer

Services will be offered the opportunity to speak with their officer before the A&R visit, either by telephone or video conference.

The discussion is intended to provide services with:

- an explanation of the A&R process
- answers to specific questions about the visit
- support services to understand what to expect during the visit.

This discussion does not form part of the A&R evidence gathering process.

What happens during the A&R visit?

The length of an A&R visit varies depending on several factors, including:

- the type of service (for example, centre-based care, preschool or family day care)
- the size and complexity of the service
- enrolment numbers
- the evidence available on the day
- opportunities for professional discussion.

During the visit, Authorised Officers gather evidence through observations, discussions and review of documentation. They seek to understand the service's everyday practices and how these align with the NQS.

Officers will typically engage with:

- the approved provider or nominated supervisor
- service leaders and educators

- coordinators and educators in family day care services, where relevant
- families, where appropriate and available.

The approach may differ depending on the service type to ensure the assessment reflects the service's unique operating environment and structure.

Dedicated post-visit discussions

A key enhancement to the process is the introduction of a dedicated discussion one to two business days following the A&R visit. The Authorised Officer will meet with the approved provider by video conference (or telephone where required) to:

- discuss evidence gathered during the visit
- clarify information if necessary
- provide an opportunity for further professional discussion.

This dedicated discussion supports meaningful, reflective conversations and provides services with greater opportunity to explain their practice and continuous improvement journey.

ACECQA provides guidance on the A&R process on their website: Assessment and rating process.

Question:

Why are services assessed against an Exceeding NQS rating, rather than simply being assessed as Meeting (or not meeting) the National Quality Standard? Also: how can services learn from examples of exceptional practice?

The assessment and rating (A&R) process and rating system are established under the National Quality Framework (NQF) and are applied consistently across Australia. The ESB does not determine the ratings framework or assessment methodology. Any changes to the way services are assessed or rated would require national agreement by Australian governments.

Services should be reminded that a Meeting National Quality Standard (NQS) rating represents the consistent delivery of high-quality education and care practices across the NQS. Achieving this rating is a significant accomplishment and reflects quality outcomes for children, families and communities.

For services interested in learning from exemplary practice, the Australian Children's Education and Care Quality Authority (ACECQA) provides a range of resources, including case studies, guidance materials and examples of Exceeding NQS practice: Exceeding NQS . These resources support knowledge sharing across the sector and help services understand how high-quality practices can be embedded, informed by critical reflection and shaped by meaningful engagement with families and communities.

Question:

What is the difference between a Compliance Direction and a Compliance Notice, and where can services and families find information about the various compliance and enforcement actions available under the National Law?

A Compliance Direction and a Compliance Notice are both tools intended to address non-compliance.

- **Compliance Direction** – A Compliance Direction is a more specific regulatory instruction, typically focused on remedying and preventing a breach of the National Regulations and prevent its recurrence. A Compliance Direction can be given to an approved provider if the regulatory authority is satisfied that a service has not complied with specific regulations. The provider must comply within the timeframe specified in the Compliance Direction (minimum 14 days), and failure to do so constitutes an offence under the National Law.
- **Compliance Notice** – Regulatory authorities can give formal instructions to providers and services to make sure they are aware of their responsibilities under the National Law and National Regulations. The notice identifies the breach and specifies actions that must be taken within a stated timeframe (minimum 14 days) to achieve compliance. Failure to comply may result in further regulatory action.

Both Compliance Notices (s. 177) and Compliance Directions (s. 178) are reviewable decisions under s. 190 of the National Law. An approved provider may apply for an internal review of either decision within 14 days of being notified of the decision.

Currently, the Australian Children's Education and Care Quality Authority (ACECQA) publishes guidance on compliance actions and conditions on the StartingBlocks website (see 'Conditions: How regulatory authorities support compliance').

Further information on enforcement tools is available on the ESB website (see 'Early childhood services compliance and enforcement policy').

Question:

How does the ESB manage complaints from families, and what happens when there is insufficient evidence to substantiate a complaint?

Where appropriate, the ESB recommends that concerns or complaints are raised with the service in the first instance to provide an opportunity for the matter to be addressed before contacting the ESB.

The ESB takes all complaints seriously and assesses each matter in accordance with its legislative responsibilities under the National Law and Regulations. All complaints must be in writing. When a complaint is received, the ESB will review the information provided, assess any potential risks to children's health, safety and wellbeing, and determine the appropriate course of action. This may include contacting the service, the person who is the subject of the complaint and/or the complainant to obtain further information and clarify the issues raised.

While complaints can be made anonymously, it is preferable for complainants to provide their name and contact details. This enables the ESB to seek additional information, clarify concerns and ensure a thorough assessment of the matter. The ESB protects complainants' personal information by handling complaints in accordance with privacy and confidentiality requirements and will not disclose personal details.

In some cases, a complaint may raise concerns but there may be insufficient evidence available to substantiate the allegations. The absence of evidence does not necessarily mean the concern is not genuine, but the ESB may be unable to take formal compliance or enforcement action. Depending on the circumstances, the ESB may still monitor the service, record the information received, consider it alongside any future concerns, or undertake further enquiries where appropriate.

Question:

What are the requirements for smart watches and other personal digital devices in education and care services?

As outlined in the National Model Code, personal electronic devices capable of taking images or videos, as well as personal storage or file-transfer media, must not be in the possession of any person while providing education and care or working directly with children, unless required for authorised essential purposes such as emergencies, health needs or family matters.

Smart watches that cannot store or transmit images—such as basic Fitbits or step counters—may be used. The key consideration is whether the device is capable of receiving or retaining images or videos. Even if image-related settings are disabled, any device that can physically receive images cannot be used without an exemption.

Further guidance is available on the ESB website (see 'Personal Device Restrictions') and on the ACEQA website (see the information sheet, 'Using digital devices in centre based education and care services').

Question:

What are the requirements for storing, labelling and administering medication, creams and sunscreen intended for a specific child?

Services must follow their policies and procedures for administering medication and managing medical conditions before any medication, cream or sunscreen is applied or administered to a child.

Children with a specific health care need, allergy, or medical condition must have a medical management plan that outlines the child's prescribed medication, treatment requirements and any specific instructions provided by a registered medical practitioner.

To support the safe administration of medication, all medications should be supplied to the service in their original container, clearly displaying the product label and expiry date. For medications prescribed for an individual child, the packaging should also clearly identify the child's name, which is commonly achieved through a pharmacy label.

Where an over-the-counter medication or cream is intended for the use of a specific child and does not include a pharmacy label, families are strongly encouraged to obtain one to ensure dosage aligns with the child's medical management plan.

These requirements are consistent with the National Regulations, which require services to have appropriate policies and procedures for the administration of medication and to take reasonable steps to ensure children's health, safety and wellbeing. Ongoing consultation between families,

health professionals and educators is important to ensure medication is administered safely and in accordance with the child's individual needs.

Common medication management issues identified by Authorised Officers include:

- required medical management, communication and risk minimisation plans are not all in place (as per Regulation 90)
- prescribed medication has expired
- prescribed medication is not available at the service while the child is in attendance
- communication and risk management plans are generic and not specific for each child.

Question:

How does the ESB support children's autonomy and opportunities for 'risky play' while ensuring safety requirements are met?

The ESB recognises the importance of respecting children's autonomy, including participation in appropriately managed 'risky play'. It is up to services to support their teams to appropriately manage risky play scenarios.

There is a critical distinction between risky play and unsafe practice. Appropriately managed risky play supports children's learning and development by removing preventable hazards while allowing children to engage with meaningful challenges and age-appropriate risks.

Services should ensure that risky play opportunities are supported through safe physical environments, appropriate supervision, risk-benefit assessments, consideration of children's developmental capabilities, and compliance with relevant policies, procedures and regulatory requirements. Decisions should always be guided by the best interests, safety and wellbeing of children.