



Date of Decision: 2 March 2015
File number: STR0015

Applicant: 'Approved provider'
Regulatory Authority: ACT Government Education and Training Directorate

Decision

The Ratings Review Panel (the Panel) by consensus decided to confirm that the assessment of elements 1.1.3, 1.2.3, 2.3.4, 4.2.2, 4.2.3, 5.2.2 and 5.2.3 remain at 'not met'.

As a result, the Panel by consensus confirmed the rating for standards 1.1, 1.2, 2.3, 4.2 and 5.2 remain at 'Working Towards NQS'.

The Panel confirmed that the overall rating for the service remains at 'Working Towards NQS'.

Issues under review

1. The approved provider (the provider) sought a review on the grounds that the regulatory authority, in making its determination, failed to take into account or give sufficient weight to special circumstances or facts existing at the time of the rating assessment (section 144(3)(b) *Education and Care Services National Law* (National Law)).
2. The provider sought a review of the following:
 - Quality Area 1
 - Standard 1.1
 - Element 1.1.3
 - Standard 1.2
 - Element 1.2.3
 - Quality Area 2
 - Standard 2.3
 - Element 2.3.4
 - Quality Area 4
 - Standard 4.2
 - Elements 4.2.2 and 4.2.3
 - Quality Area 5
 - Standard 5.2
 - Elements 5.2.2 and 5.2.3



3. After the initial assessment, the service was rated at 'Working Towards NQS' for standards 1.1, 1.2, 2.3, 4.2, and 5.2. The provider applied for first tier review.

First tier review

4. At first tier review, the regulatory authority changed element 1.1.6 from not met to met, concluding that key evidence provided by the authorised officer established that every child's agency was promoted. However, the regulatory authority confirmed its assessment of Quality Area 1 as 'Working Towards NQS' as element 1.1.3 remained at not met. All other ratings remained unchanged. Consequently, the service's overall rating of 'Working Towards NQS' remained unchanged.

Applicant's view

5. The provider states in its application for second tier review that evidence, available on the day of the assessment and rating visit, supporting a rating of at least 'Meeting NQS' was not appropriately taken into account by the authorised officer.

Evidence before the panel

6. The Panel considered all the evidence submitted by the provider and the regulatory authority. This included:
 - the application for second tier review and its attachments
 - the evidence collected by authorised officers during the assessment visit
 - the service's feedback on the draft Assessment and Rating Report (draft Report)
 - the final Assessment and Rating Report (final Report)
 - the regulatory authority's findings at first tier review
 - the regulatory authority's submissions for second tier review, including the service's compliance history and sections of the service's QIP relevant to the elements under review
 - the response from the provider to the regulatory authority's submissions for second tier review.
7. The Panel was also provided with advice from ACECQA on:
 - the elements, standards and quality areas under review
 - a booklet titled *Keeping Children & Young People Safe: A guide to reporting child abuse and neglect in the ACT*
 - Early Childhood Australia Code of Ethics
 - My Time, Our Place – the framework for school age care.

The law



8. Section 151 of the National Law states 'Following a review, the Ratings Review Panel may:
 - (a) confirm the rating levels determined by the Regulatory Authority; or
 - (b) amend the rating levels.'
9. Information on the application of the National Quality Standard is available in the Guide to the National Law and Regulations and the Guide to the National Quality Standard available on ACECQA's website.

The facts

10. The assessment and rating visit took place on 8 and 9 September 2014. Two authorised officers were present during the visit.
11. The provider received the assessment and rating decision on 6 November 2014.
12. The provider applied for first tier review on 19 November 2014 and received a decision on 9 January 2015.
13. The service is an outside school hours' care service with 60 approved places.

Review of rating levels

14. The Panel considered each standard and element under review in turn.

Standard 1.1

15. Standard 1.1
'An approved learning framework informs the development of a curriculum that enhances each child's learning and development'.
16. It is made up of six separate elements, one of which is under review.

Element 1.1.3

17. Element 1.1.3 requires that:
'The program, including routines, is organised in ways that maximise opportunities for each child's learning'.
18. Within the evidence collected during the assessment visit, the authorised officers sighted routines for the before and after school care program and noted that 'the children appeared to be familiar with the routines of the service and move between the events'.
19. The authorised officer observed that 'routine events were minimised to avoid children having to wait for extended periods' but 'when children were required to sit down for group time the educator continued to repeat "ssshhh" and



- stated "I need silence to talk". This went on for about 5 minutes with the educator stopping talking every time the children became loud'.
20. The authorised officer recorded evidence in the draft Report that children are 'asked to sit together to mark the roll' while 'educators raise their arm and the coordinator blows a whistle indicating she has started timing how long it will take to mark the roll'. The authorised officer noted that 'children are told to put away books and be quiet' and told 'look at [the] educator only and [don't] get distracted'. After the process, the authorised officer commented that the 'educator tells the children how long it took and says 'well done', children are told they have 10 seconds to cheer, in a calm way'.
 21. The provider gave feedback to the draft Report that 'educators use effective strategies such as hand in the air to gain children's attention'.
 22. The provider gave feedback to the regulatory authority on the draft Report which stated that 'children's transitions from preschool and school are safe, relaxed and thorough. Children are cooperative and have a thorough [understanding] of these transitions'. This feedback included examples of organising routines to maximise opportunities for each child's learning. For example, children sit together for afternoon tea and take it in turns to serve from the main serving tables.
 23. Within the final Report, the authorised officer noted that 'the effectiveness of routines was reduced with children expected to wait during some transitions with an educator expecting children to be silent' while 'educators largely lead changes in routine and provided little opportunity for children to contribute during these changes'.
 24. The regulatory authority reasoned that the service's 'success measure of 15 minutes identified in the QIP drives the process [and] indicates that the children have not been empowered to challenge this process'. Furthermore, the regulatory authority reasoned that the provider did not address the key evidence about the time limit for arrival times. As such the program included 'missed learning opportunities' due to 'inflexible and regimented routines'.
 25. Within its submissions at second tier review, the provider claims that 'the school pick up and drop off routine is smooth and effective as children know the procedure for meeting at the designated area or waiting to be collected from their classroom'.
 26. The provider continues that 'due to the large open space that the program operates from, [in the past] children have found it difficult to settle on arrival and participate in group times where taking the roll and discussion [is] crucial'. The provider continues that 'over the year the children and the team have devised their own arrival routine which is understood and respected by all and ensures these times are brief, effective and productive'. The provider



comments that this has improved how the session flows and ensures all children are accounted for and know what activities are offered in each session.

27. The provider submitted further evidence to explain the time limit in the arrival routine. The provider identifies that there is a need to account for all children within 15 minutes of the school bell ringing. The provider explains that, while the process is continually reviewed, there are a number of children present with challenging behaviours, and the time limit has been established to ensure the safety of children.
28. The provider explains that 'the children devised the timing element as a way to compete as small groups and to help them improve on their listening skills and being respectful as a group' and that 'at the end of the week, groups and individuals are rewarded with certificates made by other children and recognised for being respectful and sometimes specifically for being the "quickest" against the timer to pack up or to get ready for group time'.
29. The provider states that children who find the initial group time challenging are redirected to other activities. For example, a child with additional needs who finds group time overwhelming chooses other activities and an educator will engage with him. Often other children also join in this activity.
30. The Panel acknowledged the provider's comments that the timing routine was set up to both satisfy school requirements and also to support children who had been observed to have trouble settling into the service.
31. However, the Panel noted that the only evidence provided around supporting children with challenging behaviours was a comment from the provider that a child who had trouble settling was offered other activities. The Panel commented that the provider had not submitted further evidence of how the service's routines help to support this child or any other children with challenging behaviours.
32. The Panel commented that, while transition times can be chaotic and having a routine may be useful, the timing, count down and competitive nature of the service's routine appeared to be overly regimented and did not promote each child's sense of responsibility.
33. Furthermore, the Panel noted that, while the provider suggested the competitive element was a strategy devised by children, the service's use of a whistle at afternoon tea time was unnecessary. The Panel concluded that observations showed that this routine was abrupt and was carried out irrespective of whether children had finished their afternoon tea or not.
34. Within the final Report, the authorised officer noted that 'children were familiar with routine events, making transitions between them smoothly'. The



authorised officer noted that the routine had some flexibility and children were given opportunities to be involved in some aspects and offered some responsibilities such as helping to serve meals.

35. The authorised officer also noted that 'children did not always have ownership of routines and the strategies used by educators to manage these routines resulted in missed learning opportunities and disengagement of children'.
36. In its submission at first tier review the provider states that 'Children's Meetings are held and documented giving children opportunities to provide feedback on routines'.
37. At first tier review, the regulatory authority acknowledged the provider's evidence around children's meetings, where children have an opportunity to give feedback to educators. However, the regulatory authority reasoned that 'the steps outlined in the QIP are for the team to make a decision about ways to achieve the outcomes and then discuss any changes with the children'. The regulatory authority reasoned that the provider did not provide examples of 'educators collaborating respectfully with children about routines and procedures'.
38. The regulatory authority concluded that the evidence provided by the authorised officer, coupled with the focus on educator-directed timeframes in the QIP indicated that the transition routine is not organised in ways that maximise opportunities for each child's learning.
39. The Panel noted that children had contributed to making some of the service's rules and that there was some evidence of children being involved in decision making. However, the Panel agreed that the provider did not submit sufficient evidence to determine that children are fully integrated into decision making at the service.
40. The Panel considered the provider's claims that children are encouraged to take on leadership roles, group meetings are held to gather the children's ideas regarding routines, and program rules are developed in collaboration with children. However, the Panel noted that, while the provider claims routines were developed in conjunction with children, no further evidence was provided about how this was accomplished.
41. Within its submissions at second tier review, the provider claimed that evidence collected by the authorised officer and appointed to element 1.1.6 supported a meeting judgment for other elements of standard 1.1, including element 1.1.3. This included evidence that 'children have access to all the play resources for self-choice and discovery, open-ended resources are available to children daily, activities and experiences planned are culturally diverse and support the children's sense of identity, children are encouraged to take on leadership roles, group meetings are held to gather the children's ideas



regarding routines and program rules are developed in collaboration with children'.

42. The Panel considered the provider's submissions about its broader program. However, the Panel noted that, while these aspects of the program provided some opportunities for learning, the majority of the evidence provided had a strong focus on routines, which were not organised in ways that maximised opportunities for each child's learning.
43. The Panel discussed whether too much weight had been placed on the evidence collected around transition routines. The Panel noted that, while this element is not focused solely on routines, routines are an important daily aspect of the service's program. The Panel considered that there was an opportunity for the service to reflect on its program and the structure of its routines, with the focus being on ways to extend children's learning and development.
44. The Panel agreed that, based on the evidence provided, it was unable to find that the program, including routines, is organised in ways that maximise opportunities for each child's learning. Therefore element 1.1.3 remains as 'not met'.

Standard 1.2

45. Standard 1.2
'Educators and co-ordinators are focused, active and reflective in designing and delivering the program for each child'.
46. It is made up of three separate elements, one of which is under review.

Element 1.2.3

47. Element 1.2.3 requires that:
'Critical reflection on children's learning and development, both as individuals and in groups, is regularly used to implement the program'.
48. Within the evidence collected during the assessment visit, the authorised officers noted that the coordinator described critical reflection as when she 'looks at the program and the children's observations, and what they are getting from the program'. The authorised officers reasoned that this demonstrated that she did not fully understand the term.
49. The provider responded to this evidence in the draft Report by explaining that 'educators use observation forms to critically reflect on the learning experiences for children both individually and in groups. Educators collect, analyse, interpret and reflect upon all this information which in turn forms



future planning based on these critical reflections’.

50. Within the final Report, the authorised officer noted the provider’s feedback on the draft report. However, the authorised officer noted that this additional evidence did not support critical reflection being consistent or embedded in daily practice. The final Report notes that there is ‘little evidence that educators effectively engage with questions of philosophy, ethics and practice to allow further insight to support, inform and enrich decision making about children’s learning’.
51. At first tier review, the regulatory authority considered additional evidence submitted by the provider which included photographs of reflections on children’s learning which have been shared with families. The regulatory authority concluded that the reflection practices described did not constitute engagement with philosophy, ethics and practice as described in the Guide to the NQS.
52. At first tier review the regulatory authority also considered the definition of reflective practice from ‘My Time, Our Place’ which identifies three types of reflection – technical, practical and critical. The regulatory authority noted that the reflection described by the provider covered some technical and practical aspects of the program but did not incorporate critical reflection.
53. The Panel noted that the evidence submitted by the approved provider at first tier review demonstrated collection and reporting of information rather than reflection on children’s learning and development. Furthermore, the Panel was unable to identify how the service’s suggestion tree supports critical reflection.
54. The Panel noted that there was some evidence of critical reflection happening during the visit. However, observations and discussions with educators revealed that critical reflection was not consistently used to implement the program. The Panel noted that there was evidence of technical and practical reflection, however it was not in depth and critical. The Panel further noted that reflection was not embedded in the service’s practice and it was not clear how reflection influenced decision making and ongoing program development at the service.
55. The Panel noted that children may be attending the service irregularly and for short periods of time. However, the Panel noted that an educator’s ability to critically reflect shouldn’t be affected by the children’s age or how long they attend the service. The Panel noted that it would expect all educators in an OSHC service, including those that are new to the service, to critically reflect on children’s learning and development, and regularly use this to implement the program.
56. The Panel acknowledged that there is evidence that the service collects feedback from families. However, the Panel was unable to identify how the



evidence collected was being reflected on and used to implement change at the service.

57. The Panel noted that, for educators in any service type to develop their skills, it is important to regularly engage in critical reflection. The Panel noted that, as part of a large approved provider, there might be opportunities for skilled educators to share knowledge of critical reflection between services to assist educators at the service to increase their knowledge and skill in using critical reflection.
58. The Panel noted that this element requires services to critically reflect on children both as individuals and in groups. However, the Panel could not find sufficient evidence to support that this was occurring.
59. The Panel concluded that there was insufficient evidence available to demonstrate how critical reflection on individual children's learning and development is regularly used to implement the program. As such, the Panel agreed that the judgment for element 1.2.3 remains as 'not met'.

Standard 2.3

60. Standard 2.3
'Each child is protected'.
61. It is made up of four separate elements, one of which is under review.

Element 2.3.4

62. Element 2.3.4 requires that:
'Educators, coordinators and staff members are aware of their roles and responsibilities to respond to every child at risk of abuse or neglect'.
63. Within the evidence collected during the assessment visit, the authorised officer noted that the coordinator is familiar with mandatory reporting, that 'ACT specific information is available to all educators within the service', and that the provider's policy states that 'each jurisdiction has specific laws to follow'.
64. The authorised officer noted that discussions with the five educators revealed that only the coordinator knew that they were mandated to report. All other staff members stated that they would speak to the coordinator about the situation but did not discuss reporting. Educators commented that 'if the coordinator did not report then they would go up the chain of the provider'. Furthermore, 'educators could not articulate their obligations under child protection law in place in the ACT'.



65. The provider's feedback on the draft Report outlined the national procedures and training that the provider has developed. The provider states that these include a policy for reporting of child abuse, a child first poster displayed at the service and an online training package.
66. At first tier review, the regulatory authority concluded that evidence collected during the visit demonstrates that 'responses by educators when questioned indicated that they were not aware of their personal obligations as mandated reporters' and that they were 'not aware of their responsibilities to respond to every child at risk of abuse or neglect'.
67. The regulatory authority acknowledged the provider's child protection policy. In considering the policy's alignment to the requirements of the ACT legislation, the regulatory authority consulted the booklet *Keeping Children & Young People Safe: A guide to reporting child abuse and neglect in the ACT* which clarifies the responsibilities of mandated reporters in the ACT under the *Children and Young People Act 2008*.
68. The regulatory authority noted that the provider's policy was not in line with the requirements of the *Children and Young People Act 2008* and that 'the policy document which the provider requires educators to follow does not comply with the responsibilities of mandated reporters in the ACT'.
69. The Panel noted that the correct legislation is displayed in the service and the provider provides training for educators. However, the Panel noted that observations recorded by the authorised officers showed that the service's staff were unable to explain the legislation and their personal responsibilities. The Panel further noted that there is a gap between the service's positive intentions and its practices.
70. The Panel noted that mandated reporters should know their child protection responsibilities. The Panel noted that the provider's policy directs staff to report to supervisors, which does not meet with the legal requirements of the territory in which the service is located.
71. The Panel noted that it is important that cross-jurisdictional providers are aware of legislation in each state and territory and follow it appropriately.
72. The Panel concluded that there was insufficient evidence available to demonstrate that educators, coordinators and staff members are aware of their roles and responsibilities to respond to every child at risk of abuse or neglect. As such, the Panel agreed that the judgment for element 2.3.4 remains as 'not met'.

Standard 4.2

73. Standard 4.2



Educators, coordinators and staff members are respectful and ethical.

74. It is made up of three elements, two of which are under review.

Element 4.2.2

75. Element 4.2.2 requires that:
'Educators, coordinators and staff members work collaboratively and affirm, challenge, support and learn from each other to further develop their skills, to improve practice and relationships'.
76. Within the evidence collected during the assessment visit, the authorised officer noted that the lead educator held a meeting before children arrived where staff were told to 'be quiet and listen', before being told which tasks and responsibilities they had been assigned for that afternoon.
77. In addition, the authorised officer states that 'very little praise [was] provided to educators throughout the afternoon, [and] although they all communicated with one another there was a hierarchy occurring'.
78. The provider included feedback on the draft Report that 'regular communication [occurs] throughout the session especially throughout food preparation time prior to children arriving'. The provider notes that 'the authorised officer was not present throughout these discussions as she was situated in another area'.
79. The provider noted that all educators' skills, strengths and knowledge are utilised when programming, weekly and daily. 'This [was] evident [during] the emergency services day which was planned as one of the educators used to be a policeman'.
80. The provider comments that educators share tasks, responsibilities and information with each other throughout the course of the session. For example, 'an educator will inform other educators where she goes to collect children from the kindy program in the school. Other educators stay and continue to setup the equipment in the indoor area in preparation for when the children arrive'.
81. In the final Report the authorised officer states that 'although the atmosphere of the service was generally calm and relaxed, educators' particular strengths, talents and interests were not taken into consideration through the distribution of roles and responsibilities'.
82. The final Report notes that the provider's feedback on the draft report was 'not consistent with the practices observed during the assessment and rating visit'.



83. The provider claimed that the coordinator assigning roles to staff members was not normal practice. Instead, the provider claims that this occurred as a result of the authorised officer's presence 'as the assessor had already notified the [area manager] that she would like to have her question time with the coordinator just prior to the first session starting'. The provider claimed that 'typically the planned activities are allocated as a group and discussed during food prep time where individuals in the team can add their own ideas and input in regards to other planned activities coming up in the week'.
84. The provider further notes that 'each individual in the team is encouraged to give input into the planning of activities'. The provider claims that 'the activities on offer on the assessment days were not decided by the coordinator exclusively' but are activities 'planned collaboratively using the strengths and interests of team members, based on critical reflection, extending child initiated activities and family suggestions'.
85. In its submissions at first tier review, the provider stated that 'there is low turnover at the service because educators feel respected and valued by each [other]'. The provider explained that 'the team consists of only one long term staff member and the remaining 4-5 are all new to the service and are still learning about the routines and getting to know the children'. The provider commented that agency staff were engaged at the service during the visit, and having tools such as duties/activities allocation 'assist in the smooth running of the program and help these staff who are unfamiliar with the children also settle in and feel part of the afternoon'.
86. The provider states that 'educators work collaboratively and affirm, challenge, support and learn from each other to further develop their skills, to improve practice and relationships' and that 'staff have positive relationships with each other as well as with the School staff'.
87. In its submissions at first tier review, the provider included additional evidence of how 'educators consistently support, collaborate and share skills at the service through attendance at term coordinator networks and team meetings in the larger sector'.
88. At first tier review, the regulatory authority found that the evidence provided by the provider mainly related to educators' sharing 'basic information about their movements during the session, or health and medical issues for children'.
89. The regulatory authority acknowledged that there were examples of educators' talents and strengths being used in the program, but commented that 'no examples were provided of how educators have been supported to further develop skills or if they have reflected on whether educators or children are advantaged or disadvantaged by the choices made'.



90. The regulatory authority concluded that the authorised officer's observations 'did not indicate basic collaboration between educators, [and that the approved] provider's statements were not supported by concrete evidence showing how professional collaboration had resulted in improvements in practice'.
91. The Panel noted that educators communicate rather than collaborate and that communication between educators was about practical matters.
92. The Panel noted that, while the provider mentioned staff learning from one another, few examples were shared with the authorised officers or during the review processes. Furthermore, the Panel stated that the evidence does not show two-way feedback that supports collaborative learning between educators. The Panel discussed that this collaborative learning might happen in regular team meetings but no evidence of this was provided.
93. The Panel noted that the coordinator's discussions with educators were directive and did not demonstrate collaborative or supportive communication. The Panel noted that the coordinator may have felt the need to be directive to move through transitions more quickly during the visit. However, the Panel noted that this was not a suitable reason not to collaborate with other educators and that very little supportive feedback to staff on the floor was observed. Furthermore, the Panel noted that it would expect to see a higher number of positive interactions with new staff to reinforce their positive practice.
94. The Panel noted that the presence of an authorised officer can have an impact on staff behaviour at a service, which may have been felt more acutely with new staff members present. However, the Panel noted that there had been no negative feedback from the provider about the authorised officers' conduct on the day of the visit.
95. The Panel concluded that there was insufficient evidence available to demonstrate that educators, co-ordinators and staff members work collaboratively and affirm, challenge, support and learn from each other to further develop their skills, to improve practice and relationships. As such, the Panel agreed that the judgment for element 4.2.2 remains as 'not met'.

Element 4.2.3

96. Element 4.2.3 requires that:
'Interactions convey mutual respect, equity and recognition of each other's strengths and skills'.
97. Within the evidence collected during the assessment visit, the authorised officers noted that the coordinator spoke to each educator 'to let them know how many children there were at the service for the afternoon'. In addition, the



- authorised officers noted that 'the coordinator also walked around and reminded staff a few times how to interact with the children'. During these interactions, the authorised officer observed the coordinator reminding educators about being role models and said to educators 'you need to sit on the floor with the children and keep them quiet'.
98. The authorised officer recorded evidence that the coordinator 'discussed with all of the educators [the] activities [that were organised] for the day and where educators needed to be'. The authorised officer noted that 'the coordinator did not ask if they wanted to take on a role, [instead] they were informed of what they would do'.
 99. In its feedback on the draft Report, the provider commented that 'staff and educators show each other respect, demonstrated in their ease of communication with each other and their willingness to assist each other; for example educators always clarify their roles and responsibilities' when the group separates for different activities.
 100. The provider further noted that 'records of correspondence and of planning show the service coordinator has purposeful, collaborative and regular meetings with the area manager as well as other coordinators in relation to the service operations, the QIP and professional development'.
 101. The provider also commented that 'there are simplified, visual guides displayed throughout the service to remind educators about respectful and positive interactions with staff and children'.
 102. As also discussed within element 4.2.2, the final Report noted that 'communication between the provider and educators was respectful'. However, the authorised officer stated that 'interactions between educators were not consistently respectful and there was sometimes a lack of consideration and respect for educators' diverse contributions and perspectives'.
 103. Within the final Report, the authorised officer noted that the provider's feedback on the draft report was 'not consistent with observations made during the assessment and rating visit'.
 104. As for element 4.2.2, the provider's submissions at first tier review noted that the authorised officer's observations of the coordinator assigning roles to staff members was not normal practice.
 105. At first tier review, the regulatory authority acknowledged the provider's comments that 'educators meet as a team regularly, have input into program planning and that the team usually communicates with each other about session plans and issues during food preparation time'. However, the



regulatory authority noted that this was not observed during the visit.

106. The regulatory authority concluded that, while 'there was some evidence of recognition of some individual educators' skills and culture being incorporated in the program' and 'interactions between educators were generally respectful', the 'observations of the way directions were given to the educators by the coordinator and a lack of acknowledgement of their work was not consistent with fostering a culture of mutual respect and equity'.
107. The Panel noted that, while the provider claims that respectful interactions do happen, these were not consistently observed by the authorised officer during the visit.
108. The Panel acknowledged the provider's comments that the authorised officer had requested to speak to the coordinator at a time when the coordinator usually meets with the team. However, the Panel noted that the coordinator could have made other arrangements or discussed the importance of the meeting with the authorised officer. The Panel further noted that the service could have devised other ways to ensure that interactions between educators conveyed mutual respect, equity and recognition of each other's strengths and skills.
109. The Panel concluded that there was insufficient evidence available to demonstrate that interactions between educators conveyed mutual respect, equity and recognition of each other's strengths and skills. As such, the Panel agreed that the judgment for element 4.2.3 remains as 'not met'.

Standard 5.2

110. Standard 5.2
Each child is supported to build and maintain sensitive and responsive relationships with other children and adults.
111. It is made up of three separate elements, two of which are under review.

Element 5.2.2

112. Element 5.2.2 requires that:
'Each child is supported to manage their own behaviour, respond appropriately to the behaviour of others and communicate effectively to resolve conflicts'.
113. Within the evidence collected during the assessment visit, the authorised officer observed that the provider had developed a Behaviour Support and Management policy which contains information about building positive relationships and building children's self-esteem. However, the authorised officer commented that 'this was not always evident during the visit'. The



authorised officer also commented that, while the policy is discussed with the school, it may not be discussed with the children or families at the service because the policy is used across all of the provider's services.

114. The authorised officers also noted that, during the settling period after meals, an educator told children to 'shhh', counted down numbers and timed how long it took for the children to settle. This continued for an extended period of time. The authorised officers also observed the educator 'explaining to the children that when children talk it's very difficult for her to talk, and please be quiet'.
115. In its feedback on the draft report, the provider included additional examples of children in leadership positions to help support the effective running of the session. For example, 'children are given roles such as food service, peer support and sustainability leader'. The provider stated that children suggested these positions.
116. The provider commented that children assist educators to develop guidelines for appropriate behaviour and all educators are expected to become familiar with the comprehensive 'Guiding and Supporting Children's Behaviour Policy' during their induction.
117. The provider also noted the service's Children's Meetings which 'promote a sense of community within the service'. The provider stated that 'meetings [are] run with an agenda, all children are encouraged to contribute and educators record all contributions on the agenda and follow them up for future planning'. The provider also commented that Children's Meetings are recorded by educators to follow up with any issues for future planning.
118. In the key evidence submitted with the final Report, the authorised officers noted educators were observed 'frequently reminding children of the rules in a negative and directive manner, and punished the group when children did not comply', for example by requiring children to sit in silence while being timed, or telling children that it was disappointing if they took too long to settle. The report identified that these limited options provided children with little opportunity to self-regulate and manage their own behaviour.
119. In its submissions at first tier review, the provider explained that the service's guidelines for appropriate behaviour at grouping times are about 'respecting each other and therefore when an educator or child speaks everyone is listening'. The provider continues that 'this is a life skill that is also supported in the school environment'.
120. At first tier review, the provider submitted evidence that 'children and the team have devised their own arrival routine which is understood and respected by all and ensure these times are brief, effective and productive. This process has greatly improved the flow of the session and ensures that all children are



accounted for and are aware of what activities are on offer each session'.

121. At first tier review the regulatory authority acknowledged the provider's feedback that children were involved in writing rules for the service. However, the regulatory authority noted that most of these rules were expressed negatively. The regulatory authority also acknowledged the provider's claims that the Children's Meetings offered an opportunity for all children to contribute and be heard. However, the regulatory authority noted that the authorised officer had observed instances of children's input being ignored or discounted during the visit.
122. The regulatory authority also noted that the service's QIP identifies a need to provide support for children who have social difficulties by developing behaviour guidance plans in consultation with parents, teachers and relevant professionals. The regulatory authority noted that, while the authorised officer did not sight any behaviour management plans, a child with a diagnosed behavioural difficulty was supported by educators who responded positively and used strategies to help him cope in different situations.
123. The regulatory authority concluded that 'some practices were in place at the service to support children to manage their behaviour, but some of the interactions observed during the assessment visit were not conducive to the development of a sense of wellbeing and increased self-esteem for children'.
124. The Panel noted that aspects of the evidence that was provided under element 1.1.3 described the directive language and the structure of the service's routines. The Panel noted that this was relevant to this element as well. In particular, the Panel noted that the rigidity of the service's routines included educators telling children how to behave, without including children in decision making processes. The Panel commented that these routines did not support children to manage their own behaviour, respond appropriately to the behaviour of others or communicate effectively to resolve conflicts.
125. The Panel noted that the language used by educators was not modelling interactions that support children to develop skills to communicate effectively to resolve conflicts. Furthermore, the Panel noted that these interactions with children were not respectful and did not show appropriate consideration of the age of the children at the service. The Panel considered that there was an opportunity for the service to reflect on how it embeds respectful interactions within its program, with the focus being on improving collaboration and relationships between both educators and children.
126. The Panel concluded that there was insufficient evidence available to demonstrate that each child is supported to manage their own behaviour, respond appropriately to the behaviour of others and communicate effectively to resolve conflicts. As such, the Panel agreed that the judgment for element 5.2.2 remains as 'not met'.



Element 5.2.3

127. Element 5.2.3 requires that:
'The dignity and rights of every child are maintained at all times'.
128. Within the evidence collected during the assessment visit, the authorised officer observed that the United Nations Convention on the Rights of the Child is displayed at the service and this informs training. The authorised officer noted that '[she] discussed how [educators] incorporated the child's rights such as [the] right to be safe, to be heard and to be acknowledged'. The authorised officer also noted that 'children are provided [with] the opportunity to take on leadership roles such as sustainability leader for the afternoon and the afternoon tea server'.
129. The authorised officer observed children being told to 'shhh' on several occasions as well as a whistle being blown to attract children's attention and lower the noise level. The authorised officer commented that when the educator decided that the meal was complete, she blew a whistle and the group transitioned to group time. At this stage 'some children were still eating, [so] they pushed the food into their mouths and joined the group on the floor'.
130. The authorised officer also observed children being timed in between transitions and then informed of how long they took to pack away. Authorised officers noted educators saying 'I am very disappointed' if it took long and children 'couldn't continue until they were all quiet.' The authorised officer also noted that 'if [the educator] was able to mark the roll quickly she stated that [the children] could have a 10 second celebration'.
131. The authorised officer noted that, at group time, 'some children continued talking quietly, [and the] educator told them "not to waste our time"'. Children were also told that they had three seconds to be quiet or they would have to wait longer to go to afternoon tea. As part of this routine, children were required to raise their hands and keep them raised.
132. The authorised officer detailed that, while children were playing a game of Jenga, an educator told them they were doing it wrong and was determined that children would follow his rules. After children shared their way of playing, the educator stated 'this is the worst way to play'.
133. The authorised officer detailed that a child was playing a musical instrument loudly, and an educator said 'no do not do that, it is horrible' and told the child to play quietly.
134. The authorised officer noted that during the visit, an educator asked the children a question about why the wattle is a national flower. The authorised officer noted that 'one child said she knew, [the] child [was] told she could tell



the class and she had 20 seconds [to do so]. The child spoke, [however the] educator did not acknowledge her answer. [The] educator then said [that] she herself had researched the answer and that children could read about it on a display she had made'.

135. The provider submitted feedback on the draft report that 'tone, manner and body language supports a positive base for engaged and respectful communication. This is supported with positive child and parent feedback'.
136. Furthermore, the provider noted that 'educators always speak in calm tones and respond to all children in a fair manner even when they were displaying challenging behaviours; for example, if a child were to act inappropriately towards an educator, the educator will explain simply but firmly why the child should not act that way. She will ask them if they understand, and then proceed to support them'.
137. The provider detailed that 'children are involved in developing service rules and these were displayed with a sign that acknowledged the contributions of children'.
138. The provider claimed that children are able to make choices during the program, for example 'children are able to choose to participate in planned learning experiences or to free play and to self-select equipment'. The provider explained that children can then 'experience the consequences of their actions when no risk of physical harm to the child is likely. Furthermore, the provider commented that the multitude of resources contributes to shorter waiting times and 'as a result [children] do not become frustrated'.
139. In the final Report, the authorised officer responded to the provider's feedback by noting that 'during the assessment, children's self-esteem was not always preserved and promoted, and their right to lead their own learning was impacted by educators' lack of respect for children's thoughts, opinions and ideas'.
140. In the final Report, the authorised officer noted that 'during free play experiences, educators generally responded to children using positive language, gestures, facial expressions and tone of voice'. In addition, 'educators used calm, reassuring voices when children were distressed, and acknowledged their feelings'.
141. In the key evidence attached to the final Report, the authorised officer continued that 'educators used positive language and facial gestures with the children when redirecting them'.

However, the authorised officer stated that 'educators were focused on proving themselves right and provided limited opportunity for children to express their thoughts and ideas'. The authorised officer noted that the



'directive language and ultimatums [used by the educators] at times compromised the dignity and rights of the children'.

142. The regulatory authority noted the provider's claims about children having choices in activities and receiving rewards for being the quickest to pack up or for being respectful to others at group time. However, the regulatory authority concluded that, rewarding competencies such as 'being the quickest and fastest' by using strategies to get children through roll call and group time fast, 'seem to be stressful for all involved'.
143. The Panel noted that observations of educators commenting that children's opinions were wrong and that they were playing a game in the worst way did not uphold the dignity and rights of children. Furthermore, the Panel noted that evidence provided within element 5.2.2 of an educator telling a child their playing of a musical instrument 'sounded horrible' did not demonstrate respect for the child.
144. The Panel noted that educators' use of a whistle and requiring children to prematurely finish eating so that they were not holding up the transition process was not promoting the dignity and rights of children.
145. The Panel commented that the educator's 20 second time limit for the child to provide information about the wattle and subsequent dismissal of the child's answer did not demonstrate respect for the child's rights.
146. The Panel discussed the use of evidence between elements 1.1.3, 5.2.2 and 5.2.3. The Panel noted that the evidence was appropriate for the elements under which it was used.
147. The Panel concluded that there was insufficient evidence available to demonstrate the dignity and rights of every child are maintained at all times. As such, the Panel agreed that the judgment for element 5.2.3 remains as 'not met'.