



Date of Decision: 30 June 2015
File number: STR0016

APPLICANT: 'Approved Provider'

REGULATORY AUTHORITY: NSW Department of Education

Decision

The Ratings Review Panel (the Panel) by consensus decided to confirm that the rating levels for standards 3.1, 3.2, 4.2, 5.1 and 5.2 remain at 'Meeting NQS'. As a result, the Panel by consensus confirmed that the rating levels for Quality Areas 3, 4 and 5 remain at 'Meeting NQS'.

The Panel confirmed that the overall rating for the service remains at 'Meeting 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 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 3, standards 3.1 and 3.2.
 - Quality Area 4, standard 4.2
 - Quality Area 5, standards 5.1 and 5.2.
3. After the initial assessment, the service was rated 'Exceeding NQS' for Quality Areas 2, 6 and 7, and 'Meeting NQS' for Quality Areas 1, 3, 4 and 5. As a result, the overall rating for the service was 'Meeting NQS'. The provider applied for first tier review of Quality Areas 3, 4 and 5.

Regulatory authority's view

4. At first tier review, the regulatory authority confirmed its original ratings for all areas under review, and the service's rating remained unchanged at 'Meeting NQS'. As a result, the overall rating for the service remained unchanged at



'Meeting NQS'.

5. In making its decision at first tier review, the regulatory authority stated that it considered the evidence gathered on the day of the assessment, the feedback submitted by the provider and additional feedback provided during the request for first tier review. The regulatory authority believed that all the facts existing at the time of the assessment and rating visit were taken into consideration, and there was not sufficient evidence submitted by the provider to change the ratings of Quality Areas 3, 4 and 5 to 'Exceeding NQS'.

Applicant's view

6. The provider claims in its application for second tier review that the assessing authorised officer (the assessor) did not consider all evidence available on the day of the assessment and rating visit. The provider claims that this evidence supports a rating of 'Exceeding NQS' for Quality Areas 3, 4 and 5.

Evidence before the panel

7. 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, including the service's feedback on the draft Assessment and Rating Report
 - the Assessment and Rating Instrument and the final Assessment and Rating Report
 - the application for first tier review and its attachments
 - the regulatory authority's findings at first tier review, and
 - the response from the provider to the regulatory authority's submissions for second tier review.
8. The Panel was also provided with advice from ACECQA on the standards and Quality Areas under review.

The law

9. Section 151 of the National Law states that following a review, the Ratings Review Panel may:
 - (a) confirm the rating levels determined by the Regulatory Authority; or
 - (b) amend the rating levels.



10. 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

11. The service is a centre-based long day care caring for children from birth to preschool age. This service is approved for a maximum of 44 places in total.
12. The assessment and rating visit took place on 11 and 12 February 2015.
13. The provider received the assessment and rating decision on 20 March 2015.
14. The provider applied for first tier review on 23 March 2015. The regulatory authority made a decision on the review on 23 April 2015. The provider received the decision on 30 April 2015.

Review of rating levels

15. The Panel considered each standard under review in turn.

Standard 3.1

16. Standard 3.1 is that:
The design and location of the premises is appropriate for the operation of a service.
17. The Panel noted that to achieve a rating of 'Exceeding NQS' for this standard, it may expect to see evidence of the following:
 - all outdoor and indoor spaces, buildings, furniture, equipment, facilities and resources provide a stimulating learning and care environment for children.
 - all premises, furniture and equipment are safe, clean and well maintained and enhance the learning environment for children.
 - facilities are designed or adapted to ensure active participation by every child in the service and promote flexible use and interaction between indoor and outdoor space at all times.

Regulatory authority's view

18. The regulatory authority stated in its first tier review findings that the service demonstrates good practice in relation to standard 3.1. However, the



regulatory authority concluded that it was unable to find sufficient evidence to support a rating of 'Exceeding NQS' for this standard.

19. Additionally, the regulatory authority stated that the provider, in its application for first tier review, had submitted information and evidence that had been considered and included in the final report, or which may not directly relate to this standard.

Applicant's view

20. In its application for second tier review, the provider claims that the assessor failed to take into consideration a separate 'upstairs classroom', that has been prepared with 'completely natural resources and equipment'. The area is used for classroom activities, as well as individual and small group learning. The provider claims that children with additional needs and behaviour issues have benefited from the 'separate, calming and natural facility'. Additionally, the area is used to settle distressed babies. The provider further claims that the area enhances a child's senses through texture, sight, sound and smell. Its natural features include plants, pebbles, an indoor sand pit and a musical wall, with low level lighting and calming music.

Panel's considerations

21. The Panel reviewed the service's Assessment and Rating (A&R) Report, and agreed that it contained several examples of how the service is meeting standard 3.1. The Panel also agreed that the examples provided in the A&R Instrument and the A&R Report did not demonstrate that the service was 'Exceeding NQS' for this standard.
22. The Panel agreed that the information submitted by the provider at second tier review did not support a rating of 'Exceeding NQS' for this standard. In particular, the Panel noted that the provider's submissions focused on one additional space and how this was used. The Panel discussed the use of this space and commented that it may isolate children, particularly those with additional needs, and questioned whether this had the potential to exclude rather than ensure children's active participation in the service's program. However, the Panel also noted the space could suitably be used to calm children.
23. The Panel agreed that the evidence submitted by the provider was already considered by the regulatory authority in determining the service's rating, and



that the evidence presented was consistent with that of a service that was 'Meeting NQS'.

24. The Panel concluded that, while it is clear that the service is meeting standard 3.1, there is insufficient evidence to find that the service is exceeding the standard.

Standard 3.2

25. Standard 3.2 is that:
The environment is inclusive, promotes competence, independent exploration and learning through play.
26. The Panel noted that to achieve a rating of 'Exceeding NQS' for this standard, it may expect to see evidence of the following:
 - outdoor and indoor spaces are designed and effectively organised to engage every child in quality experiences involving the built and natural environments. The spaces provide the flexibility to respond to children's individual needs, development, self-initiated play and exploration.
 - resources, materials and equipment are sufficient in number, organised in ways that extend every child's participation in the program and are consistently used in numerous ways.

Regulatory authority's view

27. The regulatory authority stated in its first tier review findings that the service demonstrates good practice in relation to standard 3.2. However, the regulatory authority concluded that it was unable to find sufficient evidence to support a rating of 'Exceeding NQS' for this standard.
28. Additionally, the regulatory authority stated that the provider, in its application for first tier review, had submitted information and evidence that had been considered and included in the final report, or which may not directly relate to this standard.

Applicant's view

29. In its application for second tier review, the provider claims that 'family grouping' occurs every morning and evening at the service, and that this 'allows for inclusive practice, promotes competence and independent



exploration'. The provider further claims that through the family groups, all children participate in the program, and that its outdoor and indoor play areas are organised safely and with enough resources to facilitate play for all age groups.

30. The provider claims that small babies are taken outside and baby mats and age appropriate resources are available. Additionally, 'structures in the playground allow for all abilities from children learning to walk through to preschool children who require more challenging activities'.
31. The provider states that children have access to open-ended materials, such as collage trolleys, which are accessible to children at all times. These include a variety of natural materials for art and craft and general play. The provider claims that these resources encourage self-initiated play and exploration.

Panel's considerations

32. The Panel noted that there was limited evidence provided on how children interact with the physical environment.
33. The Panel reviewed the service's A&R Report, and agreed that it contained several examples of how the service is meeting standard 3.2. The Panel also agreed that the examples provided in the A&R Instrument and the A&R Report did not demonstrate that the service was 'Exceeding NQS' for this standard.
34. The Panel agreed that the examples given by the provider in its submissions for second tier review had already been considered by the regulatory authority.
35. The Panel noted concerns over the way in which the service used 'family grouping' times, and that it was unclear how the service used this practice to promote positive outcomes for children.
36. The Panel concluded that, while it is clear that the service is meeting standard 3.2, there is insufficient evidence to find that the service is exceeding the standard.

Standard 4.2

37. Standard 4.2 is that:
Educators, co-ordinators and staff members are respectful and ethical.



38. The Panel noted that to achieve a rating of 'Exceeding NQS' for this standard, it may expect to see evidence of the following:
- professional standards are embedded in practice, interactions and relationships and this promotes positive relationships, and a safe and predictable environment both for children and adults.
 - educators and staff consistently demonstrate a high level of collaboration. They affirm, challenge, support and learn from each other to continually improve skills to enhance practice and relationships.
 - interactions consistently demonstrate mutual respect, equity and recognition of each other's strengths and skills, promoting a positive atmosphere within the service.

Regulatory authority's view

39. The regulatory authority stated in its first tier review findings that the service demonstrates good practice in relation to standard 4.2. However, the regulatory authority concluded that it was unable to find sufficient evidence to support a rating of 'Exceeding NQS' for this standard.
40. Additionally, the regulatory authority stated that the provider, in its application for first tier review, had submitted information and evidence that had been considered and included in the final report, or which may not directly relate to this standard.

Applicant's view

41. In the provider's feedback on the draft A&R Report, it states that educators undertook professional development training around 'understanding yourself and others'. Through this training, educators reflected on how to make decisions, perceive feedback, resolve conflicts and communicate with each other. The provider states that this has assisted educators' relationships with each other, as well as with children and families.
42. In its application for second tier review, the provider lists documentation that it believes the assessor viewed and discussed on the day of the assessment and rating visit, but that was not taken into consideration in the rating for this standard. This includes:



- evidence of monthly team meetings and fortnightly room leader meetings, which 'enhances professional standards and demonstrates that they are embedded in daily practices'
 - 'evidence of a robust orientation process', which includes a policy on the expectations and standards of behaviour at the service
 - the staff library, which contains 'comprehensive literature and resources'
 - 'a substantial training program'
 - 'supervision lanyards' that are worn indoors and outdoors
 - additional roles of educators that are displayed on the walls
 - certificates recognising individual work of educators are displayed on the walls
 - the Director has a Certificate IV in Training & Assessment, and she mentors and guides the team in identifying any areas for professional development and support
 - qualified staff mentor educators who are working towards a higher qualification
 - evidence of written communication demonstrating how 'educators work collaboratively through a communication diary' is available in the staff room, each room and the office.
43. The provider also claims that the above practices occur across its other education and care services, that have been assessed and received a rating of 'Exceeding NQS' for this standard.

Panel's considerations

44. The Panel reviewed the service's Assessment and Rating (A&R) Report, and agreed that it contained several examples of how the service is meeting standard 4.2. The Panel noted that while the regulatory authority had identified that the educator's acknowledgment board may be an example of 'Exceeding NQS' practice, this in itself would not be sufficient evidence to change the service's rating for the standard.
45. The Panel noted that while the provider gave a number of examples of how the service delegates leadership, this was not indicative of collaborative relationships.
46. The Panel noted that the information submitted by the provider did not demonstrate embedded practice or what outcomes resulted from the



examples given. For example, the Panel noted that while attending training sessions and implementing knowledge gained from training sessions is an example of good practice, this in itself does not demonstrate that practice is embedded or how the practice has resulted in positive outcomes for children. The Panel agreed that this example was evidence of how the service is 'Meeting NQS'.

47. The Panel agreed that the information submitted by the provider regarding the assessment of other services was irrelevant to determining this service's rating. The Panel agreed with previous decisions of Ratings Review Panels, in that the National Quality Standard is to be applied to each individual service and practices and procedures should be assessed according to the circumstances of each service.
48. The Panel concluded that, while it is clear that the service is meeting standard 4.2, there is insufficient evidence to find that the service is exceeding the standard.

Standard 5.1

49. Standard 5.1 is that:
Respectful and equitable relationships are developed and maintained with each child.
50. The Panel noted that to achieve a rating of 'Exceeding NQS' for this standard, it may expect to see evidence of the following:
 - interactions with each child are consistently warm, responsive and build trusting relationships that promote children's sense of security and belonging.
 - every child is consistently encouraged and supported to engage with educators in meaningful, open interactions that enhance the acquisition of skills for life and learning.
 - each child is consistently included and involved in the program and displays confidence and security.

Regulatory authority's view

51. The regulatory authority stated in its first tier review findings that the service demonstrates good practice in relation to standard 5.1. However, the regulatory authority concluded that it was unable to find sufficient evidence to support a rating of 'Exceeding NQS' for this standard.



52. Additionally, the regulatory authority states that it reviewed the additional evidence and documentation submitted by the provider, and claims that none of the information was directly relevant to this quality area.

Applicant's view

53. In the provider's feedback on the draft Assessment and Rating Report, it states that this year, to assist with the transition of children into new rooms, familiar educators have moved rooms with children to help with the settling process. The provider also notes that this supports educators' professional development as they experience and work with different age groups.
54. In its application for second tier review, the provider states that, as the assessment and rating visit occurred over two half days, there was insufficient time to observe relationships as the assessor spent the second half day discussing practices (in relation to Quality Areas 1, 6 and 7) with the director, area managers, and educators.
55. The provider claims that, as the assessment and rating visit occurred at the start of the year, its three classrooms were 'completely focused on settling new babies, toddlers, preschoolers and families into the service'. The provider further claims that 'at the start of the year the children were generally settled and comfortable with the environment' and with educators, 'which demonstrates a strong sense of security and belonging'.
56. The provider claims that, due to the limited time spent observing practice, the assessor was unable to see the relationships between children and educators once children had woken up, and when children were collected at the end of the day. The provider further claims that, had the assessor spent time in the classrooms on the second half day, they would have observed 'how relationships are consistent with both children and families, and how educators are able to maintain positive relationships during all routines of the day'.
57. The provider also claims that the assessor observed 'family feedback' slides, which the service receives weekly from families via email. The provider claims that these slides help identify children's interests for inclusion 'into the curriculum to make children and their families feel like they belong to the service'.



Panel's considerations

58. The Panel reviewed the service's A&R Report, and agreed that it contained several examples of how the service is meeting standard 5.1. The Panel also agreed that the examples provided in the A&R Instrument and the A&R Report did not demonstrate that the service was 'Exceeding NQS' for this standard.
59. The Panel agreed that the examples given by the provider in its feedback to the draft A&R Report were further examples of 'Meeting NQS' practice.
60. The Panel discussed the provider's claim that the assessor did not spend enough time observing educators' relationships with children. The Panel noted the examples given by the provider of the assessor not observing educators' interactions with children once they had woken up, and when children were collected at the end of the day. The Panel noted that children being collected at the end of the day is typically more relevant to standard 6.1 (respectful and supportive relationships with families are developed and maintained). The Panel also noted that the service received a rating of 'Exceeding NQS' for Quality Area 6. The Panel noted that even if the assessor had not observed educators' relationships with children once they had woken up, that to be 'Exceeding NQS' in this standard, interactions with each child should be consistently warm and responsive. That is, practice should be embedded throughout the day, rather than at particular times of the day.
61. The Panel noted that a previous Ratings Review Panel had addressed claims that an assessor was absent during particular times of the day, and agreed that it was unreasonable to expect the assessor to observe, sight or discuss every aspect of the service's operations.
62. The Panel concluded that, while the service had demonstrated that it is meeting standard 5.1, there is insufficient evidence to find that the service is exceeding the standard.

Standard 5.2

63. Standard 5.2 is that:
Each child is supported to build and maintain sensitive and responsive relationships with other children and adults.
64. The Panel noted that to achieve a rating of 'Exceeding NQS' for this standard, it may expect to see evidence of the following:



- collaborative learning opportunities are effectively facilitated and every child is consistently supported to work with, learn from and help others.
- each child is consistently encouraged and supported to manage their own behaviour, respond appropriately to the behaviour of others and communicate effectively to resolve conflicts.
- the dignity and rights of every child are consistently supported and promoted at all times.

Regulatory authority's view

65. The regulatory authority stated in its first tier review findings that the service demonstrates good practice in relation to standard 5.2. However, the regulatory authority concluded that it was unable to find sufficient evidence to support a rating of 'Exceeding NQS' for this standard.
66. Additionally, the regulatory authority states that it reviewed the additional evidence and documentation submitted by the provider, and claims that none of the information was directly relevant to this quality area.

Applicant's view

67. In the provider's feedback on the draft Assessment and Rating Report, it states that visual cues are used for children with behavioural issues, and/or children of non-English speaking backgrounds, to assist them to become accustomed to the service's routines and surroundings.
68. In its application for second tier review, the provider claims that 'relationships are allowed to be maintained through sensitive and individual care'. The provider states that while the assessor has noted that the area manager assists in settling children at the beginning of the year, it was not noted that three educators (in addition to legislated ratios) assist at this time of year.
69. The provider claims that its practice of 'family groupings' throughout the day allow all children to support, learn from and help others who are at different ages and stages of development.
70. The provider notes that while the assessor acknowledged that staff are able to assist families from non-English speaking backgrounds from particular regions, it claims that assistance to families from other regions is also given the same priority by the service.



Panel's considerations

71. The Panel noted the example given by the provider that it had three educators above its legislated ratios at the beginning of the year. The Panel agreed that while this was good practice, it did not demonstrate how educators supported and responded to children.
72. The Panel noted that the provider's submissions for this standard again raised the issue of family grouping. As addressed in standard 3.2, the Panel noted it was unclear how the service used this practice to promote positive outcomes for children. Additionally, the Panel noted that the information provided around how often family group occurred varied between the two standards. That is, under this standard the provider claims that family grouping occurs throughout the day, whereas under standard 3.2 the provider claims that family grouping occurs every morning and evening.
73. The Panel discussed the provider's claims that it provides support to children and families from non-English speaking backgrounds, and agreed that this was evidence of practice that is 'Meeting NQS'.
74. The Panel noted that, in the provider's submissions at second tier review, it did not address how the dignity and rights of every child are consistently supported and promoted at all times.
75. The Panel concluded that, while the service had demonstrated that it is meeting standard 5.2, there is insufficient evidence to find that the service is exceeding the standard.

Decision

The Panel by consensus decided to confirm that the rating levels for standards 3.1, 3.2, 4.3, 5.1 and 5.2 remain at 'Meeting NQS'. As a result, the Panel by consensus confirmed that the rating levels for Quality Areas 3, 4 and 5 remain at 'Meeting NQS'.

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