



Date of Decision: 10 July 2019

File number: STR0046

Panel Members:



Applicant:



Regulatory Authority: Education and Care Regulatory Unit, Department of
Education Western Australia

Decision

The Ratings Review Panel (the Panel) by consensus decided to confirm the rating levels for:

- Quality Area 1, Standard 1.3, Element 1.3.1 as Working Towards NQS.
 - Quality Area 1, Standard 1.3, Element 1.3.2 as Working Towards NQS.
 - Quality Area 7, Standard 7.2, Element 7.2.2 as Working Towards NQS.
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Issues under review

1. The approved provider (provider) sought a review on the grounds that the regulatory authority, in making its determination, did not appropriately apply



the prescribed processes for determining a rating level (section 144(3)(a) *Education and Care Services National Law Act 2010* (National Law)), and failed to take into account or give sufficient weight to facts existing at the time of the rating assessment (section 144(3)(b) National Law).

2. The provider sought a review of:
 - Quality Area 1, Standard 1.3, Element 1.3.1
Standard 1.3, Element 1.3.2
 - Quality Area 7, Standard 7.2, Element 7.2.2
3. After the initial assessment, the provider's service was rated as:
 - Quality Area 1: Working Towards NQS
 - Standard 1.1: Meeting NQS
 - Standard 1.2: Working Towards NQS: Element 1.2.1 Met, Element 1.2.2 Met, Element 1.2.3 Not Met
 - Standard 1.3: Working Towards NQS: Element 1.3.1 Not Met, Element 1.3.2 Not Met, Element 1.3.3 Met
 - Quality Area 2: Meeting NQS
 - Quality Area 3: Meeting NQS
 - Quality Area 4: Meeting NQS
 - Quality Area 5: Meeting NQS
 - Quality Area 6: Meeting NQS
 - Quality Area 7: Working Towards NQS
 - Standard 7.1: Meeting NQS
 - Standard 7.2: Working Towards NQS: Element 7.2.1 Met, Element 7.2.2 Not Met, Element 7.2.3 Met
4. The provider applied for first tier review on the basis that it believed the service should have received a rating of Meeting NQS in Elements 1.2.3, 1.3.1, 1.3.2 and 7.2.2.

Regulatory authority's view

5. At first tier review, the regulatory authority confirmed the ratings given at assessment and rating for Elements 1.3.1, 1.3.2 and 7.2.2 and amended the rating of Element 1.2.3 from Not Met to Met, and the rating of Standard 1.2 from Working Towards NQS to Meeting NQS.



Applicant's view

6. The provider submits that it should be rated as Meeting NQS in Elements 1.3.1, 1.3.2 and 7.2.2.

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;
 - Assessment and Rating Instrument and draft and final Assessment and Rating Report;
 - provider's feedback to the draft Assessment and Rating report;
 - application for first tier review and its attachments;
 - regulatory authority's findings at first tier review;
 - regulatory authority's submission to second tier review; and
 - provider's response to the regulatory authority's submissions.
8. The Panel was also provided with advice from ACECQA on the Elements under review.

The law

9. Section 151 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.'

The facts

10. [REDACTED] is a long day care service with [REDACTED] approved places. The service is based in [REDACTED], WA.
11. The assessment and rating visit took place on [REDACTED] 2019. On [REDACTED] 2019 there were 53 children in attendance and on [REDACTED] 2019 there were 58 children in attendance.
12. The provider received the draft report on [REDACTED] 2019 and provided feedback to the draft report on [REDACTED] 2019. The final report was sent to the provider on [REDACTED] 2019.
13. The provider applied for first tier review on [REDACTED] 2019. The regulatory authority made a decision on the review on [REDACTED] 2019. The provider



received the decision on [REDACTED] 2019. The provider applied for second tier review on [REDACTED] 2019.

Review of rating levels

14. The Panel considered each Element under review.

Element 1.3.1

15. Standard 1.3 is:
Assessment and planning: Educators and coordinators take a planned and reflective approach to implementing the program for each child.
16. Element 1.3.1 is:
Assessment and planning cycle: Each child's learning and development is assessed or evaluated as part of an ongoing cycle of observation, analysing learning, documentation, planning, implementation and reflection.

Regulatory Authority's view

Assessment and rating

17. The Assessment and Rating Report sets out the regulatory authority's evidence at the Standard level. In the 'Evidence for Standard 1.3' section of the Report the regulatory authority states:

Each child has an online portfolio that includes information about their learning and development, available through developmental checklists, group learning stories and individual observations. The documentation sighted showed learning is followed up for some of the children. For example, a learning story showed a child engaging in a painting activity and educators planning to extend the learning by providing the child opportunities to try different painting techniques. The learning stories are linked to a 'unit plan'. The 'emerging curriculum' is documented in a book and includes daily activities that are linked to the EYLF learning outcomes, principles and practices. Some emerging curriculum documentation showed links to individual children's learning stories. However, some documentation sighted showed no linkage to an ongoing cycle of assessment and planning for each child. A number of learning stories showed educators identifying a 'follow up' activity; however, there was no evidence that these activities had been implemented. For example, an online observation showed that a child pretending to fish outside and educators identifying 'set up water trough with



fish and fishing rods' as a planned follow-up activity, but there was no documentation to show whether the child had actually participated in the activity. In addition to this, some assessment and planning cycles sighted showed a gap of several months between the observation and the 'follow up' activity being implemented which impacts the relevance to children's learning and development. Discussion with the educators and documentation sighted did not clearly demonstrate how educators monitor each child's progress towards the learning outcomes and individual goals.

Reflection on children's learning and development is documented on each child's learning stories. The documentation sighted showed educators linking their reflection to the learning outcomes. For example, a reflection for a child engaging in a name recognition activity stated '[name] is developing a range of skills and processes this is evident when she applies a wide range of thinking strategies to work out how to spray the bottle. 'Discussion with the educators showed that they verbally reflect with each other on the learning environments and children's needs. For example, the nursery room educators had recently changed the room arrangement and resources after identifying that the 'walker' babies had transitioned to the next room and the 'crawlers' needed more activities at the floor level. The learning documentation sighted showed some reflection for groups of children. The 'unit plan' includes reflective questions, such as 'How is shared decision making embedded within routine?' and 'What are my understanding of each child?' The 'emerging curriculum' journal asks educators to reflect on the program every five weeks. However, the 'reflections' sighted showed educators describing their practices rather than questioning, analysing or re-evaluating their practices to identify areas for improvement. For example, educators reflection on transitioning process between the rooms included statements, such as 'educators build bonds with transitioning children' and 'some children will move easily and others may take a little longer, educators and environment can help'.

Documentation about each child's program and progress is available to families and educators in an accessible format, to ensure each family is kept informed of their child's learning. The service uses an on-line learning program that informs families of their child's days and activities they participated in. Each room has the current 'unit plan' displayed with other documentations that are linked to the current theme, such as educators' mind maps. Group and individual learning stories are also displayed in the rooms. Educators were observed sharing information with each family on arrival and pick-up, such as learning new skills and their child's participation in different activities.



18. In the 'Response to Provider Feedback for Standard 1.3' section of the Report (pp 11-12) the regulatory authority states:

Please note that the additional evidence has been addressed at the standard level.

The provider feedback for standard 1.3, included:

- A letter from [REDACTED] Primary School Principal
- Photos of 'Cycle of Planning for Groups'. Some of the photos are blurry and can't be read.
- Reports of 'most used learning tags'
- Routine and class time table for nursery, infants, toddlers and kindy rooms. Some of the photos are blurry and can't be read.
- Photos of reflections. Some of the photos are blurry and can't be read. The reflection documentation is not dated.

After a review of the provider feedback, in conjunction with the evidence gathered at the time of the visit, it is noted that the evidence submitted as provider feedback has been acknowledged by the officers in their instruments and is considered as working towards practice. The feedback provided does not demonstrate that each child's learning and development is assessed as part of on-going cycle of observation, analysing of the learning, documentation, planning, implementation and reflection. It is acknowledged that one of the reflection documents showed reflection on cultural activities in the program, however the rest of the documentation show reflection on staff arrangements, challenging behaviours, bottle feeding, administration of pain medication and cot room safety. These reflections did not demonstrate how critical reflection on children's learning and development drives program planning and implementation.

It is acknowledged that the Principal and Early Years Leader from your local school have reviewed and commended your planning documentation and process however, the rating and assessment process in Education and Care Services and Schools differs greatly. It is also noted that this letter is dated post-visit.

Lastly, your feedback regarding the officers understanding of Storypark is noted. At the time of the visit adequate opportunity was given to your educators to show their paper based documentation and Storypark planning. In addition to this an educator and the Nominated Supervisor provided support and guidance to navigate the system to demonstrate their planning cycles and additional time was taken post visit to review Storypark through access granted by the AP.



There is insufficient, tangible evidence to demonstrate the assessment and planning cycle and critical reflection for this standard. The rating for Standard 1.3 remains unchanged as Working Towards NQS.

19. The regulatory authority also submitted the instruments of the two AOs that assessed and rated the service. These contain handwritten evidence collected by the AOs on Element 1.3.1.

First tier review

20. The provider sought to have Element 1.3.1 changed from Not Met to Met. The regulatory authority upheld their decision that the Element was Not Met.
21. The regulatory authority's general response to the provider's evidence in the decision letter to the provider was:

The information that was provided to accompany the 1st Tier review consists mainly of a range of observations/learning stories. The majority of what was provided are group observations. These observations/learning stories appear to be one-off observations, with loose links to further learning. Several observations were provided for some individual children, however these do not demonstrate a cycle of planning. From the observations sighted for individual children, the follow up activities on each are only loosely linked to the next. What was provided does not demonstrate that a cycle of planning (observation, analysing learning, documentation, planning, implementation and reflection) is in place for each child.

It is acknowledged that the educators reflect on activities/experiences when completing individual and group observations. From the evidence provided these reflections are not considered to be critical. There is limited evidence to demonstrate that these reflections drive program planning and implementation. It is acknowledged that the service's program is based on units of work, however the 'Unit Plans' provided do not demonstrate critical reflection. Rather, educators answering a series of questions, with the answers provided not considered to be critical reflection.

22. The regulatory authority's response to the provider's evidence on Standard 1.2 and Standard 1.3 in the decision letter to the provider was:

The information that is contained in the 'ECRU Report' that was provided does not relate to the role of the Educational Leader and does not provide any evidence to show how the Educational Leader is supported and leads the development and implementation of the educational program and assessment



and planning cycle. No further additional evidence/documentation was provided.

23. The regulatory authority's response to the provider's first tier review submission in its internal review document was:

In relation to element 1.3.1, after a review of the documentation provided, it is acknowledged that educators complete both individual and group observations of children. These observations are recorded on the 'Individual Cycle of Planning' form. However, the documentation provided with the 1st Tier review does not effectively demonstrate the assessment and planning cycle. What was provided consists of a range of observations/learning stories. The majority of what was provided are group observations. These observations/learning stories appear to be one off observations, with no links to further learning. Several observations were provided for some individual children however these do not demonstrate a cycle of planning. From the observations sighted for individual children, the follow up activities on each are only loosely linked to the next. What was provided does not support that a cycle of planning (observation, analysing learning, documentation, planning, implementation and reflection) is in place for each child.

Approved Provider's view

Assessment and rating feedback

24. In the Feedback Record for the draft Assessment and Rating report the provider submitted the following in response to content on Element 1.3.1:

The service has strong connections with local primary schools and works very closely with teachers in relation to children transitioning to school and the importance of curriculum and practice. The partnership is proven through the recent change to philosophy which was driven by local schools and introducing a values system. Furthermore, supported through a written agreement between both parties to have access to a preschool program. Our planning has been assessed by the Principle of [REDACTED] Primary and their Early Years leader and NQS certified verifier.

- Every learning story has a what happened, reflection and what next which links to EYLF
- Educators plan for groups of children and individual children
- Group planning works on unit plans "project work"
- Individual planning is based on children's interests, situational interests and personal interests



- Our policy supports planning for individuals every 8 weeks
- Our policy supports planning for groups as it occurs 'emergent curriculum'
- Summative assessments take place upon transition to the next class or 6 months which cover child interest, developmental milestones (EYLF) and progress notes against the five learning outcomes
- Developmental assessments, work samples, narratives etc form part of the 8 week cycle.

According to [REDACTED] a Storypark Advocate and independent trainer, beginners on Storypark generally require 3x1hr sessions and a further 2hr advanced sessions before understanding planning cycles. Furthermore, [REDACTED] argues it is impossible for every opportunity to be followed on and we rely on educators to determine what is important and what may become tokenistic. It is our view in conjunction with [REDACTED] Primary and [REDACTED] that had conversations taken place with the educational leader regarding cycle of observation and all documents viewed it would have been evident that the service excels in planning and curriculum.

First tier review

25. The provider prepared a document, ECRU – Assessment and Rating for [REDACTED] [REDACTED] as their first tier review submission. In relation to Element 1.3.1 the ECRU document states:

The Education and Care Regulations require services to deliver a program that is based on an approved learning framework and takes into consideration the learning needs and interests of each child (Section 168). For children under preschool aged the program should focus on developmental needs, interests, experiences, participation and progress against the learning outcomes (r74). According to ACECQA (2017), a planning cycle will resemble reflection, questioning, planning and acting. The service would like to highlight that during the assessment 13 learning stories were documented about experiences that took place at the service. Not one single experience that was documented during assessment is noted in the report, insinuating the opportunity for observation was limited due to time constraints or other reasons. Furthermore, individual log ins for storypark can only see information shared with them. For example, if an assessment or documentation hasn't been shared with the person it will not be available to view. The service highlights that the assessor should have logged in under each classroom as an approved educator. In addition, the report refers to a learning story "gone fishing" and the follow up experience was to set up water trough with fish and fishing rods. What was actually said was "Set up the fishing again but add



rubbish to the water and talk about what is happening to our oceans, rivers and lakes". The provided evidence shows this cycle continued and there are 5 forms of documentation. This highlights the importance of conversation when observing in any situation.

A cycle of planning does not have time restraints, there is no research to support planning must take place immediately. According to Semann (2018), data samples (observations, photos, footage, work samples) may or may not play part of the cycle of planning depending on the patterns of these moments and their relevance to the context of learning. However, as early childhood professionals we strive to document individual children every 8 weeks. This is documented in our educational program policy and embedded into practice. As a service we work on the environment as the third teacher, through unit plans ongoing learning isn't necessarily set up for one day. It is planned for within the unit. Group learning is consistent with learning objectives being met daily. The report suggests planning took place for 'some' children. The nominated supervisor observed the assessor navigate through children and state that learning cycles were not evident for all children. The assessor was using links as a determination to whether a clear cycle was there and this is not sufficient practice to view all documentation. Although Storypark links to child notes can sometimes demonstrate the planning cycle, it doesn't always work. When the Nominated Supervisor asked the kindy team leader to show the assessor how to find cycles, the assessor was reluctant to discuss any further and the team leader become very frustrated as she wanted to show the assessor her planning cycle. The assessor appeared to be happy with all classes with the exception of the kindy program. For example, the assessor opened the profile for [REDACTED] (Nominated Supervisors daughter) and suggested the child had no planning cycle. The team leader expressed [REDACTED] had recently joined her class in December, although, hadn't been in attendance over the Christmas break and therefore had only received a "welcome to kindy" story. Several children in the kindy class were the same, they didn't have cycles because they had only joined the class which was over Christmas and attendance was low due to family holidays. The service argues there is no legislative requirement for 'every' form of documentation to be included within the cycle of planning. ACECQA (2017) suggests, officers should recognise the individuality of each service and educators should use methods and styles that work best for their children and families. Educators track learning in multiple ways, Storypark has an inbuilt tracking system, the service has individual cycle trackers which are hand written and in each classroom, the team leaders often has their own creation to track learning. None of the hand written documentation was sighted during the visit,



however, the assessor did ask the kindy team leader prior to the confrontation to showcase her program. At this time the educator was alone with 10 children, one of whom became unsettled, this was not the appropriate time to discuss. The service is prepared to print and provide x1 cycle of learning for every child at your request.

26. The regulatory authority's internal review document summarised the provider's first tier review submissions in relation to Standard 1.3 as follows:

The approved provider submitted a document titled 'ECRU Report' that provided a response to the final report, and addressed the elements rated as not met in the final report. A range of documentation to support the application for the 1st Tier Review was also submitted, such as:

- Sample individual cycle of planning tracker (1.3.1)
- Sample group cycle of planning tracker (1.3.1)
- Sample cycles of planning (1.3.1)
- Sample of previous reflections used by educators (1.3.2)
- Nursery unit plan with reflection on group learning and numerous other areas (relationship) (1.3.2)
- Classroom journal program –multiple plans (1.3.2)

Second tier review

General comments

27. The provider stated in the general submissions accompanying their application that:

One of the assessors was the ex-employer of one of our team leaders. Our staff left her employment after filing a grievance about the assessor and as a result this staff member felt immense pressure and anxiety during the assessment. The conflict of interest was raised with the assessor upon introduction to the team.

During the assessment this staff member above was unable to conduct a mat time session, ended up in tears and requested to showcase this time again. The assessor agreed, although, wrote the negative review in the report which has now been overturned.

During the assessment the atmosphere was uncomfortable for many including the visitors to our service who made comment on the distant reactions of the assessors and lack of personality, connection with the people and the place. The lead assessor during the assessment told an educator she was experienced in childcare and it was a shame "we couldn't provide children with valium to put them to sleep". This unprofessional statement was raised



following the assessment during the review and first tier review, no response provided.

The Nominated Supervisor was offered a minor adjustment - informed she was directly asked three times to produce training records for staff working towards a qualification and the assessor recorded the Nominated Supervisor failed to supply. A complaint was issued to the Education and Care Regulatory Body as this was untrue and fabricated.

The Educational Leader was not provided any time to discuss the educational program, the only time provided was to log the assessor into Storypark (online portal). When referring to the guide to the NQF had the EL had the time to discuss areas 7.2.2 this area would have assessed 1.3.1 and 1.3.2. The service believes had the 7 elements rated working towards in error were not within the report sufficient time could have been spent to rectify standard 1. The service also believes had these elements not been a primary focus the service could have focused on exceeding themes.

Assessor notes, some follow up activities are not implemented. The services argues not all experiences are recorded, however, they may take place through routine or other means. Documentation is about making learning visible in a number of ways. Quote "Anthony Semann identifies that not all documentation may eventuate in documentation".

The service gave the assessor a log in to Storypark which we later found did not have full access to the program. Each log in has permissions and if the educator hasn't shared the information with you, you cannot see all the information. The service also uses digital and paper based program, we believe the paper based program was not viewed.

10 elements within the draft report were rated 'working towards' however, many comments were miss quoted best practice such as staying healthy in childcare, cancer council, red nose etc. These elements (6 elements) during the draft report were overturned. No response provided regarding the inaccuracies of the assessor.

A thorough report with evidence was provided to ECRU during the first-tier review, again, this information highlighted inaccuracies of the assessor. For example, the assessor stated in standard 1.1 that the service was observed doing XYZ (meeting the standard) and then in standard 1.2 wrote that despite evidence this was not observed on the day. This contradiction was overturned during the first tier review.

7 elements have now been overturned based on assessor error, not based on evidence. This leads us to believe the regulatory authority did not appropriately apply the prescribed process for determining a rating level and the regulatory authority failed to take into account or give sufficient weight to facts existing at the time of the rating assessment.



We know our families and we are a large contributor within the community. Throughout our journey we have emerged ourselves in quality improvement and systems which enable best practice outcomes and as a team we are heartbroken and deflated by the assessment process and system which has shattered our quality improvement journey and we have lost good educators due to the inaccuracies and judgement faced throughout our assessment. The Owner/Manager of the service has resigned her position after five years leading the team as a direct result of the assessment.

Element 1.3.1

28. The provider seeks to have Element 1.3.1 changed from Not Met to Met. In its submissions in relation to Element 1.3.1 the provider summarises the regulatory authority's views and provides the numbers of documentary evidence submitted in rebuttal to these views.
29. The provider states the regulatory authority view that its practice does not show planning links for nine children. The children and the document numbers of the evidence provided in rebuttal to this view are as follows:
 - [REDACTED] – 1, 2, 2A;
 - [REDACTED] – 3-7 and 20-21;
 - [REDACTED] – 8-12;
 - [REDACTED] – 13-15;
 - [REDACTED] – 16-19;
 - [REDACTED] – 20-21;
 - [REDACTED] – 22, 23-25;
 - [REDACTED] – 26-32;
 - [REDACTED] – 33-36.
30. The provider states the regulatory authority view that the assessor A&R photos taken of Storypark show child notes for [REDACTED] and suggests an excursion to Woolworths to build connections between the service and the parent workplace. Document 37 is provided as evidence in rebuttal to this view.
31. The provider states the regulatory authority view that its unit plan is not linked to Learning Stories. The documents referred to in paragraph 29 are provided as evidence in rebuttal to this view.
32. The provider states the regulatory authority view that its Reflections – cycle of planning statements are statements of what educators are doing. Documents 38 and 67 are provided as evidence in rebuttal to this view.



33. The provider states the regulatory authority view that its Kindy journal book has some links to learning stories, and that its Toddler journal book has no dates, no links and short descriptions of activities. The provider requests that these documents not be accepted as evidence.
34. The provider states the regulatory authority evidence that an educator told the assessor "We sometimes link to learning stories, but not always". In response the provider states:

Learning is an ongoing journey, please refer to supporting letter from Anthony Semman regarding the cycle of planning "see ECRU report" supplied as previous evidence. The service believes the comment has been taken out of context, however supports the response. Not all learning is linked to a previous learning opportunity and may not move forward within the cycle of planning. The service suggests the assessor should have taken the time for the educator to explain further. A short question will generally result in a short reply. At no stage have any educators reported that they have answered a question wrong, or didn't feel confident in their response.

Panel's consideration

35. The Panel needed to decide whether the evidence available demonstrated the service met Element 1.3.1.
36. The Panel noted that the service displayed some sound practices in relation to this Element, but these were not consistent. Some documentation submitted showed linkages between children's learning and development and the educational program, some did not. Where linkages were shown, they were not clearly demonstrated for each child.
37. The evidence did not clearly indicate that educators assessed or evaluated learning and development as part of an ongoing cycle of observation, analysing learning, documentation, planning, implementation and reflection for each child. Instead there was more of a focus on the group as a whole, with intermittent references to individual children. The Panel considered there to be a lack of depth of reflection relating to each child as part of the assessment and planning cycle to be considered Meeting NQS practice.
38. There was also little evidence indicating that children's voices were heard, and where this is documented.



39. Panel members indicated their concurrence with the regulatory authority's comments at first tier review that a lot of description evidence had been provided. There was some assessment of each child's abilities and developmental stage only. Links to the cycle of planning and development were not clearly evident. Mostly, the evidence consisted of observations and learning stories that appeared to be more one-off examples with loose links to further learning. There was a lack of documented analysis of how learning and development assists in planning for each child, each child's needs, or the learning outcomes achieved.
40. It did not appear that the service clearly considered and implemented the cycle of assessment and planning as envisioned under the NQF: observation, analysis of learning, documentation, planning, implementation and reflection. There was also no clear reflection on analysis of each child's learning in relation to the learning outcomes from the Early Years Learning Framework.
41. The Panel noted that the absence of connections between the educational program and each child's learning and development links to the service's Working Towards NQS rating in Element 7.2.2.

Decision

42. The Panel by consensus decided that the service's practice did not meet Element 1.3.1. Therefore, it confirmed the service's rating of Working Towards NQS for that Element.

Element 1.3.2

43. Standard 1.3 is:
Assessment and planning: Educators and coordinators take a planned and reflective approach to implementing the program for each child.
44. Element 1.3.2 is:
Critical reflection: Critical reflection on children's learning and development, both as individuals and in groups, drives program planning and implementation.



Regulatory Authority's view

Assessment and rating

45. The Assessment and Rating Report sets out the regulatory authority's evidence at the Standard level. The evidence provided for Standard 1.3 is set out at paragraphs 17 and 18.
46. The regulatory authority also submitted the instruments of the two AOs that assessed and rated the service. These contain handwritten evidence collected by the AOs on Element 1.3.2.

First tier review

47. The provider sought to have Element 1.3.2 changed from Not Met to Met. The regulatory authority upheld their decision that the Element was Not Met.
48. The regulatory authority made general comments on the provider's evidence, and in relation to Standards 1.2 and 1.3, in its first tier review response letter. These are set out at paragraphs 21 and 22.
49. The regulatory authority's response to the provider's first tier review submission in the internal review document is:

In relation to element 1.3.2, it is acknowledged that the educators reflect on activities/experiences when completing individual and group observations. From the evidence provided these reflections are not considered to be critical. There is limited evidence to demonstrate that these reflections drive program planning and implementation. It is acknowledged that the service's program is based on units of work, however the 'Unit Plans' provided do not demonstrate critical reflection. Rather, educators answering a series of questions, with the answers provided not considered to be critical reflection. Also, much of the evidence provided with the application for 1st Tier Review was unreadable.

Approved Provider's view

Assessment and rating feedback

50. In the Feedback Record for the draft Assessment and Rating report the provider submitted the following in response to content on Element 1.3.2:

Reflection in action: is evident in the routine / timetable and within day to day operations as modifications take place



Reflection on the action: is evident within every observation as educators reflect on what took place and link to the curriculum. This is also evident in staff meeting minutes as each educator provides their thoughts through written observation and reflection to provide a range of thoughts and ideas. This includes a group journal reflection on practice or policy, individual reflections following training, unit plan reflections about the NQS and each educator performs a 10 week unit plan critically reflecting on their own practice to better support educational programs.

- Record keeping clearly identifies educators efforts to track and record progress, monitor participation and outcomes. Again, [REDACTED] Primary school believes there are clear reflections including childrens learning and developments as well as the wider community.

In addition: Reflection for practice:

- [REDACTED] early learning closing down and the impact on the wider community and children – [REDACTED] stepping in to support learning opportunities for children
- Parent input on Panadol that led to change - illness within the program for groups of children
- Parent input – happy feet - which led to an exclusive dance program for children with prides itself on equity for all and inclusion
- Collaboration - road to excellence - reflecting on practice, documenting and implementation of journals so children have visuals to learning.
- Parent surveys – collate and reflect on feedback to better learning opportunities for children. Educators' stories and models for practice

EXTRACT FROM The early years learning framework in action.

EXAMPLE: Analysis of learning. [REDACTED] used great concentration to maintain balance while on the plank. She gained extra balance by slowly standing and placing her arms out. As [REDACTED] overcome the problem she slowly built her confidence up to then shuffle forward up the top of the plank and gain coordination.

- In this story there is evidence of the educator gathering and analysing information about what [REDACTED] can do and understand. She has used this information in the ongoing cycle of planning, documenting, reviewing and assessing children's learning.

First tier review

51. The provider prepared a document, ECRU – Assessment and Rating for [REDACTED] [REDACTED] as their first tier review submission. In relation to Element 1.3.2 the ECRU document states:



According to ACECQA (wehearyou) (2016), the planning cycle is not a template and relies heavily on each educator's knowledge of children, families, legislation and creativity, intuition and imagination. The service believes insufficient time was provided to unpack the cycle of planning, specifically, reflective practice. The report states, educators reflect on each learning story and verbally with each other and the example in the report highlights educator reflection which led to modification of the learning environment (1.3.2).

Assessors did not sight or discuss individual educator unit plans 'critical reflection units'. Our cycle of planning is heavily influenced by units of work over a period of time. The educational leader writes and distributes plans to individuals (educators) and groups (classes). Reflective questions change depending on the current focus and circumstances. The evidence supplied is time and date stamped and asks educators to reflect on, how they implement reflection in their daily practice, what are their thoughts on assessment and rating and the benefits for families and children, what information do they know about their class, children's interests, current topics of inquiry, community involvement, parent involvement and learning environments. Furthermore, educators provide evidence of practice e.g. stories they have recorded for individual children, groups of children, cycle of planning, something that changed which benefited children and family involvement. At conclusion of the plan educators reflect on their own practice and growth.

The report refers to 'some reflection' for groups of children. The unit plan for groups of children is a 10 week program which is written specifically for that unit of inquiry. For example, Unit Plan – Relationships (Nov – Jan 2019) educators reflect on equal participation and equity. Educators explore how they promote equitable concepts, their role as an educator when engaged with children, children's interests and opportunities for extension. Educators reflect on community involvement, principles and practices and their teaching strategies. In conclusion educators reflect on learning, how the unit progressed and make suggestions for modifications and improvement. The unit is linked to individual and group learning stories and assessment for the period.

Unit Plan – Exploring Materials (Jan – March 2019) which was demonstrated in action during the assessment and briefly shown to the assessor (10 mins) would require 1.5hrs of training in service for educators who are fluent in the implementation of unit plans. In this unit educators reflect on sustainable goals and learning resources. Educators explore the quality improvement plan (QA3) and reflect on the removal of single use plastic bags and how this has impacted the service (no longer available for children's wet clothes) and other



people in the community. Educators consider what materials children can collect from home to be reused at the service, what practices children are currently engaging with in daily practice and what improvements can be incorporated. Educators reflect on children's interests, teaching strategies, events and celebrations, excursions / incursions, philosophy and EYLF. At conclusion of the plan educators reflect learning that took place, struggles, suggestions and modifications. The plan is linked to learning evidence for individuals and groups for the time period of the unit plan. Further forms of reflection include but are not limited to:

- Conversations
- Staff meetings
- Parent evenings
- Policy reviews
- Journal reviews
- Summative assessments

52. See paragraph 26 for a summary of the provider's first tier review submissions in relation to Standard 1.3, contained in the regulatory authority's internal review document.

Second tier review

53. The provider seeks to have Element 1.3.2 changed from Not Met to Met. In its submissions in relation to Element 1.3.2 the provider describes its practice and provides the numbers of documentary evidence in support of that practice.
54. The provider states that the service examines practices and decision-making to identify improvements as well as successes, supported by documents 38, 39, 40, 41, 42, 43 and 56.
55. The provider states that the service considers advantaged children and whether any child is disadvantaged, supported by documents 38, 44, 45, 46.
56. The provider states that it uses approved learning frameworks to help it reflect, and that the unit plan content provides considerations of EYLF outcomes, practices and principles – educators apply EYLF to each observation and summative assessment to reflection on learning – see examples already provided.
57. The provider states that it creates opportunities, debates, collaborative inquiries as a team and responds with respect and that all voices are heard, supported by documents 38, 40, 47.



58. The provider states that educators question their work, challenges, and are curious and confronted, supported by documents 38, 39.
59. The provider states that the service works with children to document and reflect on their experiences and learning, supported by documents 48, 49, 50-55.
60. The provider states the service adapts its routines to suit all children, supported by documents 56 and 57.
61. The provider states it changes experiences that are not working, supported by documents 38, 41, 42, 43, 56.
62. The provider states it makes notes on practice, changes to practice and questions, supported by documents 38, 56.

Panel's consideration

63. The Panel needed to decide whether the evidence available demonstrated that the service met Element 1.3.2.
64. As the service is already meeting Element 1.3.3, a decision by the Panel that the service is meeting Elements 1.3.1 and 1.3.2 would bring the service's rating for Standard 1.3 from Working Towards to Meeting.
65. The Panel found that there was a lack of critical reflection on the children's learning and development occurring at the service.
66. There was some reflection occurring, but it appeared to be in the form of high-level reflections on how an educator does something (operations) rather than critical reflection on the children's engagement with the program or on what could constitute ongoing learning. Reflection that was occurring also appeared inconsistent, was often at a group level and was not clearly reflecting on whether the program is an inclusive learning environment that supports each child's participation.
67. Critical reflection requires evidence of the impact on programming, which was not clearly shown.
68. By way of example the Panel discussed Document 38-55, which in its view offered explanations and descriptions, but little in the way of questioning and analysis.



Decision

69. The Panel by consensus decided that the service's practice did not meet Element 1.3.2. Therefore, it confirmed the service's rating of Working Towards NQS for that Element.

Element 7.2.2

70. Standard 7.2 is:
Leadership: Effective leadership builds and promotes a positive organisational culture and professional learning community
71. Element 7.2.2 is:
Educational leadership: The educational leader is supported and leads the development and implementation of the educational program and assessment and planning cycle.

Regulatory Authority's view

Assessment and rating

72. The Assessment and Rating Report sets out the regulatory authority's evidence at the Standard level. In the 'Evidence for Standard 7.2' section of the Report (p 47) the regulatory authority states:

The service has a range of processes in place to gather data, which is used to inform the service's practices and continuous improvement. The service reviews their Quality Improvement Plan (QIP) regularly, and uses feedback from families, educators, management and children to identify their strengths and areas for improvement. The nominated supervisor completes an annual self-assessment checklist that is used to identify improvement needs. Educators use the 'unit plan' to reflect on their rooms and the team leaders complete self-assessment forms. An educator explained that the kindy room had recently had a number of children with challenging behaviours, and educators had identified that more formal behaviour plans needed to be developed. The educator advised that, together with the educational leader, plans were developed and educators discussed different strategies to support the children. The nominated supervisor advised that a 'behaviour guidance' training was also organised to support the educators. Copy of the QIP is available to families and staff.



The educational leader is studying towards an Early Childhood Teacher qualification and has several years' experience in the education and care service sector. The educational leader has designed and implemented an on-line planning template called 'unit plan'. The template provides educators reflective questions, literacy ideas and references for theorists and teaching practices. The educational leader, who is also the nominated supervisor, advised that her role is ongoing and that she supports the educators everyday with their curriculum and teaching practices. The educational leader advised that team leaders complete quarterly programming checks and meet with her regularly. While it is acknowledged that the educational leader supports educators with their programming and reflections, it was not evident that an ongoing cycle of assessment and planning was consistent throughout the service. Documentation sighted and discussion with educators showed that they did not appear to have clear understanding of the planning cycle in order to implement the cycle in practice. Performance reviews are conducted three and six months after commencement of employment and then they are conducted annually. Educators complete a self-assessment of their strengths and areas for improvement under each quality area of the National Quality Standard, which is then discussed with the director. Individual goals for performance improvement and/or career progression opportunities are then set and recorded. The nominated supervisor explained that educators are supported to achieve their goals by mentoring, group training and individualised training is organised when needed.

73. In the 'Response to Provider Feedback for Standard 7.2' section of the Report (p 48) the regulatory authority states:

Please note that the provider feedback for standard 7.2 includes reference to educator records, for which a minor adjustment was offered, recorded and rectified under standard 7.1 as documented in the draft report. The statutory declaration provided is blurry and cannot be read. Evidence of educators working towards their qualifications was not limited to one educator and this is documented in the officers' instruments. The decision to offer a minor adjustment was in the best interest of the service, in accordance with the minor adjustment policy which states, a minor adjustment is used for matters that:

- Do not seriously impact on a service's quality and may not affect the rating if they are able to be rectified quickly and easily
- The changes required involve simple, concrete solutions that can be implemented within the specified timeframe (e.g. within days of the



assessment and rating visit, preferably immediately, unless otherwise specified by the regulatory authority).

Evidence was provided at the time of the visit for one educator and an email was received by the regulatory authority on 6 February 2019 (post visit). This is *not* an incorrect statement and will not be removed from the report.

After a review of the provider feedback, in conjunction with the evidence gathered at the time of the visit and included in the draft report the following is noted;

- Photos of the curriculum activities. Some of the photos are not dated and most of the photos were sighted at the time of the visit.
- Photo of a certificate of Appreciation from [REDACTED] Rehabilitation Centre
- Photos of display board at the service; "Learning Journey", 'Our learning wall' and information sheets

The evidence provided does not demonstrate how the educational leader supports and leads the development and implementation of the educational program and assessment and planning cycle. Please refer to the response in Standard 1.3 regarding the cycle of planning as this decision is further supported in this standard. The draft rating of Working Towards NQS is upheld for this standard.

74. The regulatory authority also submitted the instruments of the two AOs that assessed and rated the service. These contain handwritten evidence collected by the AOs on Element 7.2.2.

First tier review

75. The provider sought to have Element 7.2.2 changed from Not Met to Met. The regulatory authority upheld their decision that the Element was Not Met.
76. The regulatory authority made general comments on the provider's evidence in its first tier review response letter. These are set out at paragraphs 21 and 22.
77. The regulatory authority did not make any statements in relation to the provider's evidence on Standard 7.2 in the decision letter to the provider.



78. The regulatory authority's response to the provider's first tier review submission in its internal review document was:

The approved provider submitted a document titled 'ECRU Report' that provided a response to the final report, and addressed the elements rated as not met in the final report. The 'ECRU Report' states 'Evidence above should suffice'. The information that is contained in the 'ECRU Report' does not relate to the role of the Educational Leader and does not provide any evidence to show how the Educational Leader is supported and leads the development and implementation of the educational program and assessment and planning cycle.

Approved Provider's view

Assessment and rating feedback

79. In the Feedback Record for the draft Assessment and Rating report the provider submitted the following in response to content on Element 7.2.2:

Please refer to Letter from [REDACTED] Primary School and contradicts report findings.

Discussions were held with level 3 educators up to level 4 and discussions with these educators demonstrate they are very well aware of the cycle of planning. Not one person was spoken to who did not understand or could not articulate their explanation. However, [REDACTED] our highest skilled educator became flustered with [REDACTED] as [REDACTED] struggled to identify the cycle in the kindy class. [REDACTED] was bought out of her class to see [REDACTED] and [REDACTED] ran out of time and [REDACTED] wasn't able to articulate her program at all. Please note, the educational leader did not at any time discuss the cycle of planning. The educational leader showed [REDACTED] the unit plan critical reflection and then [REDACTED] requested she look independently. Please also note, the educational leader was aware [REDACTED] hadn't viewed all documents in relation to planning and offered [REDACTED] the opportunity to review storypark in her own office at her own leisure, however, no cycle mapping or documentation was sighted during the assessment. Please refer to evidence in QA1.

First tier review

80. The provider prepared a document, ECRU – Assessment and Rating for [REDACTED], as their first tier review submission. In relation to Element 7.2.2 the ECRU document states:



The report suggests the educational leader is studying towards a bachelor of education and has several years experience. The service would like to clarify that the educational leader has ■ years of experience in the field, holds a university diploma of education and a diploma of children's services. The educational leader is awaiting graduation in ■ 2019 and has completed a Bachelor of Education. The service suggests this is not several years, this is longevity. The service defends its team and their understanding of the cycle of planning, the service will not accept that educators did not have a clear understanding. In turn, the service believes the assessor did not have the time to build her evidence of the cycle of planning. The service is aware of the team members who spoke to assessors regarding planning, apart from one team leader majority of the educators questioned were trainees or cert three qualified educators. Educators did an outstanding job and answering the assessors questions and this was celebrated on the day when they shared their experiences and when qualified staff expressed to the Nominated Supervisor how well they had done. The only negative conversation that took place was with the Kindy team leader who has ■ years experience and has been in many positions including centre manager. This staff hands down is a leader in curriculum, she knows the planning cycle better than anyone else and goes above and beyond. The services team is astounded at the idea that the kindy program does not meet the minimum standard when we know for sure our program is exceptional. The assessors and team leader got into a confrontation as the assessor told her "there is no cycle". The conversation became heated and the Nominated Supervisor had to request the Team Leader refrain from further conversation. The assessor did not at any time provide this educator with the time or control of the computer to defend her program. This is supported by the fact that the service then provided the assessor with a log in to Storypark to go back and have another look. Despite providing the long in, records indicate the assessor did not look at planning and therefore did not build their understanding of our program. We refer back to ACECQA who states "There is no template or one size fits all cycle of planning".

Second tier review

81. The provider seeks to have Element 7.2.2 changed from Not Met to Met. In its submissions in relation to Element 7.2.2 the provider describes its practice and provides the numbers of documentary evidence in support of that practice.



82. The provider states that the service collaborates with educators to provide curriculum direction and guidance and support educators to effectively implement the cycle of planning to enhance programs, supported by documents 38, 58, 59.
83. The provider states that the service mentors educators through one to one on the job training and verbal guidance and support, staff appraisals - curriculum support and invitation to curriculum meeting. No supporting evidence is provided.
84. The provider states the service leads the development and implementation of the program and ensures childrens learning and development are guided by the learning outcomes of the EYLF. In support they state:
- See assessor notes – EL writes unit plan which covers EYLF and NQS and provides theme based approach providing varied curriculum focus
 - EL designed the program and is a storypark advocate
 - EL hosts regular 8 weekly face to face training
 - ALREADY PROVIDED
85. The provider states the service participates in professional learning opportunities. In support they state:
- Attending networking meetings –storypark
 - Attends collaborative university discussions [REDACTED] University
 - Networking – excellence bus tours
 - Child care experts – behaviour guidance, interactions with children and protective behaviours (different evenings)
 - Woman in leadership (Sydney)
 - NQS conference
 - ALREADY PROVIDED
- Please REVIEW document 60 which is a snap shot taken from [REDACTED] [REDACTED] University portal: The assessment was design and implement a curriculum - [REDACTED] submitted the [REDACTED] curriculum which was graded “successful”. Following the grading [REDACTED] has successfully completed a 4 year degree (Bachelor of Educator). [REDACTED] Primary school wrote a supporting letter confirming the services cycle of planning was of a high grade. Two professional services operated by degree trained educators granted the cycle of planning sufficient. The service questions the assessors motivates and understanding of the cycle of planning.
86. The provider states that continuity – transitions is evidenced by document 61.



87. The provider states that the service draws on educators skills and strengths to develop professional skills and confidence, supported by document 38, 58.
88. The provider states that the service liaises with other early childhood professionals (specialists), supported by documents 62, 63, 64.
89. The provider states that the service assists educators to connect with community including aboriginals or representatives, supported by documents 54, 64, 65, 66.
90. The provider states that it communicates with families about the program, in support stating:

Family night – see evidence already provided where EL lead family evening and discussed and show cased learning journals.

Panel's consideration

91. The Panel needed to decide whether the evidence available demonstrated that the service met Element 7.2.2.
92. As the service is already meeting Element 7.2.1 and 7.2.3, a decision by the Panel that the service is meeting Element 7.2.2 would bring the service's rating for Standard 7.2 from Working Towards to Meeting.
93. The Panel observed that the nominated supervisor at the service is also the educational leader, and considered the implications of fulfilling both of these roles simultaneously, including the individual's capacity to sufficiently support the educators in leading the development and implementation of the educational program and assessment and planning cycle.
94. The Panel noted that the majority of educators questioned during the assessment and rating visit were trainees or certificate 3 educators. The Panel observed that certificate 3 coursework does not sufficiently address educational program, assessment and planning components, and given this, the educators would need extra support in this regard. There was no clear evidence of individualised or targeted educational support and leadership for particular rooms or educators.



95. The Panel noted that the applicant emphasised how long the educational leader had been working in the sector, but that this alone did not evidence the quality of their educational leadership.
96. The Panel noted that the provider was aggrieved about the initial assessment and rating process, including the claim that their team was not given sufficient opportunity to properly explain the educational leader's role in leading the assessment and planning cycle. However, in the Panel's view the provider had sufficient opportunity to provide information on the cycle during the process from assessment and rating to second tier review, and based on the evidence provided, the service was not meeting this Element.
97. The Panel noted that its remit does not include judgments on the assessment and rating process, and that that is a matter for the Department or Ombudsman in the relevant jurisdiction.
98. The Panel noted that it appeared that the educational leader/nominated supervisor's role at the service was somewhat hands-off, citing the typed notes from the educational leader to the staff directing critical reflection and providing guidance and leadership. The Panel could not see clear evidence indicating leadership, a cycle of planning, or assessment of learning. The questions in the reflection document that were submitted as evidence weren't related to critical reflection regarding the children and learning against learning outcomes.
99. The Panel also noted that planning for 5 years olds is different to planning for infants and toddlers, and could not see how the assessment and planning cycle had been differentiated for different age cohorts.
100. The Panel noted the provider's evidence that the curriculum had been graded 'successful' by ██████████ University, but in its view the implementation of the curriculum, in addition to its content, determines its effectiveness. Educators need to understand the curriculum, know how to implement it, and understand how to assess learning and link this to further planning.

Decision

101. The Panel by consensus decided that the service's practice did not meet Element 7.2.2. Therefore, it confirmed the service's rating of Working Towards NQS for that Element.