



Date of Decision: [REDACTED]

File number: [REDACTED]

PANEL MEMBERS: [REDACTED]
[REDACTED]
[REDACTED]

APPLICANT: [REDACTED]

REGULATORY AUTHORITY: [REDACTED]
[REDACTED]

Decision

The Ratings Review Panel (the Panel), by consensus, decided to amend the rating for:

- Standard 2.1, Element 2.1.2 from 'not met' to 'met'. As a result, the rating for Standard 2.1 has been amended from Working Towards NQS to Meeting NQS.
- Standard 2.2, Element 2.2.1 from 'not met' to 'met'. As a result, the rating for Standard 2.2 has been amended from Working Towards NQS to Meeting NQS.
- Standard 3.2, Element 3.2.2 from 'not met' to 'met'. As a result, the rating for Standard 3.2 has been amended from Working Towards NQS to Meeting NQS.
- Standard 5.1, Element 5.1.2 from 'not met' to 'met'. As a result, the rating for Standard 5.1 has been amended from Working Towards NQS to Meeting NQS.

As a result of these amendments, the ratings for Quality Areas 2, 3 and 5 have been amended to Meeting NQS.

The Panel, by consensus, decided to confirm the ratings for:

- Standard 1.1, Element 1.1.3 as 'not met'. As such, the rating for Standard 1.1 is confirmed as Working Towards NQS.
- Standard 1.2, Element 1.2.3 as 'not met'. As such, the rating for Standard 1.2

is confirmed as Working Towards NQS.

- Standard 7.1, Element 7.1.2 as 'not met'. As such, the rating for Standard 7.1 is confirmed as Working Towards NQS.

As a result, the overall ratings for Quality Areas 1 and 7 remain at 'Working Towards NQS'.

The overall quality 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 facts existing at the time of the rating assessment (section 144(3)(b) *Education and Care Services National Law* (National Law)).
2. The approved provider sought a review of
 - Quality Area 1:
 - Standard 1.1, Element 1.1.3
 - Standard 1.2, Element 1.2.3
 - Quality Area 2:
 - Standard 2.1, Element 2.1.2
 - Standard 2.2, Element 2.2.1
 - Quality Area 3:
 - Standard 3.2, Element 3.2.2
 - Quality Area 5:
 - Standard 5.1, Element 5.1.2
 - Quality Area 7:
 - Standard 7.1, Element 7.1.2

on the grounds that the Regulatory Authority failed to take into account or give sufficient weight to special circumstances or facts existing at the time of the rating assessment.

3. After the initial assessment, the service was rated as Working Towards the National Quality Standard, with the following ratings in each quality area:
 - Quality Area 1: Working Towards NQS

- Standard 1.1 Working Towards NQS (Element 1.1.3 not met)
 - Standard 1.2 Working Towards NQS (Elements 1.2.3 not met)
 - Standard 1.3 Meeting NQS (all elements met, no exceeding themes present)
- Quality Area 2: Working Towards NQS
 - Standard 2.1 Working Towards NQS (Element 2.1.2 not met)
 - Standard 2.2 Working Towards NQS (Element 2.2.2 not met)
- Quality Area 3: Working Towards NQS
 - Standard 3.1 Meeting NQS (all elements met, no exceeding themes)
 - Standard 3.2 Working Towards NQS (Element 3.2.2 not met)
- Quality Area 4: Meeting NQS
 - Standard 4.1 Meeting NQS (all elements met, no exceeding themes)
 - Standard 4.2 Meeting NQS (all elements met, no exceeding themes)
- Quality Area 5: Working Towards NQS
 - Standard 5.1 Working Towards NQS (Element 5.1.2 not met)
 - Standard 5.2 Meeting NQS (all elements met, no exceeding themes)
- Quality Area 6: Meeting NQS
 - Standard 6.1 Meeting NQS (all elements met, no exceeding themes)
 - Standard 6.2 Meeting NQS (all elements met, no exceeding themes)
- Quality Area 7: Working Towards NQS
 - Standard 7.1 Working Towards NQS (Element, 7.1.2 not met)
 Standard 7.2 Meeting NQS (all elements met, no exceeding themes).
4. At first tier review, the Regulatory Authority confirmed all ratings awarded at assessment and rating, with the exception of:
- Quality Area 2:
 - Standard 2.2, Element 2.2.1 was changed from 'Met' to 'Not Met'.

- Standard 2.2, Element 2.2.2 was changed from 'Not Met' to 'Met'.
5. The approved provider applied for second tier review on the grounds that the Regulatory Authority failed to take into account or give sufficient weight to special circumstances existing or facts existing at the time of the rating assessment.
 6. In support of their application for a second tier ratings review, the approved provider made the following statement:

As we stated previously, we disagree with the final rating based on the evidence described in the final report as well as with the response by the review panel based on the comments in the first tier review decision notice.

This is based on the following:

- *Collection of evidence used during the visit is one-sided.*
- *Interpretation of evidence collected is one-sided or incorrect.*
- *Reasoning and comments given are contradicting between standards.*
- *Our response to the draft report was not considered or understood, as the same incorrect interpretation of policies were stated throughout all responses.*
- *Assessment was conducted without the required objectivity and open mind – used wording clearly shows bias: while the officer always “noted”, the approved provider only “claims”.*
- *Insufficient time or opportunity was given to demonstrate or explain the services approach to relevant elements and standards during the visit, showing a clear lack of interest in valuable aspects of the centres approach and operations.*
- *The handling of the discrepancy of the rating for standard 2.2 between element 2.2.1 and 2.2.2 shows a lack of attention to detail and pre-set outcome to be matched.*

While the evidence report lists a lot of individual evidences and observations, it is unclear how these quoted evidences are seen or used for the final rating. This does not allow a comprehensive and targeted response, but only a general response, allowing the review panel an easy argument to come up with different details to reject the request of an amendment of the review. This is clearly evident in the panel’s responses to each of the reviewed standards and elements.

In our response, we provided commented and additional evidence to all points listed we believed were used to justify the “not met” rating or appeared to be out of context, therefore providing a clear relationship between evidence and our response.

The panel response however is very vague. While there are statements indicating that our documentation and explaining of the evidence has been accepted and followed, it is still unclear which specific evidence or situation is used to support the “not met” rating.

It appears that the panel is hiding behind a full list of quoted items were it is unclear which one is the one still to be addressed.

We would like to see a clear link between each initial evidence and our relevant comment to state whether it has been accepted (i.e. “met”) or is still seen as “not met”.

As long as this is not provided, the decision appears vague and incomprehensive.

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
 - the Assessment and Rating Instruments and the final Assessment and Rating Report
 - the service’s feedback to the draft report
 - the application for first tier review and its attachments
 - the Regulatory Authority’s findings at first tier review
 - the Regulatory Authority’s submission to second tier review
 - the 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 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.

The facts

10. [REDACTED] is a Long Day Care service with [REDACTED] approved places. The service is based in [REDACTED]
11. The assessment and rating visit took place on [REDACTED]
12. The Regulatory Authority sent the Approved Provider the draft report on [REDACTED] and the Approved Provider provided feedback to the draft report on [REDACTED]. The final report was sent to the provider on [REDACTED]
13. The provider applied for first tier review on [REDACTED]. The Regulatory Authority made a decision on the review on [REDACTED]. The provider received the decision on [REDACTED]
14. The provider applied for second tier review on [REDACTED]

Review of rating levels

15. The Panel considered each Quality Area and Element under review.
16. This decision notice outlines the evidence considered by this panel and the panel's deliberations and final decisions.

Standard 1.1

17. Standard 1.1 – Program is:
The educational program enhances each child's learning and development

Element 1.1.3

18. Element 1.1.3 – Program Learning Opportunities, is:
All aspects of the program, including routines, are organised in ways that maximise opportunities for each child's learning and development.

Assessment and Rating

19. In the Draft Report for this assessment and rating, Element 1.1.3 was rated as 'not met'. In their analysis, the Regulatory Authority provided the approved provider with itemised evidence and the following analysis to support their decision:

Opportunities for learning are not always maximised through experiences in the program, routines and transition times.

20. In their feedback to the draft report, the Approved Provider provided the overarching statement that:

*The element should be rated as **met** as provided evidence supporting the given quality improvement plan notes for this element are lacking the wider context or deeper understanding of the situation. Provided evidence in the QIP has not been considered.*

Please refer to relevant sections in the QIP as well as comments, descriptions and additional comments to evidence outlined in the attached file [REDACTED] [REDACTED] Assessment Detailed Feedback - Final” for this and various other standards.

In support of this statement, the approved provider provided written responses to the evidence items collected by the Authorised Officer, and submitted a document titled “File [REDACTED] – Therapist Notes and Behaviour Plan Child 1” for consideration.

21. In their response to Approved Provider’s submission the Regulatory Authority stated:

Evidence was already considered when developing your draft summaries. No change of rating.

22. In the final report, the Regulatory Authority rated Element 1.1.3 as ‘not met’ and provided the same analysis statement as in the draft report.

First tier review

23. The approved provider applied for a review of Element 1.1.3 on the basis that they believed they should have received a rating of ‘met’ for this element, and submitted a similar collection of evidence and statements to their feedback submission to the draft report.

24. The panel’s view on the evidence for Element 1.1.3 was:

The panel considered evidence recorded by the authorised officer and evidence submitted by the approved provider. The panel notes that the officer has recorded that opportunities for learning are not always maximised through experiences in the program, routines and transition times. The panel acknowledges the approved providers response and notes the discrepancy between the approved provider’s claims and the officers’ evidence in regards to particular observations noted on the day of the visit. The panel also acknowledges that there is some evidence of learning opportunities being supported in the officer’s evidence from other Standards that has been highlighted. The approved provider has not however, provided any additional

information or documented evidence to support how this Element has been met. It is the panel's view therefore, that the available evidence is insufficient to demonstrate that all aspects of the educational program, including routines, experiences and interactions are organised to maximise opportunities for each child's learning.

The panel decided the approved provider has not provided evidence to show it has met the element and decided not to amend the assessment of Element 1.1.3 from not met to met.

25. As such, the rating for Element 1.1.3 was confirmed as 'not met'.

Second tier review

26. In their application for second tier review, the approved provider submitted that they would like the evidence for Element 1.1.3 reviewed on the basis that they believed they met the requirements for this element.

27. In support of their application, the approved provider submitted analysis of the Regulatory Authority's evidence and decisions at assessment and Rating and first tier review, and submitted a document titled "File ■ – Maximise Learning Evidence".

Panel's Considerations

28. In making their decision:

- The panel noted that on the day of the assessment and rating visit, children were observed being given the opportunity to participate in a French lesson, soccer and that there was an organised visit by a police officer. The panel considered the evidence suggested that these were activities that the children considered important, and that these activities provided opportunities for learning.
- The panel noted that there was limited evidence available to them to indicate that routines and daily activities were organised in ways that maximised opportunities for each child's learning.
- The panel could not identify from the available evidence how the service made decisions about organising all aspects of the program. The panel considered that while there was some evidence of learning opportunities for children, they were not able to determine the service's processes and rationale for organising the program.

Decision

29. ***The panel confirmed the rating for Element 1.1.3 as 'Not met'.***

30. ***As a result of this decision, the Rating for Standard 1.1 is confirmed as Working Towards NQS.***

Standard 1.2

31. Standard 1.2 – Practice is:
Educators facilitate and extend each child’s learning and development

Element 1.2.3

32. Element 1.2.3 – Child directed learning.

Assessment and Rating

33. In the draft report Element 1.2.3 was rated as ‘not met’. The Regulatory Authority provided the approved provider with itemised evidence and the following analysis to support their decision:

There are limited opportunities for children to make choices and decisions within the program.

34. In their feedback to the draft report, the Approved Provider submitted that they believed their service met the requirements of this Element, and provided written responses to the evidence items collected by the Authorised Officer.

35. In their response to Approved Provider’s submission the Regulatory Authority stated:

Decision based on observed practice and photos taken throughout visit.

Evidence was already considered when developing your draft summaries. No change of rating.

36. In the final report the Regulatory Authority rated Element 1.2.3 as ‘not met’ and provided the same analysis statement as in the draft report.

First tier review

37. The approved provider applied for a review of Element 1.2.3 on the basis that they believed they should have received a rating of ‘met’ for this element, and submitted a similar collection of evidence and statements to their feedback submission to the draft report.

38. The panel’s view on the evidence for Element 1.2.3 was:

The panel considered evidence recorded by the authorised officer and evidence submitted by the approved provider. The panel notes that that officer has confirmed practices from the service's QIP that indicate that child led learning and children's input is encouraged within the program. This is supported by the evidence supplied by the approved provider that demonstrates that the program incorporates children's interests and requests. The officer has however, also recorded that there are limited opportunities for children to make choices and decisions within the program. The evidence details that there are minimal choices for children during outdoor play and includes examples that demonstrate limited opportunities for children to make choices about participating in experiences such as large group times. It is the panel's view therefore, that the available evidence does not adequately demonstrate that agency is promoted for each child at the service.

The panel decided the approved provider has not provided evidence to show it has met the element and decided not to amend the assessment of Element 1.2.3 from not met to met.

39. As such, the rating for Element 1.2.3 was confirmed as 'not met'.

Second tier review

40. In their application for second tier review, the approved provider submitted that they would like the evidence for Element 1.2.3 reviewed on the basis that they believed they met the requirements for this element.

41. In support of their application, the approved provider submitted analysis of the Regulatory Authority's evidence and decisions at assessment and Rating and first tier review, and documents titled:

- "File ■ – [REDACTED] and [REDACTED]"
- "File ■ – [REDACTED]" also relates to this element.

Panel's Considerations

42. In making their decision, the panel:

- Noted a range of observed instances where children appeared to make some choices during activities. For example, the panel noted that five children chose to help make the beds, that children were given a choice to extend the visit of the police officer and that they chose to do so. They noted that children were observed being given a choice to listen to music during a rest period and that a child decided to keep their shoes on while they slept.
- Noted the availability of a range of activities for the children including the sand pit, craft materials and a maths activity. The panel noted the

observations of the Regulatory Authority that the outdoor environment did not provide children with adequate equipment to play with and an example where a child attempting to leave the mat was brought back.

- Considered that children appeared to have been offered opportunities to make limited choices within a structured environment. The panel agreed however, that Element 1.2.3 defined agency much more broadly, and extends to an ability of each child to make choices and decisions which influence events in the course of their day, including when, if and how they might do something, and are provided with strategies to make informed choices.
- Considered that, on balance, there was a lack of clear evidence demonstrating how each child's agency is promoted.

Decision

43. ***The panel confirmed the rating for Element 1.2.3 as confirmed as 'Not met'.***
44. ***As a result of this decision, the rating for Standard 1.2 was confirmed as Working Towards NQS.***

Standard 2.1

45. Standard 2.1 – Health is:
Each child's health and physical activity is supported and promoted.

Element 2.1.2

46. Element 2.1.2 – Health Practices and Procedures is:
Effective illness and injury management and hygiene practices are promoted and implemented.

47. In the draft report Element 2.1.2 was rated as 'not met'. The Regulatory Authority provided the approved provider with itemised evidence and the following analysis to support their decision:

The service has health and hygiene policies in place, however hygiene practices are not always implemented by all staff.

48. In their feedback to the draft report, the Approved Provider submitted responses to the evidence items collected by the Regulatory Authority, and submitted documents titled:
 - File ■ – Administering of Medication Policy, Procedure and Medication Checklist
 - File ■ – Medication Condition Documentation ■■■■■
 - File ■ – Medical Condition Documentation ■■■■■

- File ■ – Medical Condition Documentation ■
- File ■ – Meeting Minutes, Procedure and Risk Assessment Cloth Towel
- File ■ – Behaviour Plan and Inclusion Plan Child 2
- File ■ – Risk Assessment Dummy Tree

49. In their response to the Approved Provider's submission the Regulatory Authority stated:

Photos taken during visit and copy of relevant policies taken on day of visit.

Evidence was already considered when developing your draft summaries. No change of rating.

50. In the final report the Regulatory Authority rated Element 2.1.2 as 'not met' and provided the same analysis statement as in the draft report.

First tier review

51. The approved provider applied for a review of Element 2.1.2 on the basis that they believed they should have received a rating of 'met' for this element, and submitted a similar collection of evidence and statements to their feedback submission to the draft report.

52. The panel's view on the evidence for Element 2.1.2 was:

The panel considered evidence recorded by the authorised officer and evidence submitted by the approved provider. The panel notes that a minor adjustment was offered in relation to first aid kits and expired medications, and as such, this has not influenced the rating for this Element. The panel also notes the service's procedure in regards to individual hand towels and response regarding the children eating their morning tea on chairs following a community visit. The panel also acknowledges the approved provider's response in regards to the storage of dummies on the dummy tree and the statement regarding the Staying Healthy publication being a guide but not the law. While this is true, the National Quality Standard sets a national benchmark for the quality of education and care services which includes services implementing hygiene practices that reflect current advice from recognised health authorities. It is the panel's view, that the available evidence recorded by the authorised officer sufficiently demonstrates that at the time of the visit, the service did not meet the element requirement that effective hygiene practices are promoted and implemented.

The panel decided the approved provider has not provided evidence to show it has met the element and decided not to amend the assessment of Element

2.1.2 from not met to met.

53. As such, the rating for Element 2.1.2 was confirmed as 'not met'.

Second tier review

54. In their application for second tier review, the approved provider submitted that they would like the evidence for Element 2.1.2 reviewed on the basis that they believed they met the requirements for this element.

55. In support of their application, the approved provider submitted analysis of the Regulatory Authority's evidence and decisions at assessment and Rating and first tier review, and submitted a document titled: "File ■ – Bathroom hygiene".

Panel's Considerations

56. In making their decision, the panel:

- Noted that a number of relevant pieces of evidence had been considered across Standard 2.1 during the initial Assessment and Rating and First Tier review. As such, the panel looked broadly at the evidence collected for Standard 2.1.
- Discussed the following observed evidence provided by the Regulatory Authority recording:
 - a play experience with playdough during which a child sneezes on the dough, and another has a runny nose wiping it first on their sleeve, and then into a tissue with the support of an educator
 - children eating a fruit snack with their hands
 - the use of a dummy tree for storage of children's dummies
 - the presence of individual cloth hand towels for the children's use which are stored in a way where the towels may touch each other.
- In relation to each of these examples, the panel considered the evidence and analysis presented by both the Regulatory Authority and the approved provider. The panel noted the concerns raised by the Regulatory Authority, but agreed the Approved Provider had provided evidence of deliberate decision making about the service's hygiene practices that were based on appropriate resources and research.
- Noted that some of these identified issues, for example the practice of using a dummy tree or the use of cloth hand towels, could have been resolved in discussion between the Authorised Officer and service

staff.

- Considered the currency and adequacy of children’s Medical Action Plans presented in the evidence. In particular, the panel made detailed considerations around evidence which concerned the health care plan for a child with egg allergies. In regards to this example, the panel made the following key considerations:
 - Discussed the details and contents of the plan presented by the provider.
 - Discussed the requirements of Regulation 90, and noted the conclusion of the first tier review panel that this Regulation had not been breached.
 - Noted that at the time of assessment this medical action plan was out of date.
 - Noted that the discussion around this issue between the Authorised Officer and the Approved Provider and the judgements around which element this evidence related to had been somewhat confused.
- The panel agreed that, on balance, there was evidence that service promotes and implements effective illness and injury management and effective hygiene practices.

Decision

57. The panel amended the rating for Element 2.1.2 to ‘Met’.

58. As a result of this decision, all Elements in Standard 2.1 are rated as ‘met’, and the overall rating for Standard 2.1 has been amended to ‘Meeting NQS’.

Standard 2.2

59. Standard 2.2 – Safety is:
Each child is protected.

Element 2.2.1

60. Element 2.2.1 – Supervision is:
At all times, reasonable precautions and adequate supervision ensure children are protected from harm and hazard.

Assessment and Rating

61. In the evidence collected by the Regulatory Authority, the Authorised Officer tagged [REDACTED] evidence items with the status “Follow up compliance”. These are:
- *Health care plan displayed for child who has asthma is dated [REDACTED] and records to be reviewed in [REDACTED] months. No risk minimisation or communication plans available when requested. [...] This is a breach of*

Regulation 90 Medical Conditions Policy.

- *Health care plan for child with [REDACTED] is dated [REDACTED] and has not been reviewed. Educator who is also the parent of the child stated that there is a long list to get in to see the doctor. No risk minimisation or communication plan is in place. This is a breach of Regulation 90 Medical Conditions Policy.*
- *The risk assessment sighted for excursion to [REDACTED] is not in accordance with Regulation 101 Conduct of risk assessment for excursion.*

62. In the draft report, Element 2.2.1 was rated as 'not met'. It is noted that Element 2.2.2 was rated as 'met'.

63. In their analysis for Standard 2.2, the Authorised Officer included the following:

Educators supervise children during play, meal times and rest time, although a student was briefly left supervising children using the bathroom. Some safety systems such as authorisations are in place however risk assessments for excursions do not meet regulatory requirements. Whilst the service has a medical conditions policy in place, individual health care plans are not up to date and there is an absence of risk minimisation and communication plans. Emergency evacuation and lock down procedures are displayed and rehearsed in line with regulatory requirements.

64. In their feedback to the draft report, the Approved Provider submitted detailed responses to the evidence collected by the Regulatory Authority, and submitted documents titled:

- Medical Condition Documentation [REDACTED]
- Medical Condition Documentation [REDACTED]
- Meeting Agenda and [REDACTED] Participants list
- Excursion Risk Management Plan [REDACTED] [REDACTED].

65. In their response to Approved Provider's submission the Regulatory Authority stated:

AO comment: Supervision of children in bathroom noted. Copy of risk management plan taken during visit. AP provided a different risk management plan with feedback. AP provided a new updated health care plan and also the out of date health care plan with a 'review date' now included on plan.

Evidence was added to final report, but has not changed rating.

The response did not provide any commentary around Element 2.2.2.

66. In the final report, the Regulatory Authority rated Element 2.2.2 as 'not met' and Element 2.2.1 as 'Met'. The analysis provided for these ratings states:

Educators supervise children during play, meal times and rest time. Some safety systems such as authorisations are in place however risk assessments for excursions do not meet regulatory requirements. Whilst the service has a medical conditions policy in place, individual health care plans are not up to date and there is an absence of risk minimisation and communication plans. Emergency evacuation and lock down procedures are displayed and rehearsed in line with regulatory requirements.

It is noted that the comment regarding a child being left briefly alone in the bathroom was removed from the final report.

First tier review

67. The approved provider applied for a review of Element 2.2.1, and submitted a collection of evidence and statements in response to the assessment and rating evidence and outcome.
68. Email correspondence documents communication between the Regulatory Authority and Approved provider, commencing with the Regulatory Authority asking the Provider whether they would like to submit evidence in relation to Element 2.2.2. In response to a follow-up request for clarification from the approved provider, the Regulatory Authority states that Element 2.2.2 was rated as 'met' in the draft report in error, and that Element 2.2.1 had been amended to 'met' in response to the feedback provided by the provider.

The email exchanges includes attempts by both parties to clarify misunderstandings and does not end on a clear statement of agreement by the parties. However, during the exchange the Approved Provider states that they believed their feedback to the draft report is sufficient to address the compliance issues identified in the evidence summary, and the Regulatory Authority states that they will consider the relevant documents in their assessment of Element 2.2.2.

69. The panel's deliberations were summarised by the Regulatory Authority as follows:

The panel considered evidence recorded by the authorised officer and evidence submitted by the approved provider. The panel acknowledges the discrepancy between the ratings given for this Standard in the draft and final reports. The officer has recorded evidence outlining concerns in regards to a student briefly being left alone to supervise children, procedure for children attending soccer activity next door, safety checks on sleeping infants, risk

assessments for excursions not meeting regulatory requirements, health care plans not up to date and no risk minimisation and communication plans in place.

Firstly, the panel noted that the authorised officer has amended the analysis notes in the final Rating Outcome Summary by removing the statement ‘...although a student was briefly left supervising children using the bathroom’. The panel also acknowledges the response by the approved provider in regards to the procedures in place for children attending the soccer activity and for checking on infants sleeping in cots.

In regards to risk minimisation and communication plans, the panel reviewed the copies of plans provided as feedback and noted that although not provided to the officer during the visit, these plans include dates and entries prior to the assessment visit. The panel also considered that the services Medical Conditions Policy outlines the requirement for risk minimisation plans and communication plans to be developed. The panel also acknowledges the approved providers response and agrees that the evidence does not demonstrate a breach of Regulation 90. It is however noted that in relation to review dates on health care plans, the services Medical Conditions Policy states that a medical management plan should state when the plan should be reviewed.’

The panel also considered the approved providers claims in relation to risk assessments for excursions. The panel noted that the authorised officer collected a copy of the risk assessment for the excursion to [REDACTED] School during the assessment visit. This document is titled ‘Hazard Identification and Assessment Risk Management Plan’ and does not comply with Regulation 101 Conduct of risk assessment for excursion. While the risk assessment provided by the approved provider as part of their feedback does comply with the regulations, the assessment and rating visit is a point-in-time assessment and it is the panel’s view that at the time of the visit, the risk assessment for excursion provided to the officer did not meet the requirements of the National Regulations. The risk assessment provided at feedback stage is also only dated [REDACTED] which does not assist to validate that this was in completed prior to the visit. The panel also highlights that Regulation 101 underpins Element 2.2.1 in the Guide to the National Quality Standard.

The panel considered that evidence recorded by the officer in relation to Element 2.2.2, Incident and Emergency Management supported a rating of ‘met’ for this Element.

The panel decided the approved provider has not provided sufficient evidence to show it has met Element 2.2.1 and decided to amend the assessment of Element 2.2.1 from met to not met as per the rating in the draft report.

precautions and adequate supervision were in place to ensure protection from harm and hazard.

- Considered the evidence collected during the assessment and rating visit which recorded educators completing a children's sleeping chart at [REDACTED] and not again until [REDACTED], when the service's policy states that sleep checks should be completed and recorded every 10 minutes. The panel also considered the response of the approved provider that the checks related to the sleep of [REDACTED] separate infants who slept at different points during the 45 minute period in question, and accepted the provider's explanation of this incident.
- The panel considered that on balance, the evidence collected and the subsequent submissions from the Approved Provider against this standard demonstrated meeting level practice.

Decision

73. The panel amended the rating for Element 2.2.1 to 'Met'.

74. As a result of this decision, all Elements in Standard 2.2 are rated as 'met', and the overall rating for Standard 2.2 is now Meeting NQS.

Standard 3.2

75. Standard 3.2 – Use is:

The service environment is inclusive, promotes competence and supports exploration and play-based learning.

Element 3.2.2

76. Element 3.2.2 – Resources support play-based learning is:

Resources, materials and equipment allow for multiple uses, are sufficient in number, and enable every child to engage in quality experiences in both built and natural environments.

Assessment and Rating

77. In the draft report, Element 3.2.2 was rated as 'not met'. The Regulatory Authority provided the approved provider with itemised evidence and the following analysis to support their decision:

While the outdoor learning environment provides opportunities for children to engage with the natural environment children had limited activities in the outdoor environment to support their play and learning.

84. In their application for second tier review, the approved provider submitted that they would like the evidence for Element 3.2.2 reviewed on the basis that they believed they met the requirements for this element.
85. In support of their application, the approved provider submitted analysis of the Regulatory Authority's evidence and decisions at assessment and Rating and first tier review, and submitted a document titled: [REDACTED]".

Panel's Considerations

86. In making their decision, the panel:
- Noted photos of the outdoor environment, and commented that the service appeared to have missed some opportunities to maximise children's engagement with the space. The panel also noted the Authorised Officer's concern that the sandpit was closed.
 - Considered the activities and resources known to be available to children on the day, and the numbers of children who required access to them. The panel noted that children were divided between soccer, making the beds and indoor play activities including painting, elastics, connect-a-shape and plastic blocks. The panel also noted that the [REDACTED] visit were planned for the day.
 - Agreed that while the evidence suggested there were opportunities for the service to provide additional stimulation within the outdoor space, the evidence indicated that children were observed being provided with adequate, multi-use resources to enable all children to make choices about their activities and engage in play-based learning.

Decision

87. ***The panel amended the rating for Element 3.2.2 to 'Met'.***
88. ***As a result of this decision, all Elements in Standard 3.2 are rated as 'met', and the overall rating for Standard 3.2 is now rated 'Meeting NQS'.***

Standard 5.1

89. Standard 5.1 – Relationships between educators and children is:
respectful and equitable relationships are maintained with each child.

Element 5.1.2

90. Element 5.1.2 – Dignity and rights of the child is:
The dignity and rights of every child are maintained

Assessment and Rating

91. In the draft report for this assessment and rating, Element 5.1.2 was rated as 'not met'. The Regulatory Authority provided the approved provider with itemised evidence and the following analysis to support their decision:

Educators are aware of children's rights however miss opportunities to seek permission from children particularly during meal times, changes in routine and when children are involved in play.

92. In their feedback to the draft report, the Approved Provider written responses to the evidence items collected by the Authorised Officer, and submitted documents titled:

- File ■ – ■■■■■ and Behaviour Plan Child 1
- File ■ – Behaviour Plan and Inclusion Plan Child 2

93. In their response to Approved Provider's submission the Regulatory Authority stated:

Practice was observed as typical practice across the service.

Evidence was already considered when developing your draft summaries. No change of rating.

94. In the final report, the Regulatory Authority rated Element 5.1.2 as 'not met' and provided the same analysis statement as in the draft report.

First tier review

95. The approved provider applied for a review of Element 5.1.2 on the basis that they believed they should have received a rating of 'met' for this element, and provided similar evidence to that provided in feedback to the draft report.

96. The panel's view on the evidence for Element 5.1.2 states:

The panel considered evidence recorded by the authorised officer and evidence submitted by the approved provider. The panel notes that the officer has recorded that educators miss opportunities to seek permission from children particularly during meal times, changes in routine and when children are involved in play. The recorded evidence includes several observations where educators grab children by the forearm or by the hand without warning to give instruction or direct them to a new activity. While the panel acknowledges the approved providers response to these, it is the panel's view that these observed interactions during the assessment visit do not

demonstrate that the dignity and rights of every child are maintained. The panel also notes that the approved provider did not include evidence of any other ways that the dignity and rights of children are ensured at the service to support how this Element has been met.

The panel decided the approved provider has not provided evidence to show it has met the element and decided not to amend the assessment of Element 5.1.2 from not met to met.

97. As such, the rating for Element 5.1.2 was confirmed as 'not met'.

Second tier review

98. In their application for second tier review, the approved provider submitted that they would like the evidence for Element 5.1.2 reviewed on the basis that they believed they met the requirements for this element.

99. In support of their application, the approved provider submitted analysis of the Regulatory Authority's evidence and decisions at assessment and Rating and first tier review, and submitted a document titled "File [REDACTED]".

Panel's Considerations

100. In making their decision, the panel:

- Considered the authorised officer's observations within evidence that queried physical interactions between educators and children.
- Considered the explanations provided by the Approved Provider, which challenged the use of the word 'grab' and provided additional context for each of the examples captured. The panel considered that these explanations aligned with the behaviour management plans provided. The panel also noted that the regulatory authority considered Regulation 155 to be complied with and concluded that on balance, the evidence demonstrated that the dignity and rights of the child were being maintained.
- Agreed that they would have liked to see further questioning of the educators about these practices from the Authorised Officer, to clarify the context of the examples provided.

Decision

101. ***The panel amended the rating for Element 5.1.2 to 'Met'.***

102. ***As a result of this decision, all Elements in Standard 5.1 are rated as 'met', and the overall rating for Standard 5.1 has been amended to Meeting NQS.***

Standard 7.1

103. Standard 7.1 – Governance is:
Governance supports the operation of a quality service

Element 7.1.2

104. Element 7.1.2 – Management Systems:
Systems are in place to manage risk and enable the effective management and operation of a quality service

Assessment and Rating

105. In the draft report, Element 7.1.2 was rated as 'not met'. The Regulatory Authority provided the approved provider with itemised evidence and the following analysis to support their decision:

Some governance and administrative systems are in place to manage the service. Some records are maintained and available in accordance with legislative requirements. Processes are in place to ensure complaints are addressed. The service philosophy, policies and procedures are available, reviewed regularly however policies and procedures are not always followed by staff.

106. In their feedback to the draft report, the Approved Provider provided detailed feedback to the evidence collected by the Authorised Officer.

107. In their response to Approved Provider's submission the Regulatory Authority stated:

Copies of relevant policies taken on day of visit and child and staff attendance records requested during visit not available and were received via email on the

██████████
Evidence was already considered when developing your draft summaries. No change of rating.

108. In the final report, the Regulatory Authority rated Element 7.1.2 as 'not met' and provided the same analysis statement as in the draft report.

First tier review

109. The approved provider applied for a review of Element 7.1.2 on the basis that they believed they should have received a rating of 'met' for this element, and submitted detailed feedback to the assessment and ratings and first tier review findings.

110. The panel's view on the evidence for Element 7.1.2 states:

The panel considered evidence recorded by the authorised officer and evidence submitted by the approved provider. The panel noted that the officer has recorded a breach of Regulation 170 Policies and procedures to be followed. The panel reviewed the services Health, Hygiene and Safe Food Policy and Medical Conditions Policy and determined that the some of the practices observed during the visit do not align with the relevant service policy. For example, the service's Health, Hygiene and Safe Food Policy states that 'Each child will be provided with their own clean drinking and eating utensils at each mealtime' and 'Ensuring food is always served in a hygienic way using tongs and gloves' and 'The dummy will be air dried and stored in a sealed container if it is not being used immediately.' The Medical Conditions Policy states that a Medical management plan should 'State when the plan should be reviewed'. These are not consistent with practices outlined in this report as observed by the officer.

The panel decided the approved provider has not provided evidence to show it has met the element and decided not to amend the assessment of Element 7.1.2 from not met to met.

111. As such, the rating for Element 7.1.2 was confirmed as 'not met'.

Second tier review

112. In their application for second tier review, the approved provider submitted that they would like the evidence for Element 7.1.2 reviewed on the basis that they believed they met the requirements for this element.

113. In support of their application, the approved provider submitted detailed responses to the evidence considered in the ratings decisions, and submitted documents titled:

- File ■ – Medical management plans
- File ■ – Hygiene in food handling

Panel's Considerations

114. In making their decision, the panel:

- Discussed the requirements of this element, including that the service has systems in place to ensure risks are managed, and that the service can continue to operate effectively in a range of circumstances.

- Considered the available evidence about the medical conditions policy, sleeping infants policy, health and hygiene procedures and the storage of dummies.
- Considered the collection of incidents that had been identified by the Authorised Officer, in particular around the identified issues relating to the currency and update of medical plans. The panel agreed that there was evidence of gaps and weaknesses in the management system.
- Agreed that in this case there was insufficient evidence to support a change of rating, and that they confirmed the rating awarded by the Regulatory Authority of 'not met' for this Element.

Decision

115. ***The rating for Element 7.1.2 was confirmed as 'Not met'.***

116. ***As a result of this decision, the rating for Standard 7.1 was confirmed as Working Towards NQS.***