

[REDACTED] 2022

Ratings Review Decision Notice

Panel members

[REDACTED]
[REDACTED]
[REDACTED]

Panel date

[REDACTED] 2022

Applicant

[REDACTED] on
behalf of [REDACTED]

Regulatory Authority NSW Department of Education

Decision:

The Ratings Review Panel (the panel) decided by consensus to confirm the ratings under review as follows:

- Standard 2.1 was confirmed as Meeting NQS (Exceeding theme 3 was identified but not Exceeding theme 2)
- Standard 2.2 was confirmed as Meeting NQS (Exceeding themes 2 & 3 were not identified)

The service's overall rating remains as Meeting NQS.

Issues

1. The approved provider (the provider) sought a review of the ratings for the above standards on the grounds that the regulatory authority:
 - (a) did not appropriately apply the prescribed process for determining a rating level; and
 - (b) failed to take into account or give sufficient weight to special circumstances or facts existing at the time of the assessment and rating.

Overview

2. After the initial assessment and rating visit, the draft rating outcome summary recorded the service's overall rating as Meeting NQS. The service was rated as Exceeding NQS in Quality Areas 4, 6 and 7, and Meeting NQS for all other quality areas.
3. The service's ratings in the final rating outcome summary, remained unchanged from those recorded in the draft document.
4. The provider sought a first tier review of Quality Area 2 and, specifically Standards 2.1 and 2.2. The regulatory authority considered the submissions provided and confirmed the ratings under review in the first tier review decision notice. There were no changes to service's ratings.
5. At second tier review, the provider sought a review of Standards 2.1, 2.2, 3.1, 3.2, 5.1 and 5.2. However, as Standards 3.1, 3.2, 5.1 and 5.2 were not reviewed at first tier review, they could not be reviewed at a second tier review, as stipulated in the National Law (s 144(2)).
6. The provider advised ACECQA that they wished to proceed with a second tier review of Standards 2.1 and 2.2 via email on [REDACTED] 2022.

Evidence before the panel

7. The panel considered all the available 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 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 reviewing the regulatory authority's submission.
8. The panel also considered Exceeding theme guidance from the *Guide to the National Quality Framework*. This included Exceeding guidance specific to the standards under review, as well as questions used by authorised officers to establish Exceeding NQS practice.

The law

9. Section 151(1) of the *Education and Care Services National Law Act 2020* (the National Law) states:

'Following a review, the ratings review panel may:

- a) confirm the rating levels determined by the regulatory authority; or
- b) amend the rating levels'.

The facts

1. [REDACTED] is an outside school hours care service with [REDACTED] approved places. The service is located [REDACTED]
2. The service's previous assessment and rating [REDACTED] took place on [REDACTED] 2017. The service's overall rating was Exceeding NQS. The service was rated as Exceeding NQS in Quality Areas 1, 4, 5, 6 and 7, and Meeting NQS in all other quality areas.
3. The service's most recent assessment and rating [REDACTED] took place on [REDACTED] 2022 by [REDACTED].
4. The draft rating outcome summary was sent to the provider on [REDACTED] 2022. The provider did not submit feedback to the regulatory authority in response to the draft report.
5. The final rating outcome summary was sent to the provider on [REDACTED] 2022. The service's overall rating was Meeting NQS.
6. The provider applied for first tier review by the regulatory authority on [REDACTED] 2022, seeking a review of Quality Area 2 and, specifically, Standards 2.1 and 2.2.
7. The regulatory authority decided on the provider's first tier review application on [REDACTED] 2022, with both standards under review confirmed.
8. Following first tier review, the service's overall rating remained as Meeting NQS. The decision notice was sent to the provider on [REDACTED] 2022.
9. The provider applied for second tier review on [REDACTED] 2022, seeking to have Standards 2.1, 2.2, 3.1, 3.2, 5.1 and 5.2 amended to Exceeding NQS.
10. Given Standards 3.1, 3.2, 5.1 and 5.2 were not reviewed at a first tier review, they cannot be reviewed at a second tier review, as stipulated in the National Law (s 144(2)).
11. The provider advised ACECQA on [REDACTED] 2022 that they wished to proceed with a review of Standards 2.1 and 2.2.
12. A decision is required by the ratings review panel by [REDACTED] 2022.

Review of ratings

Standard 2.1

13. Standard 2.1 is:
Each child's health and physical activity is supported and promoted.
14. Exceeding theme 2 is:
Practice is informed by critical reflection.
15. Exceeding theme 3 is:
Practice is shaped by meaningful engagement with families and/or the community.

Panel deliberations

16. In deliberating on whether the service demonstrated Exceeding theme 2 for Standard 2.1, the panel noted that while the provider made statements that changes in practice specific to supporting and promoting each child's health and physical activity were informed by critical reflection, this was not, in their view, supported by the evidence provided.
17. The provider stated, for example, that the service's management of allergies and illness was informed by critically reflecting on practice. The panel acknowledged the service's efforts to engage with and seek feedback from families and introduce systems (such as the use of [REDACTED]) to give families sufficient time to consult with their doctor prior to the expiry of a management plan/medication. The panel added, however, that the evidence provided was more descriptive in nature, rather than evidence of critical reflection.
18. Drawing another example, the panel highlighted the [REDACTED] meeting notes relating to the review of the service's QIP. They remarked that while these notes described strengths and areas for improvement specific to each Quality Area, including Quality Area 2, they did not demonstrate evidence of robust discussion and debate by educators specific to the identified strengths and improvement areas that informed ongoing planning and continuous improvement. The panel noted that while reviewing an event or experience may be reflective, the essential element of critical interrogation and analysis by all educators was absent in the evidence submitted.
19. The panel noted that critical reflection, as required for Exceeding theme 2, necessitates a deeper level of thinking, examination, and analysis. This requires evidence of all educators systematically reflecting on opportunities to enhance each child's health outcomes and promote physical activity. This includes, for example, engaging in robust discussion and debate, incorporating social justice considerations, and referencing theorists and/or current research specific to children's health and safety.
20. The panel did note the provider's reference to theorists (e.g., [REDACTED] [REDACTED]) in documentation about the 'relaxation room', which was part of the [REDACTED] refurbishment of the service and introduced in response to feedback from children and families about children's needs for sleep, rest, and relaxation. However, they were unable to see clear and substantive evidence of educators engaging in critically reflective discussions and debate specific to this theory (or other theories) or how this informed

ongoing practice supporting children's wellbeing and comfort, including the introduction of the relaxation room.

21. The panel commented on the use of Kinderloop as evidence of critical reflection, noting in some examples that questions had been used as prompts to guide reflection. They also noted the provider's claims that critical reflection is a standing agenda item at staff meetings and coordinator meetings. They added, however, that they were unable to see evidence of subsequent discussions and debate amongst educators or coordinators in small team meetings, as a service team, or within the leadership group, responding to these questions. Nor were they able to ascertain, from the available evidence, how these discussions had resulted in shifts in thinking or changes to the service's approach to supporting and promoting children's health and physical activity.
22. The panel concluded that there was insufficient evidence to determine that Exceeding theme 2 should be amended to Yes for Standard 2.1.
23. In deliberating on whether the service demonstrated Exceeding theme 3 for Standard 2.1, the panel noted strong day-to-day engagement with families, including examples of educators seeking input and feedback from families and engaging them in decision-making to support and promote children's health and wellbeing.
24. The panel commented on, for example, the service's consultation with families around health practices and procedures to alleviate the pressure on families accessing information from their doctor to ensure children's management plans remained up to date. They remarked on the service's attempt to gain feedback from families using a survey, and their further attempts to seek feedback from families when few survey responses were received. They also noted the changes in practice as a result on the service's engagement with families, as described previously.
25. The panel also noted the [REDACTED] refurbishment of the service, commenting on their engagement with children and with families to capture their voices, priorities, and perspectives, and involve them in decision-making. The panel highlighted changes to the environment to better accommodate children's rest and relaxation needs, for example, the introduction of the 'relaxation room' and the addition of [REDACTED] to other indoor spaces to better meet the needs and aspirations of older children in the service.
26. The panel concluded that there was sufficient evidence to determine that Exceeding theme 3 should be amended to Yes for Standard 2.1.

Panel decision

27. The panel decided, by consensus, to confirm the rating for Standard 2.1 as Meeting NQS.

Standard 2.2

28. Standard 2.2 is:
Each child is protected.
29. Exceeding theme 2 is:
Practice is informed by critical reflection.

30. Exceeding theme 3 is:
Practice is shaped by meaningful engagement with families and/or the community.

Panel deliberations

31. In deliberating on whether the service demonstrated Exceeding theme 2 for Standard 2.2, the panel remarked that they were unable to see clear, relevant, and substantive evidence specific to children's safety to warrant a higher rating.
32. The panel noted that while the provider made statements that educators were critically reflecting on practice, this was not, in their view, supported by the available evidence. For example, the provider noted that processes for supervision, including the identification of risks, are reflected on regularly. The provider also noted that the service's supervision strategies, such as the use of [REDACTED] as a support tool rather than a replacement for active supervision, was informed by a review and reflection of [REDACTED] use.
33. The panel were unable to see evidence of educators engaging in critical reflection at the deeper level of thinking, analysis, and questioning required to substantiate these statements. Further, the panel noted that this practice, in their view, aligned more strongly with Meeting NQS.
34. The panel also remarked on the [REDACTED] professional learning session with [REDACTED], which was provided for educators. They noted that the documentation of this training submitted as evidence did not constitute critical reflection by all educators at the deeper level of interrogation and examination required for this Exceeding theme or demonstrate how critical reflection specific to supervision had resulted in shifts in thinking and/or changes in practice.
35. The panel remarked that while supervision strategies were documented, there was no examination or analysis of the application of these strategies specific to the service's unique context or how educators might adjust these strategies as required.
36. The panel commented on the example of a risk assessment of [REDACTED] assessing the general use of the space by children and educators, submitted as evidence. They noted that only one person was listed as having completed the risk assessment and another was listed as the reviewer. The panel added that they were unable to see evidence of the service team coming together to collaborate on this process, or evidence of how they engaged in robust discussion or debate to decide on the elimination or control measures, documented.
37. The panel concluded that there was insufficient evidence to determine that Exceeding theme 2 should be amended to Yes for Standard 2.2.
38. In deliberating on whether the service demonstrated Exceeding theme 3 for Standard 2.2, the panel noted the service's engagement with families regarding children's safety, for example, engaging a [REDACTED] firefighter, to speak with children about emergency procedures and to assist in the review of the service's evacuation procedures.
39. The panel also highlighted the service's [REDACTED] committee as an example of engagement with families specific to children's safety, including opportunities to engage in

collaborative decision-making. They added, however, that the provider's claims that this committee meets regularly to engage in 'deeper, informed reflection regarding practice' was not substantiated in the evidence provided.

40. The panel commented on the service's pro-active approach specific to child protection and their efforts to build connections with the community to promote children's safety. They noted, for example, the service's efforts to inform families about the Kids Helpline and their engagement with children during child protection week. They also commented on the service's engagement with [REDACTED] and the [REDACTED] regarding a [REDACTED].
41. The panel remarked on the service's communication with families and the school principal in relation to [REDACTED]. They added, however, that while this demonstrated the service's efforts to keep families and the school informed, it did not constitute meaningful engagement at the level required for this Exceeding theme. For example, they were unable to see clear and relevant evidence that demonstrated how the service actively engaged with families and/or the community in a meaningful way to seek their input, guidance and feedback, and to include them in problem solving and decision-making specific to child protection.
42. The panel commented on the service's actions after a newly enrolled child [REDACTED], noting the changes to practice implemented following [REDACTED]. They added that they were unable to determine, from the evidence submitted, how the service actively engaged with families and/or the community, and the extent to which they were actively involved in decision-making that shaped practice to ensure children's safety.
43. The panel also commented on the service's response to families remaining on the school grounds after school, with the solution being [REDACTED]. The panel noted the provider's claims that the service engaged the [REDACTED] and the [REDACTED] about this issue. However, they were unable to determine, from the available evidence, how the broader needs, priorities and perspectives of families and the community were considered, and the extent to which families and/or the community were integral to the problem solving and decision-making process specific to the changes introduced.
44. The panel concluded that there was insufficient evidence to determine that Exceeding theme 3 should be amended to Yes for Standard 2.2.

Panel decision

45. The panel decided, by consensus, to confirm the rating for Standard 2.2 as Meeting NQS.

General comments

46. The panel acknowledged the provider's submissions at second tier review related primarily to dissatisfaction with the processes followed by the NSW regulatory authority, which conducted the original assessment and rating and first tier review. The panel noted that it is beyond the remit of (second tier) rating review panels to comment on or engage in

discussion regarding the processes undertaken by the authorised officer or the regulatory authority. The legislation only permits rating review panels to confirm or amend the ratings under review, based on the evidence provided.

47. The panel commented on the selection and presentation of the evidence supplied by the provider in support of their second tier review application. They noted, for example, that much of the evidence, particularly the inclusion of photographs, was provided without additional commentary, clear links to their claims specific to the standards and Exceeding themes being reviewed, or explanations about how this evidence supported their argument that the ratings be amended. The panel highlighted an [article published on the second tier review webpage](#) for the provider's future reference. This article has been developed to assist approved providers in selecting and organising evidence to accompany their second tier review application and present their arguments more clearly.
48. The panel encouraged the provider to view feedback received from the ratings review processes, including at first and second tier review, as an opportunity to reflect on the findings, identify consistent themes and key learnings, and determine how might this guide ongoing quality improvement planning and implementation.
49. The panel encouraged the service to broaden their understanding of Exceeding theme 2, which was pertinent to both standards under review. The panel noted that the evidence submitted was more descriptive in nature rather than evidence of critical reflection, which requires a deeper level of questioning, analysis, and examination by all educators, individually and together, regularly, and consistently. Further, while the provider made claims about educators critically reflecting on practice, the panel was unable to see clear, relevant, and substantive evidence to demonstrate this specific to children's health and safety to support a higher rating.
50. Additionally, the panel noted that Exceeding theme 2 requires that practice is *informed* by critical reflection. This requires that decisions about practice are linked back to critical reflection, and that all educators understand and can articulate shifts in thinking and/or changes in practice that have occurred through critical reflection. The panel reiterated that, after assessing all available evidence, practice being informed by critical reflection was not clearly apparent at the level required for the standards under review.
51. The panel highlighted resources available to the sector that may assist the service to deepen their knowledge, understanding and application of critical reflection. This includes:
 - the reflective questions for exceeding practice at the standard level in the Guide to the NQF, as well as the [indicators of Exceeding practice](#) and [questions used by authorised officers and ratings review panels](#) to consider against evidence gathered during the quality rating process, to determine if exceeding themes are demonstrated for each quality standard.
 - the [Exceeding the NQS webpage](#), which includes a series of case studies providing practical and illustrative examples of what high quality practice might look like for each standard.



- a [critical reflection handout](#) describing what critical reflection is in broad terms and how it is different from evaluating, summarising or describing what educators are seeing or doing.
- *The Educational Leadership in Outside School Hours Care: Educational Leadership in Action* publication, which includes a chapter on [ongoing learning and practice](#) as well as links to [other resources specific to critical reflection](#).