

10 July 2024



The Hon Prue Car MP  
NSW Deputy Premier  
Parliament of New South Wales  
52 Martin Place  
SYDNEY NSW 2000

Dear Deputy Premier Car,

**Re: Request Ministerial direction to harmonise/reduce unnecessary regulatory workloads and excessive non-compliances**

ACA NSW is the peak body for over 1,600 privately-owned predominantly small-to-medium-sized family-owned and operated businesses who provide early childhood education and care services across New South Wales. ACA NSW members employ over 25,000 employees and are committed to providing excellence in early childhood education and care for more than 125,000 children and their families.

May I first preface by highlighting ACECQA's proud announcement on 2 November 2023, "*Milestone reached as 90% of services meet or exceed the National Quality Standard*". For comparison, the equivalent measure for NSW-based services was 87% of NSW-based services meet or exceed the National Quality Standard.

We have shared with you previously our concerns about the unbelievably high proportion of the national total of confirmed breaches is from NSW-based early childhood education and care services:

Year	CONFIRMED BREACHES AT NQF APPROVED ECEC SERVICES		
	NSW	NSW (% of Australia)	Rest of Australia
2016/2017	3,797	24.95%	11,424
2017/2018	7,865	39.71%	11,943
2018/2019	7,773	35.85%	13,909
2019/2020	13,673	54.39%	11,468
2020/2021	17,616	65.26%	9,376
2021/2022	15,943	57.87%	11,608
2022/2023	17,884	53.60%	15,482
2023/2024	Not yet published	Not yet published	Not yet published

SOURCE: Table 3A.32 of the Commonwealth Productivity Commissioner's Report on Government Services (RoGS)

With this being the experience over the last four financial years, it is therefore extremely odd that the number and percentage of enforcements and regulatory decision actions remain extremely small:

Year	Published Enforcements and Decision Actions	
	NSW	% of Breaches
2016/2017	2	0.05%
2017/2018	10	0.13%
2018/2019	0	0.00%
2019/2020	20	0.15%
2020/2021	36	0.20%
2021/2022	11	0.07%
2022/2023	2	0.01%
2023/2024	Not yet published	Not yet published

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Even the Commonwealth's annual Report on Government Services (RoGS) also formally reported the probability of each service across the jurisdictions receiving a confirmed breach as follows:

- 303% (up from 273%) probability per NSW service
- 183.3% (up from 142%) probability per QLD service
- 183.1% (up from 168%) probability per WA service
- 138% (up from 61%) probability per TAS service
- 107.5% (up from 105%) probability per NT service
- 107.2% (up from 83%) probability per VIC service
- 99.5% (up from 39%) probability per SA service
- 50.4% (up from 46%) probability per ACT service

On far too many occasions, ACA NSW has raised our concerns with the NSW Department of Education. They formally provided their response on 28 March 2024:

*"Jurisdiction comparisons are not advised due to different approaches.*

*NSW's approach is to record all areas of non-compliance. This is to enable better data capture to monitor risk trends and patterns and inform our proactive regulatory efforts such as campaigns and communications in order to optimise safety and quality.*

*A high number of breaches may not necessarily indicate a lower quality of services but may indicate more intensive regulatory practice (for example, more frequent regulatory visits or a higher propensity to investigate complaints). The NSW approach is based on our commitment to safety and quality.*

*There are also technical reasons as to why breach data is variable and caution should be exercised when comparing across jurisdictions:*

- 1. When a breach is added to the NQA ITS system (at time of breach or at a later stage)*
- 2. Where a breach is recorded (direct to NQA ITS or into an external application)*
- 3. Issuance of guided advice alongside a breach notice or not (approaches are highly variable across jurisdictions)"*

ACA NSW of course disagrees with the NSW Regulatory Authority on their current calibration of regulatory actions, especially from the lens that all confirmed breaches consequently produce affected services' operational attention and time to respond and remediate to the satisfaction of the NSW Regulatory Authority.

It is therefore ACA NSW's strong belief that there continues to be excessive confirmed breaches especially for minor infractions, and worse, would undoubtedly erode the confidences by early childhood educators and teachers, especially at a time of severe labour shortages.

It would be true if confirmed breaches in NSW were to reduce or remove risks to children, yet the level of published prosecutions and regulatory decision actions are so minute that risk to children cannot explain the dominance of NSW's confirmed breaches against the national total.

ACA NSW asks for your Ministerial intervention in order to achieve a new equilibrium without compromising on quality, outcomes for children and the safety of children.

I will be contacting your office to pursue this.

Thanking you in anticipation.

Yours sincerely,

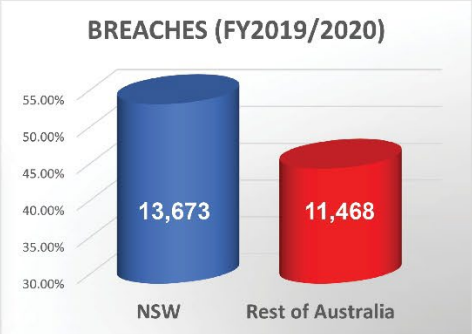
A handwritten signature in blue ink, appearing to read 'Chiang Lim', with a horizontal line drawn underneath the name.

Chiang Lim  
CEO

cc Mark Barraket, Deputy Secretary, NSW Department of Education

encl Caricature of NSW's confirmed breaches and non-compliances

ATTACHMENT



**SOURCE:** Data sourced from the annual Commonwealth Productivity Commission's Report on Government Services (RoGS) about confirmed breaches across all Australian jurisdictions.

