

Strengthening Regulation of Early Childhood Education and Care Safety through the Child Care Subsidy

Provider Guidelines August 2025



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1. Purpose of the guidelines

The guidelines outline the Department of Education's (the department) application of the powers introduced by the *Early Childhood Education and Care (Strengthening Regulation) Act 2025* (the Act), including:

- an outline of the powers introduced
- when the powers will be used
- how the powers will be applied, and
- guidance to providers to assess whether compliance action may apply.

The guidelines provide a framework to support a whole of system, data-driven approach to strengthening safety in Early Childhood Education and Care (ECEC) through applying conditions to, or preventing access to the Child Care Subsidy (CCS) where there are identified risks to child safety.

2. Outline of legislative powers

Existing parts of the Family Assistance Law provide for immediate suspension or cancellation of CCS approval where there is an imminent risk to the health and safety of children. Further, where there is imminent risk to the safety of children, state and territory regulators action immediate suspensions and cancellations to provider approvals under the ECEC National Law.

The Act ensures quality and safety is a paramount consideration when assessing CCS provider approval applications and for maintaining ongoing CCS provider and service approval. The Act clarifies the Government's expectation for all CCS-approved providers and services to be delivering safe and high-quality care as a condition of gaining and maintaining approval to administer the CCS.

Where a provider or service is not meeting the quality, safety and other compliance requirements required under legislative and regulatory frameworks relevant to ECEC, the Act provides powers to:

- suspend or cancel CCS approval
- refuse CCS service applications
- place conditions on approvals, for example to address the quality and safety risk in a specified timeframe or preventing expansion.

The proposed legislation also expands powers to publicise certain additional compliance actions taken against providers and introduces new powers of entry. Powers of entry will be used by authorised officers to conduct unannounced service visits and spot checks to:

- check CCS is being administered correctly
- allow observed safety concerns to be reported to state and territory regulators.

3. Circumstances where the powers may be used

Consistent with the principles underpinning the National Quality Framework (NQF)¹ and best practice regulation², the department's approach to enacting the powers will work in partnership with State and Territory Regulatory Authorities (STRAs) to:

- continuously improve provider performance, capability and culture on the safety of children to support trust and confidence in Australia's ECEC sector
- manage risks proportionately and maintain essential safeguards while minimising burden to providers, leveraging data and collaboration with STRAs to target compliance action to the higher risk providers and services
- uphold transparency for families, the ECEC sector and the broader community where the powers are used, including engagement with the ECEC sector and publishing relevant information.

Importantly, any potential compliance action will take into consideration the individual circumstances of a provider or services and will have significant regard to the view of STRAs on the provider's performance and track record relating to safety. In doing this, the department, partnership with STRAs will consider:

- the provider's commitment to safety and quality
- improvement over time
- previous and current ratings and assessments, including conditions imposed
- serious incidents, complaints and breaches of safety laws, and
- compliance with CCS rules.

Consistent with the department's broader approach to regulation, the application of these powers will wherever possible engage in a range of different regulatory activities to support provider performance, ranging from provider engagement through to the application of sanctions (up to and including cancellation of CCS approval). The approach taken will be determined based on the circumstances surrounding safety risks and will have strong regard to the view of the STRA on the safety of children in the care of the provider.

4. Self-assessment guidance for providers

The information in the table below enables a provider to self-assess whether they are likely to be subject to compliance action under the framework. While examples are provided, a result against one criterion may not result in compliance action. The circumstances of each provider will be considered.

The following high level descriptions are provided as broad guidance:

- **Performing well** No major issues identified. Provider follows rules and responds to problems.
- **Of concern** Some repeated issues. Provider tries to cooperate, but problems persist.
- **Falling short** Serious or ongoing breaches. Provider may not cooperate or is subject to compliance action.

¹ <https://www.acecqa.gov.au/nqf/about>

² <https://www.finance.gov.au/government/managing-commonwealth-resources/regulator-performance-rmg-128>

Table A: Provider self-assessment tool

Area of performance	Performance levels and characteristics		
	Performing well	Of concern—at risk of compliance action	Falling short —likely compliance action
Commitment to safety and quality by meeting National Quality Standards (NQS)	Most services meet or exceed national standards. Providers actively improve quality, update plans every 6 months and involve staff in making improvements.	Many services meet standards, but improvement efforts are inconsistent or slow. Plans may not be updated regularly.	Some services meet standards. Frequent leadership changes and repeated safety issues. Plans not updated regularly.
Improvement in NQS ratings over time	Quality improves or stays high. Fewer incidents. Conditions are lifted. Improvements are lasting.	Ratings drop. More safety issues. Some improvements, but not consistent.	Ratings stay low. Serious problems continue. No signs of lasting improvement.
Previous and current NQS ratings and assessments, including conditions imposed	Services have good past ratings and few issues. Any problems were fixed and improvements lasted. No current conditions, or past ones were addressed.	Some services have had repeated issues or dropped in quality. Problems may still be unresolved. Some conditions still active or not fully addressed. May show slow or limited improvement.	Many services have poor ratings over time. Serious problems keep happening and are not being fixed. Many services have ongoing conditions. Provider may have been suspended for not fixing problems.
Serious incidents³, complaints⁴ and breaches of safety laws	Very few serious incidents and complaints (relating to safety). Issues are reported and managed properly. Few breaches, provider responds well and improves.	Moderate number of incidents. Some complaints across multiple services. May show signs of declining quality. Moderate number of complaints. Same issues appear across several services. Moderate breaches, responses may be slow or incomplete.	High number of serious incidents. Problems are widespread and not being resolved. No incident reports for years may also be a concern. Many complaints, often about serious issues, across multiple services. Many breaches, provider fails to act or improve.
Compliance with Child Care Subsidy rules	No recent breaches. Provider takes responsibility and fixes issues quickly.	Some breaches, provider may not fully understand or follow rules.	Serious or repeated breaches. Provider shows no accountability or proper governance.

³ A serious incident is not always an indication of poor safety in a service; the department will consider the management of incidents and their nature.

⁴ The nature of complaints is a key consideration, in addition to the volume received. Consistent with serious incidents, complaints are not a sole indication of safety risk.

5. Early Childhood Education and Care Legal and Regulatory Context

Family Assistance Law

The Australian Government is responsible for the administration and payment of CCS and Additional Child Care Subsidy (ACCS) for families. It does this under Family Assistance Law (FAL), which prescribes the entitlement families have to subsidies and the rules that apply to child care providers who provide subsidised care to children.

The FAL establishes the regulatory framework to manage child care financial integrity, including the obligations of child care providers and functions to manage the integrity of the CCS. FAL is a broad term encompassing the following legislation:

- [A New Tax System \(Family Assistance\) Act 1999](#)
- [A New Tax System \(Family Assistance\) \(Administration\) Act 1999](#)
- [Child Care Subsidy Minister's Rules 2017 \(Minister's Rules\)](#)
- [Child Care Subsidy Secretary's Rules 2017 \(Secretary's Rules\)](#)
- Any other instruments (including regulations) made under the *A New Tax System (Family Assistance) Act 1999* and the *A New Tax System (Family Assistance) (Administration) Act 1999*
- Schedules 5 and 6 to the [A New Tax System \(Family Assistance and Related Measures\) Act 2000](#)

There are four types of child care providers which can be approved by the department to administer CCS and ACCS payments to families: Centre Based Day Care (CBDC) (including) Outside School Hours Care (OSHC); Family Day Care (FDC); and In Home Care (IHC).

The department's child care financial integrity functions also operate within a broader legislative framework, including the *Public Governance Performance and Accountability Act and Rules*, and *Regulator Performance Guide* (see *Appendix – Legal instruments*) that provide the guidance and legal obligations for the department's approach to CCS integrity.

The National Law

To be approved under the National Law, providers and services must meet the requirements of the NQF. The NQF provides a national approach to regulation, assessment and quality improvement for child care services across Australia. The Australian Children's Education and Care Quality Authority (ACECQA) is an independent national authority that helps administer the NQF.

It is a condition of continued approval that providers comply with their obligations under both the FAL and the National Law.

Regulation under the National Law

Separately, state and territory government regulatory authorities are responsible for matters relating to the safety and quality of early childhood providers and services. This includes licensing and approving providers and services, monitoring and assessing the quality of the child care and early learning services being delivered in their jurisdiction. State and territory governments do this through the NQF under the [National Law and National Regulations](#).

6. CCS Financial Integrity Approach

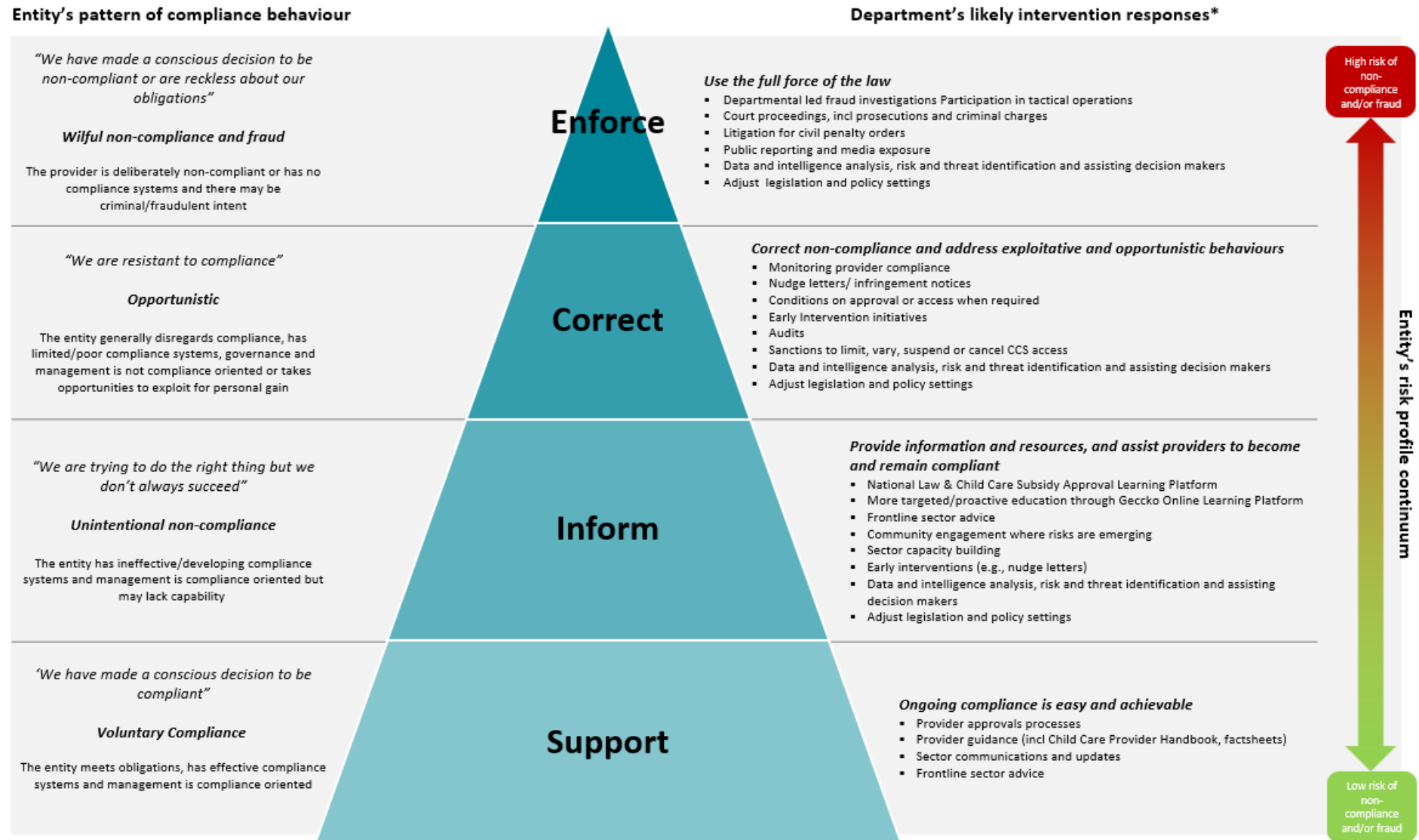
The Child Care Subsidy Financial Integrity Strategy⁵ (Strategy) outlines the department's approach to financial integrity under the CCS program.

The Strategy provides a framework to support a whole of system, data-driven approach to identifying CCS financial integrity risks, prioritising and coordinating responses to risks, and measuring the efficiency and effectiveness of integrity activities and operations.

The CCS Financial Integrity Compliance pyramid (overleaf) maps patterns of non-compliance against the department's likely responses. This provides insight into the broader regulatory approach taken to the financial integrity of the CCS.

⁵ <https://www.education.gov.au/early-childhood/resources/child-care-subsidy-financial-integrity-strategy>

Figure 1: Child Care Subsidy Financial Integrity Compliance pyramid



* The department's response is determined by the circumstances and facts of the individual matter