

CHILDREN (EDUCATION AND CARE SERVICES NATIONAL LAW APPLICATION)
AMENDMENT BILL 2025

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Wheeler Review (The Review) was an independent review of the regulatory framework for early childhood education and care (ECEC) in NSW, commissioned due to a sharp increase in breach notices issues compared to other states, and to ensure the system is fit for purpose, child and family safe, and able to uphold community expectations. The Review identified significant gaps in the current system, particularly in areas of information sharing, regulatory powers, and the need for a stronger focus on child safety and risk-based regulation. The government accepted all the Review's recommendations in principle including legislative changes, improved regulatory practices, and stronger oversight mechanisms, to better protect children. In parallel, consultation on the Australian Children's Education and Quality Care Authority's (ACECQA) Child Safety Review conducted in 2023 was underway.

In August, Education Ministers agreed to reforms in line with the Child Safety Review and agreed to a package of \$189m from the Commonwealth and \$55m from the NSW Government to strengthen safety and quality in early childhood settings. The NSW Government investment, on top of the regulator's existing budget, boosts frontline staff to bolster the almost 9,000 visits conducted on 6,400 services completed last year, and to fund CCTV trials, protect children and maintain quality services.

The Wheeler Review's recommendations, while in line with the ACECQA Child Safety Review, went further. It recommended primacy of child protection and safety over profit, a broader range of finable breaches, teered fines for larger providers and more transparency. There is an urgent need to act now. Recent incidents and significant media coverage have heightened public concern and undermined trust in the sector. Existing limitations under the National Law have constrained regulatory responses and reduced transparency, leaving the community uncertain about actions taken to protect children.

NSW is home to the largest number of services in the country, and has experienced rapid growth in the for-profit sector over the past decade (60% of the early childhood and care sector in NSW is a for profit service). These factors, combined with the systemic weaknesses identified in the Wheeler Review, lessons from the Victorian Rapid Child Safety Review and national commitment, demonstrate that immediate legislative reform is required to rebuild confidence, strengthen oversight, and embed child safety as the paramount consideration in early childhood education and care.

Options: What alternative policies and mechanisms were considered in advance of the bill?

The NSW Government considered a range of alternative approaches to the amendments to the National Law, including strengthening internal procedures, relying on voluntary sector improvements, expanding the existing remit of the ECEC Regulatory Authority, and waiting for national-level harmonisation (the last national consultation process has taken over 18 months).

Analysis: What were the pros/cons and benefits/costs of each option considered?

The alternative options to amending the National Law avoided legislative reform, these approaches lacked the urgency, independence, or enforcement strength needed to respond to serious risks and were not sufficient to address systemic issues. Amending the National Law through the national consultation process does not provide the requisite urgency or adequacy of reform needed in NSW. Legislative reform is necessary to deliver a clear, accountable regulatory framework to protect children and set a new national benchmark.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The Bill will commence on proclamation which means the Government will move quickly to implement the reforms.

The Government has carefully planned the policy's rollout to ensure that child safety is strengthened without disrupting early childhood services. The impact on availability of services will be closely monitored. The NSW Department of Education administers the National Law and is the ECEC Regulatory Authority.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Bill was informed by consultation with not only key NSW government agencies such as the NSW Department of Justice and NSW Treasury but also at a national level. This ensured that the proposed reforms align with the national reforms into early childhood education and care and reflects the extensive consultation undertaken during the Wheeler Review as well as the more limited consultation (due to time constraints) of the Weatherill and White Report (Victorian Rapid Child Safety Review).