



**Education
Standards
Board**

early childhood to
senior schooling



**Government
of South Australia**

OFFICIAL

Final submission
to
The Royal Commission into
Early Childhood Education and Care

17 May 2023



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A. Introduction

1. Context for the Education Standards Board's (ESB) evidence, submission and recommendations

The ESB has considered all the guiding questions in the Final Call for Submissions by the Royal Commission into Early Childhood Education and Care (ECEC) (Commission) issued on 1 March 2023 (Final Call).

Many of the guiding questions in the Final Call are outside the scope, legislative and regulatory remit of the ESB.

The relevant role, functions and powers of the ESB and the legislative and regulatory framework in which the ESB operates are:

- set out in Annexure 1 to the ESB's 'Submission on proposed universal 3-year-old preschool in SA' (ESB's Preschool Submission);¹ and
- in oral evidence given by Ms Kerry Leaver, Chief Executive and Registrar of the ESB to the Commission on Friday 14 April 2023.

This submission also corrects some statistical data presented to the Commission during the 14 April 2023 Commission hearings.

B. Out of School Hours Care (OSHC) in South Australia

1. OSHC sector profile in South Australia (SA)

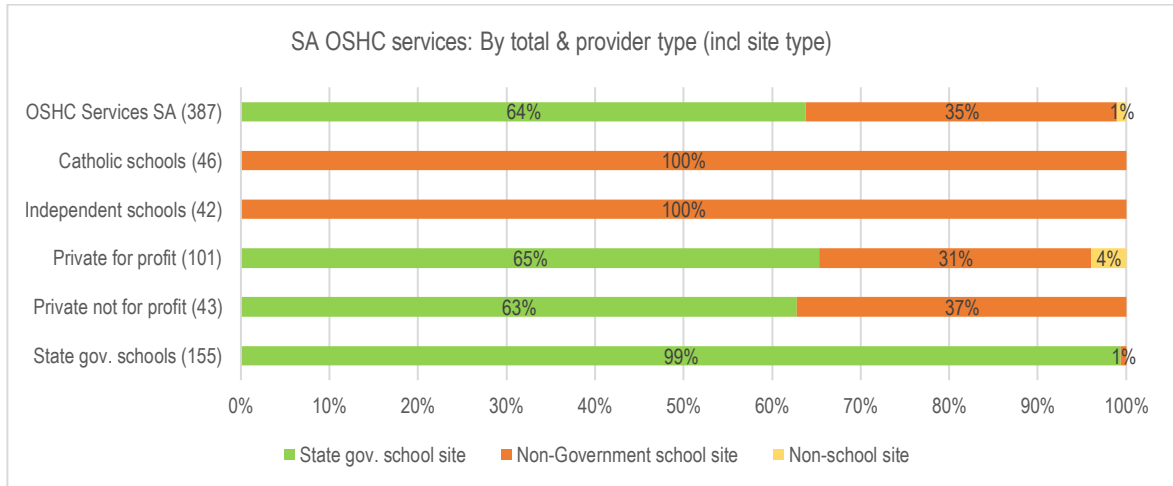
Figures 1 and 2 show the general profile of the OSHC sector in SA:

- SA has a total of 387 approved OSHC services.
- State government schools are the largest OSHC provider type in SA.
- 247 (64%) of services are located on a state government school site.
 - The Governing Council of the school decides who will provide the OSHC service. The Governing Council can be the approved provider or it can contractually engage a 'third-party provider' to provide that school site's OSHC service.² Third-party OSHC providers can be 'private for profit' or 'private not for profit' operators.
 - Figure 2 shows that of the services located on a state government school site: 62% are operated by a state government school (through their school Governing Council); 27% are operated by private for profit providers; and 11% are operated by private not for profit providers.

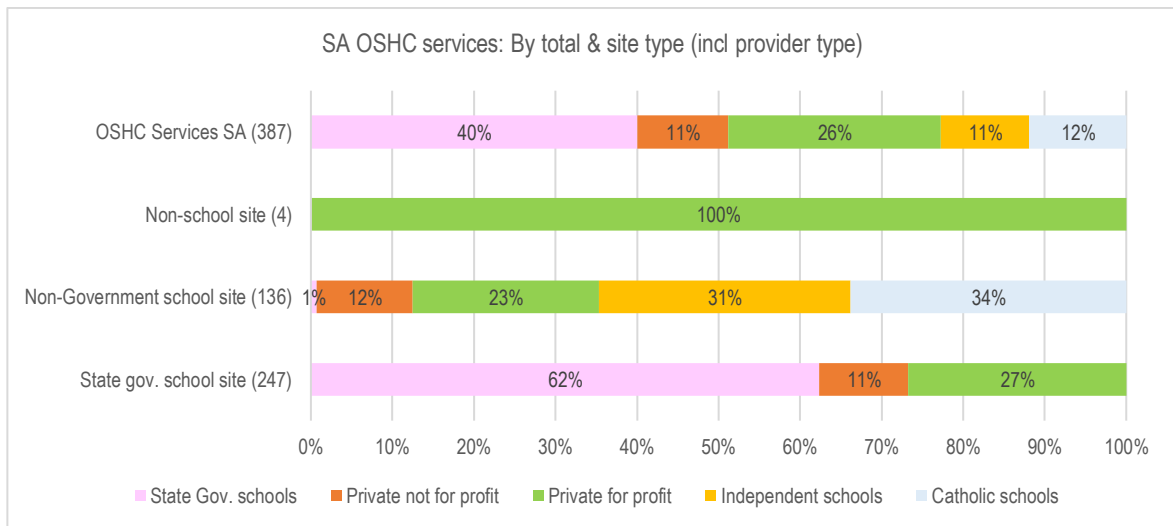
¹ Education Standards Board (28 February 2023) *Submission on proposed universal 3-year-old preschool in SA: Annexure 1*. Published on the Commission's website: [Formal submissions | Royal Commission into Early Childhood Education and Care \(royalcommissionecec.sa.gov.au\)](https://royalcommissionecec.sa.gov.au/formal-submissions)

² [Establishing an OSHC service \(education.sa.gov.au\)](https://education.sa.gov.au/establishing-an-oshc-service) [Accessed: 2 May 2023]

**Figure 1: OSHC services: By total & provider type (incl site type)
(at 15 March 2023)**



**Figure 2: OSHC services: By total & site type (incl provider type)
(at 15 March 2023)**



Figures 3 and 4 show OSHC services by provider type and region to provide further context to the location and delivery of services:

- 77% (297) of services operate in the metropolitan area (Figure 3).
- Combined, private for profit and private not for profit providers operate 37% of services across SA. However, they disproportionately operate 51% of the total services in regional SA (Figure 4).

Figure 3: OSHC services: By total, provider type & region (at 20 April 2023)

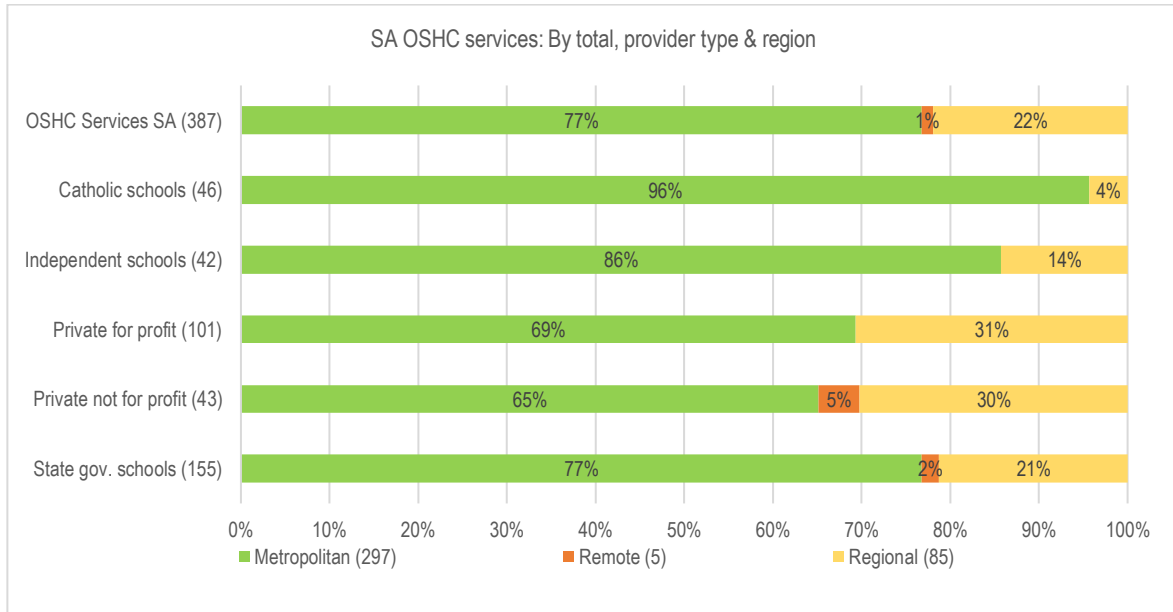
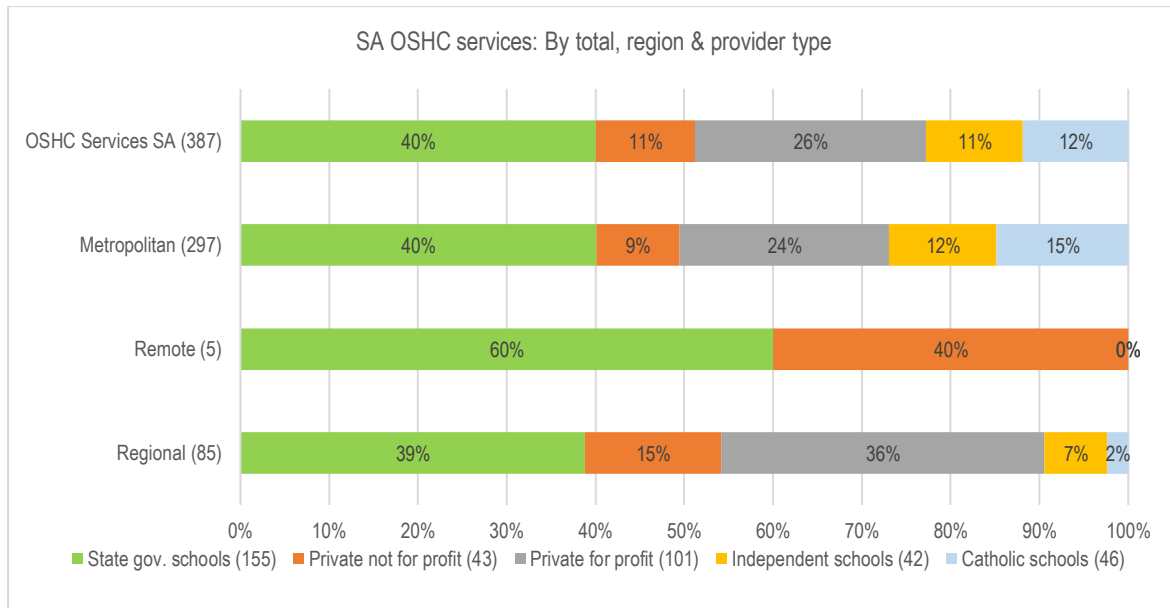


Figure 4: OSHC services: By total, region & provider type (at 20 April 2023)



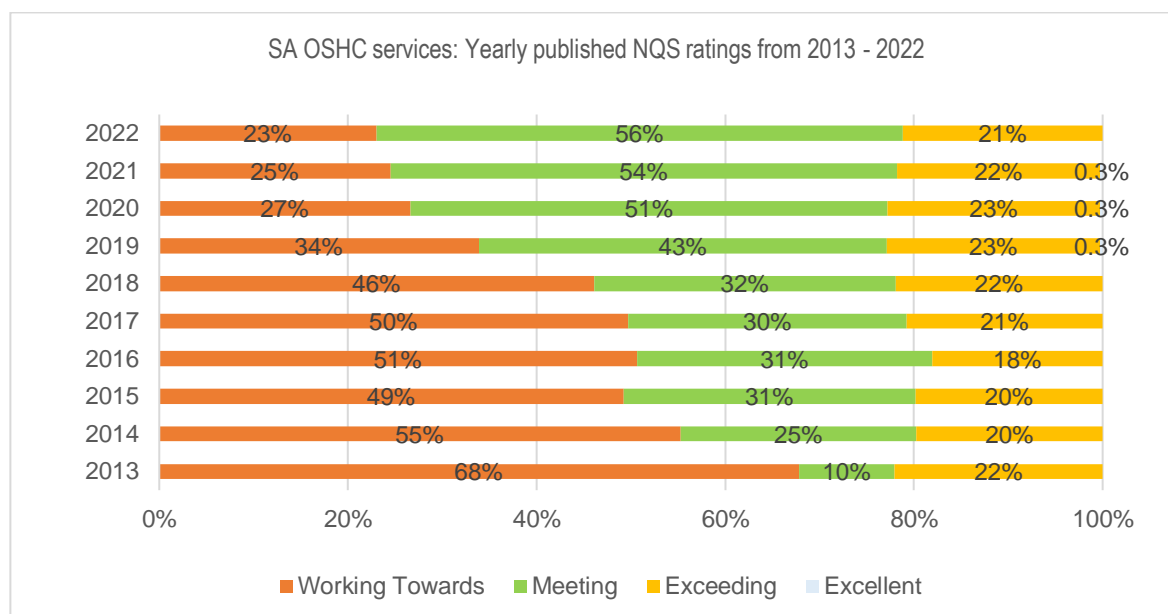
2. OSHC sector quality profile and performance in SA

The quality and performance of the whole ECEC sector in SA is set out in the ESB's Preschool Submission. Pages five and six of the Submission show the National Quality Standard (NQS) rating of all services and only services rated against the 2018 NQS.³

³ Figures 1 and 2: ESB's Preschool Submission, pages 5 and 6 [data current as at 16 February 2023]

Figure 5 sets out the quality ratings of all OSHC services as at 30 June in each year from 2013 to 2022, noting not all services are assessed and rated each year. The average reassessment time has ranged from 6 years to 8-10 years in SA. An overall decline in the percentage of OSHC services rated as Working Towards (WT) can be seen, indicating an improvement in quality over time (consistent with all service types).

Figure 5: OSHC services: Yearly published NQS ratings from 2013 – 2022 (at 2 May 2023)



To provide the Royal Commission with an understanding of recent reassessment results and current quality of services assessed, Figure 6 shows the NQS rating for all services assessed and rated between 2020 and 2022 by service type:

- Of the total assessments completed during this period, most were for Long Day Care (LDC), 150 (46%) and OSHC, 136 (41%) services.
- 60% of OSHC services were rated as WT, significantly higher than LDC (48%) or Preschools/Kindergartens (25%).
- No OSHC service achieved a rating of Exceeding or Excellent.

Cross-jurisdictionally, OSHC models are similar between states and territories. However, the wrap around supports, governance arrangements and operational implementation of the models differ.

Figure 7 shows that nationally, 63% of OSHC services are located on a state government school site, consistent with SA's profile.

Nationally, of OSHC services rated against the 2018 NQS (Figure 8):

- 42% of services in SA have a WT rating. This is the highest of any Australian jurisdiction.
- There is a significant difference between SA's 42% of WT services, and the national 16% of WT services.

Of the SA OSHC services located on a state government school site, 45% have a WT rating, compared to 15% nationally and 1% have an Exceeding rating, as opposed to the national total of 7% (Figure 9).

Figure 6: All services: NQS rating by service type (rated between 2020 - 2022) (at 8 May 2023)

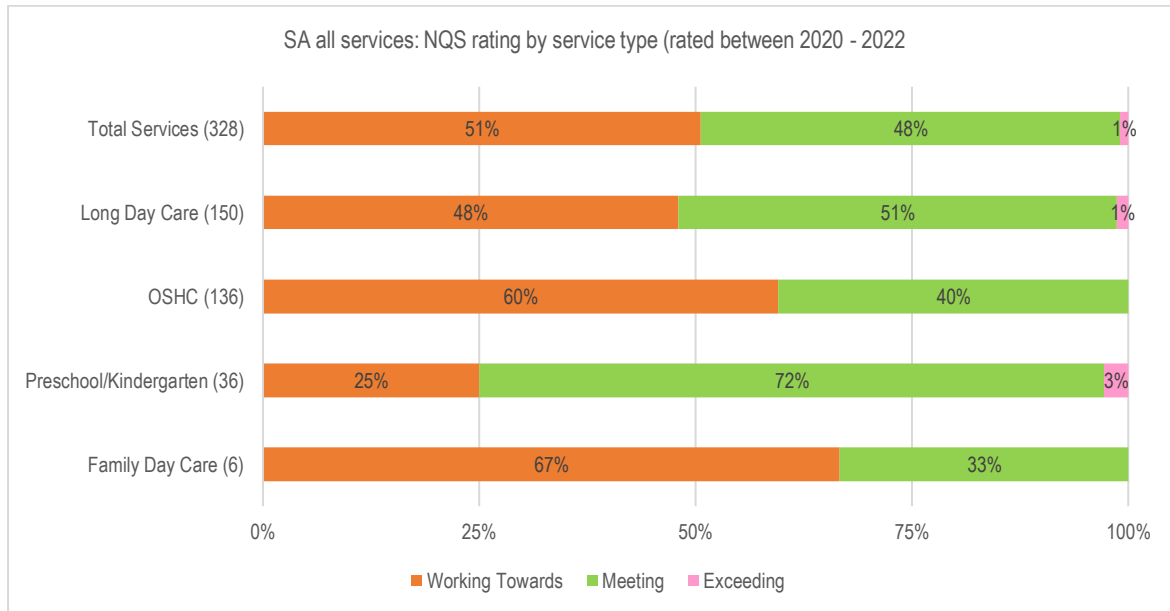
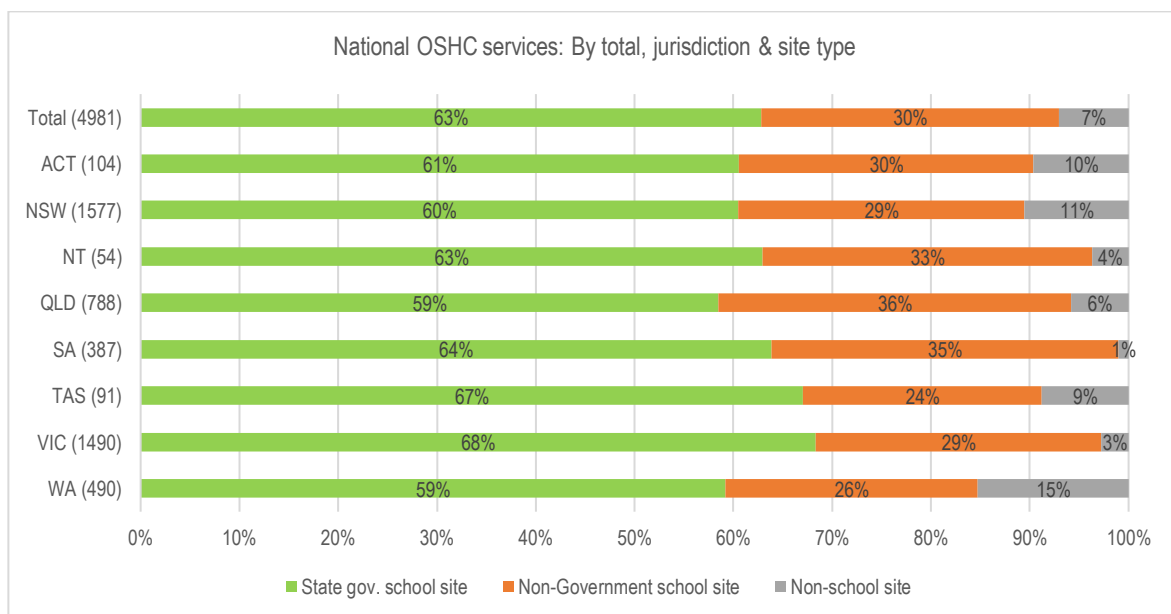
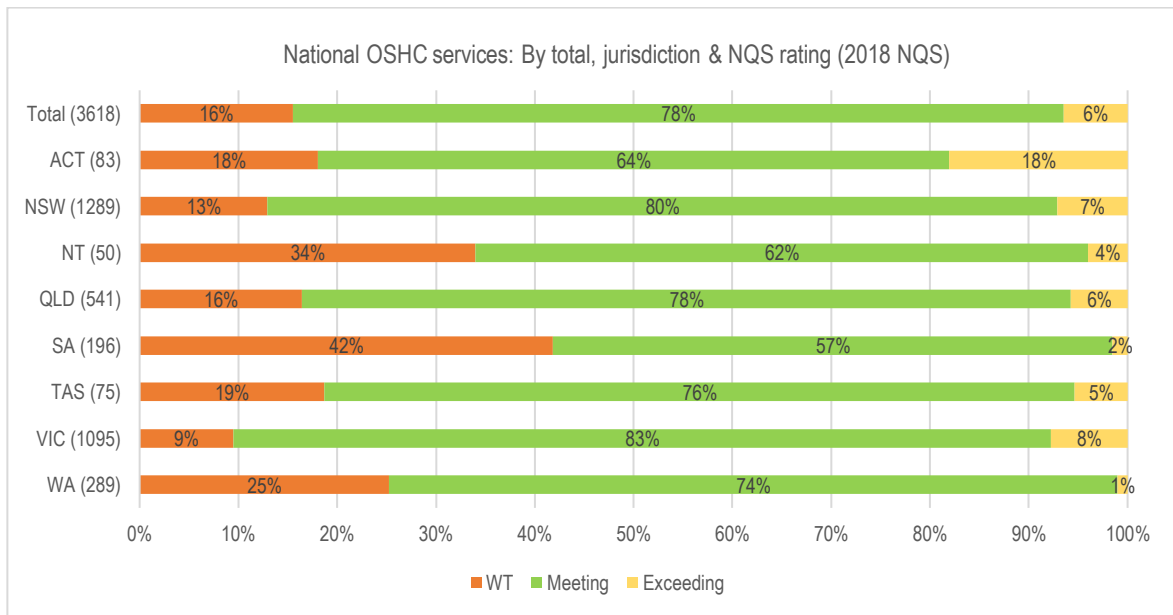


Figure 7: National OSHC services: By total, jurisdiction & site type (at 28 March 2023)



**Figure 8: National OSHC services: By total, jurisdiction & NQS rating (2018 NQS)
(at 28 March 2023)**



**Figure 9: National OSHC services on state government school site: By total, jurisdiction & NQS rating (2018 NQS)
(at 28 March 2023)**

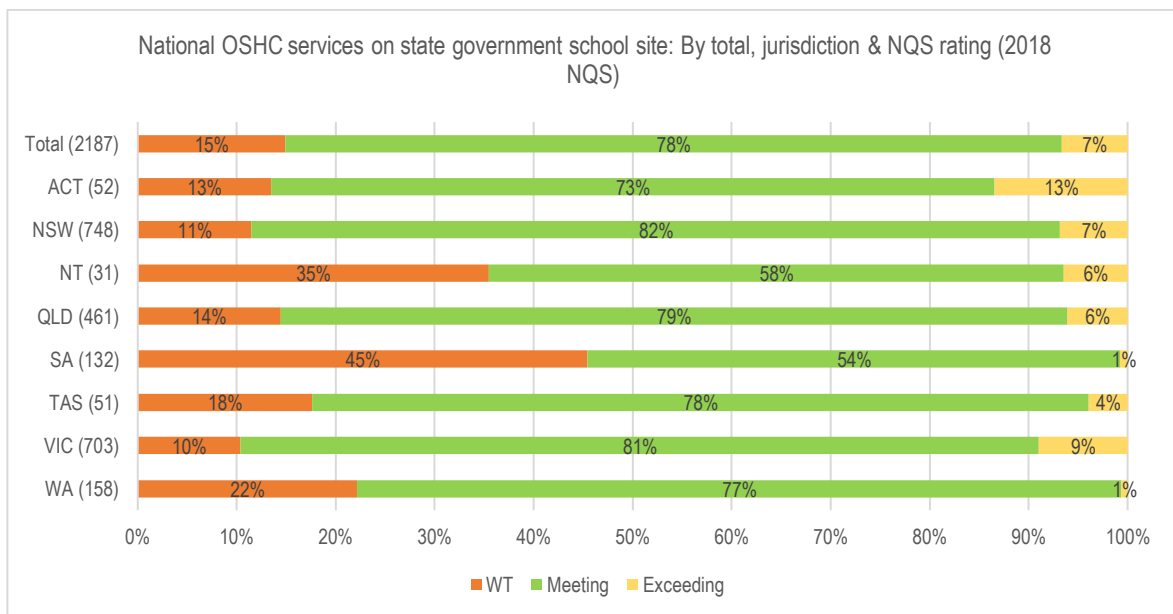


Figure 10 shows the quality profile of OSHC services, by provider type (rated against 2018 NQS):

- Overall, 57% have a Meeting rating and 42% have a WT rating.
- For services provided by state government schools, 55% have a WT rating, much higher compared with 42% for services overall.
- 65% of independent school operated services are rated WT (albeit having lower total service numbers in total compared with other provider types).

Figure 10: OSHC services: NQS rating (2018 NQS) by total & provider type (at 15 March 2023)

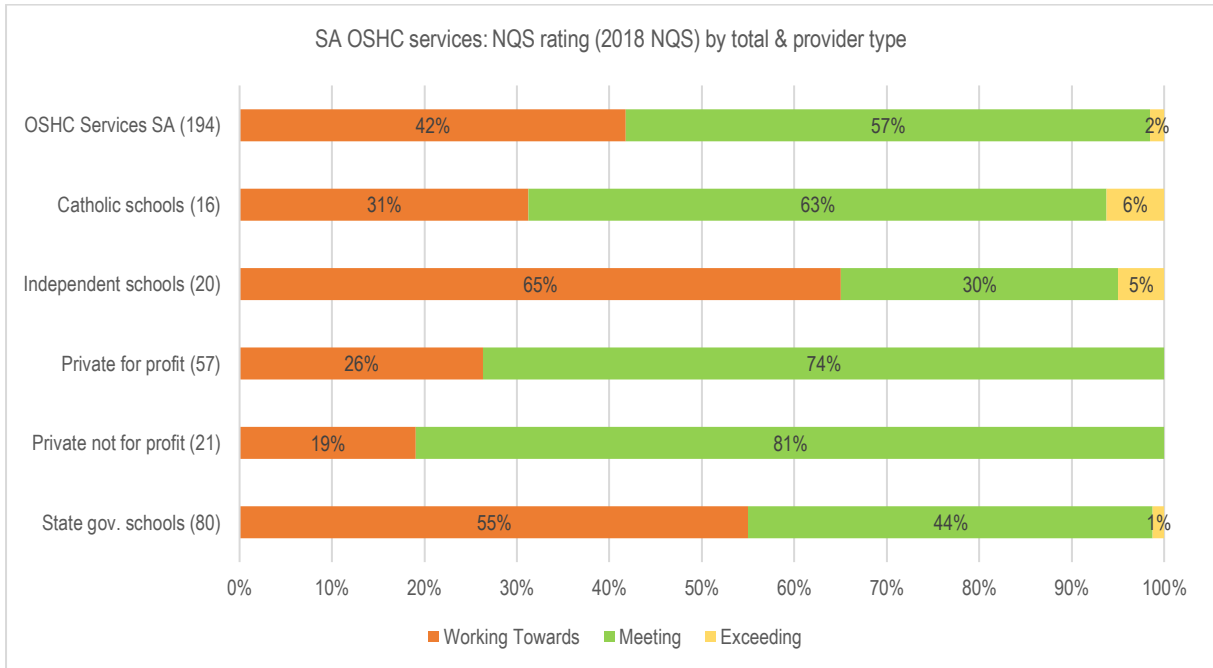
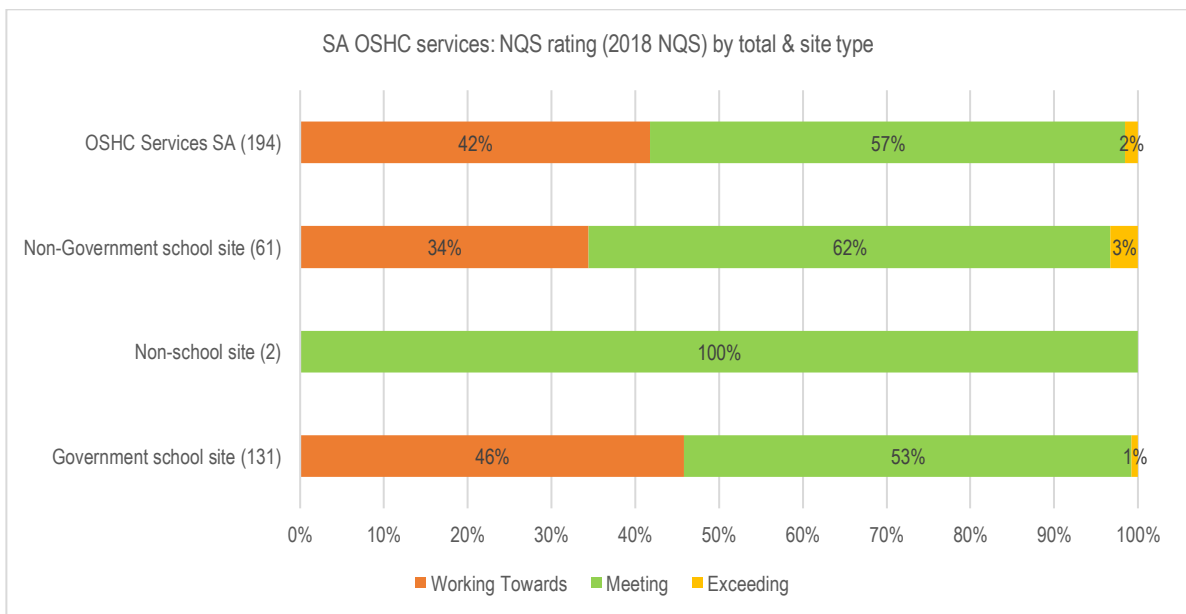


Figure 11 shows there is a difference in quality ratings based on the site type a service is operated from:

- 46% of services operating on a state government school site have a WT rating, compared to 42% overall for all site types.
- 34% of services operating on non-government school sites, have a WT rating.

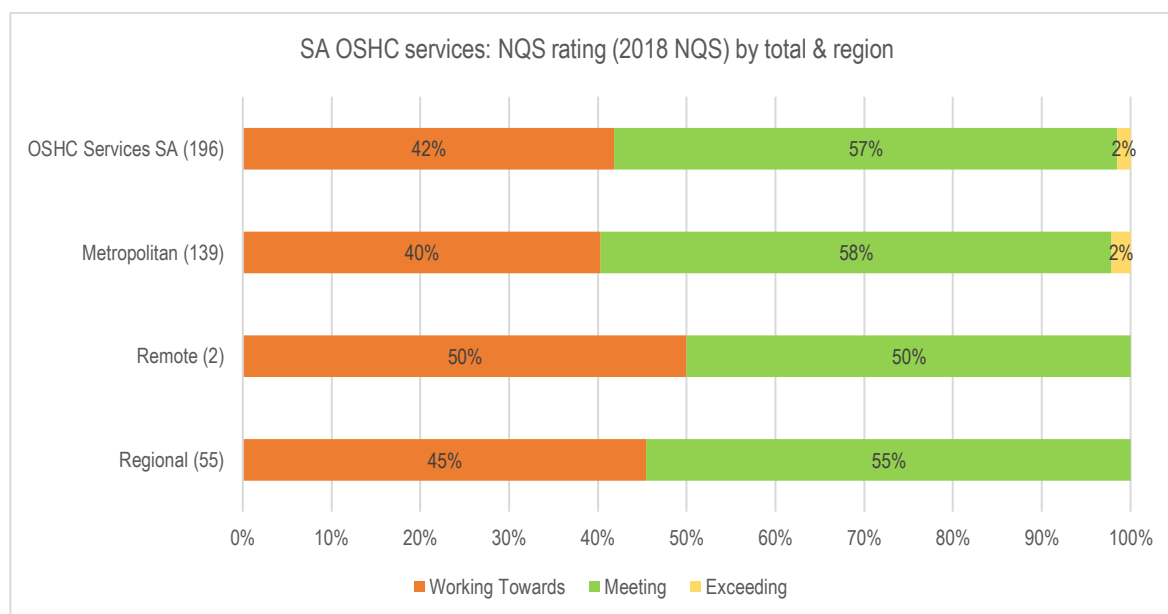
Figure 11: OSHC services: NQS rating (2018 NQS) by total & site type (at 15 March 2023)



When analysing service quality by region, Figure 12 shows there are only slight differences in quality ratings of metropolitan versus regional services:

- 58% of metropolitan services are rated as Meeting, compared to 55% for regional services.
- 40% of metropolitan services have a WT rating, compared to 45% for regional services.

Figure 12: OSHC services: NQS rating (2018 NQS) by total & region (at 27 March 2023)



OSHC services rated as WT: Quality Areas under the NQS

The following provides a deeper analysis and understanding of the WT OSHC services by examining performance by NQS Quality Areas (Figure 13):⁴

- Of the 81 services with a WT rating, Quality Areas 1, 2 and 7 have the highest percentage of WT ratings. The ratings in these Quality Areas account for 70% of all WT ratings across all Quality Areas.
- 100% of private for profit and Catholic school providers received a WT rating in Quality Area 1.
- As well as 100% private for profit providers receiving a WT rating in Quality Area 1, 72% received a WT rating in Quality Area 7 and 68% in Quality Area 2. They also recorded WT ratings of over 30% in Quality Areas 4 and 5, being the only provider type to do so in both these Quality Areas.
- State government schools recorded WT ratings of note in the following Quality Areas: 78% in Quality Area 7; 75% in Quality Area 2; 62% in Quality Area 1; and 45% Quality Area 5.

⁴ The NQS Quality Areas are: 1 – Educational program and practice; 2 – Children’s health and safety; 3 – Physical environment; 4 – Staffing arrangements; 5 – Relationships with Children; 6 – Collaborative partnerships with families and communities; 7 – Governance and Leadership.

- Quality Areas 1, 3, 4 and 6 have much higher rates of WT ratings in regional areas compared with metropolitan areas (Figure 14).

Figure 13: OSHC services with a WT rating: By total, Quality Area & provider type (at 15 March 2023)

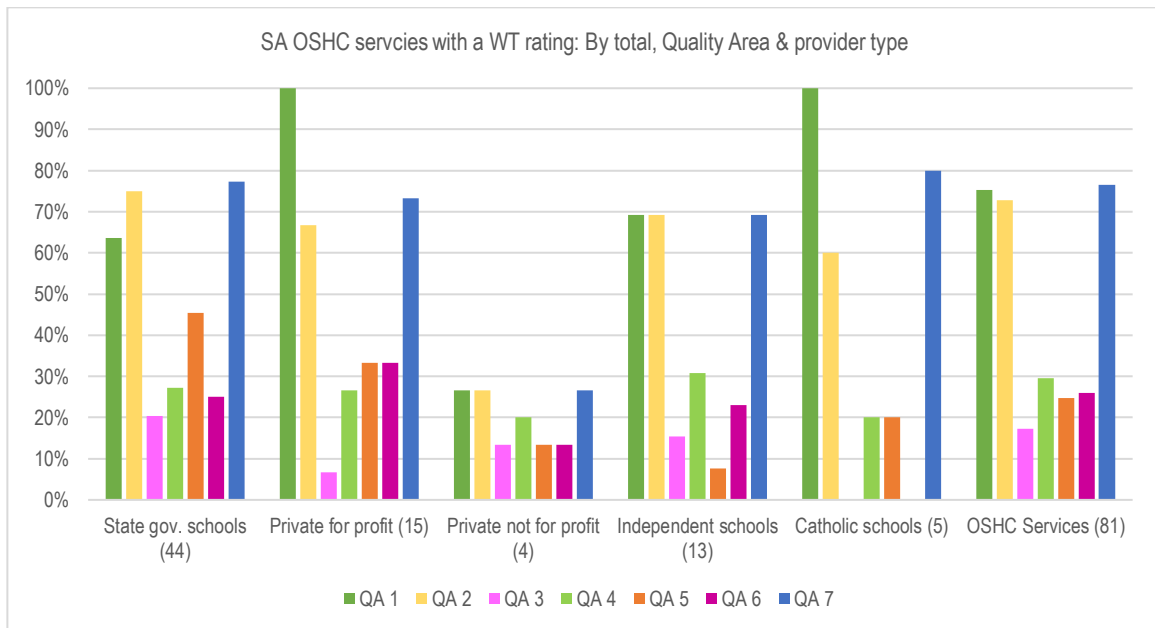
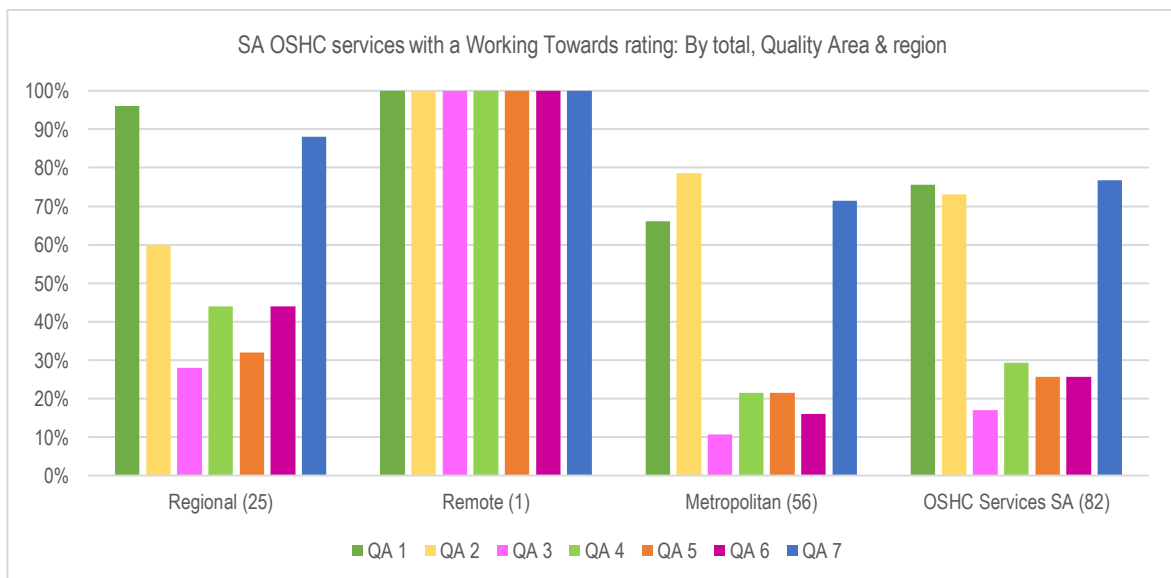


Figure 14: OSHC services with a WT rating: By total, Quality Area & region (at 27 March 2023)



To try to better understand underlying causes of poorer quality ratings in OSHC, a small sample of service assessment and rating reports were analysed. The findings of that sample analysis are:

- In Quality Area 1, the inability to demonstrate a cycle of assessment and planning or conduct critical evaluation on children’s learning were identified (Standard 1.3). This included examples of some services not

using the required Early Years Learning Framework (EYLF) when children under school age attended their service.

- In Quality Area 2, a lack of medication plans and risk minimisation plans was found (Standard 2.1). Examples included no medical plans being in place for children with specific (and serious) medical conditions or no current medication on-site. Inadequate supervision of children was also noted (Standard 2.2). For example, a single educator's attention being completely taken by one individual child.
- In Quality Area 7, inadequate self-assessment and quality improvement processes being in place and staff not participating in performance reviews (inadequate or not at all) (both Standard 7.2), were evident. Another observation at an Element level (7.2.2), was that leaders were not leading or supporting the educational program of the service.

Moving OSHC services from WT to Meeting rating

As at 4 April 2023, 31% of WT services had only one or two Elements of the NQS (within a Quality Area) rated as not met.⁵ These services can be targeted for educative support and guidance by the ESB, in line with the ESB's regulatory posture to support regulated parties (services) to achieve and maintain voluntary compliance. These services can then be reassessed through a partial reassessment process in the deficient Quality Areas. The intended outcome is that these services move to from an overall WT to a Meeting rating with minimum input from the ESB.

3. Compliance issues in OSHC service settings

There are two main compliance issues in OSHC services (particularly services provided on Department for Education (Department) sites) that are currently increasing the risk to the health, safety and wellbeing of children:

- Poor and inadequate supervision of children; and
- Non-compliant and inadequate medication management practices.

The ESB has observed the following underlying contributing factors of poor compliance and quality in OSHC services:

- The contractual performance of third-party providers is not being actively monitored, managed and reported where the service is on a Department site.
- There is limited succession planning, mentoring, hand-over and support of newly appointed service directors. This can lead to educators being appointed to the director role when they do not have adequate experience, qualifications or support in the role.
- The generally low understanding by school Governing Councils of their obligations as an approved provider under the *Education and Care Services National Law (South Australia)*.
- The strength of the relationship between the principal of the school and the OSHC service and the capacity of the principal's role to provide the

⁵ National Quality Agenda IT System (NQA ITS) [Accessed: 4 April 2023]

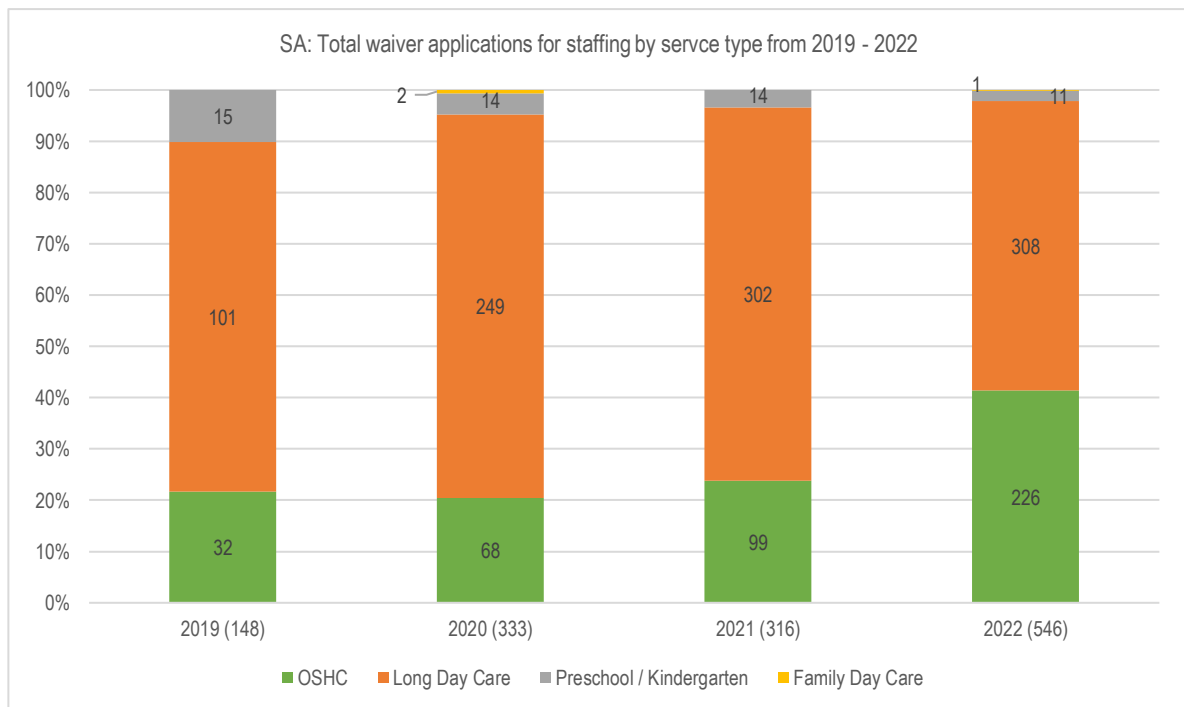
leadership, guidance and support to the service to enable success and continuous improvement.

Waiver applications for staff by OSHC services in SA

In 2022, OSHC services' staffing waiver applications comprised over 40% of all applications received. This compares to 20% in 2019 and 2020 (Figure 15).

Although this is partly a sector and an Australia wide workforce issue, it does not diminish the actual and potential increased risks to the health, safety and welfare of children if there is insufficient qualified staffing in OSHC services.

Figure 15: Waiver applications for staffing by service type from 2019 – 2022 (at 15 March 2023)



C. Regulatory activities to respond to regulatory risks and support sector quality improvement

ESB's proactive regulatory posture

The ESB is undergoing internal review and reform to reset its regulatory posture to a more proactive approach with a greater focus on quality and transparency. This is to assist all regulated parties to achieve and maintain voluntary compliance and deliver continuous quality improvement over time.

In December 2022, the ESB published its:

- [Regulatory Practice Statement](#);
- [Regulatory priorities for 2023-2024](#); and
- [Regulatory targets for 2023-2024](#).

The ESB recently published a new [Early childhood services compliance and enforcement policy](#). This policy details how the ESB will respond to non-compliance under the National Law.

Together, these documents form the basis on which the ESB will approach its regulatory activities.

Reassessment of 2012 NQS rated services

One of the ESB's current strategic priorities is to reassess services currently rated against the 2012 NQS, against the 2018 NQS. To facilitate the implementation of this strategy, regulatory resources were reallocated from previous strategies that had, over time, become less effective at maintaining a current perspective of quality.

The assessment and rating regulatory strategy focused resources on reassessing WT services 12 to 18 months after an assessment. This resulted in some WT services being able to achieve a Meeting rating, and the overall number of services rated as WT to continue to decline over time (demonstrated by Figure 5).

It is predicted the percentage of all services rated as WT will rise because of this change in strategic direction.

There is a higher number of services being rated as WT in the past two years, as outlined in Figure 6. While OSHC and LDC were over-represented as a service type, as part of the previous reassessment strategy, it is possible this pattern of increasing numbers of WT services could continue as the ESB reassesses quality under the 2018 NQS for services that have not been rated for some time, due to SA's ratings cycle times. The ESB needs to further investigate what is driving this trend of increasing service WT ratings.

It is noted that as at 1 May 2023, 15% of all services have a WT rating, the highest level since 2019.

Strategy for services with consecutive WT ratings

The ESB also has a revised strategy for services currently rated as WT and have received a WT rating in three or more consecutive reassessments.

The ESB will deeply analyse these services' performance and identify barriers to their achievement of a Meeting rating. This analysis will be used to develop a tailored approach, targeting areas of underperformance and providing a basis for sustainable continuous improvement in services' service delivery under the NQF and NQS.

OSHC services make up 76% of services that meet the criteria for this regulatory activity.

OSHC specific priorities and activities

The ESB has undertaken the following engagement and educative activities to improve overall OSHC quality and compliance:

- Working closely with the Office for Early Years to share evidence and information about individual service and broader Department site service performance, to support an action plan that seeks to address some of the underlying factors outlined in Part B, section 3 above.

- Seeking to collaborate with OSHC SA to develop guidance and advice to further support the OSHC sector.
- Writing to all services, providers and the Chairs of school governing bodies in January 2023:
 - Reminding services of their obligations to comply with all legislative requirements.
 - Encouraging services to reflect on and review:
 - all their policies and procedures and providing links to the services, to best practice resources.
 - their supervision and medications management policies and procedures.
 - Reminding services of the 1 March 2023 legislative changes to transportation of children requirements.

D. Regulatory considerations for inclusion of 3- and 4-year-old children in OSHC service settings in SA

1. Service models

The ESB assumes there are two distinctive OSHC models that could be used for 3- and 4-year-old children attending preschool services.

Service model one: Before and after 'preschool' and vacation care offering at a preschool site

This model would provide a preschool service with a before-and-after preschool and vacation care program at the site where the preschool currently operates.

This could be outsourced (similar to a model being used in the Australian Capital Territory) or operated by the preschool.

Under the NQF:

- If OSHC is proposed to be offered as part of a before-and-after preschool and vacation care offering, the service must make an application for a new service approval for the OSHC component of the service to operate at the site.
- An application by the service would also need to be made for and eligibility for the Commonwealth Government's Child-Care-Benefit scheme, for the OSHC component of the service.

Service model two: Inclusion of 3- and 4-year-old children in existing OSHC services

This model would provide education and care for 3- and 4-year-olds in an existing OSHC setting, predominantly on school sites and would require the children attending to transition to a different service at the appropriate times.

The ESB emphasises that an existing school OSHC setting is not suitable for 3-year-old children because of the different developmental needs of this age cohort related to:

- Playground equipment
- Toileting requirements
- Sleep and rest needs
- Supervision needs
- Fencing
- Resourcing in general

2. Application and use of Approved Learning Frameworks (ALFs)

ALFs are designed with the developmental needs and stages of different cohorts of children at different ages (e.g., cognitive, physical, emotional and social needs). For example, how supervision for children looks under each ALF is very different.

There are two nationally approved ALFs:

- ‘Belonging, Being and Becoming: The Early Years Learning Framework’ (EYLF)
The EYLF applies to children from birth to 5 years of age and supports the transition to formal schooling. It reflects contemporary developments in practice and knowledge, is grounded in play-based learning and recognises the importance of communication and language (including early literacy and numeracy) and social and emotional development.
- ‘My Time, Our Place: Framework for School Age Care in Australia’ (MTOP)
MTOP applies to school aged children, from 5 years and above. It is grounded in independence and acknowledges the importance of play and leisure in all aspects of children’s learning and development (including social, emotional and communication development).

Presently, if an OSHC service is approved for 4-year-old children, they must use both ALFs in their programming. Soon, only program level assessment and planning cycles will be required by OSHC services.⁶

However, under the EYLF which applies to 3- and 4-year-old children, the educative planning cycle process required under the NQF for the EYLF of observe, analyse, plan, implement and reflect for each individual child, must occur.

⁶ Due to the implementation of changes from the 2019 NQF Review.

3. Qualifications and educator to child ratios for OSHC services to accommodate 3- and 4-year-old children

There is a difference between the ratio requirements in OSHC services compared with Preschool.

The current OSHC ratio for school aged children is 1:15, and for pre-school aged children is 1:11.

This means that a service currently providing OSHC services to preschool age children must increase educators to meet the lower ratio and adhere to different ratio requirements depending on the number of preschool aged children attending any given session.

Under National Regulations, centre-based services with children who are preschool age or younger must have access to an early childhood teacher, with the requirements based on the number of children in attendance. These regulations do not apply if the main purpose of the service is to provide education and care to children over pre-school age. For these regulations 'not' to apply, the service must operate mostly or solely out of school hours and the majority of children attending a service are over preschool age (60% being a persuasive factor in determining the 'majority').

Regulatory policy in South Australia on the qualifications required for educators in a preschool OSHC setting should be part of the considerations to expand OSHC service provision to 3- and 4-year-olds.

The ESB is aware that the preschool OSHC model being piloted in the ACT has made a requirement for a diploma qualified educator to be a part of this model, which provides education and care to four-year-olds only.

4. Increase in the ESB's regulatory role, functions and activities

The ESB has already made submissions to the Commission about the inevitable initial increase in the volume of provider and service application approvals (including new service, new provider, service amendments and further waiver applications) it will need to assess and determine as part of the implementation and roll out of 3-year-old-preschool in South Australia.⁷ This applies equally to OSHC services.⁸

While the ESB acknowledges Interim Recommendation 13 (sufficient resourcing to reduce assessment and rating times of services to a 3-yearly cycle), the ESB will require resourcing in addition to that recommended to be able to manage the temporary increase in its overall workload to support timely implementation of the final delivery models chosen by the State Government.

⁷ ESB's Preschool Submission, pages 8 -9

⁸ See Part D, Section 1 above

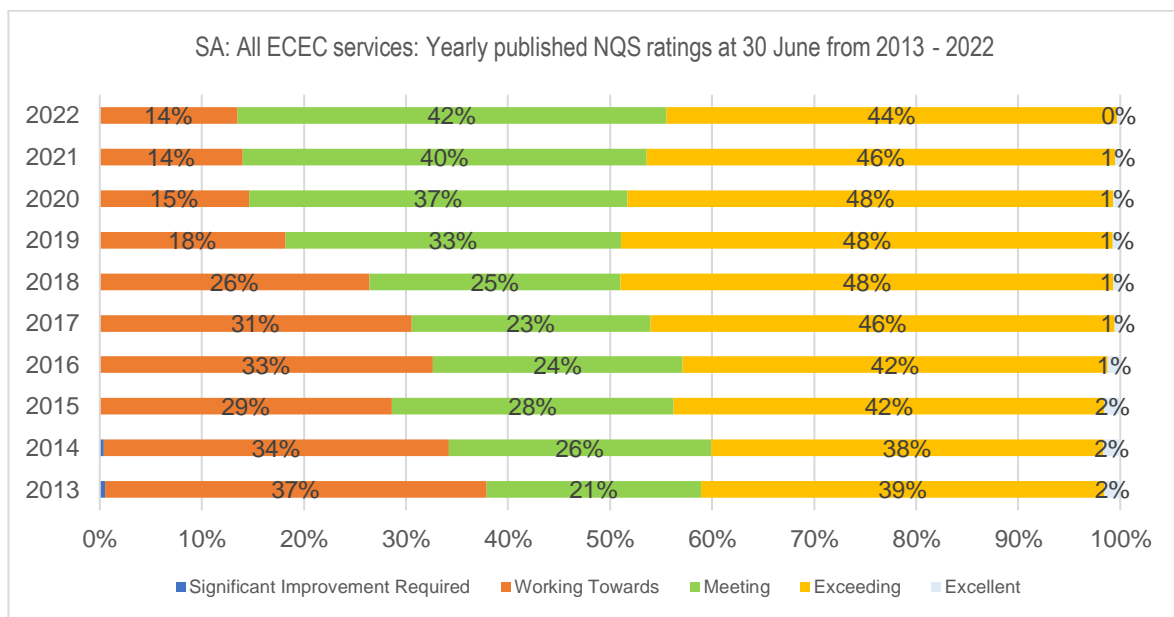
E. Correcting evidentiary data provided to the Royal Commission during 14 April 2023 hearing

Figure 16 sets out all services with a published NQS rating at 30 June in each year from 2013 to 2022, with percentages against each rating type. It shows that ECEC services in SA did receive a WT rating under the 2012 NQS.

The 2018 NQS commenced on 1 February 2018.

As at the date of this submission, there are no services currently rated as WT against the 2012 NQS because all services that were previously rated as WT under the 2012 NQS, have now been re-rated against the 2018 NQS.

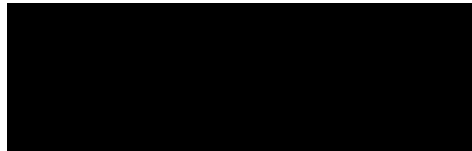
Figure 16: All services: Yearly published NQS ratings at 30 June from 2013 - 2022 (at 2 May 2023)



Submission

This submission by the Education Standards Board responds to the Final Call by the Commission and is made and lodged by the Chief Executive and Registrar of the Education Standards Board, Ms Kerry Leaver.

Signed:



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Ms Kerry Leaver
Chief Executive and Registrar
Education Standards Board

Dated:

17 May 2023