TEMPLATE AND PROCESS TO RETRIEVE SERVICE'S OWN REGULATORY NON-COMPLIANCE INFORMATION FROM THE NSW DEPARTMENT OF EDUCATION

A. BACKGROUND

According to both the Australian Children's Education & Care Authority (ACECQA)'s and the NSW Regulatory Authority, the publicly available Quality Ratings of early childhood education and care (ECEC) services across Australia and New South Wales as of 31 March 2025 are:

Approved Services with Quality Ratings	Australia (N = 16,564 services)	New South Wales (N = 5,723 services)
Overall Rating: **Meeting or Higher**	91.0% of all services	92.6% of all services
Quality Area 2 – Children's Health and Safety: **Meeting or Higher**	94.6% of all services	94.7% of all services

Yet, according to the Productivity Commission's *Report of Government Services (RoGS)* published on 11 February 2025, the NSW jurisdiction were reported as having:

- 19,515 breaches/confirmed non-compliances (ie 54.9% of the national total); and
- a 325.3% probability per early childhood education and care service of recording a breach.

For the corresponding reported period, the NSW Regulatory Authority published that they had 13 enforcement actions (ie 0.07% of the total number of breaches/confirmed non-compliances).

And the last 5 consecutive years have had similar reports. (See attached graphs and table.)

The above is also in the context that the NSW Productivity Commissioner published in December 2022 its *Evaluation of NSW-specific early childcare regulations* confirming that NSW-based ECEC services has higher regulatory requirements than other Australian states.

Given NSW's breaches/non-compliances dwarf all other Australian states and territories combined, and such appears at odds with published Quality Ratings, the NSW Parliament's recent call for documents from the NSW Department of Education has concerned a number of ECEC services.

The primary concern being that as the NSW Regulatory Authority holds such a significant amount of regulatory information, their public release could be wrongly misconstrued and thus pose reputational damage to their and/or their early childhood educators/teachers.

B. ACCESSING NSW DEPARTMENT OF EDUCATION DOCUMENTS UNDER FREEDOM OF INFORMATION

Under the Westminster system of government and democracy, the NSW Department of Education must be transparent wherever possible. Hence, NSW-based ECEC services, their early childhood educators and teachers are by default entitled to what records the NSW Regulatory Authority has on them.

To receive a copy of such information, freedom of information requests can be made to the NSW Department of Education using the NSW *Government Information (Public Access) Act 2009*. The cost to seek such information is $30 per application.

C. TEMPLATE FOR REQUESTING NSW DEPARTMENT OF EDUCATION DOCUMENTS UNDER FREEDOM OF INFORMATION

The following is the suggested template of text for requesting documents under the NSW *Government Information (Public Access) Act 2009*:

> *Dear sir/madam,*
>
> **BACKGROUND:** *I am seeking the release to me of relevant NSW Department of Education information that relates to non-compliances of my approved early childhood education and care service <<Approved Service name>> <<Approved Service number>> as recorded by the NSW Regulatory Authority from <<date>> to <<date>>.*
>
> **REQUEST:** *Please provide me with a copy of all non-compliances recorded against <<Approved Service name>> from <<date>> top <<date>> that operates at <<address of Approved Service>>. Please provide the information in electronic format, preferably as Adobe Acrobat PDF files. We request that the output of this GIPA application not be made available publicly. But should it be required to be made public, please ensure that the identities of any and all children, parents, family members, educators, teachers and other personnel mentioned are redacted for privacy and avoidance of defamation reasons.*
>
> *Please let me know if you need any further information/clarification on the above request.*
>
> *Yours sincerely,*
> *<<your name>>*
> *Approved Provider: <<name of Approved Provider>>*
> *Approved Provider Number: <<Approved Provider Number>>*
> *<<address>>*
> *<<telephone number>>*
> *<<e-mail address>>*

NOTE: For completeness, ACA NSW recommends that you insert the date of your service approval as the start date and the end date being the day before your freedom of information application.

D. STEPS TO APPLY UNDER NSW FREEDOM OF INFORMATION LAW

Step 1
1. Visit https://www.payway.com.au/MakePayment?BillerCode=301333
2. Complete the payment form and ensure that you:
   a. insert your Approved Service name in "*GIPA Ref/Applicant Name*"
   b. keep the "*Receipt Number*"; and
   c. keep a copy of the Payment Receipt (ideally in JPG or PDF format).

Step 2
1. Visit https://nswdepartmentofeducationrta.snapforms.com.au/form/gipaform
2. Complete the Government Information (Public Access) Act 2009 application form
3. In the "Requesting Information" section:
   a. Answer "**No**" for "*Have you made an application for the same or similar information from another agency?*"
   b. Answer "**yourself**" for "*Are you applying on behalf of**"
   c. Answer "**other records**" for "*What records are you applying for:**"

4. In the "Information sought" section:
   a. copy-and-paste your text from Section C above into the "*Please provide me with the following information**";

      b.   enter the beginning <<date>> in "*Date from*"; and

      c.   enter the end <<date>> in "*Date to*".

5.   In the "Payment" section, copy-and-paste the Payment Receipt number from Section D Step 1 above into "*Please enter your Payway receipt number*".

6.   In the "Documents" section, use the "Browse" button to upload a copy of the Payment Receipt from Section D Step 1 above.

7.   In the "Declaration" section, use your mouse to sign in the signature box.
8.   Click on the box for "*I declare the information I have provided on this form is true and correct*".
9.   Finally, use the "Submit" button to send your application.

Step 3

1.   You will receive an e-mail from the NSW Department of Education from "*do-not-reply@qvalent.com*" with the subject "*NSW DOE – Right to Access Payment Receipt – Approved*".
2.   Usually within 5 business days, you will receive another e-mail from the NSW Department of Education either confirming that your application is Valid or Invalid.

Step 4

If your application is designated Valid, you should receive a copy of your documents in the estimated period which the NSW Department of Education has indicated.

If your application is designated Invalid, you will be asked to either modify your request (with or without suggested alternative text). You can do so and respond to the person's e-mail address (which is different to *do-not-reply@qvalent.com*).

As an ACA NSW member, please feel free to contact the ACA NSW team via 1300 556 330 or nsw@childcarealliance.org.au for assistance should you require.

E. REQUESTING/CHALLENGING FOR AMENDMENTS/REMOVAL OF INACCURATE RECORDS

It is worth comparing the documents received from the NSW Department of Education against those available via the NQS ITS portal showing your service(s)' breaches/non-compliances.

Following your review of the documents received from the NSW Department of Education, you may then consider formally requesting the NSW Department of Education to amend/remove specific documents from their systems on the basis of inaccuracies or false information.
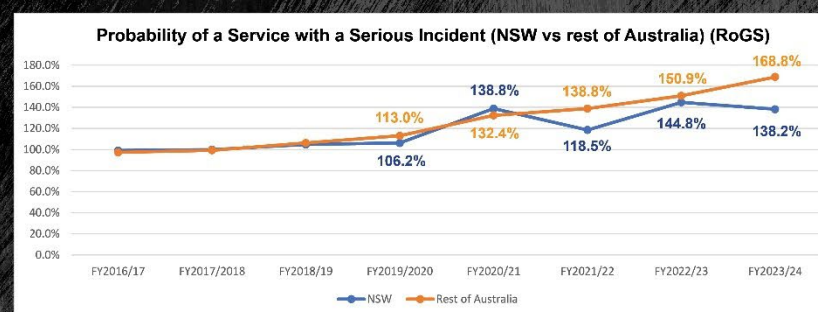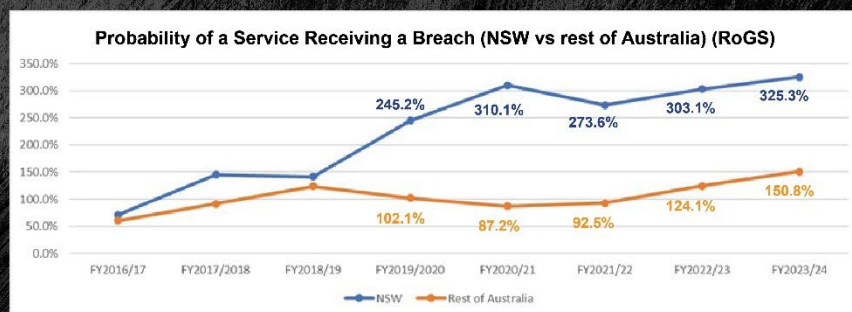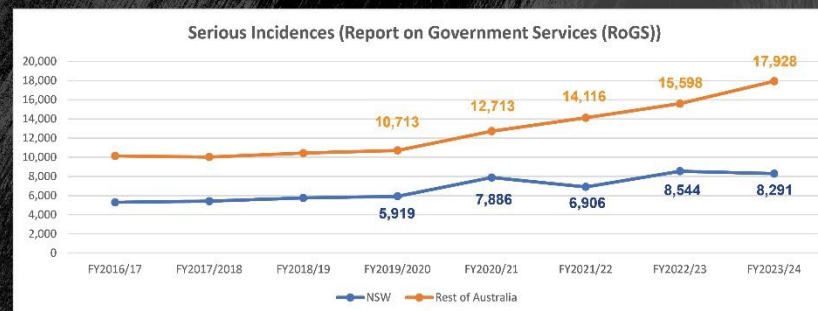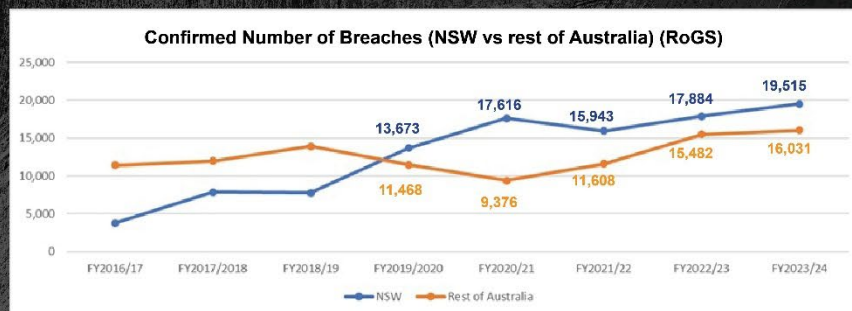
Should this not be possible, or should the NSW Department of Education refuse, you may consider applying to the NSW Civil Administrative Tribunal (NCAT) to seek their services to help you resolve the issue/dispute fairly and according to the law against the NSW Department of Education.

The fees of the NCAT for approved providers are published online.

When at the NCAT, you may choose to represent yourself or seek assistance from legal practitioners.

> For any further information/clarification, ACA NSW members can contact
> the ACA NSW team via 1300 556 330 or nsw@childcarealliance.org.au.

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ATTACHMENT: CONFIRMED BREACHES VS SERIOUS INCIDENCES
VS ENFORCEMENT ACTIONS VS QUALITY RATINGS