

Early childhood education and care incident records – order to table:

interpretation of scope

General

On 24 June 2025, the ACT Legislative Assembly passed a resolution under Standing Order 213A that ordered certain documents held by Children’s Education and Care Assurance (CECA) and the ACT Ombudsman over the past five years be tabled.

The *Ombudsman Act 1989 (ACT)* establishes the ACT Ombudsman as an independent officer of the Legislative Assembly, as distinct from being part of the executive government. Accordingly, the Head of Service is unable to table documents held by the ACT Ombudsman.

On 18 September 2025, the Chief Minister requested that the timeframe for the production of documents be extended and that the scope of part 2(a) be varied. Pursuant to Standing Order 213B, the Assembly resolved that the following document types are explicitly included in scope:

- Emergency Action Notices
- Prohibition Notices (including written decision letters)
- Compliance Notices (including written decision letters)
- Show Cause Notices
- Other Notices and Directions (including administrative letters and caution letters)
- Suspension Notices (including voluntary suspensions)
- Cancellation Notices
- Approval to Continue Notices
- Notices to Parents
- Enforceable Undertakings.

As a formal document type also referred to in the Chief Minister’s letter, incident and complaint notifications are in scope. All other document types have been excluded, such as:

- CECA correspondence with complainants
- child enrolment records
- attendance records
- evidence or statements of facts from ACT Policing
- Family Violence or Family Court Orders
- provider internal investigation documents
- provider policy/procedures
- internal incident/injury/illness records
- supervision plans, medical management plans, and behaviour support plans
- witness statements
- documents related to child protection reports
- documents relating to open investigations

Further to the above resolution of the Assembly on scope, the following interpretations have informed document collation:

- ‘Over the past five years’ has been interpreted as the past five financial years to align with government reporting. Documents returned are therefore for the period 1 July 2020 to 30 June 2025.
- Drafts of documents, along with photos, audio recordings and audio-visual recordings, have been treated as out of scope.
- Emergency Action Notices, administrative letters and notifications relating to COVID-19 have been treated as out of scope.

The below sections outline the process the ACT Public Service has put in place for this order.

Part 2(a)(i), (ii) and (iv): compliance actions

To identify documents in response to Part 2(a)(i), (ii) and (iv), a report has been generated from the National Quality Agenda IT System (NQAITS) on all compliance actions recorded as undertaken by CECA over the period. This comprises 1,066 actions.

For each of these compliance actions, in accordance with the amended scope, the following documents have been provided:

- Emergency Action Notices
- Prohibition Notices (including written decision letters)
- Compliance Notices (including written decision letters)
- Show Cause Notices
- Other Notices and Directions (including administrative letters and caution letters)
- Suspension Notices (including voluntary suspensions)
- Cancellation Notices
- Approval to Continue Notices
- Notices to Parents
- Enforceable Undertakings.

Part 2(a)(iii): – notification to parents

Part 2(a)(iii) of the order requires the tabling of ‘notifications to parents of children enrolled at an education and care service about the suspension or cancellation of a provider’. This is a statutory responsibility of the service, and while not authored by CECA or required to be provided to CECA, on occasion a provider does provide a copy of a notice to CECA and this is included in scope.

Part 2(a)(v): criminal conduct or significant harm incidents

To identify documents within scope of this part, a report has been generated from NQAITS of all serious incident notifications (regulation 12), notified complaints (regulation 174(2)(b)), notifications of prescribed information (Regulations 175(2)(c), (d) and (e)), and direct complaints received and entered by CECA in NQAITS over the period.

There is no perfect alignment in documentation with the wording of the order. Therefore, for suspected, alleged or actual criminal conduct, or risk of significant harm incidents, a scope has been developed to capture the context of the motion which does not require all *serious incident* notifications under the Education and Care Services National Law, but which targets more directly incidents involving serious harm, criminal conduct and those that have escalated to compliance action.

Suspected, alleged, or actual have been interpreted to encapsulate relevant notifications whether they are proven or not, or have resulted in criminal action or not.

Risk of significant harm has been interpreted to include whether the actual harm eventuated or not.

Criminal conduct and *significant harm* have been interpreted to include all notifications that progressed to the CECA 'triage' stage.

The *triage decision* contemplates:

- i. objective seriousness of the matter
- ii. the nature or type of breach involved — matters alleging harm to children of a higher order of consideration
- iii. whether the matter engages a sector-wide issue
- iv. whether the matter, if left unaddressed, would undermine the regulatory framework
- v. whether the facts of an incident or allegation should be investigated for the purposes of preventing future harm, hazard or governance failings or fraud, and
- vi. aggravating or mitigating circumstances.

A quality assessment process has been undertaken on the remaining documents to ensure, to the extent possible, every notification is included.

Part 3: Ministerial briefs

'Briefs to ministerial offices over the past five years' has been interpreted as ministerial briefs, caveat briefs, weekly brief content and Question Time briefs for the period 1 July 2020 to 30 June 2025. Searches have been undertaken across relevant directorates, being Education, Health and Community Services, City and Environment (including Access Canberra) and Justice and Community Safety.