



Broadside BRIEFING

PAPER#1 OCT 08

REGULATION REVIEW

The NSW Department of Community Services (DoCS) is reviewing the *Children's Services Regulation 2004*. The Regulation sets the standards and operating requirements for all children's services that have to be licensed in NSW.

Why is the Regulation being reviewed?

The Regulation is being reviewed because all regulations in NSW must be reviewed every five years. After this consultation, a new Regulation will be drafted and then reviewed by Parliament before any changes are implemented. The new Regulation is expected to be implemented during 2010.

How do services get to have their say?

DoCS have:

- released a discussion paper;
- organised briefing sessions (between 24 October and 12 November 2009);
- called for written submissions;
- set up an online survey;
- set up an Industry Reference Group (which Community Child Care is a member of).

To find out where and when your briefing is, or read the discussion paper, go to www.community.nsw.gov.au

'The Regulation Review is where the sector gets to say what we believe are the key issues for children's services. The Regulation shapes NSW children's experience in services by defining key standards such as ratios, group sizes and qualifications.'

**–Carol Lymbery, Chief Executive Officer,
Community Child Care Co-operative NSW**

Did we get a draft Regulation to look at last time?

Yes, but DoCS is doing the consultation differently. They will release a draft Regulation in 2009, but the current review process is the main consultation about key areas of the Regulation.

What is the purpose of this *Broadside Briefing*?

DoCS have released some excellent communication materials around the Regulation review, including a discussion paper which Community Child Care urges all services to read. Community Child Care understands that services often need just a quick snapshot of what is happening. We have attempted to do this here. This *Broadside Briefing* also is our way of asking our members what you want. Do you agree with the draft positions Community Child Care has outlined?

When do we have to do this by?

The briefing sessions will be held over the next few weeks, the survey will be online by the end of November and written submissions are due by 12 December 2009.

Community Child Care will need member's feedback on our positions by the middle of November.

WELCOME

This *Broadside Briefing*, the first in a new Community Child Care Co-operative series, summarises the main issues being canvassed in the Regulation review and shows Community Child Care's draft position on these issues. We need you, Community Child Care members, to tell us:

- Do you agree with our draft positions?
- Are there other things in the existing Regulation you would like changed?

Please email your responses to info@cccncsw.org.au

WHAT ARE THE MAJOR CHANGES COMMUNITY CHILD CARE WOULD LIKE TO SEE FROM THE REVIEW?

We would like to see:

1. A Regulation that increases quality service provision to children, especially in areas such as ratios for babies.
2. A Regulation that reduces the burden on children's services: less paperwork, less compliance, less interpretation and which results in less breaches.
3. A Regulation that is clear and provides definitive direction.

DID YOU KNOW?

- There are 3,447 licensed services?
- 1,183 of these services are licensed for under 30 children?

WHY IS THE REGULATION SO IMPORTANT?

The Regulation sets the minimum standard for the operation of children's services in NSW. In DoCS words: 'Vulnerable children are most responsive to the positive effects of high quality care and make the greatest gains. However, vulnerable children are also the most susceptible to the negative effects of poor quality care'.

Review of the Children's Services Regulation 2004 Discussion Paper, Department of Community Services 2008.

What makes quality care?

According to the DoCS discussion paper, the weight of evidence favours these conclusions:

- "the most significant factor affecting quality appears to be care giver education, qualifications and training
- higher adult:child ratios are associated with higher process quality, with the ratio being more significant for infants than children over three years
- larger group size is associated with lower process quality, but the connection is not as strong as for the adult:child ratio
- stability of care, in the sense of low staff turnover, is also associated with positive child outcomes".

Do you agree?

TELL COMMUNITY CHILD CARE IF YOU AGREE WITH OUR COMMENTS!

Email us at info@cccnsw.org.au or phone us on **8922 6444**

WHAT KEY CHANGES IS DOCS CONSIDERING? WHAT DOES COMMUNITY CHILD CARE THINK?

What services should we regulate?

The proposal: DoCS is considering which services should and shouldn't be regulated. In summary, they are suggesting retaining existing coverage and definitions of a children's service, excluding school orientation programs, having a separate Regulation for OOSH services and not regulating in-home care. They are also suggesting removing the child minding services in retail shopping centres provisions.

Community Child Care's view: This all appears about right. It's appropriate to cover the needs of children in OOSH centres in a separate Regulation. As opponents of the rights of shopping centres to set up unregulated services in the first place, we believe this should be removed.

Ratios

The proposal: Ratios for centre-based care: In the context of the 'ratios for under-2s' issue currently being decided by the NSW Government, DoCS are canvassing options for implementation of a 1:4 ratio such as, phased implementation, requiring it for set hours in the day only, or for the youngest babies only, or straight implementation.

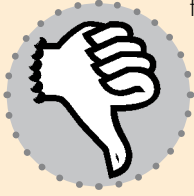
Ratios for family day care and in-home care: The paper canvasses a range of ideas, including restricting carers to four children under the age of two.

Community Child Care's view: Community Child Care's current policy supports a phased 1:4 implementation for centre-based care moving to a 1:3 ratio. We have no policy at this stage on ratios for family day carers. We do not believe any measures other than a universal 1:4 ratio in centres is acceptable (except a 1:3 ratio!).



Group Sizes

The proposal: DoCS are canvassing keeping group requirements for 0–2s only, or removing group size requirements and, instead, demanding services care for children in groups that meet children’s needs.



Community Child Care’s view: Community Child Care believes regulation on group size is fundamental in the delivery of quality care and the provisions should be retained in line with ratios.

Qualifications

The proposal: DoCS are canvassing a requirement to have an entry level qualification (such as Certificate III in Children’s Services) for all staff in some, or all service types.



DoCS are also canvassing changing the requirement for services to have a teacher that is four-year qualified (rather than three). DoCS are also considering that either all services should have a teacher, or that all services above 10 or 20 places should have a teacher (rather than the current 29 places).

Community Child Care’s view: Community Child Care believes every child in a children’s service should have access to a qualified teacher and believes that up-skilling the qualifications of the sector as a whole, is a good idea. We believe that both of these measures will need to be brought in over time. We believe that existing staff members who are currently unqualified would need assessment of competencies pathways to obtain their qualification by reputable RTOs.

Caring for babies

The proposal: DoCS are proposing extra guidance in caring for 0–2 year olds. The aim would be to increase regulation around the needs of babies and give services more specific guidance about the outcomes they should be achieving when caring for them.



Community Child Care’s view: Community Child Care believes that because babies are more vulnerable to poor quality care, this seems to be a great idea. However, this is not a substitute for 1:4 ratios or increasing the staff qualification requirements. The sector is licensed for 36,500 babies under 2. These babies deserve the best.

The format of the Regulation

‘...parts of the Regulation are unnecessarily complex and hinder clear interpretation and compliance, precisely where a clear and unambiguous regulatory approach is essential.’

Review of the Children’s Services Regulation 2004 Discussion Paper, Department of Community Services 2008.

The proposal: DoCS are proposing that Sections 3 (Facilities and Equipment) and 6 (Operational requirements) of the current Regulation be re-thought using an outcomes approach with broad outcome statements about what the Regulation is trying to achieve, possibly linked with criteria to support compliance. An example of this would be having an outcome for health such as: ‘to promote the good health of children and respond to illness, accidents and emergencies’.

Community Child Care’s view: Community Child Care believes establishing a framework of outcome areas could be a good idea but that it is also necessary for children’s services to be absolutely clear on requirements. Often, a more prescriptive approach can reduce the burden of Regulation by giving simple yes/no answers to a service’s question: ‘Can we do this, or not?’.



Breaches, etc.

The proposal: DoCS are canvassing a range of options for new ways to deal with breaches of the Regulation, such as compliance notices, penalty infringement notices, enforceable undertakings (a commitment to fix a problem rather than be prosecuted) and adverse publicity orders.

Community Child Care’s view: Community Child Care believes that there is scope to increase the number of mechanisms available to ensure services follow the Regulation. This can help ensure that serious breaches are dealt differently to minor breaches.





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Licensee checks

The proposal: DoCS are canvassing removing some of the 'entry tests' for people wishing to be licensed as a children's service, suggesting that some of the existing tests don't help to assess the fitness of a potential licensee to run a service. DoCS is also canvassing whether they should look at licensees' previous history of compliance with the Regulation.

Community Child Care's view: Community Child Care has been alerting the Department to the difficulties community-based services have in getting all the required documentation for re-licensing from management committee members. Simplifying this is a great move. Taking into account previous prosecutions and serious breaches of the Regulation is also a

great idea.



Reforming the licensing model

The proposal: DoCS are proposing making the licensing process more simple and making it easier to be licensed and re-licensed. Options canvassed include: issuing a master licence to cover all the services a licensee operates (for example, a Council operating family day care, long day care and out-of-school hours services would require just one licence.) DoCS is also canvassing a five-year licence.

Community Child Care's view: Community Child Care believes that both of these measures are very good ideas which, if implemented, will help reduce the amount of time services have to concentrate on paperwork, at the expense of time spent focusing on children!



READ THE DoCS DISCUSSION PAPER!

CCCC would once again like to urge services to read the DoCS discussion paper. Although 68 pages long, it is one of the clearest and easiest to follow discussion papers produced for the sector for some time.

The paper can be downloaded from DoCS website:
www.community.nsw.gov.au

TELL US WHAT YOU THINK!

Email Community Child Care on: info@cccnsw.org.au or call 8922 6444

Please Note: The DoCS discussion paper also canvasses other possible changes to the Regulations as well as the major ones we have focused on in this briefing.