



Submission to the Review of the NSW Children's Services Regulation 2004

December 2008

Introduction

KU Children's Services welcomes the opportunity to comment on the Review of the NSW Children's Services Regulation 2004. We congratulate the NSW Department of Community Services for producing a clear discussion paper based on current research and for providing a variety of ways in which interested parties could respond to this review. The on-line surveys for parents and others is a welcome addition to the consultation process.

About KU

KU Children's Services (KU) was established in 1895 as the Kindergarten Union of NSW and is now the largest, non-government, not for profit provider of children's services based in NSW.

KU operates 156 early childhood services and programs in NSW, Victoria and Queensland including: long day care centres; preschools; mobile preschools; occasional care, outside school hours care; family programs; vacation care; early intervention programs and childcare for newly arrived migrants (Adult Migrant Education Program).

Our services and programs cater for 8,500 children and families each week and we employ 2,500 staff.

As a leader in the field of early childhood education and care, KU has a major focus and interest in providing high quality early childhood education and care programs for young children and their families as well as being an employer of choice.

KU has not commented on each and every issue outlined in the discussion paper, instead we have focussed on our areas of expertise.

Overall, KU supports DoCS' guiding principles for the review, particularly the suggested principles of:

- intervening only in proportion to the risks of child safety and wellbeing;
- using outcomes based language;
- an approach to enforcement and compliance that is commensurate to the risks of children; and
- removal of unnecessary regulatory burden.

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2. What children's services should we regulate?

KU supports the current definition of a *children's service* and the existing coverage of the regulation under the Act. It is sensible to clearly define and exclude certain types of programs that are not included in the regulation (such as ballet classes and little athletics etc).

2.3.1 School orientation programs

KU supports the notion of school orientation programs that are designed to introduce children to a school environment not being regulated as long as these programs are for short periods of time. However, we are concerned that some schools now offer "prep" or "early starter" programs for children and whilst they are designed to introduce children to the school they will be attending the following year, some operate for a full year and are really a pseudo preschool program. KU believes these programs should be regulated.

2.3.2 Proximity of parents to children

KU supports the position that certain forms of care, such as in recreational facilities, are excluded because the parent remains in 'close proximity' to the child. However, "close proximity" of the parent needs to be defined.

KU believes that child minding services in commercial shopping centres should be licensed and regulated where the parent is actually not on the premises of the service.

2.4.1 Out of School Hours Care (OSHC)

KU believes that OSHC should be regulated and supports the development of a regulation specifically for OSHC services or the intention to incorporate them into an overarching regulatory framework in the future.

3. Ratios, Group size and Maximum Child Numbers

3.3 Ratios in Centre Based and Mobile Services

KU strongly supports the introduction of a 1:4 adult to child ratio for children aged from birth to 2 years when the new regulation comes into effect in 2010. KU does not support a phased implementation process, a targeted approach or a flexible age range approach as outlined in the discussion paper. We believe that services have adequate time to phase in this requirement between now and when the new regulation takes effect in 2010.

3.5 Group size

KU acknowledges that small group sizes are more important for younger children than older children. The interpretation of a "group" has been problematic for several years. There are many 25 place and 30 place services operating where children are in one room. We recommend a definition of what constitutes 'a group' is developed to avoid this confusion. It is more important that the staff to child ratios are maintained at all times.

KU supports the idea of moving to an outcome statement requiring services to cater for groups of children in ways that meet their individual needs and enhance their development and education. This would allow more flexibility whilst still enabling services to have 25 or 30 children grouped together for planned visitors such as a mobile farm,

reptile man etc. If reference to group size is removed, services should be required to meet space requirements and maintain staff to child ratios at all times.

3.6 Maximum Number of Children

KU believes that staff qualifications, staff to child ratios, adequate space and groupings of children are more important indicators of quality than the maximum size of a centre. We support the removal of limiting the maximum number of children in a centre or mobile service as long as all the above requirements are in place. If these important requirements are in place, and children are in nurturing environments, larger centres may be able to operate more efficiently and therefore be more affordable for families.

There are some services currently operating that are required to have multiple licences even though they are operating on one site – this change will eliminate this duplication.

KU does not support the suggestion to allow services an increase of 5 – 10% of their total licensed places over the whole year. We believe that a flexible license caters for the movement of children across age groups.

3.7 Excursion Ratios

KU recognises that excursions are a vital component of high quality early childhood education and care programs. In recent years there has been a trend for staff in services to take children on excursions less frequently than in past years. For children attending full time care, it gives them less opportunity to experience their local community and to engage in valuable learning experiences outside the centre.

KU acknowledges the risks involved in taking children outside the centre environment and supports the suggestion of centres taking a risk management approach to excursion sites and planning accordingly. KU also supports maintaining the current adult to child ratios – particularly for excursions involving water.

4. Qualifications and Roles of Staff

KU strongly supports DoCS in having an integrated regulatory approach to licensing but believes that there should be a university trained EC teacher in every service irrespective of its size.

4.3.1 An entry level qualification

KU supports a minimum entry level qualification for contact staff in centre-based, mobile services and family day care. The minimum entry level qualification should be a Certificate 111. We suggest this could be phased in over a set timeframe (e.g. 3 years) to enable the experienced, but unqualified staff to gain this qualification.

Along with many other service providers, KU has some concerns about the quality of training provided by some registered training organisations.

4.3.2 Qualified Teachers

KU believes that there should be a university trained EC teacher in every service irrespective of its size. Currently, many services are licensed at 29 children to avoid the requirement to have a university trained EC teacher. We also acknowledge the current shortage of teachers in some geographical areas, but maintain that the presence of a university trained EC teacher is essential.

4.3.3 Wider application of first aid and child protection

KU is in favour of all primary care staff holding first aid qualifications, but at a minimum, we recommend the proposal to have at least two staff members with first aid qualifications on the premises at all times during the hours of operation of the service.

KU supports the proposal to require all qualified staff members to have successfully completed training in child protection. We also suggest that this training is required to be updated every 3 years in line with First Aid Certificates.

4.3.4 Introducing a four-year teaching qualification

KU supports the requirement for university trained teachers to have a four year qualification, however, believe this should be phased in over time in recognition of existing teachers with a three year qualification.

New university graduates should all be four year trained. This would align NSW with the Commonwealth Government's reform agenda and raise the status and standing of early childhood teachers in prior to school settings.

4.3.5 Clarifying the role and responsibilities of early childhood teachers and primary contact staff for children under two years.

Whilst acknowledging the cost implications, KU believes it would be preferable to have a university trained EC teacher working with this younger age group. This would be in line with the current research on young children's brain development and ensure pedagogical leadership in a nurturing environment for our most vulnerable age group.

5. Safety, Health and Development of Children

5.1 Introduction

KU is pleased that DoCS recognises the difficulties in the current section of the regulation that relates the health and safety of children. KU also agrees that some aspects of ensuring the health and safety of young children needs to be highly prescriptive but also need to be very clear and not open to any misinterpretation.

5.3 Better regulating for children's safety, health and development

KU believes that an outcome approach is a positive move but feel that children's services licensees and staff need to be fully aware of the requirements to achieve these outcomes. These requirements need to be worded in order to deliver consistency of interpretation. At present we are faced with inconsistent and subjective opinions as to what constitutes a risk and what to do about it. Some recent examples include:

- a DoCS CSA required some grass plants about 3 feet high along one edge a of sandpit to be cut back because "you cant see the children in the sandpit if you stand behind them". This was not a natural place to stand and the supervision plan for the outdoor area showed the marked place that provided proper surveillance and supervision; and
- another DOCS CSA required a latch to be put on a fridge in a preschool "so the children couldn't open it themselves and perhaps get stuck in it" . This is the only fridge with a latch in our centres.

KU welcomes the increased emphasis on early childhood development and education and would like this section to be consistent with the new Early Years Learning Framework

(EYLF). KU suggests, re-ordering the outcomes so that education and development have a greater emphasis.

5.4 Extra Guidance on caring for 0 – 2 year olds

KU supports the creation of a separate outcome area for children aged 0 to 2 years in the new regulation. The latest brain research and attachment theories should be considered in developing this outcome area.

6. Compliance, Enforcement and Penalties

Overall, KU supports the proposed approach taken to compliance, a layered enforcement system and proportional penalties outlined in the discussion paper.

KU also suggests that information sessions be presented for licensees and staff in children's services to assist them in their understanding of this new process.

6.3.5 Investigative Powers of Children's Services Advisors

KU in general supports the concept of broadening the investigative powers of authorised officers to compel individuals to attend interviews offsite. Services would need to be given adequate notice and a suitable time would need to be negotiated to ensure the operation of the service is not disrupted.

6.3.6 Public Reporting of Significant Events

KU supports the reporting to parents of significant events that have or are likely to place children at risk of significant harm. We believe that small breaches that do not pose any risk to children should not be reported to parents.

6.3.7 Adverse Publicity Orders

KU supports adverse publicity orders for those offences that put children at risk of harm.

7. Probity and Related Checks for Licence Applicants

In general, KU believes the current requirements for board members who are not directly in contact with children are too onerous and bureaucratic. These need to be streamlined to encourage participation whilst ensuring the individuals' suitability to be involved in the management of a children's service or children's services organisation.

KU agrees that the requirement for a licensee to provide evidence of relevant child related qualifications, experience and training is not necessary as all services are required to have suitable qualified and experienced staff on the premises. The requirement for two character references should also be removed as we agree they can be easily falsified and are not necessarily an accurate indication of an individual's suitability to hold a licence. KU supports the proposal to:

- include any prosecutions under the *Children and Young Persons (Care and Protection) Act 1998* and the *Commission and Young People Act 1998*; and
 - take into account any history of serious non-compliance with the regulation when considering applications for licence renewals.
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8. Licensing Model

8.6 Reforming the licensing model

Whilst KU strongly supports the continuation of licensing of children's services in NSW, we also support some changes to the current system to make it less burdensome and more efficient.

8.6.1 Replace one licence for each service operated by a licensee with a master licence

KU strongly supports the introduction of a master licence for organisations such as KU which have multiple services.

8.6.2 A longer period of licence

KU also suggests that the licence period should be extended to at least five years.

8.6.5 Introduction of a licence fee

KU does not support the introduction of a Children's Service licence fee announced by the NSW Government in the Mini-Budget on 11 November 2008 as this will be an additional cost that will ultimately be passed onto parents through fee increases.

9. Conclusion

KU Children's Services believes that the most important aspects of the Children's Services Regulation are the qualifications of the staff, the staff to child ratios and the educational program provided to children.

For many years now, KU has joined other like minded organisations and groups to advocate for the introduction of a staff to child ratio of 1:4 for children aged under two years. KU sees this as an essential aspect that needs to be included in the new regulation.

We also believe that every service should be required to have a university trained EC teacher and that a minimum qualification of a Certificate 111 be phased in over time for unqualified staff.

In light of the current research in children's brain development and contemporary attachment theory, young children under two years of age need to be given additional protection whilst in care. Staff working with infants need to be fully cognizant of all aspects of an infant's development and be able to respond accordingly in a warm and nurturing environment.

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