

CHILDREN'S SERVICES ACT AND EDUCATION ACT REVIEW

National Competition Policy

CHILDREN'S SERVICES REVIEW

EXTRACT FROM THE

REPORT

TO THE

MINISTER FOR EDUCATION AND CHILDREN'S SERVICES

JULY 2000

CHAIRPERSON'S FOREWORD

Minister

I am pleased to present to you the report of the review of Children's Services as a part of the Review of the *Children's Services Act* (1985) and *Education Act* (1972). This review has involved a major consideration of the State's legal framework for early childhood education and care of children, and has incorporated a review of children's services regulatory arrangements in accordance with the National Competition Principles Agreement.

The recommendations have been made within the context that the quality of care and education during the early years is significant for children's social, cognitive and educational development, as well as having considerable implications for society as a whole. The development of the Panel's recommendations has considered community views expressed about the shared responsibility of parents, families and other community institutions, carers and educators for the foundations on which children's future is shaped.

The Children's Services Review Panel recognised that the challenge for a regulatory scheme that embraces those early years, and operates within a democratic society, is to achieve a balance between the roles and responsibilities of parents, providers of children's services and the State. That balance must be predicated on the fundamental assertion that the interests of the child are paramount. The recommendations of the panel, as a whole, aim to safeguard a child's right to proper care and education, and therefore safeguard the public interest in children's services. In assuring minimum standards of health, safety, wellbeing and development of children, the proposals for regulatory reform enhance family responsibility through supporting home and centre-based care, as well as upholding the principle of parental choice through allowing alternative care provision.

In the process of undertaking this review, the Panel learned about the community's diverse cultural, developmental and educational needs and aspirations for its youngest members, and considered substantial research undertaken in this area. In doing so, it identified very significant benefits for South Australia that accrue from a system of children's services that reflects the views of its users in our changing social and economic world. The Panel concluded that a system that captures the cultural, family, cognitive, physical and emotional health and developmental factors of children's lives can have important inevitable benefits in the short and long term. These benefits include a strong foundation for lifelong learning and enhanced community confidence to ensure positive outcomes for parents, families and society.

Carmel O'Loughlin
Chair
Children's Services Review Panel

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EXECUTIVE SUMMARY

Objectives

Children's services and preschool education for the proper care and development of every child

The current overarching objective of the *Children's Services Act* is to ensure the provision of services for children and, broadly, to ensure the provision of preschool education and such other children's services as are necessary for the proper care and development of every child.

Children's services meets acceptable standards

The principal objective of the regulation of children's services is to ensure that the preschool education and care provided by children's services meets acceptable standards.

Interests of children

The objectives keep the interests of children as the paramount consideration, in the context of the Act, to:

Rights of children

- uphold and safeguard the right of all children to proper care and education, development, safety and well being; and

Rights of parents

- support the right of parents and families to choose services to provide care and education for their children.

Public benefit and importance of objectives to the community

Children in children's services are apart from their parents for considerable periods of time at a crucial period in their early years of intellectual, physical, psychological and social development.

Public consultation has upheld children's safety, well being and development as being of paramount importance during these vulnerable years.

Economic benefit results from public confidence

In addition, public confidence in the competence of the people, the adequacy of the physical environment and the quality of care and development provided have a direct impact on each child's development, and is critical in supporting parents who access children's services. This confidence ultimately provides an economic benefit to the State in terms of effectiveness and productivity of the labour force.

In excess of \$61m of recurrent Commonwealth funding, provision of employment for approximately 5300 people and provision of support for economic and social participation by parents through child care assistance demonstrate the positive, direct and significant impact of regulated children's services on economic activity in South Australia.

Restrictions on Competition

Restrictive provisions

The restrictions on competition contained are:

Child Care Centre

Part III, Division 1 requires a person to hold a licence to conduct or control a child care centre. The licence may be issued according to terms and conditions established by the Director, Children's Services, and the licence may be cancelled. The requirements set out in *Child*

Care Centre Regulations incorporate the national standards for child care.

Baby Sitting Agency

Part III Division II prohibits a person from operating a babysitting agency without a licence. The licence may be issued according to terms and conditions established by the Director, Children's Services and the licence may be cancelled. Currently the conditions are set out in *Baby Sitting Agencies Regulations*.

Family Day Care

Part III Division III provides that a person who seeks for monetary or other consideration to care for not more than 4 young children or more than 7 children in total, in a family environment away from the child's own home, may apply to the Director, Children's Services for approval of the applicant and the premises.

The approval may be given subject to certain conditions established by the Director and the approval may be revoked.

Currently the national standards for family day care relating to the relationship between care provider and child have been implemented through the conditions established by the Director.

Family Day Care Agency

Part III Division III enables a person to carry on the business of a family day care agency through the issuing of a licence by the Director.

The licence may be given subject to certain terms and conditions established by the Director, and the licence may be cancelled.

Effects and weighting of restrictions

In each instance, competition is practically affected by excluding from the conduct of a business that provides care for children in a centre or a home, or provides a babysitting or family day care agency, persons who do not meet the regulations or the terms and conditions determined by the Director.

This exclusion has been identified as a *restriction on entry into the market*. The restriction is categorised as *intermediate* in each case.

Importance of restrictions within the market, and to the economy as a whole

- Licensing or approval of children's services ensures satisfactory health, safety and welfare and developmental curriculum standards in each service and affords protection to a child by maintaining a healthy social, learning and physical environment public opinion has endorsed. The public benefits of these restrictions.
- Ensuring the quality of the care and development provided, and the competence of those who provide care, serves to minimise risk to children. In turn, considerable benefit is provided through the reduction in the financial and social costs that may otherwise be borne by the community as a result of inadequate care, education and development of children in their formative early years.
- Availability of child care that meets minimum standards enables

parents to participate in the work force or in study which benefits the economy.

- Children's services is a significant area of economic activity in terms of small business, employment, consumer and government expenditure. The public benefit that ensues within the workforce from confidence in the services licensed and approved by the regulatory system is considerable.

On the whole, the identified restrictions are not considered to have resulted in negative economic outcomes. *Document 3* (page 111) summarises the compliance costs, cost impact in the market and the costs to government of the proposed regulatory scheme.

- While the *costs* are considerable in meeting the criteria for child care centre premises, facilities, operation and staff, the Review Panel noted that these costs would be applicable to the establishment and operation of a child care centre regardless of any restrictions of the Act and the regulations. It is therefore concluded that the benefits of the regulatory restrictions far outweigh the costs, and *do not* result in significantly higher costs for child care.
- Similarly the *considerable set up costs* for Family Day Care are met by the applicants, and are necessary costs for the establishment and operation of a family day care service. As such, the costs of the restrictions imposed by the Act do not result in significantly higher costs for child care, and *do not* constitute a situation where public costs are greater than public benefits.
- The costs for a baby sitting agency to be licensed are *minimal* and *do not increase costs* for child care.

Benefits outweigh the costs

The Review Panel's view supported by public consultation, is that the marginal costs associated with the current and proposed regulatory restrictions are justified in terms of supporting the objectives of the *Children's Services Act*. The benefits provided by the restrictions clearly outweigh the costs.

Onerous or unnecessary administrative burdens

The administrative procedures mandated by the Act are:

- completion of forms for application and renewal, including the provision of relevant supporting information and documentation;
- requirement to notify the Director of any change to circumstances;
- placement of an advertisement to publicly signify intent to provide a service;
- maintenance of records and copies of documents, declarations, including staff records and attendance records, approvals and;
- register of information about children and their attendance records.

These procedures were considered by the public to be neither unnecessary nor onerous.

The Panel did, however note the comments made by some sectors of

the child care industry regarding the requirement for licensees to obtain Personal Offender History Checks for each staff member, to be onerous. It was suggested that this requirement could be more effectively undertaken by a central body and provide improved consistency, confidentiality and portability of results for the employee.

This has been further investigated, and the costs have been found to outweigh the benefits. (Document 13, found in the appended volume of Option Papers)

Other comments made by current service providers relate to the desirability of harmonisation between State and Commonwealth compliance and reporting processes. This is outside the scope of this review.

Alternative regulatory models considered

A number of alternative regulatory regimes to achieve the objectives of the *Children's Services Act* were considered. These included:

- . deregulation;
- . negative licensing;
- . self-regulation;
- . co-regulation;
- . government regulation.

The Panel also considered the matter of how required minimum standards are established in conjunction with the options for regulatory measures. The options considered included:

- . prescription by legislation
- . determination by the Minister
- . determination by an independent statutory board
- . determination by an industry body

Deregulation was considered inappropriate for children's services

(i) Deregulation

This would result in the removal of statutory restrictions and regulation in all or some children's services.

In such a system, standards for services may exist, but would not be able to be enforced. Consequently, any individual would be free to establish a children's service. There would be no guaranteed checks as to fitness and propriety, qualifications, ability to establish and maintain health, safety and welfare standards.

This model was *not supported* by the Panel because:

- . Public consultation and submissions were not supportive of a deregulated system, believing that it would not meet the objectives of the *Children's Services Act*.
- . This model does not allow for any government involvement between consumers and providers, and cannot ensure a balance of information within the market, thus leading to strong possibility for

market failure.

- Community confidence in children's services could not be assured.

There is no state in Australia where children's services are entirely deregulated, although there is some variation in the scope of regulation in each state.

Aspects of negative licensing were considered appropriate for identified services

(ii) Negative licensing

This approach requires a regulating authority to monitor the conduct of services through a system of public complaint, response to complaints, and application of penalties.

Appropriate minimum standards would be determined and published by the regulating authority, but operators are initially free to establish and conduct a service without compliance with any requirements regarding fitness and propriety, standards for premises and facilities, etc.

The Panel's opinion was that a negative licensing regime may be appropriate to some children's services, such as adjunct care, but that the effectiveness of this model would depend on appropriate administrative arrangements. There was some qualified public support for this type of model for services where irregular care is provided to children.

Industry self-regulation was considered

(iii) Industry self-regulation

This model usually operates through a body that is representative of service providers, with voluntary codes of conduct and practice determined by the industry.

The panel considered that the essential features for successful regulation through this model, that is, sufficient commonality of interest within the industry and a common desire and commitment to uphold the reputation of the industry and avoid the sanction of peers and colleagues, would be difficult to achieve and sustain in a sector that is as diverse in service provision as children's services. This model would also, according to current Commonwealth - State agreements and government funding policy, not satisfy child care assistance requirements for quality assurance in centre based care. In addition, such a model, with its lack of legislated remedies, may reduce the access and ability of the community to influence regulation.

Community views indicated that there would be concerns with such a model because of the lack of the necessary cohesion required within the industry. In particular the submissions made by child care associations supported this view. There are no examples of self-regulation of children's services in Australia.

*Aspects of co-regulation
were supported*

(iv) Co-regulation

The role of regulation encompassed in this regulatory model is shared between the industry and the government. Criteria and standards for licensing may not be specified in legislation, but may be achieved through negotiation of a Code of Practice between the government and industry.

There was some support for a co-regulatory model to operate through a statutory board if it were supported by the existence of strong industry associations with broad coverage of service providers.

Some features of a co-regulatory scheme are present in the regulation of community kindergartens in Queensland, whereby the kindergartens are licensed, must be members of the Creche & Kindergarten Association of Queensland, and are assessed to determine compliance with that association's standards.

*Regulation by legislation
was overwhelmingly
supported*

(v) Legislative regulation

There is no single model of legislative regulation, but essentially, the responsibility for setting and maintaining standards rests either with the Minister or an independent statutory board. The Panel supported the version of this system whereby the Minister is directly responsible for ensuring effective regulatory standards and thereby achieving consistency and meeting public interest objectives. There is a range of possibilities when this model is embedded within legislation underpinned by appropriate principles and objectives, for the achievement of flexibility, separation of government regulatory and support functions, engagement of public opinion and accountability across the children's services sector.

Public comment overwhelmingly supported legislative regulation. Licensing of children's services is currently a matter for government regulation in every state and territory in Australia, with the prescription of standards and criteria in the legislation *ie* Act and regulations. The model whereby the responsibility for regulation rests with the Minister, with provision for delegation, is adopted in other states and territories. In all states (except WA), like South Australia, the Chief Executive has the authority to issue the licence of approval.

The community supported a clearly defined role for the Minister in determining standards in consultation with the industry and promulgated in regulation, whereas the current Act enables significant discretionary powers for the Director, Children's Services Office.

Panel's conclusions

The Panel's conclusions are based on evidence provided through

- . Submissions and state-wide consultation;
- . Examination and consideration of specific models of children's services regulation operating in other Australian states (*see*

Appendix 2), and internationally; and

• Consideration of Australian and international research findings.

No regulation of family and friends and where parents attend

The community supported the Panel's view that there should be **no regulation** of family and friends who provide informal care, *ie* care that is not for monetary reward or gain. It was deemed appropriate that services at which parents are present continue to be unregulated.

Regulation of children's services provided for fee

The Panel recommends that to achieve the objectives of the Act, children's services that provide care and early childhood education programs for children away from their parents, for monetary or other consideration should continue to be regulated.

Negative licensing a possible option for adjunct care

The Panel considered that a form of regulation could be applied to services that are provided in conjunction with another activity, such as creches and care provided by fitness centres, retail outlets, conferences and the like. Further analysis of this proposal however indicates that the costs to regulate such services outweigh the benefits. It is proposed that the government maintain a role in providing information to consumers and to make guidelines available to providers.

Consistent application of regulations to all other children's services

The Panel recommends the consistent application of standards so that children are afforded protection through the scope of regulation to cover services as follows:

Child care centres

• Centre based child care continue to be regulated through minimum standards for health, safety, development and welfare and expanded to include preschools, early learning centres and occasional care.

Home-based care

• Home-based child care, including nannies and babysitters operating through an agency and providing care in the child's home be regulated through minimum standards of health, development, safety and welfare.

Informal care

The analysis of the proposal to comprehensively regulate all care provided in the child's home or in the carer's home highlighted the impracticality of legally enforcing regulation of all care provided for children. **The recommended position** is that informal care provided by unapproved providers be managed through a legally-enforceable restriction on holding out or public advertisement as an approved carer. All carers who operate through an agency will continue to be regulated.

Outside School Hours Care

It is recommended that outside school hours care be regulated through minimum standards of health, safety and welfare, and thereby expand the scope of centre-based regulation.

Agencies

Agencies that provide or refer carers are to continue to be regulated, and to have additional responsibility for approval of premises for home-based carers, conduct competence checks of carers and to meet enhanced requirements for record keeping.

Future directions

1. *Integrated legislation*

There was strong public support for legislation that recognises the indivisible characteristics of care and education to enable flexibility in the provision of children's services, particularly in areas where market failure is likely to occur because of location or cultural issues, and to promote continuity of education from birth to 18 years, with a long-term focus on lifelong learning.

An essential characteristic of new integrated legislation are objectives that:

- . facilitate the provision of children's services that are care *and* education oriented;
- . ensure children's services meet standards acceptable to the community, as are necessary for the proper development of every child; and
- . keep the interests of children as the paramount consideration.

2. *Minimum requirements for early childhood workers*

Consistent and justifiable application of standards relating to worker competence (qualifications, fitness and propriety and personal capacity) will lead to checks being extended to agency licensees and the carers they employ or refer, and out of school hours licensees and carers. This will occur in addition to current checks made on licensees and managers, employees of centres and family day carers.

The Review Panel proposed that a centralised system of registration could effectively and efficiently provide for the registration of all early childhood workers. This, as a result of further investigation, is **not supported**.

3. *Early childhood education programs*

It is recommended that early childhood education programs for children in the year prior to school entry, be regulated in order to:

- . promote accurate information to support real choice and reliable comparison by parents; and
- . to acknowledge the importance of appropriate early childhood education in children's later development.

Regulation would be an option for licensed centres and be based upon criteria for educator qualifications and approved curriculum. Services that are licensed to provide early childhood education programs will be entitled to advertise that they conduct approved programs.

4. *Teachers do not require supervision by a registered teacher*

Although those providing preschool education will continue to be required to be registered teachers, legislation should not require registration for those administering integrated education and care children's services in licensed centres.

5. ***Criteria for regulation*** The criteria for the regulation of children's services should be broadly described in the Act, and relate to
- . staffing and personnel;
 - . operational activities such as records, policies and procedures;
 - . curriculum;
 - . facilities.
6. ***Child Care Centre Regulations*** The Panel recommended that the current *Child Care Centre Regulations* provide the basis for the development of minimum standards for consistent application as appropriate to similar service types.
7. ***OECD-recommended regulatory principles*** A system of regulation, designed to achieve consistency and operate appropriately across all service types, be based on the principles of:
- . Certainty;
 - . Openness;
 - . Transparency;
 - . Flexibility;
 - . Practicality;
 - . Efficiency.
8. ***A hierarchy of enforcement mechanisms*** It is recommended that enforcement of minimum standards be encouraged through a variety of compliance tools that appropriately, range from support techniques such as provision of information, through self-monitoring and public reporting, administrative penalties, license suspension, probationary and conditional licensing and ultimately, licence cancellation.
9. ***Separation of the government's roles*** A clear separation is recommended between the government's roles as a regulator, funder and provider.

RECOMMENDATIONS

The Review Panel recommends that:

1. ***Integrated Legislation***
 1. Legislation for the proper provision of education and children's services:
 - 1.1 Recognise the indivisible characteristics of care and education;
 - 1.2 Enable flexibility for a broad range of children's services;
 - 1.3 Promote continuity of early childhood education (birth – 8 years) which acknowledges the role of parents as first educators, and the importance of a child's development throughout the early years.

2. ***Definition of Children's Services***
 2. The definition of children's services to be inclusive of:
 - 2.1 Developmental, educational and learning programs for young children (in centre, community or home based care);
 - 2.2 Services for school age children (in settings such as home based outside school hours care and child care centres);
 - 2.3 The provision of non-residential care for children;
 - 2.4 Any other service by way of assistance in, or provision of facilities for the proper care, education, development, nurturing, guidance and support of children.

3. ***Objectives***
 - 3.1 The broad objective of the children's services legislation be to ensure the provision of services to children are as necessary for the proper care and development of every child.
 - 3.2 The objectives of the Act keep the interests of children as the paramount consideration and have a view to safeguard:
 - 3.2.1 The development, safety and wellbeing of children, ensuring they are cared for and educated in safe, secure and nurturing environments by prescribing and enforcing minimum standards for children's services;
 - 3.2.2 The public interest in children's services.
 - 3.3 The Act will:
 - 3.3.1 Support the development of an accessible range of children's services to meet the needs of all groups in the community;
 - 3.3.2 Recognise the social and cultural diversity of the community;
 - 3.3.3 Ensure the involvement by parents and children and other members of the community in decisions and in the provision of children's services.

4. *Role for State*
4. The State continue to have a role in children's services (through the Minister for Education and Children's Services):
- 4.1 To provide and coordinate children's services;
 - 4.2 To develop, implement and review and evaluate the nature and quality of services;
 - 4.3 To ensure appropriate standards of competence (expertise, qualification and propriety) of persons providing children's services;
 - 4.4 To encourage provision of children's services by a range of organisations;
 - 4.5 To inform the public on early childhood care and education programs, standards and the availability and access to children's services;
 - 4.6 To review and promote service provision for children with special needs;
 - 4.7 To collaborate with other levels of government and non-government and community organisations;
 - 4.8 To encourage public discussion about children's services.
5. *Children's Services to be regulated*
5. Proposed and existing children's services (provided for monetary or other consideration) continue to be regulated.
- Appropriate and transparent provisions be established to enable efficient and effective compliance to justifiable minimum standards by existing and future government services.
- 5.1 *Principal objective*
- 5.1 The principal objective of legislation is to ensure that the care and education provided by children's services meet acceptable standards and to:
- 5.1.1 Uphold and safeguard the right of children to proper care and education, development, safety and wellbeing when apart from their parents/guardians;
 - 5.1.2 Support the right of parents and families to choose services to provide education and care for their children.
- 5.2 *Scope of regulation*
- 5.2 The following children's services be regulated by enforcing minimum standards in the areas of:
- Staffing and personnel;
 - Curriculum;
 - Facilities;
 - Records, policies and procedures.
- 5.2.1 *Centre based*
- 5.2.1 *Centre based* be regulated through minimum standards for health, safety, development and welfare (including child care centres, non-government preschools, early learning centres, occasional care and limited hours care).

- 5.2.2 *Adjunct* 5.2.2 *Adjunct child care* provision be regulated through minimum standards of health, safety and welfare and provisions for penalties for non-compliance.
- 5.2.3 *Home based* 5.2.3 All *home-based child care* that is commercially operated (by people such as carers, *nannies and babysitters* operating through agencies or as individual commercial operators) be regulated through minimum standards of health, development, safety and welfare.
- 5.2.4 *Agencies* 5.2.4 *Agencies* that provide carers in the child's home and in the carer's own home be regulated.
- 5.2.5 *School age children* 5.2.5 *School age care* regulated through minimum standards of health, safety and welfare.
- 5.3 *Advertising restriction be maintained* 5.3 Restriction on child care advertising and restriction on the use of title be maintained, and extended to include the advertising of early childhood education programs.
6. **REGULATION NOT REQUIRED** 6.1 Services where parents attend or are on the premises are not required to be regulated.
- 6.2 *Relatives and friends* 6.2 Relatives and friends (*ie* not for monetary or other consideration) providing care for non-commercial purposes not be subject to standards or compliance requirements.
7. **MINIMUM STANDARDS** 7.1 Prescribed children's services to comply with minimum standards for health, safety, development and wellbeing of children. These standards be consistently and appropriately applied according to service-specific characteristics.
- 7.2 *Criteria* 7.2 The criteria for the regulation of children's services be broadly prescribed in the Act and relate to:
- 7.2.1 Staffing and personnel;
- 7.2.2 Operational activities in relation to children eg procedures, records and policies;
- 7.2.3 Curriculum;
- 7.2.4 Facilities.
- 7.3 *Child Care Centre Regulations to be the basis for standards* 7.3 The Regulations (Child Care Centre) under the current *Children's Services Act 1985* be the basis for the development of consistent standards relating to the criteria for staffing and personnel, records and policies, curriculum and facilities for children's services.
8. **EDUCATION PROGRAM** 8.1 The criteria and minimum standards for the regulation of children's services recognise that children's very early

Programs for birth – 3 years accommodated through existing regulatory framework

learning, occurs through interaction with adults, other children and through play.

8.3 *Early childhood education programs*

8.2 The government support families, home-based and centre-based services in providing appropriate environments and activities for early learning, through the provision of information about the development of very young children.

8.3 *Preschool education programs* be regulated according to criteria and standards for:

- 8.3.1 Educator qualifications; and
- 8.3.2 Curriculum

(in addition to minimum health, safety and welfare standards).

8.4 *Qualification requirements for early childhood education programs*

8.4 The Minister determine appropriate qualifications for people delivering early childhood education programs.

9. **SEPARATION OF ROLES OF GOVERNMENT**

9.1 A clear separation be made between the regulator, funder and provider roles of Government.

9.2 *Role for State*

9.2 The State continue to have a role in the regulation of children's services through a system of licensing and approval, monitoring and review undertaken for the Minister by a Ministerial council established through the legislation.

9.3 *Role and functions of the advisory committee*

9.3 The role and functions of the advisory committee include:

- 9.3.1 Determination for the Minister's approval, standards and compliance requirements for initial and ongoing licensing and approval;
- 9.3.2 Recommend children's services to the Minister for licensing and approval;
- 9.3.3 Establish and implement enforcement provisions;
- 9.3.4 Keeping the regulatory system under continuous review through ongoing evaluation and review of the children's services standards and regulation process and make recommendations to the Minister;
- 9.3.5 Consultation with the community;
- 9.3.6 Promulgation of the role and functions of the council;
- 9.3.7 Reporting of performance to the community;
- 9.3.8 Monitor compliance by government provided

services.

9.4 Membership of no more than 5 members to reflect industry, government and community (including parent) interests.

9.5 *Role of the Minister*

9.5 An appropriately defined role of the Minister of Education and Children's Services in the regulation process which enables:

9.5.1 Responsibility for standards, regulation and compliance arrangements;

9.5.2 Communication with the council;

9.5.3 Receiving and providing advice on matters relating to the public expectations about standards of care and education;

9.5.4 Direction and control by the Minister, in the public interest.

9.6 *A system of regulation*

9.6 A system of regulation of children's services based on principles recommended by the Organisation for Economic Cooperation and Development (OECD) Council on regulatory reform:

- Certainty;
- Openness;
- Transparency;
- Flexibility;
- Practicality;
- Efficiency.

9.7 The regulatory system be designed to achieve consistency in implementation and application.

9.8 *Right of appeal*

9.8 Appeal arrangements against decisions by the regulatory authority be established.

9.9 *Power to delegate*

9.9 The regulatory authority be able to delegate any of its functions under appropriate conditions.

10. **COMPETENCE OF QUALIFIED CHILD CARE WORKERS**

10.1 The competence and propriety of people operating in children's services who have direct contact with children be demonstrated through state regulatory arrangements in order to ensure and promote community confidence in children's development, education, safety, welfare and wellbeing.

10.2 *Establishment of child care worker competence*

10.2 A regulatory regime be established for qualified child care workers to:

10.2.1 Provide efficient identification of competence;

10.2.2 Strengthen accountability for on-going

competence;

10.2.3 Enhance the State's reputation for the provision of quality children's services.

10.3 A formal link be established with the teacher registration process to demonstrate and strengthen the relationship between care and education.

10.4 The role and functions of the registering body include:

10.4.1 Determination of the requirements for initial and on-going registration;

10.4.2 Evaluation and review of the registration process;

10.4.3 Establishment of codes of conduct;

10.4.4 Promulgation of the role and functions of the registering authority;

10.4.5 Registration of qualified child care workers;

10.4.6 Imposition of conditions to registration;

10.4.7 Revocation or variation of registration in particular circumstances;

10.4.8 Maintenance of a register as a public record.

10.5 Teachers do not require supervision by registered teachers

10.5 The mandated teacher qualifications must apply to early childhood educators, without the obligation extending to those administering integrated education and care services in licensed child care settings.

PROPOSED REGULATORY SCHEME

Definition

The definition of Children's Services will not change in intent. Children's services includes:

- . *developmental, educational and learning programs for young children* (replacing the term preschool);
- . *the provision of non residential care for children; and*
- . *any other service by way of assistance or the provision, for the proper care, education, development, nurturing, guidance and support of children.*

Objectives

It is proposed to retain the following objectives of the Minister, any committee established under the Act and any person involved in the administration of the Act to:

- . ensure the provision of preschool education and children's services are as necessary for the proper care and development of children;
- . ensure the development of an accessible range of children's services to meet the needs of the community;
- . recognise the social and cultural diversity of the community;
- . ensure the involvement by parents and children and other members of the community in decisions and in the provision of children's services.

Functions of the Minister

The State will continue to have a role in children's services (through the Minister for Education and Children's Services), to:

- . provide and coordinate children's services, having regard to the needs of the community and the efficient use of resources;
- . develop, implement, review and evaluate policies about the provision of children's services;
- . monitor and evaluate the nature and quality of services;
- . ensure appropriate standards of competence (expertise, qualification and propriety) of persons providing children's services;
- . encourage provision of children's services by a range of organisations;
- . inform the public on early childhood care and education programs, standards and the availability and access to children's services;
- . review and promote service provision for children with special needs;
- . collaborate with other levels of government and non-government and community organisations;
- . encourage public discussion about children's services.

Scope of regulation

The broad parameters of the proposed regulatory scheme are not intended to substantially change. The proposed regulatory scheme will immediately:

- . encompass two additional service types, ie, out of school hours care and preschool education;
- . result in the consistent application of regulation with regard to

competence of carers, expanding competence measures to individuals operating through agencies and those working in out of school hours services.

Children's services that will be within the scope of regulation are those which:

- are provided for monetary or other consideration (including nominal fees);
- provide non-residential care and education;
- are for young children and for children outside school hours, when apart from their parents or guardians;
- provide full or part day and sessional care and education.

Services not to be regulated

Care provided free

The following are not within the scope of regulation.

- Children's services that are provided without monetary or other consideration, *ie* free. This can include centre and home based care (*eg* *creches, and babysitting undertaken by relatives and friends*).

Carers who do not claim to be licensed or to publicly advertise

- Carers who do not hold out to be licensed or publicly advertise, *ie*:
 - babysitters, relatives or friends;
 - unlicensed home based carers;

Parents attending

- Services where parents attend or participate in the child's activity or supervision, *eg* playgroups and kindergyms, toy libraries.

Regulated children's services are either centre or home based services

The current legislation is structured for particular kinds of services and named services, *ie* *Child Care Centres, Family Day Care, Babysitting Agencies and Family Day Care Agencies*.

Essentially, regulated children's services fall into two principal types, centre based and home based.

To improve flexibility, consistency and certainty of standards

To improve flexibility it is proposed to structure the new legislation to:

- recognise two principal forms of children's services, *centre based and home based*;
- establish consistent and justifiable regulations for service types, as required, using the basic framework of the Child Care Centre Regulations, *ie, personnel, curriculum, facilities, records, policies and operational procedures*.

Standards will be prescribed through regulations rather than discretionary powers to promote consistency and certainty in the market

These two features are strongly supported by all sectors of the child care industry and the community.

**Compliance by
Government services**

The government currently operates services that satisfy the definition of a child care centre, *ie* by *DETE*:-

- . Preschools, including Child Parent Centres;
- . Occasional care;
- . Centres in TAFE Institutes;
- . Rural care.

By other government agencies:

- . out of school hours care
- . long day or occasional child care

The *Acts Interpretation Act* s20 intends that legislation, *unless the contrary intention appears, be taken to bind the Crown, but not so as to impose any criminal liability on the Crown.*

This came into effect from 20 June 1990.

**Currently government
services not bound by the
Act**

According to the legal advice, the current Act, being prior to 1990, does not bind government services to licensing and compliance to the regulations on two grounds, *ie*:

- . Parliamentary intention of the current Act not to license government services;
- . Indivisibility of the Crown.

**Children's services
conducted by governing
bodies**

Government services does not cover children's services provided by governing bodies such as school councils and preschool management committees. As a consequence of such governing bodies being incorporated under the new legislation, and therefore separate legal entities, any children's services they provide will be subject to the new legislation and will be licensed. Services typically include outside school hours care and child care in conjunction with preschool.

**All children's services
should comply with
standards through
administrative processes**

In the case of children's services provided by the government, legal advice does suggest that as a matter of policy, all services should comply with appropriate regulations, through administrative processes.

To ensure public accountability it is proposed that the government take all reasonable and practical steps to ensure justifiable compliance for its children's services with appropriate standards by administrative processes that are open and transparent to the community.

**Achievable in all services
except preschool**

This proposal is achievable without any significant resource impact or change to policy in all areas of children's services except preschool. *Discussion of this issue follows.*

**Compliance by
government preschools to
Child Care Centre**

This proposal seeks to establish standards for preschool that can be applied to comparable settings, eg non-government schools and centres, and government preschools. Consistent application of

standards

standards to government services would mean justifiable application of comparable standards.

- The implementation of the (new) *Child Care Centre Regulations in 1999* introduced a non-retrospectivity clause in specific areas of regulation, (eg facilities) applicable to existing centres. It is proposed to include this concept and intent for government services in the application of preschool standards.

Preschool education programs

The proposal is to license preschool educational programs according to criteria, which includes a qualified teacher who provides the program.

Variety of settings for preschool

Preschool education is provided in:

- government conducted preschools;
- Child Parent Centres;
- Independently operated preschools (Waldorf, Steiner, Montessori centres, etc)
- non Government schools;
- government funded child care centres (integrated services); and in
- some child care centres.

An integrated approach to care and education in the early years

The proposal is based upon the premise that an integrated system of early childhood care and education more closely reflects and better meets the needs of children and parents than the traditionally segmented provision of care and preschool education.

Licensing co-located and/or integrated services will help parents choose a services that provides a preschool education program

Through regulation, parents will be assisted in their choice of early childhood services through a common definition of both the services and the standard of education provided. The availability of this information will aid the community's understanding of the range of ways in which a quality preschool program can be accessed, and parental choice will be enhanced.

Other advantages include:

- an appropriate set of preschool standards for registered non-government schools and other non-government preschools that currently are required to comply with the child care centre standards;
- a pre-condition for government funding (both to the current range of services funded and for new services);
- addressing of the perceived anomaly caused in some sections of the child care industry by the *back to back preschool model*;
- prevention of misleading or false advertising.

PART A:
A1 THE REVIEW PROCESS

1.1 Introduction

Children's Services is the second of four Reports

This Report concerning Children's Services is the second of four Reports that are being provided to the Minister on the review of the *Education Act* and the *Children's Services Act*.

The other three reports cover:

- . Provision of, and access to education in South Australia;
- . Teacher Registration; and
- . Non-Government Schools Registration.

Purpose of the review of the Education and Children's Services Acts

The purpose of the review of the *Education Act* and *Children's Services Act* was to develop legislation that:

- . conveys and enacts a vision for high quality children's services and education for all South Australians in the 21st century;
- . is underpinned by principles and objectives;
- . clarifies the legal obligations for government and non-government services and providers; and
- . empowers children, parents and providers through an appropriate balance of powers and regulation.

Children's Services Review

There were two aspects to the review of Children's Services.

Firstly, to analyse the effect of the current legislation that requires children's services to be licensed, approved or registered. This component satisfied the legislation review obligation of the *Competition Principles Agreement*. (*Part B of this Report*)

Secondly, a number of other issues were addressed, including those raised by the community, the children's services sector and industry. These are dealt with in *Part C of this Report* and include:

- . integration of care and education;
- . characteristics of a new definition of children's services;
- . consistent standards and application of regulatory arrangements;
- . proposals for the application of regulatory arrangements to currently un-regulated areas;
- . preschool education and early childhood education and the possible reserved use of a title;
- . regulatory arrangements;
- . consultative arrangements; and
- . compliance, penalties and appeals.

Some responses received during the consultations related to issues outside the scope of the review, including government policy, the provision by the government of services for community benefit or the provision of subsidies, rebates or benefits to various services. These responses, where relevant to a broader consideration of the

*National Competition
Principles Agreement
legislation review*

community's views, are also addressed in this Report.

The South Australian Government has certain obligations which arise from Clause 5 of the Competition Principles Agreement which commit the State to a review of the *Children's Services Act 1985*, the *Children's Services Act (Baby Sitting Agencies) Regulations 1985*, and the *Children's Services (Child Care Centres) Regulations 1988* made under the Act. All current legislation which restricts competition must be reviewed by the year 2000.

This obligation is tied to competition payments under the Competition Policy Implementation Agreement as agreed by the Council of Australian Governments on 11 April, 1995. Failure to meet this obligation could mean significantly reduced Commonwealth revenue coming into South Australia.

For the purposes of this Report, the guiding principle (as established by clause 5(1) of the Competition Principles Agreement), is that the Act should not restrict competition in the relevant markets unless it can be shown that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

Therefore, the review addressed legislative provisions that impact on the market to prevent, hinder or restrict the full range of competitive commercial activity by consumers and providers.

*Scope of legislation
covered by this review*

A review of the *Child Care Centre Regulations* has been recently undertaken, and new regulations came into force in April, 1999. These regulations adopted the national long-day care standards and are being well received by the industry, the child care sector and families. The focus of the present review was not the content of the regulations but the scope of their possible application to children's services. The child care centre regulatory arrangements were considered so that a full picture could be provided to inform the discussion about future arrangements for the sector including consideration of the justifiable application of the *Child Care Centre Regulations*, or similar, to other service types.

1.2 Terms of reference

Terms of reference stated that:

The review panel, through the chair, will:

1. Clarify the objectives of the *Children's Services Act 1985*, including the identification of the public benefit of the Act, and provide assessment of the importance of these objectives to the community.
2. Identify restrictions to competition contained in the Act.
 - . Describe the theoretical nature of each restriction (eg barrier to entry, restriction to competitive conduct within the market, discrimination between market participants);
 - . Identify the markets upon which each restriction impacts; and
 - . Provide initial categorisation of each restriction (ie trivial, intermediate or serious).
3. Analyse and describe the likely effects of these restrictions on competition in the relevant markets and on the economy generally.
 - . What are the practical effects of each restriction on the market?
 - . Assign a weighting to the effect of each restriction in the market
 - . Assess what is the relative importance of each restriction in a particular market to the economy as a whole.
4. Assess and balance the costs and benefits of the restriction.
5. Where the restriction is justifiable on the basis of the public benefit, consider whether there are practical alternative means for achieving the objectives of the *Children's Services Act*, including non-legislative approaches.
6. Consider whether any licensing, reporting or other administrative procedures are unnecessary or impose a burden on any person, and in this context, identify and consider the obligations and role of the department in
 - . the monitoring of informal care;
 - . school age children in care settings;
 - . provision of preschool, occasional, long day care and family day care.
7. The report of the Review Panel should be provided to the Minister and:
 - . identify the nature and magnitude of the social,

- environmental or other economic problem(s) that the legislation seeks to address;
- . clarify the objectives of the legislation;
 - . identify whether, and to what extent, the legislation restricts competition;
 - . identify relevant alternatives to the legislation, including non-legislative approaches;
 - . analyse and, as far as reasonably practicable, quantify the benefits, costs and overall effects of legislation and alternatives identified;
 - . identify the different groups likely to be affected by the legislation and alternatives identified;
 - . list the individuals and groups consulted during the review and outline their views;
 - . determine a preferred option for regulation, if any; and
 - . examine mechanisms for increasing the overall efficiency, including minimising the compliance costs and paper burden on small business, of the legislation and where it differs, the preferred option.

1.3 Membership of the Children's Services Review Panel

Ms Carmel O'Loughlin <i>Chairperson</i>	Director, Office of the Status of Women
Ms Prue Archer	Senior Project Officer, Office of Local Government
Ms Judith Atkinson	President, Australian Federation of Child Care Associations
Mr Brian Butler	Advocate for Indigenous Children National Children's and Youth Law Council South Australian Aboriginal Elders Council
Dr Philip Gammage	Professor, Early Childhood (Research) De Lissa Institute of Early Childhood & Family Services
Ms Eva Les	Director, Correctional Services
Ms Shirley Peacock	Director, Training, Lady Gowrie Child Centre
Mr Tony Snelson	Australian Liquor, Hospitality & Miscellaneous Workers Union
Ms Dawn Davis	Executive Director, Metropolitan Schools & Children's Services Department of Education, Training & Employment
Mrs Chris Harrison	Project Director, Legislation Review
Ms Rosa Best	Executive Officer, Legislation Review
<i>Assisting the Panel:</i> Ms Ann Foster	Senior Solicitor, Competition Unit Crown Solicitor's Office
Mr Greg Cox	Managing Solicitor, Competition Unit Crown Solicitor's Office

1.4 Summary of Consultations and Submissions

The Children's Services Discussion Paper was distributed to all schools, child care centres, family day care offices, outside school hours care programs, preschools, babysitting and nanny agencies, creches, playgroups, all other children's services, all peak organisations and other groups representing services, workers, parents, universities and other stakeholders. 13,500 copies of the Discussion Paper and 26,000 brochures were distributed.

The Discussion Paper was translated into Khmer, Serbian, Vietnamese and Mandarin Chinese and distributed to multicultural communities, preschools and schools.

The review was widely publicised in state-wide and local newspapers, and by notices distributed through schools, children's services and other networks. Individuals and organisations were invited to request a copy of the documents and invited to attend public meetings. Copies were also distributed widely at all public meetings and focus groups.

The Discussion Paper was available for downloading from the Legislation Review website, and on-line comment facilities received responses via email. The Discussion Paper included a lift-out section aimed at facilitating comment and feedback from respondents. All participants at public meetings and focus groups were encouraged to complete a written submission, and to encourage others to do the same.

Peak organisations and other stakeholder groups were individually invited to 16 specific focus group meetings. In addition, briefings were held with Department of Education, Training and Employment staff, the Children's Services Consultative Committee and other relevant consultative and reference groups. Thirty-three consultation meetings were conducted. Other individual consultations were held, and discussion on children's services was included in joint forums addressing broader review issues. Over 300 people participated in these meetings and forums.

The specific purpose of the consultations was to clarify:

- the perspectives of parents, service providers, children's services workers, advocacy organisations, professional associations etc. regarding the issues raised in the Discussion Paper and any other matters covered by the Terms of Reference;
- the experiences of parents, and, in particular, parents of children with a disability and parents from diverse cultural and linguistic backgrounds, in accessing appropriate services to meet their needs;
- the needs of Indigenous families and organisations;
- issues of importance to rural communities.

The consultations were conducted in small groups in order to encourage people to speak freely.

Interactions between the group members stimulated discussion, resulting in a larger number of ideas, issues, topics and solutions than might have been generated by single individuals. The focus groups with peak organisations were designed to provide a fuller, detailed analysis of the issues, to comment on the issues identified by others and to provide input into the development of the recommendations for consideration by the Review Panel.

Submissions

113 written submissions were received, 48 from individuals and 65 from organisations or groups. Details of the submissions are provided in the following tables:

Statewide	32
Metropolitan	51
Country	25
Not known	5
Total	113

Role		Services used	
Parent	*14	Community Child Care Centre	10
Teacher	*6	Private Child Care Centre	4
Children's Services Manager	16	Government Primary School	12
Children's Services Worker/Carer	3	Non-Government Primary School	1
Owner/Operator	2	Government School	2
Other	5	Outside School Hours Care	2
Not stated	4	Family Day Care	1
		Support Service	1
		Other	6
		Not Stated	9
Total	50*	Total	48

* 2 respondents were parents and teachers

Children's services peak associations	10
Children's services Consultative Committee	1
Children's services Owner/operators	5
Children's services management committee	2
Children's services staff	4
Other children's services group	1
Preschool employers	1
Preschool management committee	1
Preschool staff	1
Preschool parents	1
Other preschool group	2
Education peak association	3
School Council/Board	2
School Authority regional office	1
School parent group	1
Teachers Registration Board	1
Independent Schools Board	1
Ethnic Schools Board	1
Commission for Catholic Schools	1
Union	3
Special interest group	10
Other association	4
Other community group	1
DETE Departmental Response	1
Other DETE submissions	3
Other State Department	2
Commonwealth Department	1
Total	65

Consultation

Thirty-three consultation meetings were held from 1 November 1999 to 9 December 1999. Over 300 people participated in these consultations. Details of the consultations are:

Type of consultation	Focus of consultation	Number of participants
Public Meetings	Metropolitan meeting - Adelaide	54
	Regional meeting - Mt Gambier	10
	Regional meeting - Port Augusta	12
	Regional meeting - Port Lincoln	6
	Regional meeting - Ceduna	8
	Focus Groups	Educational institutions and trainers
	Adjunct care providers	0
	Peak organisations representing schools	5
	Carers' and educators' peak organisations	8
	Advocacy groups	4
	Service provider peak organisations (2 meetings)	18
	Metropolitan Aboriginal services	10
	Parents	25
	Government agencies	11
	Port Lincoln Aboriginal community	2
	Ceduna Aboriginal community	1
	Riverland Aboriginal community	1
	Family day care providers	12
	Multicultural Child Care Unit	6
Briefings	Children's Services Consultative Committee	20
	Child Care Industry Reference Group	20
	Departmental District Coordinators	12
	Departmental Children's Services Staff	12
	Individual consultations	Phillip Gammage
	Anne Skipper	1
	Independent Schools Board	1
	Australian Education Union	2
	Association of Non-Government Education Employees	2
Meetings with Discussion Paper 1	Multicultural interests	} Children's services issues were discussed in these joint forums.
	Consultation	
	Appeals	
	Services for children with disabilities Parents of children with disabilities	

Data analysis and management

Data from the submissions and consultations were entered into the NUD*IST qualitative research software package for descriptive analysis to determine the pattern of responding across the issues. Specific issues canvassed and the analysis of the responses from the community are provided throughout this Report.

18. LIST OF SUBMISSIONS

- A** Aboriginal Resource and Management Support Unit, Kilkenny
ACROD South Australian Division
Anonymous (DP2083)
Association of Child Care Centres, SA Small Retailers Association of SA
Association of Non Government Education Employees
Athelstone Kindergarten Management Committee
Australian Association for Infant Mental Health, SA Branch
Australian Early Childhood Association SA Branch
Australian Education Union, SA Branch
- B** Barrett W, Ms, Warooka
Berry S, Ms, via Email (SPARK volunteer)*
Birrell F, Ms, Crystal Brook
Bosisto K, Ms, Coromandel East (kindergarten teacher)
Bury C, Ms, Nuriootpa (Nuriootpa Community Children's Centre)*
Buxton J, Ms, Stirling North (Stirling North Childhood Services Centre)*
- C** Cappelluti S, Ms, Naracoorte (Michelle DeGaris Memorial Kindergarten, Naracoorte)*
Child Health Council of South Australia
Children's Services Consultative Committee
City Child Care Centre
Clare Valley Children's Centre Committee Members, Parents & Staff
Clarence Park Community Centre
Claridge L, Ms, Brighton
Cochrane M, Ms, (Women's and Children's Hospital)*
Community and Neighbourhood Houses and Centres Association
- DETE** DETE (whole of Department response)
DETE Adelaide North Yorke Riverland and Lower North District Children's Services
DETE Languages and Multiculturalism Teams, Newton
DETE Lower North Centres (Kindergartens and Integrated Services)
DETE Office of Employment and Youth
- D** De Lissa Institute Association of Early Childhood Graduates Inc
De Lissa Institute of Early Childhood and Family Studies, staff
- * Respondents have provided the name of the organisation they are associated with (either as an employee, parent, volunteer) however their submission is forwarded as an individual response and not on behalf of the stated organisation.
- E** Early Childhood Forum North Group of Districts
English as a Second Language Educators (SA) Inc
Ethnic Schools Board

F Faehrmann B, Ms, Mount Barker
Family and Community Services, Department of (Cwlth) – Family Capabilities
Federation of Parents and Friends Associations of SA Catholic Schools Inc
Ferguson R, Ms, Newton (Mansfield Park CPC)*
Fleurieu Pre-School Directors, Morphett Vale
Frost J, Ms, Lockleys

G Glenelg Babysitting Agency
Glibo D, Mr, Lockleys (Lockleys North PS OSHC/Vacation Care)*
Graces Child Care Centre
Gray M, Ms, Burton
Grey Ward Children's Centre Management Committee

H Human Services Department

I Isolated Children's Parents Association (SA Council)

J JSC Montessori Pre-Schools, Adelaide
Johnstone M, Mrs, Naracoorte (Naracoorte Child Care Centre)*

K Kelsh K, Ms, Wirrulla
Kiriakou E, Ms, Flagstaff Hill (Happy Valley Kindergarten)*
Kurralta Park Child Care Centre and Kindergarten

L Lady Gowrie Child Centre Inc
Lane D, Ms, (District Coordinator DETE Southern Vales District Office)*
Lawrence A, Mr/s, Greenwith (Montague Farm Childcare Centre)*
Leane C, Ms, Ferryden Park
Lovegrove R, Ms, Klemzig

M MALSSA Inc
Mangos V, Ms, Modbury (Torrens Valley Institute of TAFE, Child Studies Trainer)*
Margaret Ives Children's Centre Management Committee
McAllister E, Ms, Manningham

** Respondents have provided the name of the organisation they are associated with (either as an employee, parent, volunteer) however their submission is forwarded as an individual response and not on behalf of the stated organisation.*

McCallum L, Ms, Windsor Gardens
McFadden J, Ms, Adelaide
McKenna S, Ms, (DETE OSHC, Adelaide)*
Mercedes College Council
Mills R, Mr, Woodcroft (Happy Valley Kindergarten)*
Montessori Play School Victor Harbor
Montessori World Education Institute of SA
Mooringe Child Care Centre and Kindergarten

- ' Multicultural Child Care Unit (SA) Inc Board, members and staff
 - Multicultural Communities Council of SA Inc
 - Murray G, Mr/s, Kingston SE (Kingston Community School)*
 - Myers J, Ms, White Sutton C, Ms, Milford J, Ms, (C/- DE TE Special Education Review Unit, Flinders Park)*
- N National Association of Community Based Children's Services SA
- O Oliver M, Ms, Kingston (Balharry Memorial Kindergarten, Lucindale)*
OMEP (World Organisation for Early Childhood Education) SA
- P Parents of Hearing Impaired SA Inc
Port Augusta Christian Minister's Association
Preschool Directors Association of SA
Public Service Association of SA
- R Regency Road Child Care Centre and Kindergarten
Remote and Isolated Children's Exercise Inc
Rutherford L, Ms, Morphetville (Royal Adelaide Hospital Child Care Centre)*
- S SA Aboriginal Education and Training Advisory Committee
SA Commission for Catholic Schools
SA Council of Private Child Care Centres (The)
SA Country Women's Association Inc
SA Independent Schools Board Inc
Schmidt G & A, Mr & Mrs, Robertstown (Robertstown Playgroup/Preschool)*
Settlers Farm Kindergarten Group of Parents (Bland, Stevens, Stead & Gilligan)
Shattock M, Mrs, Booborowie
Sheehan J, Mr/s, Henley Beach
Sheehan J, Ms, Stirling (DE TE teacher)
Silvy S, Ms, Mount Gambier
Smith N, Mr/s, Lockleys
Snyder S, Mr, Largs Bay
Squire S, Ms, Lucindale (Balharry Memorial Kindergarten, Lucindale)*
Strathalbyn Kindergarten Staff Group
 - * Respondents have provided the name of the organisation they are associated with (either as an employee, parent, volunteer) however their submission is forwarded as an individual response and not on behalf of the stated organisation.
- T Tai F, Ms, Marden (teacher – private child care centre and kindergarten)
Teachers Registration Board of SA
Toddler Kindy Gymparoo Pty Ltd
Townsend House Inc
Tozer C, Ms, (Victor Harbor Kindergarten)*
Tri-Skills Australia Pty Ltd

W Waterman P, Ms, Strathalbyn (Strathalbyn Children's Centre)*
West Beach Primary School Council
Wilkinson K, Ms via Email
Women's and Children's Hospital – Allied Health Division
Women's and Children's Hospital – Occupational Therapy
World Education Fellowship

Y Young A, Ms, St Morris (St Morris Community Child Care Centre)*

Z Zeidler L, Ms, North Adelaide

** Respondents have provided the name of the organisation they are associated with (either as an employee, parent, volunteer) however their submission is forwarded as an individual response and not on behalf of the stated organisation.*

REFERENCES:

- 1 Australian Bureau of Statistics (1996). *Child Care Statistics: Australia* - Canberra: AGPS. Page 14.
- 2 Submission by the Government of South Australia. *Senate committee of inquiry into child care*. Page 1.
- 3 NAEYC Position statement. *Licensing and Public Regulation of Early Childhood Programs* 1997. (<http://www.naeyc.org/>)
- 4 Ontario. *Early years study: final report* - April 1999.
- 5 Organisation for Economic Cooperation and Development *Education Policy Analysis*, OECD 1999 (www.oecd.org).
- 6 Department for Education and Employment (UK), *Nursery Education Information* 1997.
- 7 Ruxton, Sandy. 1996, *Children in Europe*, NCH Action for Children, London.
- 8 Ibid.
- 9 Department for Education and Employment (UK), *Nursery Education Information* 1997.
- 10 Education Review Office Education Evaluation Report. *What counts as quality in kindergartens* (NZ) 1997. (http://www.ero.govt.nz).
- 11 NAEYC Position statement. *Licensing and Public Regulation of Early Childhood Programs* 1997. (http://www.naeyc.org).
- 12 National Childcare Accreditation Council. (http://www.ncac.gov.au).
- 13 Short title of the Act.
- 14 Objects of the Act.
- 15 Wangmann, J.(1995). *Towards Integration and Quality Assurance in Children's Services*. Australian Institute of Family Studies: Melbourne. Paper number 6. (pages 68 and 74).
- 16 This is the foremost statement on markets, see: *Re Queensland Co-op Milling Association Ltd & Defiance Holdings Ltd (QCMA)*, Trade Practices Tribunal, (1976) ATPR 40-012, and see, generally: *Corones, Restrictive Trade Practices Law* (The Law Book Company Limited, 1994), at Chapter 4.
- 17 DETE (1998) Annual Report: Children's Services - Adelaide: The Department. Page 12.
- 18 Ontario. *Early years study: final report* - April 1999. Page 7.
- 19 Australia Economic Planning Advisory Committee (1996) *Future child care provision in Australia: Task Force Final Report* - Canberra: AGPS page xi.
- 20 Australian Bureau of Statistics (op.cit).

APPENDIX 4: TERMS USED IN THIS DOCUMENT

Definitions

Some terms used in this document are as *defined* in legislation as indicated below.

Babysitting agency means any person or body of persons that:

- (a) carries on a business in the course of which persons are employed for the purpose of caring for children, in their own homes, in the temporary absence of their guardians; or
- (b) carries on the business of introducing to the guardians of children persons who are prepared to care for the children, in their own homes, in the temporary absence of their guardians. (*Children's Services Act*)

Child refers to people who have not yet turned 18. This is consistent with other legislation relating to children in Australia and this state. (*Children's Services Act* and *Children's Protection Act*)

Child of compulsory school age currently means a child of or above the age of six years who has not yet attained the age of 15 years. (*Education Act*)

Child care centre means any place or premises in which more than 4 young children are, for monetary or other consideration, cared for on a non-residential basis apart from their guardians. (*Children's Services Act*)

Children's Services includes -

- (a) preschool education;
- (b) provision of non-residential care for children; and
- (c) any other service by way of assistance in, or provision of facilities for the proper care, guidance and support of children. (*Children's Services Act*)

Children's Services Centre means -

- (a) a kindergarten;
- (b) a licensed child care centre that operates on a non-profit basis and is assisted by public funding; or
- (c) any other prescribed establishment. (*Children's Services Act*)

Director (now the Chief Executive, Department of Education, Training & Employment) means - the person holding or acting in the office of Director of Children's Services under the Act. (*Children's Services Act*)

Family day care provider - a person who proposes, for monetary or other consideration, to care for not more than 4 young children on a non-residential basis in a family environment away from their own homes and apart from their guardians. (*Children's Services Act* s 33).

Guardian - in relation to a child, a person with the right to make decisions about the long-term needs of the child, as opposed to the day to day care of the child. (*Family Law Act (Cwth)*)

Informal home-based care is provided by people for up to four young children, for monetary or other consideration. These carers are not regulated but they cannot claim to be an approved family day care provider or licensed, or advertise their services. (Interpreted from *Children's Services Acts* s48)

Prescribed kindergarten is a kindergarten that:

- (a) provides a course of training and instruction to children aged three to five years; and
- (b) is not a licensed child care centre under the *Children's Services Act 1985*. (*Education Act*)

Recognised kindergarten means -

- (a) any kindergarten registered as a children's services centre under the *Children's Services Act 1985*; or
- (b) any other prescribed kindergarten. (*Education Act*)

Registered, in relation to a teacher, means registered under Part 4, and *registration* has a corresponding meaning. (*Education Act*)

Teacher means a person who gives or is qualified to give instruction in any course of -

- (a) preschool education; or
- (b) primary education; or
- (c) secondary education. (*Education Act*)

Young child currently means a child under the age of six who has not commenced attending school. (*Children's Services Act*)

Other terms used

Adjunct care - child care generally used in conjunction with the primary activity of the parent eg shopping, sport. No fees are generally charged.

the *Department* – the Department of Education, Training and Employment.

Formal child care is regulated care which takes place away from the child's home and includes attendance at preschool, child care centre, family day care and occasional care. (*Australian Bureau of Statistics*)

Informal care is care which is currently *not regulated* and can take place in the child's home or elsewhere. It includes care by family members, friends, neighbours and paid babysitters. (*Australian Bureau of Statistics*)

Kindergarten and *preschool* are often used interchangeably to mean establishments at which preschool education is provided.

Minister means the Minister for Education and Children's Services.

Parent is used inclusively in this document to mean persons who are the parents of the child, the legal guardians of the child or who has legal custody of the child.

Preschool education for the purposes of this paper, are those programs for the development and education of children who have not attained the age of six years and who have not yet commenced school.

Substitution under National Competition Principles relates to alternative services that most would consider if there was a small but significant and non-transitory increase in price.