



Children's Services Newsletter

January 2008

WELCOME TO THE NEW DEPARTMENT FOR COMMUNITIES



Welcome to the January 2008 edition of the Children's Services Newsletter. As acting Executive Director of Children and Family Services I would also like to take this opportunity to welcome you to the new Department for Communities.

The Department for Communities was formally established on July 1 2007, bringing together a diverse range of functions and services that share a common purpose in strengthening communities.

The Children and Family Services Division provides strong support for children and families through child care licensing, children's policy development, practical on-the-ground support for the delivery of children's services, and a range of universal parenting programs.

If you would like to find out more about the establishment of the new Department, I encourage you to visit our website at: www.communities.wa.gov.au.

I look forward to working with you on the many challenges ahead as we continue to work together to build on the strong support offered to all children in our community.

Mark Glasson
A/EXECUTIVE DIRECTOR
CHILDREN AND FAMILY SERVICES
DEPARTMENT FOR COMMUNITIES

NEW ACT – WHICH ONE DO I USE?

The State's child care regulations have been reprinted as a result of the Child Care Licensing and Standards Unit's move to the Department for Communities, and the commencement of the *Child Care Services Act 2007*. The current versions of the *Act* and *Regulations* are:

Child Care Services Act 2007
Child Care Services Regulations 2007
Child Care Services (Child Care) Regulations 2006 (reprint three, dated 5 October 2007)
Child Care Services (Family Day Care) Regulations 2006 (reprint three, dated 5 October 2007)
Child Care Services (Outside School Hours Care) Regulations 2006 (reprint two, dated 5 October 2007)
Child Care Services (Outside School Hours Family Day Care) Regulations 2006 (reprint three, dated 5 October 2007).

You can download or purchase these from the address below, however, this is not essential if you have all the relevant amendments written and/or cut and pasted into your 19 January 2007 copies. Don't forget, it is likely there will be more changes from the *Regulations Review*.

Copies of the *Act* and regulations are available from:

State Law Publisher
Ground Floor, 10 William Street
PERTH WA 6000
Phone: 08 9321 7688
Fax: 08 9321 7536
Email: sales@dpc.wa.gov.au

HELP US SAVE TREES!

We would like you to receive our newsletters electronically. To help us do our bit for the environment, please email the name of your organisation, a contact person and your email address to ccluinfo@communities.wa.gov.au with 'Children's Services Newsletter' in the subject line.

DEVELOPING BRAINS – WHAT YOU DO

Every day in every way, you are helping brains develop connections and complex skills. The seemingly little chats you have with children about horses or fire-trucks, or babbling back in baby conversations and mimicking funny facial expressions, are all mutually rewarding interactions that help develop healthy brains.

Consider this piece of research from **The Science of Early Childhood Development (2007)**, National Scientific Council on the Developing Child at Harvard University states in part:

'What scientists refer to as interaction, mutuality, and reciprocity can be understood as comparable to the process of 'serve and return' in games such as tennis and volleyball. In early childhood development, serve and return happens when young children naturally reach out for interaction through babbling, facial expressions, words, gestures, and cries, and adults respond by getting in sync and doing the same kind of vocalizing and gesturing back at them, and the process continues back and forth. Another important aspect of the serve and return notion of interaction is that it works best when it is embedded in an ongoing relationship between a child and an adult who is responsive to the child's own unique individuality. Decades of research tell us that mutually rewarding interactions are essential prerequisites for the development of healthy brain circuits and increasingly complex skills.'

ACCESS THE CHILD CARE WEBSITE WITH EASE

Our new web address **www.childcare.wa.gov.au** links straight to the child care pages of the Department for Communities website. Visit this link if you are looking for licensing application kits or the helpful information sheets. On the left hand side is a column called 'Information about..'. Find your service type, click on it and VOILA!

IMPORTANT CHANGES TO NATIONAL POLICE CLEARANCES

From 5 November 2007, applications for a National Police Certificate can only be made at Australia Post outlets. Applicants must apply in person, with suitable identification documents. WA Police will then post National Police Certificates directly to applicants. Visit <http://www.police.wa.gov.au/OurServices/PoliceChecks/tabid/1202/Default.aspx> for further information.

In response to this change, the Child Care Licensing and Standards Unit (CCLSU) will now accept a copy of the receipt issued by Australia Post as evidence that an application for a National Police Certificate has been made. This will ensure that the consideration of licence applications is not delayed by the change. Please note however that a licence will not be issued until the National Police Certificate is provided to the CCLSU.

LICENSING PROCESS - CORRECTION:

Oops! We made a mistake. It takes 90 days, not 60 days - as previously advised - to complete the licensing process for **NEW** services as well as **RENEWING** services.

To find out more, call your Children's Services Officer today.

SIGNIFICANT STATE ADMINISTRATIVE TRIBUNAL DETERMINATION

The State Administrative Tribunal recently made a significant decision reviewing the Child Care Licensing and Standards Unit's (CCLSU) approach to setting licence conditions. The decision affects the maximum permitted numbers of enrolled children, where the licensed child care service shares space with the general public.

In this particular case, a licensee had asked the CCLSU to set the maximum number condition according to the amount of inside play space available. No external play area was offered - a requirement that had been waived due to the close proximity of a public park, and more than sufficient space inside.

The licensee had originally obtained a licence based on the condition that the centre would only be used for the enrolled children at the times when the child care service was operating, but later sought to offer the child care service while the general public was using the space.

The CCLSU permitted the shared use of the facility, but on strict conditions. Fencing was required around a designated area for exclusive use by enrolled children when the facility was shared with the general public.

The CCLSU set the maximum licence condition at half of what was requested, on the basis that the children had more restricted use of the facility in much noisier and congested conditions.

Following this decision, the licensee applied to the State Administrative Tribunal asking for a review. After a visit to the facility by Tribunal President Justice Barker and evidence presented by both parties, the Tribunal supported the CCLSU decision.

Just over a month after the hearing, the Tribunal provided written reasons for its decision which included:

- the CCLSU was not required to fix maximum numbers by the amount of internal and external play space available, but had broad discretion to set numbers based on "rational considerations relevant to the licensing process".
- the maximum number of enrolled children sought by the licensee was "...with the public numbers, ...simply too many" and it was therefore "appropriate to limit the number of children who may be enrolled under the licence".
- the CCLSU's decision to allow half the requested number was "in the special circumstances of this application ... not an unreasonable way to calculate the number of children to whom the licence relates" but that "each case will need to be considered on its merits, if and when the issue arises".
- the CCLSU should develop an appropriate policy or policies to help guide decision-

making in the future, and consult with key stakeholders including licensed operators, in developing such policies.

Significantly, the Tribunal also held that the CCLSU could and should issue two licenses to the same licensee for a facility if the conditions under which child care services were offered varied at different times. The Tribunal also made some important comments on how local planning law requirements and child care licensing requirements worked together.

The decision can be found on the Tribunal's website at <http://decisions.justice.wa.gov.au/SAT/SATdcsn.nsf>. The decision is reported as **Mesabo Pty Ltd And Chief Executive Officer Of Department For Community Development** [2007] WASAT 199. At the time of the decision, the CCLSU was within the Department for Community Development but it has since transferred to the Department for Communities.

WORKING WITH CHILDREN CHECKS AND CRIMINAL RECORD CHECKS

Just a reminder that Regulation 28(1) of the *Child Care Service (Child Care) Regulations 2006* states you must not "employ or continue to employ a person as a staff member unless the person gives the licensee a copy of a **current criminal record check or current assessment notice of the person within 30 days after-**

- (a) if the person is employed by the licensee on the day on which these regulations come into operation, that day; or
- (b) the day on which the person is first employed as a staff member, and after that day at intervals of not more than 2 years from the date on which the staff member last gave the licensee the copy."

Once a criminal record check is completed, a National Police Certificate is issued by WA Police. Staff members who have a Working with Children Card are not required to produce a National Police Certificate.

It is important to note that the Department will recognise receipts for the Working with Children Card and National Police Certificates

for lodgement of application purposes as well as licensing visits.

A Working with Children check application can be made up to four months prior to the expiry of the staff member's current criminal record check.

To ensure that your service meets its obligations under the *Working with Children (Criminal Record Checking) Act 2004* refer to the Working with Children Check website at: www.checkwwc.wa.gov.au.

HAND DRYING – CLOTH TOWEL VS PAPER TOWEL

The following recommendation on hand drying is taken from 'Guidance from the World Health Organisation: Practical guidelines for infection control in health care facilities':

"Facilities for drying hands: Disposable towels, reusable sterile single use towels or roller towels, which are suitably maintained, should be available. If there is no clean dry towel, it is best to air dry hands. Common towels must not be used."

As indicated, good hygiene and the prevention of cross infection means that it is NOT appropriate to use a cloth hand towel per child that is washed at the end of the week. Ensuring that only one child uses the correct towel is too hard to monitor and the risks are considered too great.

Any hand drying facility should be one-use only.

CHILD CARE REGULATIONS CONSULTATIVE COMMITTEE UPDATE

Western Australia's Child Care Regulations Consultative Committee (CCRCC) would like to extend their sincere thanks to those who participated in the Child Care Regulations Review. All feedback is valued, and an essential part of the process, and it is currently being reviewed by the committee.

The three month public consultation period of the Child Care Regulations Review was completed on 19 October 2007 after

commencing in July 2007 with the launch of the Discussion Paper.

The child care sector and parents were given a wide range of opportunities to provide feedback including online surveys, metropolitan workshops, video conferences, focus groups and children's surveys. Many interested parties took the opportunity to contribute their thoughts and ideas, with over 1000 individual items of feedback received by the CCRCC.

In the coming weeks, there will be updated information regarding the review process posted on the website and we encourage you to continue to take the opportunity to access this site.

Thank you once again for your contributions and interest in the care of young children in Western Australia.

For further information please contact the secretariat:

Address: 189 Royal St
East Perth WA 6004

Telephone: 9222 2523
9222 2830

Email: childcare.regs@communities.wa.gov.au
Web: www.childcare.wa.gov.au

Allegations of abuse

Allegations of abuse of a child in a licensed child care service are relatively rare, however, licensees must be aware of their legal obligations should they receive such an allegation. As a licensee you must respond quickly and appropriately to protect the safety and well being of all children in your service.

Regulations under the *Child Care Services Act 2007* require licensees to report any allegation of abuse, neglect, or assault to the Chief Executive Officer (CEO), Department for Child Protection. Reportable allegations include sexual assault of an enrolled child during a care session, or an offence under *The Criminal Code* Chapter XXII committed against an enrolled child during a care session. These regulations apply to allegations made against the licensee, a managerial officer of the

licensee, a staff member or a volunteer:

Regulation 20(1)(c) *Child Care (Child Care) Regulations 2006*

Regulation 19(1)(c) *Child Care (Family Day Care) Regulations 2006*

Regulation 21(1)(c) *Child Care (Outside School Hours Care) Regulations 2006*

Regulation 20(1)(c) *Child Care (Outside School Hours Family Day) Care Regulations 2006*

The regulations for all service types state that such a notification must be given within one working day after the day on which the allegation was made. This can be done by contacting your local Department for Child Protection office.

A licensee is also required by the regulations to notify the CEO of the Department for Child Protection of the outcome of **any** investigation into an allegation referred to above.

This includes the outcome of an investigation carried out by government agencies or other organisations, result of a court case, or the outcome of an internal investigation carried out by the licensee or service.

Under section 240 of the *Children and Community Services Act 2004*, a licensee or any other person who makes an allegation which is passed to the CEO of the Department for Child Protection, is considered a 'notifier' and therefore subject to certain protections. This is why notification is made to the Department for Child Protection in the first instance.

If you have concerns about the welfare of a child contact your local Department for Child Protection office.

ADVANCE NOTICE – ALLERGY EMERGENCY TRAINING

A review of the way anaphylaxis is managed in schools and child care centres was recently carried out by the Anaphylaxis Expert Working Committee, which comprised a team of doctors, education staff, dieticians, community groups and other experts.

As a result, the State Government has committed \$6.6million to a new plan to help the growing number of Western Australian children who suffer from potentially fatal allergic reactions.

The plan includes a training program for teachers and child care workers to instruct them on how to handle an allergy emergency.

Anaphylaxis is a severe allergic reaction that can be triggered by exposure to certain foods such as peanuts, fish, shellfish, milk, eggs, wheat and soy. The potentially life threatening symptoms include breathing difficulties, swelling of the tongue and throat and loss of consciousness.

The training program will be developed over the next 12 months and implemented across the State over three years. It aims to provide reassurance for parents of children with severe allergies that carers have the necessary skills to deal with an emergency.

Currently, teachers and child care workers can only give adrenaline to a child who has been diagnosed with a severe allergy, when parents have given consent and staff have been trained to administer it.

However, anaphylaxis can occasionally occur in a child who has not been diagnosed with an allergy. Therefore, changes proposed to allow a teacher or child care worker to give adrenaline in an emergency situation. New legislation will also allow adrenaline EpiPens to be added to first-aid boxes at all schools and child care centres. The proposed new laws will be introduced into Parliament in 2008.

The State Government's plan includes a community awareness campaign which will initially target teachers, child care workers and parents, through press and radio advertising, mail-outs and posters for schools and child care centres.

The plan has been developed by the Department of Health, Department for Communities and the Department of Education and Training.

The full report from the Anaphylaxis Expert Working Committee '*Anaphylaxis: Meeting the Challenge for Western Australian Children*', including the full list of recommendations, is available from: www.health.wa.gov.au/publications/subject_index/c/child_health.cfm

NEW CHILD CARE SERVICES ACT 2007

The *Child Care Services Act 2007* commenced on Friday 10 August 2007 and was established to enable the transfer of child care licensing functions to the new Department for Communities. Also on this date, Part 8 of the *Children and Communities Services Act 2006* was repealed and the Child Care Licensing and Standards Unit formally transferred to the Department for Communities.

The following regulations under the *Children and Community Services Act 2004* were amended to reflect these changes and have been incorporated under the *Child Care Services Act 2007*:

- *Children and Community Services Regulations 2006*
- *Children and Community Services (Child Care) Regulations 2006*
- *Children and Community Services (Family Day Care) Regulations 2006*
- *Children and Community Services (Outside School Hours) Regulations 2006*
- *Children and Community Services (Outside School Hours Family Day Care) Regulations 2006*.

The commencement of the new *Act* is not expected to have a significant impact on existing licensing processes or the day-to-day operation of licensed child care services. However, there are some requirements that licensees will need to be aware of, please note:

- All other provisions in the child care regulations will transfer to the Department for Communities.
- Licensees must ensure that a copy of the new *Child Care Services Act 2007* and the regulations are available for parents upon request.

- There are important reporting responsibilities relating to allegations of abuse as outlined in the article 'Allegations of Abuse' in this issue.

If you have any queries about how the new *Child Care Services Act 2007* will impact on licensed child care services or the information provided in this newsletter, please contact the Child Care Licensing and Standards Unit on 6210 3333 or freecall 1800 199 383 (within Western Australia), or your local Children's Services Officer.

AMENDMENT TO REGULATIONS

An amendment to the *Child Care Services Regulations 2007* was published in the Government Gazette on 30 November 2007 and came into effect on 1 December 2007. The amendment authorises the Department for Communities to provide information about licensed child care services to the Department of Families, Community Services and Indigenous Affairs, and the National Child Care Accreditation Council

The amendment restores the ability to provide information that applied prior to the commencement of the *Children and Community Services Act 2004* on 1 March 2006. The purpose of the amendment is to support the monitoring of standards in child care services. Confidentiality protections still apply, information must not be disclosed inappropriately.