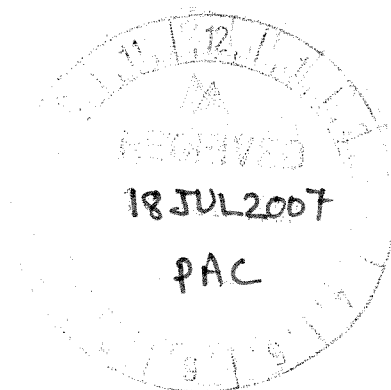




Minister for Fair Trading
Minister for Youth
Minister for Volunteering



Mr Paul McLeay, MP
Chairperson
Legislative Assembly Public Accounts Committee (PAC)
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Mr McLeay, Paul

I am writing regarding the report by the Public Accounts Committee, *Inquiry Into Home and Community Care Program* forwarded to the then Minister for Youth, the Hon Reba Meagher MP, by the Committee's then Chair, Ms Noreen Hay MP. I would appreciate if you could forward this advice for consideration by the new Public Accounts Committee once it is formed.

I have noted the recommendations of the report, particularly recommendation 37, that I consider amending the definition of child-related employment in the *Child Protection (Prohibited Employment) Act 1998* to include "home based care workers". That Act was repealed on 2 January 2007. The relevant legislation is now the *Commission for Children and Young People Act 1998* ("the Act").

The Committee's intention in proposing this change to the definition of child-related employment was to extend mandatory Working With Children background checks to home based care workers. Child-related employment is currently defined in section 33 of the Act as work in a specified list of settings that primarily involves direct contact with children where that contact is not directly supervised by a person having the capacity to direct the employee in the course of the employment.

At present, most home based care workers are outside the definition of child-related employment for two reasons: their work setting is not included in the list in s. 33 and their work does not primarily involve direct contact with children. Most clients of home based care services are adults who are frail or have some other disability.

When considering the report of the review of the Act undertaken by Ms Helen L'Orange AM, the government asked the Commission for Children and Young People to undertake further consultations about extending the definition of child-related employment to include, among other categories, the "provision of personal care services to children, including respite care", which is similar to the Committee's term "home based care".

The Commission has now completed its consultations with employers including the Department of Ageing, Disability and Home Care and non-government agencies providing respite care to children with disabilities.


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The government is now considering the Commission's advice on the proposed changes to the definition.

To provide a safe environment for children, organisations should take many other steps beyond the Working With Children Check. The Department of Ageing, Disability and Home Care has been working with the Commission to minimise the opportunity for children to be harmed when Department staff are working in their homes. The Commission will continue to support efforts by the Department to implement Child-safe, child-friendly policies.

Thank you for the opportunity to provide advice in this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Linda Burney', with a long horizontal flourish extending to the right.

Linda Burney MP
Minister for Fair Trading
Minister for Youth
Minister for Volunteering