

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [10.10 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

As the members of this Chamber are acutely aware, access to quality child care is a clear and pressing priority for many parents across New South Wales.

Parents rely on child care services for a myriad of reasons: they may work or be engaged in study and not have other family support available; parents may utilise care to enable them to contribute to their community or to attend to their family. Moreover, many parents simply value the role that quality care can provide in the social, emotional and intellectual development of their child.

Children's services play a critical role in supporting not only parents but families and communities across New South Wales. It has also become clear to this Government that families need to be able to better assess the quality of care their children receive.

Further, the last decade has witnessed an exponential expansion of the children's services sector and consequently its growth and structure now demands a contemporary approach to regulation.

Because of the significance of child care service provision in this State, I am very pleased to be able to introduce into the House this important legislative reform package. This bill is clear evidence that quality child care is a priority for this Government.

The key aspects of the bill can be summarised as follows:

Firstly, the bill's provisions build upon the children's services principles set out in the enabling Act. New principles emphasise the role of services in meeting the developmental and educational needs of children, recognition of community diversity and promoting the rights and responsibilities of parents;

Secondly, the bill significantly streamlines the licensing process, reducing the administrative burden on providers of children's services and on Community Services as the regulator;

Further, the bill expands Community Services investigation powers and provides new mechanisms to address non-compliance with the Act and the regulations; and

Finally, it provides parents and indeed the community with information about children's services, which will allow parents to make informed choices about which service their children should attend.

The result is regulatory reform which will reduce the administrative burden on the children's services industry while maintaining the confidence of families in and meeting broad community expectations for quality standards of early childhood education and care.

Further, and what will not be apparent on the face of this bill, is that these amendments will lay the foundation for the application of national legislation to the majority of children's services in New South Wales in 2012. The Council of Australian Governments [COAG] has been working hard to develop a national quality framework for early childhood education and care and Community Services has been involved in these processes.

I would now like to outline the key proposals in greater detail.

Definitions

Firstly, the bill provides for the updating of and addition to the Act's definitions with respect to children's services. The new licensing scheme, in particular, requires the development of new and clear definitions to reflect the new approval processes.

Principles underlying the provision of children's services in NSW

Significantly, the bill extends the principles underlying the provision of children's services contained in the *Children and Young Persons (Care and Protection) Act 1998* to recognise the responsibility of children's services to assist with the development and education of the children who attend their service.

The amendment acknowledges that the experience of children attending care is not a passive one and that services do have a responsibility to provide for the needs of their very special clients. Most children attend care two or more days per week, some five days. It is critical that on every day a child is in care the children's service they attend actively provides for their social, physical and educational development.

Secondly, the principles governing children's services in New South Wales will require children's services to holistically reflect the communities they serve and recognise the diversity of children attending these services.

The importance of a child's cultural development is referenced in the current children's services' principles.

Finally, the children's services principles will explicitly provide for the right of parents to have information about the services their children attend. One application of this principle in practice, which I will outline in further detail below, is the establishment of a children's services register for New South Wales. This new and important principle will ensure transparency and consistency in the information available to parents making decisions about where they place their children.

A new licensing scheme for New South Wales

The most important change to the children's services provisions proposed by this bill, it is fair to say, is the introduction of a new children's services licensing scheme for New South Wales.

This scheme will reduce, as far as is practical, the administrative burden for both licensees and Community Services whilst ensuring sufficient controls to maintain or improve minimum standards that are in the best interests of children.

Currently in New South Wales, approval of a centre, the centre's licensee and the centre's authorised supervisor are rolled into a single process.

As a result, when one aspect of a licence needs to be varied the whole licence must be remade.

Similarly, where a licensee seeks to open a new service or take over an existing one he or she must begin the licensing process anew, applying as if an entirely new licensee operating a new service with a new authorised supervisor.

The bill supports a scheme significantly streamlined based on the three pillars fundamental to running a children's service, that being (1) the primary duty holder (the licensee), (2) children's service (the premises and other various types of services), and (3) the authorised supervisor (an experienced and qualified on site manager).

Under the new licensing model the approval process is streamlined, and separated out by the introduction of:

- a service provider licence, being a single provider licence for each licensee regardless of the number of children's service they provide. On a person being granted a service provider license they will be authorised to provide any children's service of a specified type in New South Wales.
- separate approvals for children service premises and for authorised supervisors. The issuing of children's service approval will authorise the operation of a particular children service. The approved children's service can then be provided by any licensed service provider. While the granting of a supervisor approval will authorise a person to be able to supervise the operation of any children's service. So, for example, a person authorised to supervise a particular type of service such as centre-based children's services will be able to apply for authorised supervisor positions with any centre based children's services in New South Wales.

The new approach will significantly reduce the administrative burden by removing duplication of paperwork for many licensees, making licence approval processes more flexible and removing the need for a children's service to be relicensed when a new provider takes over a children's service or an authorised supervisor changes. Importantly, the new model will also enable Community Services to focus its resources more intensively on the operation of services rather than licensing administration.

The bill also contains another significant feature, that being that licences and approvals will be able to be issued indefinitely. Currently the maximum term of a licence is five years and at the end of this period licensees are required to apply for a further licence. Under the new system, licences, children's service approvals and supervisor approvals will be able to be issued for either a fixed term or without a fixed term. Where a licence is granted without a fixed term, licensees will not have to reapply for their licence thus reducing their administrative burden in complying with the regulatory scheme.

Compliance and enforcement methods

The bill's provisions expand on the current compliance methods and extend the existing investigative options available to Community Services to assist in the regulation and monitoring of children's services.

The intention of these amendments is to establish a more effective enforcement regime by enabling Community Services to pursue industry compliance by using the most appropriate response from a wider set of enforcement options and, of course, to deter non-compliance with the regulation's standards through tailored deterrence approaches for different types of non-compliance.

The bill will provide Community Services with greater flexibility to differentiate between minor and more serious safety offences, between unintentional offences and offences that are committed negligently or with intent, between individual and corporate bodies or between first-time and repeat offenders.

Currently the compliance and enforcement methods available to Community Services include licence suspension, cancellation or variation and prosecution.

These options, on the whole, are suitable in situations where serious breaches have occurred. However, as one can imagine, they would be heavy-handed and inappropriate in the case of minor breaches.

Compliance notices and enforceable undertakings

The bill establishes two new forms of compliance mechanisms. These are compliance notices and enforceable undertakings. These mechanisms will allow Community Services the flexibility to use appropriate compliance and enforcement approaches depending on the nature of the matter concerned.

Compliance notices may be issued by the Director General in instances where a person is contravening a licence condition and will require the person to remedy the contravention within a certain time frame.

The bill requires the Director General to provide details of the particular contravention and information about the person's right to have the allegation reviewed. Further, the Director General has the discretion to vary the notice which includes the power to extend the time required for response.

However, failure to comply with a compliance notice without a reasonable excuse will attract a maximum penalty of 100 penalty units, or \$11,000.

The bill will also enable the Director General to accept a written undertaking from persons involved in the provision of children's services to address matters of non-compliance.

In circumstances where the Director General considers that the undertaking has not been complied with the Director General may apply to the District Court, which can make a number of different orders including the payment of compensation.

Penalty Infringement Notices

Finally, the bill also provides for the issuing of penalty notices for offences against the Act or the regulations.

Investigation Powers and the provision of documents

The bill gives the Director General's more extensive investigation powers. In particular, the bill enables the Director General:

- To require any person involved in the provision of a children's service to provide records kept in the connection with the children's service;
- To require any person involved in the provision of a children's service to answer questions about matters in respect to the information that is required.

Failure to comply with these requirements or to give false or misleading information in purported compliance with a requirement will be an offence that carries a maximum penalty of 200 penalty units (equivalent to \$22,000).

Access to Information by parents

The bill remakes and extends the existing provisions in the Act concerning access to information to parents.

The bill confers on the Director General the additional power of being able to require a licensee to provide information to parents about the safety, welfare or wellbeing of children attending the service. The provision will enable parents to receive information about such matters as health alerts, details of Community Service actions or investigations, or other matters that directly affect the wellbeing of children in the service.

Children's Services Register

Significantly, the bill will bring about the much anticipated Children's Services Register. The Register will be an invaluable tool for all parents seeking children's services in New South Wales.

Details to be included in the register include:

- the licensee's name and business address;
- the particulars of the children's service approval;
- the name of the authorised supervisor and details about their approval;
- the particulars of any enforcement action taken against the licensee or an authorised supervisor of the approved children's service.

The register will provide for more transparent reporting of the compliance activities of Community Services and make public information that is a matter of broader public interest, or should be a matter of public record.

The Children's Services Regulation 2004

Many of the amendments proposed in the bill will support future amendment of the Children's Services Regulation 2004. The Regulation sets out the licence conditions for an approved children service.

Section 220 of the bill sets out those matters that will be developed through regulation, providing certainty, transparency and clarity for the children's services industry.

Consultation

Many of the changes featured in this bill are the result of Children's Services Regulation 2004 Discussion Paper, circulated to the public and industry for comment in September 2008.

Community Services consulted with the Children's Services Review Industry Reference Group in 2009 regarding the proposed changes. The Industry Reference Group is comprised of representatives from leading stakeholders, including service providers, peak groups and major sectoral interests. The group's role is to provide expertise and industry knowledge to inform the review of the regulation.

The Community Services has also undertaken consultation with relevant government agencies including: the New South Wales Department of Education and Training, New South Wales Health, the New South Wales Food Authority and the New South Wales Department of Justice and Attorney General.

Conclusion

In essence, this bill is about ensuring that the experiences of children attending child care services in New South Wales are positive ones, ones that enrich a child's life in the immediate term and are reflected in their long term social, emotional and educational development.

The bill proclaimed will provide families with more access to information and strengthen the system of compliance and enforcement to which children's services in New South Wales are subject.

For the providers of a children's service it will streamline licensing and approval processes. It will cut red tape for the regulator and the provider alike and prepare foundations for the transition to the COAG national quality framework.

The bill will undoubtedly offer new opportunities for partnership between Community Services, children's services, parents and communities in the delivery of quality services to the children of New South Wales.

I commend the bill to the House.