

**Public Benefit Test
Child Care Bill 2002**

FINAL REPORT

May 2002

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INTRODUCTION

The Queensland Government is developing a new legislative framework for child care. It is intended that when the proposed Child Care Bill 2002 and its subordinate legislation is enacted, the current *Child Care Act 1991* and its subordinate legislation will be repealed. The proposed Bill will establish a legislative framework that is designed to ensure that child care, provided on a regular basis for fee or reward outside the child's home, is covered. The Bill will provide the Government with a mechanism for legislating child care, and a statutory basis for the introduction of a child care regulation that sets minimum standards for the provision of child care.

In accordance with the *Competition Principles Agreement*, Queensland must review and where necessary reform all legislation that contains measures that restrict competition. The guiding principle for these reviews is that legislation should not restrict competition unless it can be demonstrated that:

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

A Public Benefit Test (PBT) is the mechanism for conducting the legislative review process. This report outlines the proposed new legislative framework for child care in Queensland.

Government Priority Outcomes

When enacted the new child care legislation will promote innovative approaches to service delivery and assist in the achievement of the Government's Priority Outcomes, in particular:

- Outcome 3 Skilling Queensland
 - Improve workforce skills for current and future needs; and
 - Raise general education levels, focusing on whole of life skills.
- Outcome 4 Safer/supportive communities
 - Promote individual, family and community vitality that respect diversity.
- Outcome 5 Better quality of life
 - Deliver education, health and family services that improve people's quality of life; and
 - Develop community facilities and provide community services that promote full and equitable participation by all Queenslanders.

PUBLIC BENEFIT TEST (PBT)

Purpose of a Public Benefit Test (PBT)

Under the National Competition Policy (NCP), Queensland and all other Australian jurisdictions are committed to implement a series of competition reforms within a specific timeframe.

As part of NCP, Queensland must review and where necessary reform all legislation that contains measures that restrict competition. The guiding principle for these reviews is that legislation should not restrict competition unless it can be demonstrated that:

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

A Public Benefit Test (PBT) is the mechanism for conducting the legislative review process. To give effect to the NCP guiding principle, the Department of Families has undertaken a PBT of the Child Care Bill 2002. The *PBT Plan* and *Terms of Reference* for the Child Care Bill 2002 were endorsed by the Under Treasurer in November 2000.

From the information presented in the *PBT Plan*, it was evident that the potential restrictions on competition contained in the Child Care Bill 2002 are minor in nature and will have little effect on the level of competition. Overall, the impact of the legislation for those services currently regulated will be minimal due to there only being a slight increase in standards and the fact that the legislation allows for greater flexibility in service delivery through the use of performance based standards. The intent of the legislation is to provide an effective safety net for families using child care. The restrictions inherent in the legislation will apply uniformly across the board and will not favour any one individual or group. No one will be prevented from entering the industry if they meet the standards.

In line with National Competition Guidelines it may be argued that the:

- Legislation has been developed for a more social rather than economic objective;
- Legislation has a clear social policy position;
- Regulations clearly need to be maintained (eg for health and safety reasons), but an assessment of the level of risk burden on the community should be identified;
- The level of restriction on competition is low; and
- Issues surrounding the application of legislation are considered to be non-controversial.

The methodologies used for the review were in line with the PBT Guidelines for a minor review. However, due to the limitation of empirical data and the difficulty in estimating the financial and socio-economic benefits in legislating standards that protect children and enhance quality of life, only a qualitative impact assessment has been undertaken.

The review was an internal process conducted by the Child Care Branch of the Department of Families. Without limiting the terms of the review, and in accordance with clause 5 of the Competition Principles Agreement, the review sought to:

- clarify the objectives of the legislation;
- identify the nature of the restriction on competition;
- analyse the likely effect of the restriction and on the economy generally;
- assess and balance the costs and benefits of the restrictions; and
- consider alternative means for achieving the same result including non-legislative approaches.

Terms of Reference

The Terms of Reference for the Public Benefit Test as approved by Queensland Treasury, are to:

1. Examine the proposed new Child Care Bill 2002 to clarify the intent and objectives of the legislation.
2. Identify any possible anti-competitive and/or restrictive provisions of the proposed legislation.
3. Review output from recent national research and Queensland community consultations, which is relevant to quality standards and competition issues.
4. Conduct any further consultation to clarify particular matters, especially with regard to any NCP review of similar legislation in other jurisdictions.
5. Describe and analyse the market structure(s) of the Queensland child care sector.
6. Analyse the likely effect of any possible restrictions on competition and on the economy generally.
7. Assess and quantify, to the extent possible, the costs and benefits of any restrictions on competition in the proposed Queensland child care legislation with particular reference to identification and evaluation of any public interest issues and benefits, which are relevant to NCP.
8. Identify any alternative means, including non-legislative approaches, for achieving the same objectives and outcomes as the proposed legislation.
9. Compare potential benefits and costs arising from the current and any proposed alternative arrangements.
10. Recommend changes, if any, to the proposed legislation to address any anti-competitive or restrictive provisions which cannot be demonstrated to be justified in the public interest.
11. In conducting this review, give due consideration where relevant to the following issues listed in Clause 1(3) of the Competition Principles Agreement:
 - (i) social welfare and equity considerations, including community service obligations; and
 - (ii) the interests of consumers generally or of a class of consumers.
12. Reporting to the Minister for the Department of Families on the results of the review by December 2001.

THE CHILD CARE INDUSTRY

Child care services play a crucial role in society. They provide a broad range of care and education services to Queensland children and families. Parents need quality child care services that are accessible, affordable and responsive to their needs. They require child care for work-related and training purposes, for developmental opportunities for their children, for respite support, and for occasional care.

Children need quality child care services that provide safe, nurturing, positive and educational experiences. The safety and well-being of young children is of central importance to the community and a key responsibility of the Queensland Government that administers standards for child care services.

Recent decades have seen significant changes in the provision of child care. While the family remains the primary carer of children, as social and workforce patterns change, families increasingly require access to child care. In response, child care has been a rapidly growing sector of increasing complexity as the industry attempts to meet the growing demand and stakeholder expectations eg families, operators, governments, employers etc.

Service Types

Child care services throughout Queensland operate from a range of service types. In general these service types are referred to as formal or informal child care.

The term “formal” child care refers to service types that have formal arrangements with government, either in relation to provision of funds (eg Child Care Benefits or operational funding) or licensing requirements. Operators of formal child care services must make an application to the Government (State and/or Commonwealth), enter into a formal agreement and abide by the terms and conditions of the agreement. They are also subjected to Government audits. Formal child care services include long day care (LDC), family day care (FDC), limited hours care (LHC), occasional care, kindergartens and school age care (SAC).

The term “informal” child care refers to service types that are considered to be private arrangements between the person using the care and the provider of the care. Although persons accessing informal care services may be able to claim the minimum Child Care Benefit, the rebate is paid directly to the parent, not the service provider as opposed to formal service types where the benefits are paid directly to the service provider. Informal child care services include adjunct care, independent home-based care (IHBC), care by relatives and care in the child’s home (eg nannies and baby sitters).

Definitions for the different service types are outlined in Attachment 1.

Current Legislation

The current Queensland regulatory framework draws upon a licensing model based on legislation and a set of legal minimum standards contained in legislation.

Under section 3 of the *Child Care Act 1991*, a “child care service” is defined as an operation or proposed operation concerned with child care, and “child care” means the provision of care of a prescribed type on a regular basis. Section 8 of the Act provides that a licence may be issued in relation to a prescribed type of child care service and that different types of child care services may be prescribed by regulation eg LDC, LHC, FDC, occasional care and kindergartens

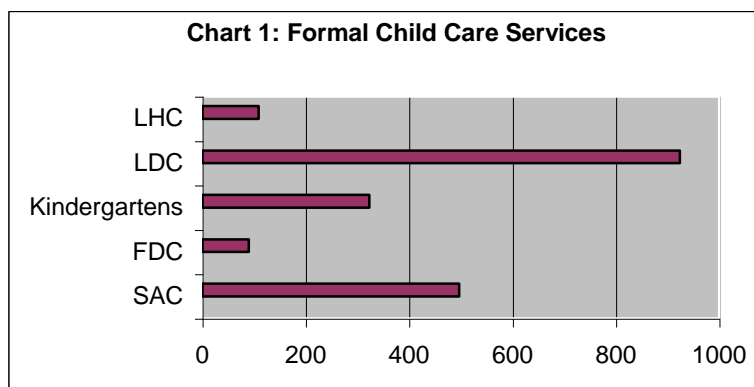
The licensing system in Queensland includes an independent audit or assessment of compliance with specified standards. It involves an on-site inspection by an officer of the Department of Families as the licensor. Based on the collection and analysis of a variety of information, the licensor determines compliance with the required standards. If all standards are met, the Department issues a licence to the service, thus permitting it to legally operate.

Services such as SAC, adjunct care, care of the child in their own home and IHBC are able to operate without a licence. However, IHBC providers must comply with minimum standards as set out under Part 8A of the *Child Care Act 1991*. The minimum standards are:

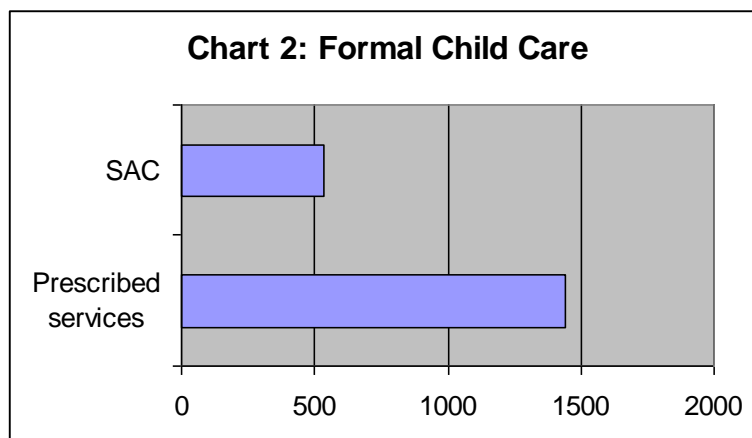
- maximum of 6 children to be cared for at one time, with conditions on the ages of the children;
- the carer must be an adult;
- the carer must take out public liability insurance of \$5 million; and
- persons with a specific criminal history are prohibited from caring for children.

Number of Services

As of 30 June 2001, there were 1,979 formal child care services in Queensland with a capacity to care for over 120,000 children¹. Chart 1 provides a breakdown of the different formal service types.



Of the formal services, 1,443 services are regulated as prescribed services under the *Child Care Act 1991* and the remaining 536 services are SAC. Chart 2 shows the breakdown of formal services into prescribed and SAC service types.

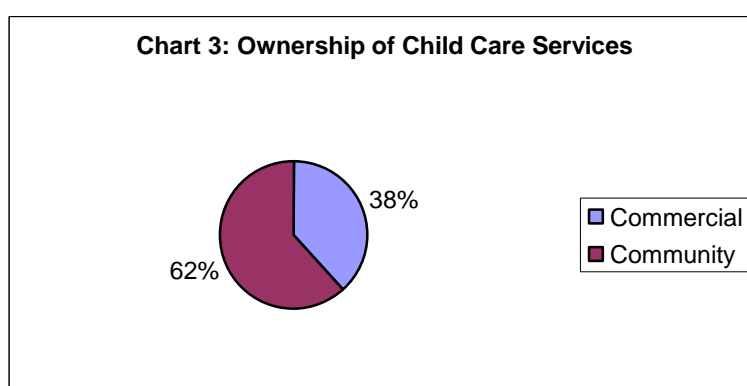


¹ According to the Child Care Information Service (CCIS)

It is impossible to know how many informal services, including care by other relatives, care in the child's home and IHBC, are in the State. However, it is estimated that informal care makes up approximately 4% of the market².

Ownership of Child Care Services

Single service operators that are predominantly community based provide the majority of child care in Queensland (child care services includes long day care, family day care, limited hours care and school age care services). However, in the long day care sector there is a trend away from small community based services to larger commercial services³. To provide a complete picture, as at 30 September 2001 a total of 930 long day care services were licensed in Queensland with 741 of these services provided by commercial operators and 189 provided by community based services. Chart 3 provides a breakdown of commercial and community based services.



Fees

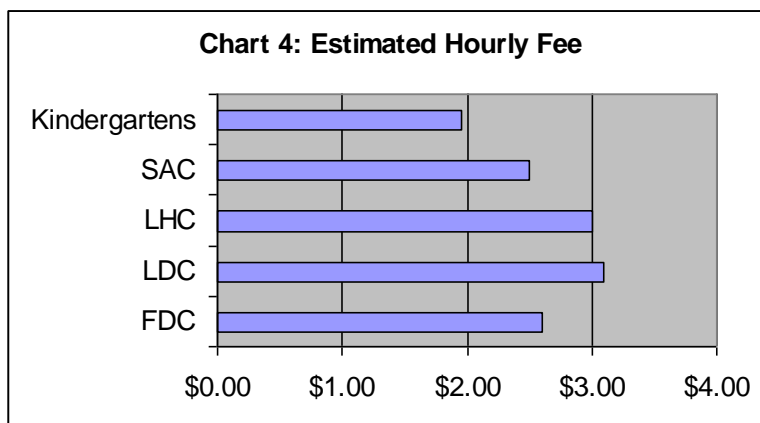
Government does not regulate fees charged by child care services. They are influenced by a variety of factors including movements in award wages, changes to State legislation, increases in overheads (such as rates, utilities, insurance) and the impact from other services in the same location, etc⁴. The range of fees charged varies across the different service types and in some cases, within the different service types. Chart 4 provides the estimated hourly fees for formal child care in Queensland⁵.

² Department of Family and Community Services – Child Care in Australia - An update of key statistics relating to the Commonwealth Childcare Program. 1999 – Child Care Benefit paid to parents using informal care arrangement is approximately 4% of all benefits paid.

³ Department of State Development *Your Guide to starting a Child Care Business in Queensland 2001* p3

⁴ Department of Family and Community Services, *Child Care in Australia*, July 1999, p.9

⁵ The data used to determine the hourly fees for child care is based on survey estimates, and caution should be used when interpreting these figures.



As outlined in Table 1, the estimated weekly fees in Queensland are lower than the National average except for vacation care where the Queensland fees are slightly higher. In general the costs of licensed services are higher than the cost of unlicensed services.

Table 1: Estimated Weekly Child Care Fees

| Service Type | Weekly Child Care Fees Queensland | Weekly Child Care Fees National Average ⁶ |
|-----------------------------------|-----------------------------------|------------------------------------------------------|
| Long day care (50 hrs) | \$155 | \$171 |
| Family day care (50 hrs) | \$127 | \$139 |
| SAC - vacation care (50 hrs) | \$101 | \$ 97 |
| SAC - before school care (10 hrs) | \$ 24 | \$ 26 |
| SAC - after school care (15 hrs) | \$ 40 | \$ 41 |

There is limited information relating to the average cost for families using informal care arrangements. In general, the information that is available tends to be anecdotal and may not provide an accurate picture of informal care. However, the information does suggest that the average hourly rate is between \$2 - \$3 with a reduction in cost (up to 50%) for full time care (approximately 50 hours per week) and/or the second and third child⁷.

Geographical Distribution of Services

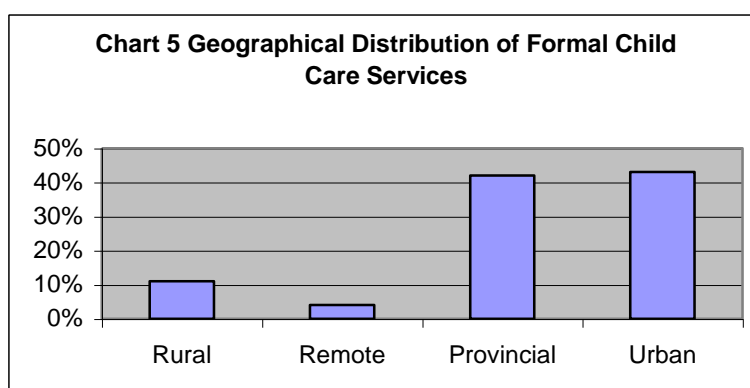
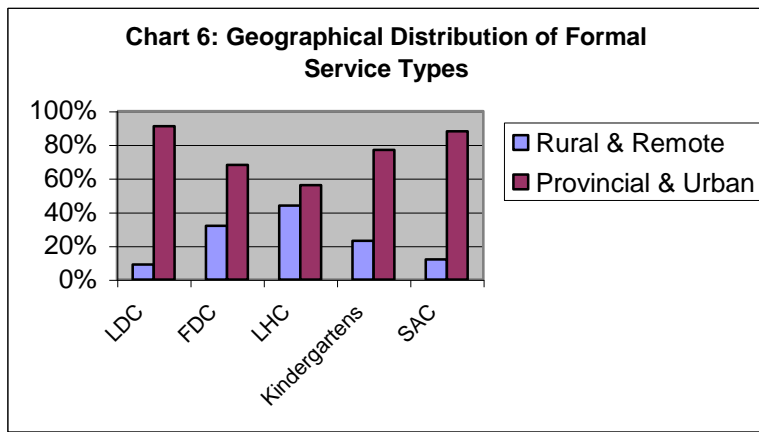


Chart 5 indicates the geographical distribution of formal child care services. Chart 6 provides a breakdown of the distribution of the different formal service types

⁶ Department of Family and Community Services, 1999 *Child Care Census* : Table 6 .Service fees, by type of service, for all States & Territories.

⁷ Submission no: M0030 Development of the Queensland Child Care Strategic Plan.



In general the overall geographical distribution of child care services matches the population distribution. These patterns of distribution also reflect the purpose of the different service types. Larger service types that focus on work related care, such as LDC and SAC, are predominantly located in provincial and urban areas. Smaller service types, such as LHC are predominantly located in rural and remote areas.

Impact on State Economy

Child care and early education services (preschools and kindergartens) are estimated to employ over 20,000 Queenslanders, with an estimated investment in infrastructure of over \$1.4b and a contribution to the State's economy of over \$350m per annum⁸.

Child care also plays an important role in supporting the workforce participation of parents⁹. Many parents, without outside assistance, would not be able to go to work each day, study, and take up training opportunities.

Table 2 provides a summary of the current market structure.

⁸ Department of Families *Child Care Strategic Plan 2000-2005*, 1999,p1.

⁹ According to Australian Bureau of Statistics survey data, nationally 73 % of children in child care in 1999 came from families with both parents in the workforce

Table 2: Summary of the Current Child Care Market Structure

| Service Type | No. of Services | Age of Children | Legislative Standards | Non Legislative Standards | Estimated Hourly Fee | Maximum Numbers | Restriction on hours of operations | Ownership | Geographical Distribution |
|-------------------------------------------|-----------------|-----------------|--------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|--------------------------------------------------------------|----------------------------------------------------------------------------------------------|------------------------------------|---------------------------------------------|
| LDC (LDC) | 924 | 0-12 years | Licensed under the <i>Child Care Act 1991</i> | <ul style="list-style-type: none"> Commonwealth Quality Improvement and Accreditation System (QIAS) National Standards | \$3.10 | 75 | Nil | Predominantly Commercial operators | Predominantly Provincial and Urban areas |
| Family Day Care (FDC) | 90 | 0-12 years | Licensed under the <i>Child Care Act 1991</i> | <ul style="list-style-type: none"> National Standards QIAS | \$2.60 | 7 children per care provider (conditions on age of children) | Nil | Predominantly Community Based | Distribution generally matches population |
| Limited Hours Care (LHC) | 109 | 0-12 years | Licensed under the <i>Child Care Act 1991</i> | <ul style="list-style-type: none"> State Funding Guidelines | \$3.00 | 21 | 20 hours per week (restriction on weekly attendance by children – maximum 12 hours per week) | Predominantly Community Based | Distribution favours rural and remote areas |
| Kindergartens | 323 | 3-5 years | Licensed under the <i>Child Care Act 1991</i> | <ul style="list-style-type: none"> C&K Affiliation Standards | \$1.95 | 25 per group to a maximum licensed capacity of 75 children | 6 hours per school day | Predominantly Community Based | Distribution generally matches population |
| School Age Care | 494 | 5-12 years | Unregulated | <ul style="list-style-type: none"> National Standards Queensland Children's Activities Network (QCAN) Code of Practices | \$2.50 | N/A | Before and after school and during school holidays | Predominantly Community Based | Predominantly Provincial and Urban areas |
| Independent Home-Based Care (IHBC) | Unknown | 0-12 years | Required to meet set standards under Part 8A of the <i>Child Care Act 1991</i> | Nil | \$2-\$3 | 6 children per IHBC provider (conditions on age of children) | Nil | Independent operators | Unknown |
| Other Informal Care eg nannies | Unknown | 0-12 years | Unregulated | Nil | Unknown | N/A | Nil | Independent operators | Unknown |

ISSUES RELATING TO THE CURRENT CHILD CARE ACT 1991

Whilst the *Child Care Act 1991* was considered to be the benchmark in child care legislation when it was introduced, a number of problems have been identified throughout its life. Some of these problems include:

- lack of flexibility as a result of the prescriptive nature of the system;
- ambiguity of terms leading to inconsistent interpretations;
- lack of consistency in standards across the different service types;
- duplication of standards contained in the Act and other legislation;
- lack of an effective enforcement mechanism to ensure compliance; and
- inability of the current legislation to accommodate the different forms of care (eg SAC)

Some of the external factors that have contributed to the problems are:

- gaps in service provision to particular groups and the inability of some types of licensed services to respond to emergent needs;
- the need to provide child care for some children throughout their whole childhood and not just in the years before school;
- changes in community expectations of government services;
- rapid changes in and market pressures on the child care industry;
- viability issues resulting from unplanned growth in numbers of child care centres;
- increased numbers of families making informal arrangements for care of their children;
- the increasing cost of child care and the impact this has on people's ability to remain in or enter the workforce;
- the limited mechanisms for families to influence the provision of care and education services for their children; and
- major changes in the way the Commonwealth provides subsidies and the quantum of these subsidies for public and private centres.

THE CHILD CARE BILL 2002

As noted earlier, it is intended that when the proposed Child Care Bill 2002 is enacted, the *Child Care Act 1991* will be repealed. The proposed Bill will establish a new legislative framework that is designed to ensure that child care, provided on a regular basis for fee or reward outside the child's home, is covered. The Bill will provide the Government with a mechanism for legislating child care, and a statutory basis for the introduction of a child care regulation that sets standards for the provision of child care.

The Bill will establish a regulatory framework with the following key principles:

- the best interests of the child are the paramount consideration;
- every child in child care is entitled:
 - to be treated in a way that respects the child's dignity and privacy;
 - to be cared for in a way that protects the child from harm and promotes the child's well-being;
 - to have child care programs that promote the emotional, intellectual, social and physical development of the child;
- child care services should provide high quality care which delivers positive experiences for the child;
- parents have the primary responsibility for the upbringing and development of their children, and should be supported in that role;
- parents and other members of the community should be involved in the planning, provision and monitoring of child care; and
- the multicultural and multilingual nature of the community should be reflected in the planning, implementation and structure of child care for children and their families.

The proposed legislative framework of the Child Care Bill 2002

In order to address the problems associated with the current Act, the proposed Bill contains a number of key changes in approach to legislating child care including:

- implementing performance based or outcome based standards where possible to promote flexibility and reduce the need for later amendments to the framework as needs emerge or new services are provided;
- removing certain standards from the child care legislation to reduce the instances of duplication of standards;
- expanding the framework to include SAC for the first time; and
- incorporating recognition of qualifications in accordance with the Australian Qualifications Framework, and to take a competency-based approach to recognition of qualifications.

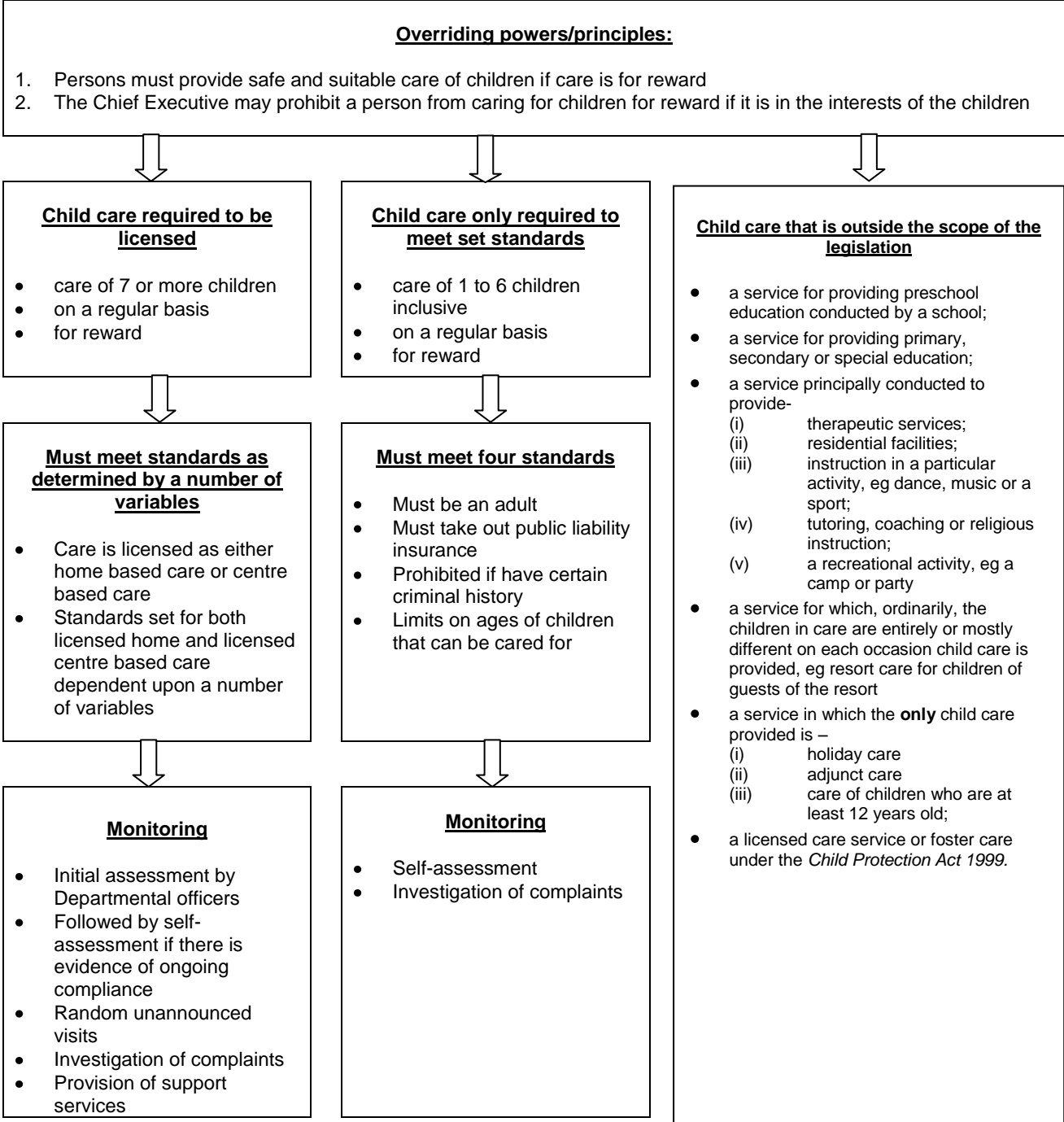
Under the proposed legislation, child care services will be:

- licensed; or
- not licensed but subjected to standards; or
- outside the scope of this legislation ¹⁰.

¹⁰ The original *Consultation Paper* of the proposed legislation suggested a 3-tier system for regulating child care in Queensland. Under this proposal child care services would need to be licensed, registered or required to meet set standards. However, as a result of feedback from the consultations, it has been suggested that a more appropriate model would be to have a system of licensed services, services required to meet set standards or unregulated services types, in order to ensure the protection of children attending paid child care.

While standards will be legislated to indicate minimum performance levels across all service types, the forms of regulation and the approaches to enforcement will vary. Table 3 provides a summary of the proposed framework for the Child Care Bill 2002.

Table 3: Summary of Proposed Framework



In general, the level of standards will reflect the level of risk associated with child care.

All services that care for 7 or more children, on a regular basis, for reward will be licensed. Before a licence can be granted, all applicants (regardless of the child care setting) would have to meet certain “universal” standards, for example, absence of particular criminal history. Conditions will be applied to the licence dependent upon a range of factors including whether

the service is home based or centre based, the ages of the children in care and the hours of operation.

Service types that require a licence will include LDC, FDC, LHC, occasional care, kindergartens, and SAC. It is also proposed that the legislation be drafted in a way that allows for the licensing of various innovative forms of care likely to emerge in the future, for example, innovative service models for non standard hours of care and child care hubs.

Services that are not licensed but required to meet set standards ('stand alone services') will include any home or centre-based service that cares for up to six children at any one time. These services will be monitored against these standards through the investigation of complaints.

The standards for stand alone services will limit the number of children to be cared for to 6, require carers to take out public liability insurance and prohibit carers with a specified criminal history from caring for children. The restrictions meet the objectives of the proposed legislation by putting in place measures to provide greater protection of children in paid care arrangements while reflecting community attitudes and the Government's position on the right of parents' to determine appropriate child care arrangements for their children.

Child care that is outside the scope of this legislation will include:

- care not provided on a regular basis;
- care not provided for reward;
- care provided by parents/relatives of the child;
- care provided in the child's home by individuals such as baby-sitters or nannies;
- operations principally conducted to provide instruction in a particular activity (eg dance, music or a sport);
- care of children who are patients in a hospital;
- care of children in State or non-State preschools;
- a licensed care service under the *Child Protection Act 1999*; and
- care of children who are clients of a residential program or service for children with a disability.

These service types are outside the scope of the legislation as they are:

- outside the definition of child care as provided in the Bill (ie regular care for reward);
- intrude on parents' right to chose who cares for their children in their own home (ie nannies) and personal family arrangements (ie care by grandparents);
- service types are covered by other legislation (ie *Education (General Provision) Act 1989* or the *Education (Accreditation of Non-State Schools) Act 2001*).

Potential Anti-competitive Restrictions

Clause 5(9)(b) of the Competition Principles Agreement requires that reviews of legislation should identify the nature of any restrictions on competition.

There are two broad categories of restriction on competition. These are:

1. those that restrict entry to the market; and
2. those that restrict competitive conduct by persons in the market.

In assessing the Child Care Bill 2002 there are two main areas that impose restrictions on competition. These include:

1. provisions for licensing of child care services; and
2. provisions that allow for the issuing of regulated standards for child care services.

The Bill requires that anyone who provides regular care for more than 6 children for reward must be licensed. This provision operates as a barrier to entry into the market.

The Bill provides this Government with the power to issue child care standards with respect to staff qualification, staff:child ratios, and group sizes. The Bill also places restrictions on the maximum licensed capacity of a child care service. The ability to impose these terms and conditions may constrain competitive conduct within a market. Such provisions also operate as a barrier to entry into the market.

The Bill provides that child care premises and facilities must be safe and suitable which will enable the Government to find that a service is unsuitable due to the location and type of premises and facilities at the time of licensing. The ability to impose these terms and conditions may constrain competitive conduct within a market. Such provisions also operate as a barrier to entry into the market.

The Bill requires licensees, child care staff, volunteers, students, home based care providers and adult residents of home based care services to undergo the criminal history screening process as required under the *Commission for Children and Young People Act 2000*¹¹. This provision acts as a barrier to entry into the market.

¹¹ It is proposed that an amendment will be made to the commission for *Children and Young People Act 2000* to allow for the screening of licensees, child care staff, volunteers, students, home based care providers and adult residents of home based care services

Rationale for the Potential Restrictions

Child care services play a crucial role in society. Child care services not only provide an important developmental and nurturing experience to children, they enable parents to work, attend educational or training programs or participate in other activities outside the home. As such, the provision of child care services that nurture, protect and educate young children benefits not only children, but also families, communities and society.

The need for regulation in the provision of child care has been well documented. The National Association for the Education of Young Children (NAEYC) maintains that the primary benefit of legislation is that it helps assure children's rights to an acceptable level of care¹². Regulated standards set forth the public definitions of acceptability that services must meet in order to operate. The NAEYC states that:

“An effective system of public regulation is the cornerstone of any effort to assure the quality of early childhood programs for it alone reaches all programs. Additional levels of quality may be established above that required for licensing through administrative standards, funding standards, and accreditation standards. However, licensing provides the necessary foundation of acceptable quality upon which all other efforts are built.”¹³

A number of public inquiries within Australia provide additional support for the need for child care legislation including:

- The Senate Employment, Education and Training Reference Committee Inquiry into Early Childhood Education (1995);
- The Economic Planning Advisory Commission (EPAC) Child Care Task Force (1996); and
- The Small Business Deregulation Task Force (1996).

The findings of these reports indicate that child care legislation benefits not only the child but also society by providing a baseline for quality care.

Researchers have also identified specific, interrelated characteristics of centre based settings associated with high quality early care and education and better outcomes for children. These include:

- a sufficient number of adults to each child;
- smaller group sizes;
- higher levels of staff education and specialised training¹⁴.

Researchers have also found that children benefit from settings that are designed specifically for them. In these settings children tend to be more positive and demonstrate higher social and cognitive competence¹⁵.

By imposing restrictions on child care facilities, staff:child ratios, group sizes and staff qualifications, the Child Care Bill 2002 will help to ensure that a positive and safe learning environment is created for children. The need for children to be cared for in positive learning environments has been highlighted by recent studies into human brain development¹⁶. The

¹² National Association for the Education of Young Children (NAEYC): Position Statement on Licensing and other Forms of Regulation of Early Childhood Programs in Centres and Family Day Care Homes. In *Young Children* Washington Volume 42 No. 5 July 1987 p.68 (this is still current and supported by the Early Childhood Profession in Australia)

¹³ ibid

¹⁴ Shore R *Rethinking the Brain – New Insights into Early Development* Families and Work Institute New York 1997

¹⁵ Ochiltree, G *Effects of Child Care on Young Children Forty Years of Research* Australian Institute of Family Studies 1994 Paper No 5.

¹⁶ McCain M, Mustard F, *The Early Years Study* Children's Secretariat Ontario (1998)

Early Years Study confirmed that development of the brain in the early years of life, particularly the first three years, sets the base of competence and coping skills for later stages of life. According to the *Study*, poor quality child care settings create negative impacts on a child's social and language development.

Consultations on the Proposed Framework

To assist in the development of the new legislation, statewide consultations were undertaken during March and April 2000. These consultations included the dissemination of over 4,000 consultation papers, focus group meetings with over 50 peak organisations as well as 40 meetings across the State with service providers from centre-based care, FDC and SAC services in Queensland.

More than 500 written submissions were received and over 450 service providers were invited to attend the consultations. Feedback was received from licensees, directors, coordinators, FDC providers, staff of centre-based services and representatives from a range of child care organisations including community and private peak bodies, parents, training providers, unions and Government departments.

Overall, the consultation meetings reflected general acceptance of the proposed new regulatory framework for child care in Queensland. While there was strong support for legislation, the original *Consultation Paper* on the proposed legislation suggested a three-tier system for regulating child care in Queensland. Under this proposal child care services will need to be licensed, registered or required to meet set standards. However, the feedback indicated that a more appropriate model would be to have a system of licensed services, services required to meet set standards or unregulated service types, in order to ensure the protection of children attending paid child care.

LEGISLATIVE ARRANGEMENTS FOR CHILD CARE THROUGHOUT AUSTRALIA

Legislation

All Australian States and Territories have legislation governing the care of children under school age, for fee or reward, in centre-based services. In general, legislation for child care throughout Australia is prescriptive and provides minimum standards that are legally enforceable for:

- licensing of child care services;
- licensing periods;
- licensee requirements eg. fit and proper;
- staffing levels and qualifications;
- staff:child ratios; and
- building and facilities.

However, the level of standards, definition of child care, and use of subordinate legislation varies from jurisdiction to jurisdiction.

FDC is licensed in most States and Territories, except in Northern Territory and Victoria. The Australia Capital Territory is the only government to licence SAC. However, Western Australia and Tasmania are currently developing regulations for this type of care, and a number of States, including New South Wales and South Australia, are investigating possible models for the development of enforceable standards for SAC.

Western Australia, South Australia and Tasmania are currently reviewing their child care legislation.

National Standards

A Working Party on Nationally Consistent Child Care Standards was established in 1990 by Commonwealth, State and Territory Ministers responsible for child care with the objective of developing nationally consistent standards for child care. In 1993, all Ministers endorsed the *National Standards for Centre-Based Long Day Care*. National Standards for family day care and school age care were endorsed by Ministers in 1995.

The three sets of national standards detail the minimum acceptable standards for the provision of centre-based long day care, family day care and school age care. Where appropriate these standards will be incorporated into the proposed Bill.

ALTERNATIVE LEGISLATIVE ARRANGEMENTS

Under the Competition Principles Agreement, it is necessary to investigate a range of alternative regulatory models that could possibly be utilised to achieve the objectives of the proposed legislation.

During the development of the Public Benefit Test Plan, a number of alternative models were assessed. These models included:

1. Co-regulation;
2. Deregulation and/or the use of a non-regulatory framework;
3. Uniform licensing; and
4. Regulatory tiering (the preferred model).

Description of Alternative Legislative Arrangements

1. Co-regulation

Co-regulation considers the sharing of the Government's regulatory role with one or more professional bodies. Co-regulation typically includes some form of a "Code of Conduct" that set minimum standards. Co-regulation is an effective alternative in industries where strong associations between the different sectors exist. Some benefits of co-regulation are that it:

- allows industry participation;
- improves industry standards and promotes best practice;
- prescribes minimum standards; and
- is easy to update and/or revise.

However, co-regulation is not an effective alternative in highly fragmented industries. In addition, the adoption of minimum industry standards may not encourage continuous improvement.

The success of this model relies on the ability of the industry to agree on one representative body to act as the co-regulator. However, at this point, the child care industry is highly fragmented with an array of vested interests and, as such, the ability of the industry to achieve policy objectives under this model is limited.

2. Deregulation and/or non-regulatory framework

A deregulated industry offers the greatest flexibility and opportunity for service innovation in an environment where market forces are unfettered. In a deregulated system, the use of a non-regulatory framework may set standards for services but they would not be able to be enforced.

The non-regulatory framework could be achieved by providing policy statements outlining general principles and practices to be followed in service provision. In addition, Codes of Conduct and Industry Guidelines would offer greater flexibility in meeting changing community expectations.

However, Codes of Conduct and Industry Guidelines may be costly to develop and implement. They are necessarily broad and reliant on the goodwill of service providers to meet standards. In a deregulated industry there is no legal basis for enforcement. This voluntary environment may result in an undesirable reduction of standards, as a result of commercial and market forces. Also deterrents to abuse would be virtually non-existent, especially in locations where there are limited or no alternative services.

3. Uniform Licensing

Whilst there are many different forms of licensing the model outlined for examination is a uniform licensing model which means that all persons providing care for one or more children for fee or reward would be required to be licensed. Under this model there would be no variations in standards required for licensing. The same standards (with the exception of building and facilities standards that would necessarily differ for home based and centre based care) would apply to all service types across comparable settings (ie home based or centre based).

A uniform licensing model necessitates adopting standards which are either pitched at a minimum level to ensure that those services not previously licensed are able to comply (for example, independent home based care services) or adopting high standards which ensure that those services which present the greatest risk are adequately regulated. For the purposes of this examination, uniform licensing would have to be based on high standards to cover all forms of child care and to ensure that standards are not lowered to a point where they could impact on the safety and wellbeing of children.

This model would see an increase in the regulation of child care services from the current *Child Care Act 1991*. The key features of this model would include:

- a licensing and enforcement process to cover all service types;
- the introduction of licensing fees to cover all service types;
- building and facilities requirements for comparable settings;
- a minimum staffing and qualification requirement for all services, including school age care services, family day care services and independent home based care services.

Some of the perceived strengths of uniform licensing are:

- It constitutes official permission to operate.
- Without a licence a service is viewed as operating illegally.
- Licensing generally encourages self-assessment but may also include an independent audit or assessment of compliance with specified standards.
- It generally involves on-site inspection by a regulatory official.
- The standards set by licensing are law and provisions can be enforced.
- Licensing provides a strong foundation for all other forms of quality assurance.
- There is consistency in the delivery of child care across comparable settings.

However, potential problems with uniform licensing include:

- The model would be resource intensive and expensive to implement.
- Approval process is more involved and can be lengthy.
- Some view licensing as unnecessarily intrusive.
- There may be overemphasis on the “policing role” of the licensor.
- Standards are static and revision is usually slow.
- The only avenue for lessening the impact of uniform licensing is to exempt service types from compliance with licensing rules which can weaken the overall system, and may be viewed as inequitable by service providers and consumers.
- Licensing standards can be anti-competitive and in some areas may unnecessarily force price rises for consumers.
- Some service types are engaged in excessive review and compliance processes.

4. Regulatory Tiering

Regulatory tiering allows the various industry segments to be treated differently. It allows different levels of standards for different service types. For example, some service types may be licensed while other service types may not be licensed, but required to meet set standards.

For the purposes of examination, the key features of this model include:

- Services would be licensed according to the potential risks to children, the age of children and the number and length of time children will spend in care. Therefore different standards would apply to different settings and service characteristics, for example building standards.
- The licensing of school age care services.
- Home and centre based care services that care for up to 6 children would not be licensed but would be required to meet standards.
- Revised licensing fee structure.

Regulatory tiering recognises the need for regulation to ensure the maintenance of standards but questions the current level of regulation in the industry.

The potential strengths of regulatory tiering include:

- The benefits associated with licensing except that these benefits are restricted to those tiers of services for which licensing is a requirement.
- Having different levels of regulation may result in enhanced flexibility, promote service innovation and reduce cost.
- Regulation is appropriately matched to the risk associated with the service type.
- Monitoring and enforcement is not intrusive or excessive for those services where risk is limited.
- Greater efficiency in monitoring and enforcing standards.

However, it may be argued that that the following represent potential problems with the regulatory tiering model:

- having fewer or lesser legislative standards as compared with the uniform licensing model for some service types may lead to a corresponding reduction in the standard of care, which might prove detrimental to the safety, growth and development of children attending the different service types.
- Lesser regulation than the uniform licensing model may also lead to greater fluctuations and inconsistency in service levels.
- Variation in standards could lead to a lack of clarity and complexity in monitoring.

Ability of the Alternative Models to Achieve the Policy Objectives

Before alternative models are analysed, the ability of the alternatives to achieve the policy objectives of the legislation and the level of risk associated with the implementation, maintenance and enforcement of the alternatives must be assessed. Unless alternatives can be realistically applied in practice they are not considered viable alternatives on which to conduct a Public Benefit Test.

These following principles were used to determine the appropriateness of the alternative models for the proposed new regulatory framework for child care, namely that the model has the ability to:

- achieve the objectives of the Child Care Bill 2002;

- move away from prescribing individual services types (eg kindergarten, LDC, FDC);
- establish a framework whereby standards are set and monitored depending on a number of variables including, the number of children being cared for by the service, the number of hours children are in care for, the ages of the children, and the setting of the service;
- recognise that home based care and centre based care are different settings or approaches to child care;
- strike a balance between having the power to enforce important standards (particularly in relation to child protection) and provide incentives for services to comply with standards;
- develop standards that build on existing benchmarks, reduce duplication, and reduce the level of complexity of current standards;
- develop standards that are performance based, whilst maintaining a commitment to quality improvements;
- establish standards that allow services to evolve and respond to changing local needs and market trends; and
- develop approval and monitoring systems that have the flexibility to accommodate different forms of care.

Table 4 provides a summary of this assessment. As a result, the models of co-regulation and deregulation/non-regulatory framework are not supported as viable alternatives that could meet the objectives of the proposed legislation and will not be assessed further in the Public Benefit Test.

However, uniform licensing and regulatory tiering were assessed as being able to meet the objectives of the legislation and will be considered further in this document.

Table 4: Models for Achievement of Objectives Summary Table

| Criteria for Assessment | Co-Regulation | Deregulation | Uniform Licensing | Regulatory Tiering (preferred model) |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|--------------|-------------------|--------------------------------------|
| • ability to achieve the objectives of the Child Care Bill 2002 | ✗ | ✗ | ✓ | ✓ |
| • moves away from prescribing individual services types (eg kindergarten, LDC, FDC) | ✗ | ✗ | ✓ | ✓ |
| • establishes a framework whereby standards are set and monitored depending on a number of variables including, the number of children being cared for by the service, the number of hours children are in care for, the ages of the children, and the setting of the service | ✓ | ✗ | ✗ | ✓ |
| • recognises that home based care and centre based care are different settings or approaches to child care | ✓ | ✗ | ✓ | ✓ |
| • strikes a balance between having the power to enforce important standards (particularly in relation to child protection) and providing incentives for services to comply with standards | ✗ | ✗ | ✓ | ✓ |
| • develops standards that build on existing benchmarks, reduce duplication, and reduce the level of complexity of current standards | ✓ | ✗ | ✓ | ✓ |
| • develops standards that are performance based, whilst maintaining a commitment to quality improvements | ✓ | ✗ | ✓ | ✓ |
| • establishes standards that allow services to evolve and respond to changing local needs and market trends | ✓ | ✓ | ✓ | ✓ |
| • develops approval and monitoring systems that have the flexibility to accommodate different forms of care | ✗ | ✗ | ✗ | ✓ |

Description of Viable Alternatives

Uniform Licensing

In this model, all services that care for one or more children on a regular basis for fee or reward, would require a licence in order to operate. Without a licence, a service would be viewed as operating illegally.

There will be no variations in standards required for a service to be licensed. The same standards will apply to all types of child care services across comparable settings (eg home or centre based). Under this model there will be no exemptions from the licensing rule.

A uniform licensing framework recognises the need for legislation to ensure the maintenance of standards. However, it questions the effectiveness of a system that allows different level of regulation for the different service types.

Under the uniform licensing model all children are deemed to require the same level of standards regardless of the age of the child, the length of time spent in care, and the total number of children being care for. As such, under this model the standards required for a seven-year-old child in care for a maximum of 15 hours per week would be the same as those required for a one-year-old child in care for 50 hours a week. There would be no variations in the standard.

The uniform licensing model has the ability to achieve the objectives as outlined in Table 4. It allows for changes to be made to the current system and the development of regulations for services that are not currently covered (eg SAC). In addition to the above, the major changes to child care legislation under this model are summarised below.

- Under the uniform licensing model building and facilities standards will be transferred to the building legislation. The standards are written in a performance based standard format and this will be a key change for potential licensees building child care centres.

Performance based standards generally provide an indication of the intent or outcome of the standard in the form of a performance requirement. They define one or more approaches that are deemed to satisfy the standard. Service providers may choose to use the “deemed to satisfy” approach outlined in legislation. Alternatively, a service provider may be “deemed to satisfy” the requirement by using a different approach that also achieves the performance requirement for a quality service. The use of performance based standards would enhance flexibility in the legislation.

While the use of performance and outcome-based regulations provides for greater flexibility in legislation, there are better opportunities for medium sized and larger organisations to receive greater cost reductions and benefits from this approach. Cost reductions are often achieved because businesses are able to develop innovative or more efficient approaches to achieving outcomes than those which may be prescribed in detail in black letter regulation. However, it could be argued that smaller organisations have limited resources to commit to developing strategies that achieve outcomes and therefore may be disadvantaged¹⁷.

- In this model, the new legislation will move away from prescribing individual service types (eg, kindergarten and LDC), to providing broader definitions in the Act. Whilst various aspects of the different types of care are important, the most prominent

¹⁷ Department of State Development *Guidelines on Alternatives to Prescriptive Regulations* p 22

distinguishing characteristic is whether the care is based in a home or in a child care centre. As such, the uniform licensing framework will contain definitions of centre based care and home based care, and these definitions will be broadly worded so as to cover types of child care services that presently operate in Queensland. These include services not currently regulated by legislation, (eg SAC).

While this model appears to provide an effective mechanism for the establishment and monitoring of standards, it may disadvantage smaller service types (eg LHC, SAC, IHBC and FDC). This model fails to take into account the effect of economies of scale and price sensitivity. As such, consumers using non-work related care or care for older children may seek lower cost alternatives (eg self care for school age children, older siblings providing care for younger children etc) if increases in costs are passed onto consumers¹⁸.

Larger services have a greater access to economies of scale and are able to achieve greater cost reduction per child than smaller services and services that operate for fewer hours. The combined effect of economies of scale and price sensitivity for smaller, non work related services and services with restricted hours of operation may result in these service types becoming unviable as consumers may withdraw from the service if the increase costs are passed on. Many services may be forced to close, resulting in a reduction in competition and consumer choice.

Regulatory Tiering

This model allows the various industry segments to be treated differently. Under this model there will be a two-tier system for legislating child care that is provided on a regular basis for fee, requiring the care either to be licensed or to meet set standards. For example, child care services that care for seven or more children will require a licence and child care services that care for up to six children will not be required to be licensed but will be required to meet set standards.

The regulatory tiering model recognises the need for legislation to ensure the maintenance of standards. However it questions the need to treat all service types the same. Regulatory tiering provides a framework that attempts to balance, or contain, the costs of restrictive legislation to small businesses while maintaining protection for consumers. The use of this model will result in enhanced flexibility, promote service innovation and reduce costs.

The standards that apply to a licence will be determined by a number of variables. The initial determinant will be whether the care is being provided in a home or centre based setting. Once this has been decided, a number of variables will determine the standards to be met. For example:

- the number of children being cared for;
- the ages of children being cared for, and
- the length of time children are being cared for.

Stand alone child care services would be required to meet set standards, including:

- carer must be an adult;
- persons with a specific criminal history are prohibited from caring for children;

¹⁸ Hunter M 1992 *Cost Structures in Outside School Hours Care* p15

- maximum number of children to be cared for at one time is six, with restriction on the ages of children; and
- operator must take out appropriate public liability insurance.

The regulatory tiering model has the ability to achieve the objective as outlined in Table 5. It allows for changes to be made to the current system and the development of regulations for services that are not currently covered (eg SAC). The major changes to child care legislation under this model are summarised below.

- The regulatory tiering model will allow for the transfer of the building and facilities standards to the building legislation. As noted in the uniform licensing model the building codes are written in a performance based standard format and this will be a key change for potential licensees building child care centres.
- Under a regulatory tiering model the legislation will be written in a manner that allows for greater flexibility, including the use of performance based standards where possible.
- Similar to the uniform licensing model the legislation will move away from prescribing individual service types (eg, kindergarten and LDC), to providing broader definitions in the Act.

Regulatory tiering provides an alternative that takes into account the effects of economies of scale and price sensitivity. However, it may be argued that regulatory tiering could result in a reduction in the standard of care which might prove detrimental to the safety, growth and development of children attending the different types of child care services. Tiering of regulations may also lead to greater fluctuations and inconsistency in service levels.

ASSESSMENT OF THE PROPOSED ALTERNATIVES

Potential Changes to the Market Structure

This assessment identifies the anticipated changes to the market structure under the alternative models. It provides a summary of the potential changes to the market structure as a result of the alternative models. The potential changes in the market structure that will affect stakeholders relate to:

- consumer protection;
- costs to consumers;
- total number of licensed places and/or services;
- range of service types;
- distribution of services; and
- ownership of services.

From this information, the likely impacts on stakeholders can be inferred.

Uniform Licensing Model

While this model provides the greatest level of protection for consumers, it increases constraints on operators. The inherent restrictions contained within a uniform licensing framework will have a significant impact on the market structure. Under this model the anticipated changes to the market structure will include:

- an increase in the level of consumer protection;
- an increase in costs to consumers;
- a reduction in the number of services;
- a reduction in the range of service types;
- a reduction in the number of rural and remote services; and
- a trend towards commercial ownership.

Regulatory Tiering

This model provides for an increase in consumer protection while minimising the impact on operators. It allows the various industry segments to be treated differently, thereby maintaining a balance in the costs and benefits associated with the legislation. The anticipated changes to the market structure will be limited to improved consumer protection through the extended coverage of the legislation and an overall increase in costs.

Impact on Stakeholders

Impacts are changes, either positive or negative, in economic and social welfare of an individual or group of individuals. The aim of this section is to compare the alternative models with the status quo in order to determine the impact of change to the legislation. For the purpose of this assessment, the following stakeholders have been identified.

- Operators: licensees of prescribed services, sponsors and operators of unregulated services (SAC) and operators of IHBC;
- Consumers: parents/guardians and children using child care services;
- Staff/carer: persons who provide direct care for the children;
- Regulator: Department of Families

- Training Institutions: Universities, TAFE and other Registered Training Organisations (RTO's).

Tables 5 and 6 provide a complete assessment of impacts on stakeholders

Summary of Impacts on Stakeholders under the Uniform Licensing Model

Operators: Licensees of prescribed services, sponsors and operators of unregulated services (SAC) and operators of independent home based care services.

The major impacts affecting operators under this model relate to increased capital costs and increase in staff wages.

In the short to medium term approximately 50% of all services will need to upgrade facilities and buildings in order to achieve the standards required for licensing. This will have a major impact on smaller rural services (LHC) and SAC services. Currently these services are able to operate from existing venues with minor alterations. The cost of providing purpose built facilities is estimated to be between \$10,000 - \$12,000 per licensed place. As such, in the medium and long term the cost to upgrade the facilities may make a number of smaller rural services and SAC services unviable.

In the short to medium term the minimum qualification requirements will also have a significant impact on service providers. As all staff and care providers will be required to be qualified, the increase in ongoing costs associated with higher wages and the lack of qualified staff may mean that many services could be forced to increase fees, reduce numbers and/ or close. The impact of the requirement for services to have two staff at all times will also impact on the viability of smaller services.

However in the long term services may gain from the reduction in red tape procedures, greater flexibility (due to the introduction of performance based standards), reduction in duplication as the building standards are transferred to the building legislation and improved comparability standards across all service types.

Consumers: Parents/Guardians and Children using child care services

In the short term child care fees will increase as higher costs associated with capital and staff wages flows onto consumers. Consumers will be required to pay higher fees for child care services not previously regulated.

In the medium and long term there will be:

- an improvement in the quality of care provided as all staff will be trained in child care and development; and
- consistency as all services will be required to meet the same standards.

However, there is potential for a reduction in the number of services, the number of licensed places and the range of service types. As such, consumer choice in the long term may be reduced, as a result of the licensing model which could lead to demand being greater than supply.

Staff/carer: Persons who provide direct care for the children

In the short term it is expected that a number of experienced workers may chose to leave the industry rather than undertake further study.

In the long term, there will be greater opportunities for trained workers and improvements in the wages and professional status of child care workers. However, there will be fewer employment opportunities for untrained workers.

Regulator: Department of Families

In the short term there will be:

- a potential reduction in revenue as a result of the reduction in initial licensing fees; and
- additional resources will be required due to the anticipated increase in the number of services to be licensed.

However, in the long term this may be compensated by the reduction in workload due to the increase in the maximum licensing period (from 2 to 3 years) and an increase in the ability to enforce penalties for non-compliance.

Training Institutions: Universities, TAFE and other Registered Training Organisations (RTO's)

In the short term there will be an increase in demand for approved training courses delivered by RTO's, which will result in greater opportunities for RTO's.

In the long term there will be greater efficiencies in approval procedures and an increase in the number and range of approved training courses.

Summary of Impacts on Stakeholders under the Regulatory Tiering Model

Operators: Licensees of prescribed services, sponsors and operators of unregulated services (SAC) and operators of independent home based care services

In the short term there will be little impact on services that are currently licensed or regulated under the current legislation, as the only increase in standards will be the introduction of minimum qualifications for staff working in centre based services that care for children under school age.

In the long term services may gain from the reduction in red tape procedures, greater flexibility (due to the introduction of performance based standards), and reduction in duplication as the building standards are transferred to the building legislation.

For centre-based services that currently do not require a licence, (eg SAC), there will be a significant impact relating to increased capital costs and increase in staff wages. In the short term there will be:

- an increase in red tape due to:
 - licence required to operate;
 - licence to be renewed every 3 years
 - building and facilities compliance documentation required for initial licence;
- an increase in fees as a result of one-off costs for capital improvements and the increase in wages; and
- a decrease in flexibility as maximum attendance level to be determined by space available and number of qualified staff.

In the medium to long term there will be improvement in the quality of care provided and an improved status for SAC services within the child care industry.

Consumers: Parents/Guardians and children using child care services

In the short term child care fees may increase as higher costs associated with capital and staff wages flows onto consumers.

In the medium and long term there will be:

- an improvement in the quality of care provided through the introduction of standards for SAC services and minimum qualification requirements for other centre based services; and
- greater consumer choice in the range of regulated child care services that they can access for their school age children.

Staff/carer: Persons who provide direct care for the children

In the long term, there will be:

- greater opportunities for trained workers;
- improvements in the wages and professional status of child care workers; and
- opportunities for untrained staff to be employed within the industry, in particular SAC services and home based services.

Regulator: Department of Families

In the short term there will be:

- a potential reduction in revenue as a result of the reduction in initial licensing fees; and
- additional resources will be required due to the anticipated increase in the number of services to be licensed.

However, in the long term this may be compensated by the reduction in workload due to the increase in the maximum licensing period (from 2 to 3 years) and an increase in the ability to enforce penalties for non-compliance.

Training Institutions: Universities, TAFE and other Registered Training Organisations (RTO's)

Under this model there will be an increase in demand for approved training courses delivered by RTO's, which will result in greater opportunities for RTO's.

In the long term there will be greater efficiencies in approval procedures and an increase in the number and range of approved training courses.

TABLE 5: Impact Matrix – Uniform Licensing V Status Quo

Service Type: Prescribed Services (LDC, occasional care, LHC, kindergarten and FDC).

Prescribed services make up approximately 70% of the market. Prescribed services are licensed under the *Child Care Act 1991* and child care provided is predominantly for children under school age.

| Stakeholders | Status Quo | Uniform Licensing | Size of Impact | Direction | Comments |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------|----------|
| <p>Operators</p> <p>Operators in this area of the child care industry are predominantly commercial organisations (60%-40%).</p> <p>The majority of prescribed services are centre based (90% centre based – 10 % home based).</p> | <ul style="list-style-type: none"> • Licence required to operate • Maximum 2 years licensing period • \$1,500 new licence fee and \$300 for renewal | <ul style="list-style-type: none"> • In the long term, there will be a reduction in red tape procedures due to: <ul style="list-style-type: none"> - increased licensing period to a maximum 3 years; and - reduction of licensing fees | Small | Positive | |

| Stakeholders | Status Quo | Uniform Licensing | Size of Impact | Direction | Comments |
|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <ul style="list-style-type: none"> Prescriptive standards for building and facilities including standards for: <ul style="list-style-type: none"> indoor and outdoor space, toilets and hand basins, kitchens, laundry, equipment, storage etc. Different standards apply to the different types of prescribed services Duplication of standards as building and facilities are covered by BCA and <i>Child Care Act 1991</i> | <ul style="list-style-type: none"> In the short term, there will be: <ul style="list-style-type: none"> an increase in capital costs as all services will be required to meet the same building and facilities standards; and a reduction in duplication as building and facilities standards are transferred to the building legislation; however smaller service types that are not able to raise the capital required would be forced to cease operations In the long term there will be: <ul style="list-style-type: none"> greater flexibility, as the standards will be written as performance based standards where possible; improved comparability standards across all service types; however there could be a reduction in the range and types of services as the building and facilities costs may make smaller service types unviable | Medium | Negative | All services will be required to meet the higher building standards regardless of the number of children, ages of the children being cared for and the length of time children may spend at the service. This will have a major impact on smaller service types (eg LHC) and SAC services that are currently accommodated in existing buildings (eg community halls, school classrooms). All centre-based premises will be purpose built. The estimated cost for a purpose built child care centre is \$10,000 - \$12,000 per licensed place. As these services make up approximately 30% of centre based care the size of the impact has been assessed as medium. |
| | <ul style="list-style-type: none"> Regulated staff qualification for directors, co-ordinators and group leaders limited to approved early childhood courses | <ul style="list-style-type: none"> In the short and medium term, there will be an under supply of trained staff which could result in closures of services or a reduction in licence capacity as all child care workers including FDC providers will need minimum qualifications In the long term, the broadening of approved qualifications and the increase in the number of trained staff will increase the number of applicants available to fill vacancies There will be an increase in wages | Small – Medium | Negative | This will have a significant impact on the industry as all child care staff/carers will require minimum entry qualifications. This would include family day care providers, IHBC providers and SAC staff. The impact of this could be a reduction in the number of home based services and SAC services due to the lack of qualified staff and increase in costs associated with higher wages. As such, the impact has been assessed as small to medium. |
| | <ul style="list-style-type: none"> Restrictions on maximum numbers, group sizes and staff:child ratios Group sizes and maximum numbers are included on the licence and can only be changed if an application to amend the licence is made | <ul style="list-style-type: none"> In the short term restrictions on maximum numbers, group sizes and staff:child ratios will remain similar. In the long term greater flexibility will be achieved through provisions which allow for: <ul style="list-style-type: none"> maximum numbers to be increased for unforeseen circumstances (one off) or on regular basis in order to meet the consumers needs such as shift workers; and licensees are able to change group sizes depending on needs without applying for an amendment to the licence | Small | Positive | |
| Consumers - families (parents/guardians and children) | <ul style="list-style-type: none"> Licensed services - allows for Government monitoring of the service and ensure minimum standards are maintained. | <ul style="list-style-type: none"> Licensed services - Government monitoring of the service will be maintained. In the long term, there will be greater consumer protection | Small | Positive | |

| Stakeholders | Status Quo | Uniform Licensing | Size of Impact | Direction | Comments |
|------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <ul style="list-style-type: none"> • Prescriptive standards for building and facilities • Different standards apply to the different types of prescribed services • Regulated staff qualifications, which ensures that trained staff with an understanding of child development are overseeing the children's programs • Restrictions on maximum numbers, group sizes and staff:child ratios • Group sizes and maximum numbers are included on the licence and can only be changed if an application to amend the licence is made. | <ul style="list-style-type: none"> • In the medium and long term: <ul style="list-style-type: none"> - there will be an improvement in the quality of care as all staff will be skilled and have an understanding of child development due to the introduction of minimum entry requirement for child care assistants in centre based services; and - consumers will have greater access and continued use of services due to the inclusion of provisions that allow: <ul style="list-style-type: none"> - maximum numbers to be increased for unforeseen circumstances (one off) or on regular bases in order to meet the consumers needs such as shift workers; and - provide the licensee with the ability to change group sizes depending on needs, without applying for an amendment to the licence, however - consumer choice will be reduced as smaller services, due to increased costs for buildings and facilities and a lack of qualified staff, become unviable in particular home based and rural; and - increase cost as higher staff wages are passed onto consumers | Medium | Negative | As noted under this model there is a potential for a reduction in the numbers of services, the number of licensed places and the range of service types. As such consumer choice in the long term will be reduced, as demand will be greater than supply. |
| Child Care Contact Staff (includes centre based directors, group leaders and assistants; and home-based coordinators and care providers) | <ul style="list-style-type: none"> • Regulated staff qualification limited to directors, group leaders and co-ordinators. • Qualification for centre based services are limited to approved early childhood courses • All staff must be adults and demonstrate that they are fit and proper • Special circumstances may be granted if there are no qualified applicants to fill directors and group leader positions. • No qualification required for FDC providers | <ul style="list-style-type: none"> • Minimum qualifications for directors, group leaders and co-ordinators to remain • In the short term: <ul style="list-style-type: none"> - child care assistants wages will increase (approximately \$32 per week, per full time staff member); - staff will be required to upgrade their qualifications; and - a number of experienced staff will leave the child care industry due to the minimum qualification requirements, in particular home based carers. • In the short and medium term there will be an under supply of qualified staff • In the long term there will be: <ul style="list-style-type: none"> - improved career path models for child care workers due to the broadening of the range of approved qualifications; - an up-skilling of staff due to the introduction of minimum entry requirement for all child care workers (home and centre based); - no positions for untrained staff; and - the wages and the professional status of child care workers will be improved | Small | Negative | To reduce the impact on staff, transitional and training strategies will be introduced. The transitional arrangements will allow staff currently employed time to upgrade their qualifications and strategies involving RPL and subsidised training will be introduced. As such the impact has been assessed as small. |

| Stakeholders | Status Quo | Uniform Licensing | Size of Impact | Direction | Comments |
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| Regulators | <ul style="list-style-type: none"> • Cost recovery from the collection of licensing fees • Duplication of standards relating to: <ul style="list-style-type: none"> - building and facilities; - for transportation of children; programs and curriculum; - fire safety; - food preparation standards; and - health and safety issues. • Court action required to impose penalties | <ul style="list-style-type: none"> • In the short term there may be an increase in revenue due to requirements for licensing expanding to cover all services • In the long term there will be: <ul style="list-style-type: none"> - a decrease in workload due to the increase in licensing period and the reduction in duplication; and - an increase in ability to enforce penalties for non-compliance | Small | Positive | |
| Training Institutions (This includes universities, TAFE and other Registered Training Organisations (RTO's)) | <ul style="list-style-type: none"> • Required to provide specific training courses for centre based directors and group leaders. These courses are limited to early childhood tertiary studies of 2-3 years. • The approved courses are defined by the Regulations and may need approval from FYCCQ and Queensland Community Services and Health Industry Training Council | <ul style="list-style-type: none"> • In the short term there will be an increased demand for minimum entry training courses (AQF Certificate level 111) • In the long term there will be: <ul style="list-style-type: none"> - a will reduction in red tape as course approval will be linked to the Australia Qualification Framework (AQF) (removal of the current dual process for course approval); and - an increase in the number of and range of approved courses | Small | Positive | Currently all new course must be approved by DETIR and the Child Care Branch prior to being placed on the approved qualification list. Under the proposed Bill there will be changes to the approval process for qualifications. Registered Training Organisations offering DETIR approved courses will be automatically entered on the approved qualification list. |

Service Type: SAC (before school, after school, vacation care and care provided on designated pupil free days)

SAC makes up approximately 25% of the market

SAC is an unregulated sector of the industry and provides child care predominantly for children of primary school age

| Stakeholders | STATUS QUO | Uniform Licensing | Size of Impact | Direction | Comments |
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| <p>Operators</p> <p>Operators in this section of the child care industry are Community organisations.</p> <p>However, a growth in the number of commercial operators is predicted in the short term.</p> <p>Most services (80%) operate from school sites and run by parent management committees.</p> | <p>Unregulated</p> | <ul style="list-style-type: none"> • In the short term: <ul style="list-style-type: none"> - it will be hard to attract trained staff as the work is predominantly part time and casual work; and - to soften the impact transitional arrangements will be introduced • In the short and medium term there will be: <ul style="list-style-type: none"> - an increase in red tape procedures due to: <ul style="list-style-type: none"> - licence required to operate; - licence to be renewed every 3 years - building and facilities compliance documentation required for initial licence; - an increased capital costs for facilities to be upgraded and for new services estimated to be between \$10,000-\$12,000 per licensed place; - a reduction in attendance levels; and - it is predicted that a number of services will close as they can't meet the standards, in particular small rural services • In the long term there will be: <ul style="list-style-type: none"> - improvement in the quality of care provided; and - an increase in staff wages; however - there will be a decrease in flexibility as services will be required to meet the standards for example, staff qualification indoor and outdoor space, building standards etc. | <p>Medium- Large</p> | <p>Negative</p> | <p>Currently SAC services meet needs of working families with school age children. Most services operate from a range of venues located within or near schools. The capital costs associated with this type of care have been kept to a minimum (eg no need for purpose built premises, existing premises are modified). This reflects the ability of the service to recoup cost due to the limited hours of operation. However under the licensing model this will no longer be an option.</p> <p>Under this model all services will be required to meet the same standards regardless of the age of children, or length of time a child is in care. As such there will be no distinguishing elements associated with this type of care and the increase in costs (capital and operational) may make this type of service unviable.</p> <p>To reduce the impact transitional arrangements will be developed. However, many services, especially smaller and rural services may not be able to raise the funds required to upgrade the facilities and the increase in wages. As a result, many services may be forced to close.</p> |
| <p>Consumers - families (parents/guardians and children)</p> | <p>Unregulated</p> | <ul style="list-style-type: none"> • In the short term there may be a reduction in attendance levels due to: <ul style="list-style-type: none"> - increased costs as a result of one off cost of capital improvements and the increase in wages; and - a decrease in flexibility as maximum attendance level to be determined by space available and number of qualified staff • In the long term there will be: <ul style="list-style-type: none"> - improved facilities and an increase in quality; however, - there will be a decrease in the range and number of services that care for school age children only | <p>Medium</p> | <p>Negative</p> | <p>As noted above, under this model there is a potential for a reduction in the numbers of services, the number of licensed places and the range of service types. As such consumer choice in the long term will be reduced, as demand will be greater than supply.</p> |

| Stakeholders | STATUS QUO | Uniform Licensing | Size of Impact | Direction | Comments |
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| Child Care Contact Staff | Unregulated | <ul style="list-style-type: none"> • In the short term: <ul style="list-style-type: none"> - staff will be required to upgrade their qualifications; however, - a number of experienced staff will leave the child care industry due to the minimum qualification requirements • In the short and medium terms: <ul style="list-style-type: none"> - staff may be unwilling to upgrade their skills as the work is predominantly part time casual work; and - there will be an under supply of qualified staff. • In the long term there will be: <ul style="list-style-type: none"> - an improved career path for child care workers due to the broadening of the range of approved qualifications; - the wages and professional status of child care workers will be improved; and - an up-skilling of staff due to the introduction of minimum entry requirements for all child care workers; however, - there will be no positions for untrained staff | Small | Negative | <p>A recent audit conducted by the Child Care Branch found that 60% of SAC services are able to meet the staffing requirements.</p> <p>To reduce the impact on staff transitional and training strategies will be introduced. The transitional arrangements will allow staff currently employed time to upgrade their qualifications and strategies involving RPL and subsidised training will be introduced.</p> <p>As such the impact has been assessed as small.</p> |
| Regulators | Unregulated | <ul style="list-style-type: none"> • Regulators will be required to license and monitor compliance • In the short term there will be an increase in workload • In the short term additional resources may be required to assist services in achieving licensing standards | Small | Negative | |
| Training Institutions (Universities, TAFE and other Registered Training Organisations (RTO's)) | Unregulated | <ul style="list-style-type: none"> • In the short term there will be an increased demand for training courses. • In the long term there will be an increase in the number and range of courses for SAC workers | Small | Positive | |

Service Type: Independent Care

Independent care is approximately 5% of the child care market. It is usually small group care provided in the home of the carer. Information on this sector is limited

| Stakeholders | STATUS QUO | Uniform Licensing | Size of Impact | Direction | Comments |
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| Operators - Centre Based | Unregulated | <ul style="list-style-type: none"> In the short and medium term there will be an increase in red tape procedures due to: <ul style="list-style-type: none"> licence required to operate; licence to be renewed every 3 years building and facilities compliance documentation required for initial licence. In the long term it is predicted that such services will be unviable | Small | Negative | There are no known centre based services of this type currently operating in Queensland. |
| Operators - Home Based | Meet set Standards | <ul style="list-style-type: none"> In the short and medium term there will be an increase in red tape procedures due to: <ul style="list-style-type: none"> licence required to operate; licence to be renewed every 3 years In the short term carers will be required to: <ul style="list-style-type: none"> hold a licence; upgrade there qualifications; and meet the same standards as those prescribed for carers attached to FDC; however, carers will be able to increase the maximum number of children they can care for from 6-7 children In the short term there may be a reduction in the numbers of independent services due to the increased demands of the legislation eg minimum entry qualifications, licensing procedures, etc. In the long term there will be an improvement in quality and providers will be able to market their services as licensed care | Small | Negative | As independent care is only estimated to be 4% of the market the size of the impact has been assessed as small. |
| Consumer - families (parents/guardians and children) | Minimum standards | <ul style="list-style-type: none"> In the short term costs will increase as the costs required to meet the standards are passed on to consumers eg training costs In the long term there will be: <ul style="list-style-type: none"> improved facilities and an increase in quality; however, there will be an increase in consumer choice between licensed child care services there will be a decrease in the range and number of home based services | Small | Negative | As independent care is only estimated to be 4% of the market the size of the impact has been assessed as small. |
| Regulator | Regulators are required to investigate complaints | <ul style="list-style-type: none"> Regulators will be required to license and monitor compliance In the short term there will be: <ul style="list-style-type: none"> an increase in workload; and a need for additional resources to assist in achieving the new licensing framework | Small | Negative | |

| Stakeholders | STATUS QUO | Uniform Licensing | Size of Impact | Direction | Comments |
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| Training Institutions (Universities, TAFE and other Registered Training Organisations (RTO's)) | | <ul style="list-style-type: none"> In the short term there will be an increased demand for training courses In the long term there will be an increase in the number of and range of courses for home based child care | Small | Positive | |

Table 6: Impact Matrix: Regulatory Tiering V Status Quo

Service Type: Prescribed Services (LDC, occasional care, LHC, kindergarten and FDC).

Prescribed services makes up approximately 70% of the market. Prescribed services are licensed under the *Child Care Act 1991* and child care provided is predominantly for children under school age.

| Stakeholders | Status Quo | Regulatory Tiering | Size of Impact | Direction | Comments |
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| Operators Operators in this section of the child care industry are predominantly commercial organisations (60%-40%) The majority of prescribed services are centre based (90% centre based - 10 % home based) | <ul style="list-style-type: none"> Licence required to operate Maximum 2 years \$1,500 fee for a new licence e and \$300 for renewal | <ul style="list-style-type: none"> In the long term there will be a reduction in red tape procedures due to: <ul style="list-style-type: none"> increased licensing period to a maximum 3 years; and reduction of licensing fees to \$500 for an application for a new licence, \$300 for renewal of a licence and \$300 for transfer of a licence | Small | Positive | |
| | <ul style="list-style-type: none"> Prescriptive standards for building and facilities including standards for: <ul style="list-style-type: none"> indoor and outdoor space, toilets and hand basins, kitchens, laundry, equipment, storage etc. Different standards apply to the different types of prescribed services Duplication of standards as building and facilities are covered by BCA and <i>Child Care Act 1991</i> | <ul style="list-style-type: none"> In the short term there will be a reduction in duplication as building and facilities standards will be transferred to the building legislation In the long term there will be greater flexibility, as the standards will be written as performance based standards where possible | Small | Positive | <p>Most prescribed services already meet the regulated standards.</p> <p>As the standards are to remain the same there will be very little impact, if any on potential competitors (from the status quo to the proposed model).</p> <p>There will be a reduction in the amount of duplication of Government regulations and improved flexibility due to the use of performance based standards.</p> |

| Stakeholders | Status Quo | Regulatory Tiering | Size of Impact | Direction | Comments |
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| | <ul style="list-style-type: none"> Regulated staff qualifications for directors, co-ordinators and group leaders limited to approved early childhood courses | <ul style="list-style-type: none"> Minimum qualifications for directors, group leaders and co-ordinators to remain In the short term the introduction of minimum entry requirements for assistants working in centre based services and removal of special circumstances will reduce the number of applicants available to fill vacant positions In the long term the broadening of approved qualifications and the increase in the number of trained staff will increase the number of applicants available to fill vacancies In the long term there will be an increase in wages | Small | Positive | <p>Information obtained by the Child Care Branch suggests that over 50% of child care assistants are already in the process of obtaining their qualifications.</p> <p>Cost of increased wages may be outweighed by:</p> <ul style="list-style-type: none"> improved quality of services; increase in the number of skilled workers to fill vacancies; and higher staff retention levels <p>Costs may be passed on to consumers, however some costs may be recouped through the Commonwealth Government's traineeships program.</p> |
| | <ul style="list-style-type: none"> Restrictions on maximum numbers, group sizes and staff:child ratios Group sizes and maximum numbers are included on the licence and can only be changed if an application to amend the licence is made | <ul style="list-style-type: none"> In the short term restrictions on maximum numbers, group sizes and staff:child ratios will remain similar In the long term greater flexibility will be achieved through provisions which allow for: <ul style="list-style-type: none"> maximum numbers to be increased for unforeseen circumstances (one off) or on regular basis in order to meet the consumers needs such as shift workers; and licensees are able to change group sizes depending on needs without applying for an amendment to the licence | Small | Positive | |
| Consumers - families (parents/guardians and children) | <ul style="list-style-type: none"> Licensed services - allows for Government monitoring of the service and ensure minimum standards are maintained | <ul style="list-style-type: none"> Licensed services - Government monitoring of the service will be maintained. In the long term there will be greater consumer protection | Small | Positive | |

| Stakeholders | Status Quo | Regulatory Tiering | Size of Impact | Direction | Comments |
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| | <ul style="list-style-type: none"> • Prescriptive standards for building and facilities • Different standards apply to the different types of prescribed services • Regulated staff qualification, which ensures that trained staff with an understanding of child development are overseeing the children's programs. • Restrictions on maximum numbers, group sizes and staff:child ratios • Group sizes and maximum numbers are included on the licence and can only be changed if an application to amend the licence is made. | <ul style="list-style-type: none"> • No change to building and facilities standards and minimum qualifications for directors, group leaders and co-ordinators to remain • In the short term restrictions on maximum numbers, group sizes and staff:child ratios will remain similar • In the long term there will be: <ul style="list-style-type: none"> - an improvement in the quality of care as all staff will be skilled and have an understanding of child development due to the introduction of minimum entry requirement for child care assistants in centre based services; and - consumers will have greater access and continued use of services due to the inclusion of provisions that allow: <ul style="list-style-type: none"> - maximum numbers to be increased for unforeseen circumstances (one off) or on regular basis in order to meet the consumers needs such as shift workers; and - provide the licensee with the ability to change group sizes depending on needs, without applying for an amendment; however - increases in staff wages may be passed onto consumers (estimated to be \$3-\$4 per week for full time care) | Small | Positive | <p>The increased costs associated with the introduction of minimum entry requirements will be out-weighed by:</p> <ul style="list-style-type: none"> - increase in the quality of care provided; - greater number of skilled workers to fill vacancies; and - higher staff retention levels <p>For eligible families the cost may also be recouped or reduced through Child Care Benefit.</p> <p>Some operators will be eligible for financial assistance under the Commonwealth Traineeships Program, which should help to maintain costs.</p> |
| Child Care Contact Staff (includes centre based directors, group leaders and assistants; and home-based coordinators and care providers) | <ul style="list-style-type: none"> • Regulated staff qualification limited to directors, group leaders and co-ordinators. • Qualification for centre based services are limited to approved early childhood courses • All staff must be adults and demonstrate that they are fit and proper • Special circumstances may be granted if there are no qualified applicants to fill directors and group leader positions. • No qualification required for FDC providers | <ul style="list-style-type: none"> • Minimum qualifications for directors, group leaders and co-ordinators to remain • In the short term: <ul style="list-style-type: none"> - child care assistants' wages will increase (approximately \$32 per week, per full time staff member) however, - staff will be required to upgrade their qualifications • In the long term there will be: <ul style="list-style-type: none"> - an up-skilling of staff due to the introduction of minimum entry requirement for child care assistants in centre based services; - improved career path for child care workers due to the broadening of the range of approved qualifications - a reduction in the number of unskilled staff; and - the wages and professional status of child care workers will be improved | Medium | Positive | <p>The reduction in the number of unskilled positions available, removal of special circumstances and requirement for current staff to upgrade their qualification will be out-weighed by the :</p> <ul style="list-style-type: none"> - increase in base wages for assistants; - broadening of qualifications; - the up-skilling of the profession; and - improved career paths for child care staff <p>The impact is further reduced by the fact that over 50% of assistants are already in the process of obtaining qualifications.</p> |

| Stakeholders | Status Quo | Regulatory Tiering | Size of Impact | Direction | Comments |
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| Regulator (Department of Families) | <ul style="list-style-type: none"> Revenue from the collection of licensing fees approximately \$340,000 per annum. Duplication of standards relating to: <ul style="list-style-type: none"> building and facilities; for transportation of children; programs and curriculum; fire safety; food preparation standard; and health and safety issues Court action required to impose penalties | <ul style="list-style-type: none"> In the short term there may be loss of revenue from the reduction of licensing fees In the long term there will be: <ul style="list-style-type: none"> a decrease in workload due to the increase in licensing period and the reduction in duplication; and an increase in ability to enforce penalties for non-compliance | Small | Positive | <p>Where appropriate standards are already located in other legislation the <i>Child Care Act 1991</i> will refer providers to that legislation eg seat belts and the <i>Traffic Act 1949</i>.</p> <p>Where there is a more appropriate legislation the standards will be transferred to that legislation eg building and facilities standards to be consolidated into the building legislation.</p> |
| Training Institutions (Universities, TAFE and other Registered Training Organisations (RTO's)) | <ul style="list-style-type: none"> Required to provide specific training courses for centre based directors and group leaders. These courses are limited to early childhood tertiary studies of 2-3 years. The approved courses are defined by the Regulations and may need approval from FYCCQ and Queensland Community Services and Health Industry Training Council | <ul style="list-style-type: none"> In the short term there will be an increased demand for minimum entry training courses (AQF level 111) In the long term there will be: <ul style="list-style-type: none"> a reduction in red tape as course approval will be linked to the Australia Qualification Framework (AQF) (removal of the current dual process for course approval); and an increase in the number of and range of approved courses | Small | Positive | |

Service Type: SAC (before school, after school, vacation care and care provided on designated pupil free days)

SAC makes up approximately 25% of the market

SAC is an unregulated sector of the industry and provides child care predominantly for children of primary school age

| Stakeholders | Status Quo | Regulatory Tiering | Size of Impact | Direction | Comments |
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| <p>Operators</p> <p>Operators in this section of the child care industry are Community organisations.</p> <p>However, a growth in the number of commercial operators is predicted in the short term.</p> <p>Most services (80%) operate from school site and run by parent management committees.</p> | Unregulated | <ul style="list-style-type: none"> In the short term there will be; <ul style="list-style-type: none"> - an increase in red tape due to: <ul style="list-style-type: none"> licence required to operate; licence to be renewed every 3 years - building and facilities compliance documentation required for initial licence; - a one-off capital cost of facilities upgrades (estimated cost to bring current services up to the proposed standards is approximately \$4 million); - a reduction in attendance levels; however, the use of transitional arrangements may soften the impact In the long term there will be: <ul style="list-style-type: none"> - improvement in the quality of care provided due to the introduction of: <ul style="list-style-type: none"> - 1 qualified staff member to every 30 children; - minimum qualifications for co-ordinators (AQF level V) and the second or subsequent qualified staff member (AQF level III); and - standards for indoor/outdoor space, toilets, handbasins, cooking and food preparation areas and storage; - an increase in wages; and - a decrease in flexibility as services will be required to meet the standards for example, maximum numbers will be restricted by space and staffing requirements | Small | Negative | <p>Although licensing will place restrictions on practices there are a number of factors that will reduce the impact. Some of these are:</p> <ul style="list-style-type: none"> • use of a regulatory tiering system • a strong support from the SAC sector for regulations • an increase in service quality • a recent audit of SAC services found that 60% of services would meet the proposed facilities standards and 50% of services already meet the required qualified staff ratio • many of the proposed standards are already accepted as the norm • for eligible families any increase in fees may be recouped or reduced through Child Care Benefit <p>However, it is still estimated that there will be a reduction in attendance levels in the short term. As such, the size and direction of the impacts have been assessed as small and negative.</p> |
| <p>Consumers - families (parents / guardians and children)</p> | Unregulated | <ul style="list-style-type: none"> In the long term there will be: <ul style="list-style-type: none"> - improved facilities; - an increase in quality; and - an increase in consumer choice between licensed child care services for school age children In the short term there may be a reduction in attendance levels due to: <ul style="list-style-type: none"> - increase costs as a result of one-off cost of capital improvements and the increase in wages (estimated to be approx \$2-3 per week per child) ; and - a decrease in flexibility as maximum attendance levels to be determined by space available and number of qualified staff | Small | Neutral | <p>The increased cost will be out weighed by improved quality. However, there is concern that the increase in cost may result in the short-term reduction in attendance levels.</p> <p>However, attendance levels are expected to rise in the long term. Therefore the size and direction of the impacts have been assessed as small and neutral.</p> <p>Increase cost may also be recouped through the Child Care Benefit for low and middle income families.</p> |

| Stakeholders | Status Quo | Regulatory Tiering | Size of Impact | Direction | Comments |
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| Child Care Contact Staff | Unregulated | <ul style="list-style-type: none"> In the short term staff will be required to upgrade their qualifications In the long term there will be: <ul style="list-style-type: none"> a reduction in the number of unskilled staff; and an increase in staff wages; and an increase in the professional status of school age child care staff | Small | Positive | |
| Regulators | Unregulated | <ul style="list-style-type: none"> Regulators will be required to license and monitor compliance In the short term there will be: <ul style="list-style-type: none"> an increase in workload; and a need for additional resources to assist in achieving the new licensing framework | Small | Negative | |
| Training Institutions (Universities, TAFE and other Registered Training Organisations (RTO's) | Unregulated | <ul style="list-style-type: none"> In the short term there will be an increased demand for training courses at the AQF levels V & 111 In the long term there will be an increase in the number and range of courses for SAC workers | Small | Positive | |

Service Type: Independent Care (regular care provided for more than 3 hours for 6 or less children in a home or centre based service for fee or reward)
Independent care is approximately 5% of the child care market. It is usually small group care provided in the home of the carer.

| Stakeholders | Status Quo | Regulatory Tiering | Size of Impact | Direction | Comments |
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| Operators - Centre Based | Unregulated | <ul style="list-style-type: none"> In the long term there will be a reduction in flexibility as services will be required to meet set standards such as, <ul style="list-style-type: none"> restriction on numbers (6 or less children) only adults to be employed requirement for public liability insurance persons with a specific criminal history prohibited from caring for children | Small | Negative | There are no known centre based services in this category currently operating in Queensland. |
| Operators - Home Based | Meet set Standards | No change in standards | Nil | Neutral | |
| Consumer - families (parents/guardians and children) | Minimum standards | <ul style="list-style-type: none"> In the long term greater protection will be provided for consumers choosing to use stand alone care due to introduction of minimum standards for stand alone centre based care | Small | Positive | |
| Regulator (Department of Families) | Regulators are required to investigate complaints | No change to role of regulator | Nil | Neutral | |

Net Benefits

Table 7: Net Benefits – Uniform Licensing

| Impact Classification | Size of Impact | Direction of Impact | Comments |
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| Decrease in costs that result from the reduction of licensing fees and an increase in maximum licensing period for services currently licensed | Small | Positive | The reduction of licensing fees is estimated to be a cost saving for operators. |
| Decrease in revenue provided by the licensing regime | Small | Negative | Government may not receive the same amount of revenue from the administration of licensing in the short term . |
| Increase in the cost of child care | Large | Negative | This will impact on approximately 50% of all services and is related to the increase in cost associated with the licensing of some unregulated services (eg SAC & IHBC), increase in standards for services that have exemptions under the current Act (eg LHC) and the minimum qualification provision. It is anticipated that this increase in cost will flow on to consumers. |
| Improved standards, consumer protection and quality outcomes for children | Large | Positive | The same level of standards will apply to all services in comparable settings and all staff and care providers will have a formal qualification in child care and development. |
| Decrease in employment opportunities for untrained staff to work as contact staff in child care services | Medium | Negative | Under the uniform licensing model all contact staff and care providers will be required to have minimum entry qualifications. Currently only directors, group leaders and FDC coordinators are required to have an approved qualifications. |
| Increase in staff wages and career paths for trained staff | Small | Positive | The current child care award has a provision for higher wages to be paid to child care assistants who have an approved qualification. However, there are no award provisions for trained assistant in SAC services or home-based care services. |
| Increase level of service flexibility due to the use of performance based standards and other flexible approaches in the legislation | Small | Positive | Changes in the legislation to allow for more flexible standards and the use of performance based standards where possible will result in an increase in service flexibility. However, there will be no provision for exemptions under this model. |
| Increase in the complexities and cost associated with the administration of the legislation | Medium | Negative | The proposed Bill has provisions that will allow for additional conditions to be included on a licence. While this will allow greater flexibility for service providers it will require additional assessment by the regulator in the licensing process to determine the suitability of conditions that are placed on a licence. The regulator will also need additional resources to implement the licensing model as all services will be licensed, including IHBC. |

Table 9: Net Benefits – Regulatory Tiering

| Impact Classification | Size of Impact | Direction of Impact | Comments |
|------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Decrease in costs that result from the reduction of licensing fees and an increase in maximum licensing period for services currently licensed | Small | Positive | The reduction of licensing fees is estimated to be a cost saving for operators. |
| Decrease in revenue provided by the licensing regime | Small | Negative | Government may not receive the same amount of revenue from the administration of licensing in the short term. |
| Increase in the cost of child care | Medium | Negative | This will be limited to centre-based services and is related to the increase in cost associated with the licensing of some unregulated services (eg SAC) and the introduction of a minimum qualification provision. It is anticipated that this increase in cost will flow on to consumers. |
| Improved standards, consumer protection and quality outcomes for children | Medium | Positive | There will be an increase in the number of licensed child care services provided in the State. This combined with the introduction of minimum qualification entry requirements for centre-based services caring for children under school age and a qualified staff member to child ratio for SAC will assist in improving quality standards within the child care industry. |
| Decrease in employment opportunities for untrained staff | Small | Negative | This will be limited to centre-based services caring for children under school age. |
| Increase in staff wages and career paths for trained staff | Small | Positive | The current award for child care workers has a provision for higher wages to be paid to child care assistants who have an approved qualification. The wages increase in the short term will be limited to centre based assistants as they achieve minimum entry requirements. |
| Increase level of service flexibility due to the use of performance based standards and other flexible approaches in the legislation | Small | Positive | Changes in the legislation to allow for more flexible standards and the use of performance based standards where possible will result in an increase in service flexibility. Operators will be allowed to develop alternative delivery methods if the outcome satisfies the standard. |
| Increase in technical support and monitoring from licensing authority | Small | Positive | Due to the increase in the maximum licensing period and reduction in duplication the regulator will have more time to provide technical advice to operators and monitor service delivery |
| Increase in the complexities in the administration of the legislation | Small | Negative | The proposed Bill has provisions that will allow for additional conditions to be included on a licence. While this will allow greater flexibility for service providers it will require additional assessment by the regulator in the licensing process to determine the suitability of conditions that are placed on a licence. |

Preferred Model

After careful consideration of all the models, the Department of Families is of the view that Regulatory Tiering is the preferred model at this time.

Regulatory tiering will:

- enhance flexibility through the use of performance based standards;
- establish a framework whereby standards are set and monitored depending on a number of variables including the number of children being cared for by the service, the number of hours children are in care for, the ages of the children and the setting of the service; and
- develop approval and monitoring systems that have the flexibility to accommodate different forms of care.

CONSULTATIONS

The Department of Families released a Public Benefit Test Consultation Paper and Draft Report in December 2001 with feedback closing on 31 January 2002. Notice of this review was advertised in The Courier-Mail and major regional newspapers on 15 December 2001 and documents were placed on the Department's website for access by child care services and interested stakeholders. In addition, copies of the reports were circulated to government agencies and child care peaks-peak bodies for their feedback.

A copy of the feedback proforma which was used to facilitate consultation is provided in Attachment 2.

One stakeholder responded to the Public Benefit Test Consultation Paper, and the response is summarised in the table below.

| Stakeholder | Summary of Responses |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | <ul style="list-style-type: none">• Concern that the costs/benefits analysis did not provide sufficient detail for stakeholders to provide comment on the overall impact of the new legislation on competition.• Concern raised that there was inequity because home and centre based services were in competition yet required to meet different regulatory requirements.• Concern that there may also be inequity between preschools providing additional programs which would mean that they operate for the same length of time as long day care services but are not required to meet the same standards.• Concern over the additional costs for suitability notices for staff and licensees.• Concern that the costs of meeting qualification requirements will not be able to met by the State-wide Training Strategy. |

Conclusions

Based on the feedback received there is general support for the regulatory tiering framework canvassed in the consultation papers for the PBT. No significant objections or major issues were raised in relation to the adoption of this framework.

Those concerns that have been raised can be justified in the adoption of a framework which regulates child care on the basis of objective criteria. There are key differences within the provision of child care in the sector which require regulation to be tiered. As a consequence of tiering, certain services due to the nature of the service provided will be required to meet more onerous legislative requirements as is the case under the current child care legislation. Despite the feedback received it is not believed that this framework of regulatory tiering unnecessarily disadvantages particular services with the child care sector.

It is recommended that the regulatory tiering framework proposed for the regulation of child care in Queensland be adopted.

Attachment 1: Glossary

| | |
|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Adjunct care | is child care provided to a child for not more than 2 hours, in conjunction with a meeting, function or activity that involves a parent of the child. |
| “Back yard” care | is where people offer care for children from the carer’s own home for a fee (but is not part of a licensed FDC Scheme). See Independent home-based care. |
| Early education services | are educational programs provided to children below the age of compulsory attendance at school age. These services include preschool and kindergartens. |
| Family day care | is child care that is provided in a private home by a person who is approved to practise FDC within a FDC Scheme. |
| Family Day Care Scheme | is a scheme to organise, coordinate and monitor the provision of FDC. FDC Schemes must be licensed under the <i>Child Care Act 1991</i> . |
| Independent home-based care | is care provided by a person to a child in the course of an independent home-based care service, but does not include care of a child of whom the person is a relative or guardian; or care of a child in the child’s home. |
| Independent home-based care service | means an operation conducted for regularly providing care of 1 or more children in a home, for reward, but does not include an operation to provide child care under a licence; or an operation principally conducted to provide instruction in a particular activity (e.g. dance, music or a sport); or a licensed care service under the <i>Child Protection Act 1999</i> . |
| Kindergartens | is a child care centre that provides care for children 3 years or older, but not older than the age of compulsory attendance at school; and operates for not more than 6 hours on a school day. Kindergartens must be licensed under the <i>Child Care Act 1991</i> . |
| Limited hours care centres | is a child care centre that provides care for less than 21 children at one time and does not provide care to any 1 child for more than 12 hours in a week and operates for less than 20 hours per week. LHC centres must be licensed under the <i>Child Care Act 1991</i> . |
| Long day care centre | is a child care centre that provides care for more than 21 children at one time or operates for more than 20 hours per week. LDC centres must be licensed under the <i>Child Care Act 1991</i> . |
| Occasional care centres | is a child care centre providing care to children on an occasional basis and that provides care for more than 21 children at one time or operates for more than 20 hours per week. Occasional care centres must be licensed under the <i>Child Care Act 1991</i> . |
| Pre-school education | means educational programs (attached to a primary school) that are appropriate to the needs of children below the age of compulsory attendance at school and before enrolment in year 1. |
| School age care | is a child care service that caters for school age children before school, after school and during school holidays and on pupil free days. |

Attachment 2: Child Care Bill 2002 Public Benefits Test - Feedback Sheet

This Consultation Paper focuses on the main issues resulting from the Public Benefit Test (PBT) on the proposed *Child Care Bill 2002*.

The purpose of a PBT is to explain to the community the need for legislation including the potential cost and benefits that flow from the adoption of the legislation.

Your views are invited on matters relevant to the PBT of the *Child Care Bill 2002*. You can simply record your comments on this lift-out section or provide written comments to:

**Child Care Branch
Policy and Legislation Unit
PO Box 806
BRISBANE Qld 4001**

Or by email ccnewact@families.qld.gov.au

All comment must be received by 5 pm on 31 January 2002

Your comments are invited on:

1. The restrictions to competition as identified eg barriers on entry or restriction on practices

2. Other restrictions to competition that have not been identified in the consultation paper

3. The public benefits that arise from the proposed framework

4. Do the benefits of the legislation outweigh the costs

5. Are there other regulatory alternatives that could be used to achieve the same public benefits

6. Any other comments relating to the cost or benefit of the *Child Care Bill 2002*

Please indicate (optional)

Are you a:

| | | |
|---------------------------------|-----------------------------------|---------------------------------------------------|
| <input type="checkbox"/> Parent | <input type="checkbox"/> Licensee | <input type="checkbox"/> Peak body representative |
| <input type="checkbox"/> Staff | <input type="checkbox"/> Sponsor | |

Other _____

Please tick the appropriate box

Suburb/Town _____

Service Type _____

Thank you for responding
Please return completed form by 31 January 2001 to:
Child Care Branch, Policy and Legislation Unit, GPO Box 806, BRISBANE Qld 4001

Attachment 3 – Abbreviations

| | |
|------------|------------------------------|
| ABS | Australian Bureau of Statics |
| DOF | Department of Families |
| HIC | Health Insurance Commission |
| NCP | National Competition Policy |
| LDC | Long Day Care |
| LHC | Limited Hours Care |
| FDC | Family Day Care |
| PBT | Public Benefit Test |
| SAC | School Age Care |

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