



28th March 2012

Hon Nigel Hallett MLC
Deputy Chairperson
Standing Committee on Uniform Legislation and Statutes Review

Dear Sir,

Re: Inquiry into Education and Care Services National Law (WA) Bill 2011

Thank you for the opportunity to make a submission in regard to this Bill.

Family Day Care WA Inc. (FDCWA) is the peak body for Family Day Care (FDC) Services in Western Australia (WA). Our organisation represents the view of every operating FDC service in WA. Our membership covers the metropolitan area and the rural and remote areas of WA where care and education is provided by a FDC Educator as a member of a FDC Service.

Our members are fully in support of the adoption in WA of the Education and Care Services National Law Bill and have been working towards the introduction of the legislation in an effort to make the change as seamless as possible for the children and families in care.

The legislation will impose a much higher level of responsibilities on Family Day care Services, as the move from a legal requirement for individuals to obtain a Child Care License to provide FDC to a change of situation under the new laws, where FDC Services will be licensed and responsible to approve FDC Educators and make sure the environment and program offered to children is safe and meeting the requirements of the law.

As it will be the responsibility of FDC Services, to ensure children will be cared for in the safest environment possible our members, have asked us to write to the committee to highlight concerns we have regarding the legislation.

1. Swimming Pools on Family Day Care Premises during FDC Operation

The National Law (WA) Bill is silent on requirements around swimming pools on FDC premises. FDCWA members point out that this is a lessening of the current safety standards for young children in FDC.

The current Western Australian Child Care Services (Family Day Care) Regulations 2006 (as amended 2011), Regulation 26 (1) states that: *A licensee must ensure that no enrolled child has access to or uses a swimming pool at the place.*

Under the new Law, FDC Services will be required to develop policies and procedures on water safety, including safety during any water-based activities. The majority of FDC Services will write policies that restrict the use of pools by anyone while FDC children are present on the premises but without the protection of Law or Regulations to back up these policies services will be vulnerable to the influence of Educators, their family members and others who feel restrictions on the use of their pool is an imposition on their individual rights. There is evidence from some FDC Services that

this is already happening and some FDC Educator's threaten to leave their current service and register under one where the use of a pool on the premises is allowed. Or alternatively as new Services are approved to operate there is no guarantee that they will write policies to prohibit the use of a pool on the premises while FDC is operating.

FDCWA would like the Committee and those involved in the passing of legislation and the writing of Regulations to consider the high risk surrounding young children and swimming pools, and the heightened risk when that pool is on the premises and being accessed and used. Without the protection of legislation it is possible under the new Law that some FDC Services may also allow the use of the pool by enrolled children while in care. This is a risk that should not be tolerated under any circumstances. Why will those responsible for the safety of young children in our State, allow a situation where the current safety standard can and probably will be lower.

Until the new National Law, Western Australia has protected FDC enrolled children by having Regulations to ensure their safety while still allowing FDC Educators to have pools on the premises. If it is no longer considered necessary why do the recently reviewed Child Care Act 2007 (as amended 2011) and Child Care Services (Family Day Care) Regulations 2006 (as amended 2011) still contain Regulation 26(1)?

Recommendation

FDCWA strongly recommends that the Education and Care Services National Law (WA) Bill and National Regulations provide safety for young children and contain a regulation that a pool on the approved premises of a Family Day Care Educator cannot be used by anyone while FDC children are present on the premises.

OR

As a minimum to provide a Western Australian – Specific Provision within the Law to maintain the current Regulation 26 of the Child Care Services (Family Day Care) Regulations 2006.

Thank you for the opportunity to bring this concern to your notice and I thank you in advance for whatever assistance you can provide in ensuring the safety of young children in WA is not compromised.

Yours sincerely,

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