



EDUCATION AND INNOVATION COMMITTEE

Members present:

Mrs RN Menkens MP (Chair)
Mr SA Bennett MP
Mr MA Boothman MP
Mr RG Hopper MP
Mr MR Latter MP
Mrs DC Scott MP
Mr NA Symes MP

Staff present:

Ms B Watson (Research Director)
Mr G Thomson (Principal Research Officer)
Ms E Booth (Principal Research Officer)

PUBLIC BRIEFING—INQUIRY INTO THE EDUCATION AND CARE SERVICES BILL 2013

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 13 JUNE 2013

Brisbane

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Committee met at 12.00 pm

CHAIR: Good afternoon. I welcome you to this public briefing to support the parliament's Education and Innovation Committee in its examination of the Education and Care Services Bill 2013. Before we start, I would ask that mobile phones be switched off or set to silent.

I now declare the briefing open. Thank you all very much for your interest in this inquiry and for your attendance here today. I am Rosemary Menkens, member for Burdekin and chair of this committee. With me today are Mrs Desley Scott, deputy chair and member for Woodridge, who is participating via teleconference; Mr Ray Hopper, the member for Condamine, who is also participating by teleconference; Mr Michael Latter, the member for Waterford; Mr Neil Symes, the member for Lytton; and Mr Mark Boothman, the member for Albert. Mr Steve Bennett, member for Burnett, is unable to be here today, and he sends his apologies.

On 5 June 2013, the parliament referred the Education and Care Services Bill 2013 to the Education and Innovation Committee for examination. A report back to the parliament is due by 12 August. The task before us is to consider the bill in terms of the policy intent to be achieved, as well as fundamental legislative principles and lawfulness, and to provide a report to parliament before the bill is debated in the House. If passed, the bill would establish a new regulatory framework for childcare services regulated under the Child Care Act 2002. The framework would align with the Education and Care Services National Law (Queensland) Act 2011, under which the majority of childcare services are regulated, while retaining some elements of the Child Care Act 2002. The bill would repeal the Child Care Act 2002 and make consequential amendments to other legislation.

Although the committee is not swearing in witnesses, these briefings are a formal process of the parliament. Parliamentary privilege applies to evidence presented here today. Any person intentionally misleading the committee is committing a serious offence. This briefing is being transcribed by Hansard and will be published on the committee's webpage. Although this is a public briefing, you are able to request, through me as chair, that any material or information you provide be kept private, and you can object to particular questions. You might also wish to take questions on notice if you do not have that information at hand. The details about how witnesses are to be treated are contained in schedule 3 to the parliament's standing orders, Instructions to Committees Regarding Witnesses.

O'MALLEY, Ms Catherine, Executive Director, Regulation, Assessment and Service Quality, Department of Education, Training and Employment

RIES, Ms Yvonne, Principal Program Officer, Regulation, Assessment and Strategic Initiatives, Department of Education, Training and Employment

RONEY, Mr Christopher, Principal Adviser, Legislative Services, Department of Education, Training and Employment

WHITEHEAD, Ms Annette, Deputy Director-General, Policy and Programs, Department of Education, Training and Employment

CHAIR: I now have much pleasure in welcoming representatives from the Department of Education, Training and Employment, who I really do sincerely thank for agreeing to be with us today. I would now invite Ms Whitehead to begin.

Ms Whitehead: I would like to thank the committee for giving the department the opportunity to come and provide a briefing to you on the Education and Care Services Bill. As you said, Christopher, Cathy and Yvonne are here as well, and they will be able to participate in questions after I give you just a brief outline of the bill and provide advice about the consultation processes that we have undertaken to come this far. I will keep my opening statement reasonably brief to give you plenty of time to ask your questions about the specifics of the bill.

As you have already indicated, the Education and Care Services National Law came into effect on 1 January 2012, and it regulates approximately 98 per cent of Queensland's education and care services, which were formerly known as childcare services.

The national law was developed as part of the Council of Australian Governments' commitment to establish nationally consistent standards in education and care services across the country. Before the introduction of that national legislation, all services in Queensland were regulated under the Child Care Act 2002. All of the services used to be regulated under that piece of legislation. During the process of developing the national law, every jurisdiction identified certain service types that would not be regulated under the national law. In Queensland the services that were identified were limited hours care services that were funded by the Queensland government, occasional care services, services that are funded under the Disability Services Act and services funded directly by the Commonwealth government as budget based funded services, and those are in the main Indigenous communities. Generally speaking, they are all small services located in regional and rural areas, and these services continue to be regulated under the Child Care Act 2002.

The Child Care Act and regulations are now over 10 years old and, in accordance with Queensland government policy, are due for review. The regulation will expire this year in accordance with the Statutory Instruments Act 1992. This 10-year review presents an opportunity to analyse what is now appropriate for this group of services. As a result of this analysis, it was determined that many elements of the Child Care Act would be retained but that some elements would need to be adjusted, so a new regulatory framework for these education and care services, which is called the Education and Care Services Bill, has been developed. As you said earlier, this bill will repeal the Child Care Act 2002.

The bill does seek to maximise the benefits to services without increasing their regulatory burden so that we are able to maintain high standards of regulation for education. Where possible, the bill aligns the new legislation with the national law for the purpose of consistency and also reducing red tape. For example, similar to the national law, the bill provides for a perpetual approval process. Once a provider is approved, they do not need to reapply for a licence every three years, as they previously did under the Child Care Act. Where things are working very well under the national law and are proving to be effective and efficient, we have tried to align this new piece of legislation with those aspects of the national law.

The department has undertaken quite a lot of consultation on the bill. In March 2011 a regulatory assessment statement was issued to seek the views of stakeholders on the best approach to regulating services under the Child Care Act. The majority of respondents supported the approach which has now been taken into account in this bill. In April this year the department released an issues paper and made available a copy of the draft bill to provide stakeholders with more detail about the new regulatory framework. Again, most respondents were supportive of the approach being taken, particularly those changes which would reduce red tape such as removing the requirement to reapply for a licence every three years and replacing that with a perpetual approval process.

Finally, the department will also issue a discussion paper and make available a draft regulation. The regulation will contain much of the operational details such as staff qualifications, educator-child ratios and fees. It is proposed that this discussion paper will be released in July. We will ensure the committee is provided with a copy of that paper and the draft regulation at that time. We will make sure that we get that to you.

I thank the committee members for your time this afternoon. That concludes my brief overview of the bill, and we are happy to now hand over to you to take any questions you may have on the detail.

Mr SYMES: How many service providers are currently regulated under the Child Care Act and would be affected by this bill?

Ms O'Malley: There will be 66 services captured under this bill; however, currently that is 66. By the end of June another service, which is a disability funded service in Bundaberg, will also be picked up by this bill. So by then the total will be 67.

CHAIR: How will that be affected if there are new services coming on board or even services coming off now? Is that actually set into this act, or is that going to have an effect within the—

Ms O'Malley: That is right. They will be transitioned over under the new legislation. If they are currently licensed now, there will be a transition process in place that will enable them to be transitioned in under the new legislation. If they have paid fees for a new licence, it is the intention

of government to actually waive those fees going forward so that they will not be disadvantaged by the fact that they have already recently paid, for example, for a new licence. Some of the fee that they will pay in advance of the new legislation will be waived going forward. But we have to seek Treasury approval for that process, and that currently is underway.

CHAIR: And seemingly that is part of the act?

Ms O'Malley: That is right.

CHAIR: That has no effect at all on this actual act?

Ms O'Malley: No. It is built into the new legislation. Then there will also be a communications strategy sent out to all of the current licensees around what is going to happen when the bill is in place. They will be asked to put forward their information asking that they be transitioned over, and that will be a relatively easy process, given it will only be 67 services at that point.

Mr LATTER: Page 4 of the explanatory notes goes to the bill introducing a reduced staffing requirement when compared to those in the national law and Child Care Act. How do the proposed staffing requirements vary from the current ones, and why are they necessary?

Ms O'Malley: In relation to the current Child Care Act, for example, what is called a director position under the current act actually has the qualification of advanced diploma. Under the new legislation it is proposed that there will no longer be a requirement for advanced diploma. There will be a requirement for a person to have a diploma in the relevant children's services area. That is different from the national law as well, because in 2014 all centre based services under the national law will have to have an early childhood teacher that will be qualified with an approved qualification under a list that is managed by the national body. It is a fairly high standard to have an early childhood teacher for these sorts of services, given that they are generally small services located in rural areas. It has been demonstrated that they have had difficulty already in obtaining people with the advanced diploma. So, going forward, we think there will not be really any impost on them. They probably will already have a diploma trained person in their service.

Ms Ries: The Advanced Diploma in Children's Services is part of a training package. Whilst that was the relevant qualification for directors under the Child Care Act, with the national law no longer requiring an educator with an advanced diploma qualification—the fact that that picks up the vast majority of ECEC services, not only in Queensland but also across Australia—that Advanced Diploma in Children's Services is recommended to no longer exist. The national training body that makes that decision is meeting at the end of this month to make a decision going forward on that particular qualification. It would have been somewhat foolhardy to continue to require a qualification in the new bill going forward that is no longer required in the national law and will no longer exist as it does currently. And as Cathy alluded to, these services have demonstrated through their responses to the ECEC census that they actually are not in a position to meet that requirement. So we would be perpetuating a threshold when they are simply not able to find a training organisation to provide that qualification or staff that can meet that need.

Mr BOOTHMAN: In terms of those comments about the diploma qualification, you briefly mentioned early childhood teachers. Can you elaborate on that? Is that a degree?

Ms Whitehead: Yes.

Mr BOOTHMAN: It is a three-year degree?

Ms Whitehead: Four.

Mr BOOTHMAN: Can you give us a breakdown of the diploma—what it is made up of? It is obviously two years less than a degree qualification, but what are we losing out of the degree qualification compared to the two-year diploma?

Ms Ries: In relation to the difference between a diploma and an early childhood teaching qualification, as you would appreciate one is a tertiary qualification and one is a vocational education qualification. So the diploma is much more work based and it is also focused on the fact that these children come for varying periods of time and are of varying ages. There is not necessarily the day-in, day-out learning process that happens and programming that can occur when you operate in, for example, a school setting where you have the children coming each day and you can program to achieve certain outcomes. So the diploma is, as voc. ed. qualifications are, much more work based and takes account of the varying ages and the varying durations that the children attend at these services.

Mr BOOTHMAN: So it is not a theory based qualification like a degree? It is more of a practical, hands-on approach?

Ms Whitehead: Yes.

Ms O'Malley: And with the services that are captured by this bill, some of the hours they operate are far more limited than, for example, a long day care service under the national law. A limited hours care service under this bill and currently under the Child Care Act is operating for only up to 20 hours a week anyway, whereas a long day care service can operate for much longer than that. So the programming that is needed around a limited hours care service would be very different from a long day care service, for example.

Mrs SCOTT: The stand-alone services are really not required to hold a licence as such. There seem to be not many requirements for that. So they have no more than four under school age. How young might they be in day care services in someone's home?

Ms O'Malley: In a stand-alone care service there could be babies. The issue around a stand-alone care service—you are right in saying that they have limited requirements placed upon them—is that it is more of an arrangement between a parent and an individual carer. So it is less regulated, of course, than a limited hours care service or an occasional care service in that sense. And that is a policy decision that was taken some time ago in relation to those services. However, the community or parents, if they have a concern about the operation of a stand-alone care service, are able to make a complaint to the regulatory authority in that regard and the regulatory authority has the ability to go and investigate what is going on in that stand-alone care service.

Mrs SCOTT: And the six children or fewer must include their own children as well? I mean, they might have a couple of their own.

Ms O'Malley: No, it does not actually include their own children.

Mrs SCOTT: So they might have three of their own and six of someone else's?

Ms Ries: That is correct. We actually did go out in consultation in the March 2011 RAS and addressed the issue of stand-alone care and the future regulation of that. The feedback from stakeholders was that they would like to see the current regulation of stand-alone care retained.

Mrs SCOTT: I guess people tend to look for someone with similar parenting ideals.

Ms Ries: That is correct. At least by retaining different thresholds and requirements within the bill there is some level of regulation and safeguard attached to these providers.

Mrs SCOTT: And it is that family atmosphere that a lot of them would be looking for rather than—

Ms Ries: That is correct. And they also may operate in areas where there are no other ECEC services.

CHAIR: I note that the bill introduces a new process for the approval of services in exceptional circumstances in, say, the event of a service needing to relocate after a natural disaster. Could you elaborate on how this process would work?

Ms O'Malley: As you would be aware, in Queensland we have had two recent occurrences of fairly significant flood affected services across the state. Under the national law there is no real way, specifically, to respond to those kinds of incidences where services have had to close down but there is still a need and a demand for care to be provided for those children who used to use those services.

To enable services to more easily relocate, for example, to a hall in the community that has not been damaged, we have built into this particular bill the ability to enable emergency care to be approved. It does not mean that there is any less focus on the safety and wellbeing of those children, because the service is still assessed by an authorised officer in the region to determine that it is safe, suitable and appropriate. It just enables some suspension of some of the other requirements for a normal service approval to be undertaken.

It is only ever going to be for a short-term period, for the period of the emergency care provided—so it is not meant to go on forever—and it is triggered by an emergency event such as a flood. In the past we have been able to deal with those sorts of situations by having what we call temporary guidelines in place, but we thought this was an opportunity to build this into the bill so that it is very clear on the face of the legislation that that is a provision that people are able to take advantage of.

CHAIR: And I have no doubt that the children would be far safer in a temporary facility such as that than they would be out amongst the disaster anyway.

Ms O'Malley: Well, we found in our experience in the previous flood situations that parents who are busy cleaning up their properties still want their children cared for during that time. So it is just a way of actually providing it on the face of the legislation that people are able to access that provision.

CHAIR: I think that is excellent, actually.

Ms Whitehead: We just want to clarify about the stand-alone care. Christopher has just had a look at the legislation. The person's own children are included in the number if they are being cared for at the home but not if somebody else is caring for them or they are at school.

Mrs SCOTT: Yes, of course.

Ms Whitehead: So not if they are not in the care environment—if they are at school or at another centre—but if they are actually being cared for at the same time it does include them. I just wanted to make that clear.

Mrs SCOTT: Thank you.

CHAIR: So that is included in the six?

Ms Whitehead: Yes, if they are at home being cared for.

CHAIR: That makes more sense.

Mr Roney: Clause 134 of the bill outlines the maximum numbers of children and also talks about the circumstances when children are or are not counted in those maximum numbers. So if someone else was looking after the children—other than the actual stand-alone carer—then of course they would not be counted because they are not being cared for as part of the service.

Mrs SCOTT: Say the person doing the day care has a young daughter of 16 or something like that. Is there any age limit on someone who can be actually considered to be part of the carers for children?

Mr Roney: That is in clause 132 of the bill. There are provisions such as 'a child must not conduct a stand-alone service' and you 'must not engage a child as a carer'. Someone who is 16 would be a child, so they could not be engaged in the service.

Mrs SCOTT: So they would need to be 18 or over?

Mr Roney: Yes.

Mrs SCOTT: I have to admit that I have not gone through this really thoroughly. Will there be any additional costs that will come to the early years centres—kindergartens and so on—that might put extra financial strain on them or that may lead to them needing to raise their fees?

Ms O'Malley: It is not anticipated that there should be any need to raise fees as a result of this legislation. In fact, the process of having perpetual provider approval and perpetual service approval should, if you are a new service wanting to commence under this legislation, initially represent a cost saving as opposed to having to apply under this Child Care Act and make an application in that sense. However, I should make the point that, as a regulatory authority, we do not have any control over the fees that are set by services. In the end, they make their own determination and have an arrangement with parents in that regard. But it is not anticipated that it should drive any new costs for them.

CHAIR: It is also mentioned in the explanatory notes that, during the consultation the department undertook, services were supportive of most elements. What elements of the bill were services concerned about or opposed to? Have their concerns been addressed?

Ms Ries: The feedback during consultation was not that services are not supportive of the bill as such. When we actually delved into the detail, services and some representatives of stakeholders raised concerns about things they thought were perhaps being included and incorporated from the national law into this bill, which has not been the case, such as the access to the early childhood teacher and the certification of supervisors—that process which occurs under the national law. So the concerns that were raised were largely irrelevant to this bill.

Picking up on the stand-alone care issue that Desley raised, Family Day Care did raise concerns about the inclusion of stand-alone care but, as we have said before, stand-alone care was regulated under the Child Care Act. We did go out on consultation in the March 2011 RAS and again this year with that position and the position has been broadly supported, barring the views of Family Day Care.

CHAIR: So in relation to stand-alone care, is this is a stronger regulation?

Ms Ries: No, we have retained the same regulation that has been provided for in the Child Care Act.

Mrs SCOTT: I imagine that family day care would be particularly popular for, say, Islamic women and people who have certain cultural requirements for their children and that type of thing. I do not know if that is so, but I just imagine that that could be a positive for some of our people from various ethnic groups.

Ms O'Malley: We would agree with that. We have seen an increase in applications from other ethnic groups in different parts of Queensland. It is mostly for family day care services.

CHAIR: Ladies and gentlemen, if you do not have any further comments that you feel you would like to make for us, Annette, Cathy, Yvonne and Christopher, thank you very much for your time this afternoon. I particularly thank you for coming to brief us today. You have provided valuable information that will assist us in our examination of the bill.

I do urge those with an interest in the work of the Education and Innovation Committee to subscribe to the committee's email subscription list via the Queensland parliament's website. I now declare this briefing closed.

Committee adjourned at 12.30 pm