

Portfolio Policy Statement

Department of Communities

Disability Services Queensland

Title: Enforcement options for licensed child care services
Policy No.: 352-2
Category: Child care and family support > child care
Records File No.: ADM/06172

Date of approval: 23 March 2006
Date of operation: 19 June 2006
Date to be reviewed: 1 July 2007

Office: Program Management Directorate
Help Contact: Office for Children – 3224 4557

Authority:

Child Care Act 2002

- Section 21(5) provides that the Chief Executive may refuse an application to renew a licence.
- Sections 42 and 45 provide that the Chief Executive may amend, suspend or revoke a licence to operate a child care service.
- Sections 43 and 46 provide that the Chief Executive may urgently amend or urgently suspend a licence to operate a child care service.
- Section 142 provides that an authorised officer may issue a compliance notice to a person in respect of non-compliance with a provision of the legislation.
- Section 143 provides that an Authorised Officer may issue a notice requiring a licensee to comply with a Building Act requirement.

Objectives:

This policy provides a guide about when the department will take enforcement action against a licensee.

Scope:

This policy covers the powers of enforcement available to the department against licensees of child care services under the *Child Care Act 2002*.

Principles:

The department will:

- endeavour to engage licensees cooperatively in resolving issues of non-compliance;
- use the powers of enforcement where necessary to ensure the safety of children in licensed child care services and the proper operation of those services; and
- ensure that the Object and Guiding Principles of the *Child Care Act 2002* (sections 8 and 9) are reflected in decisions to take enforcement action.

Policy Statement:

The department is committed to ensuring the safety of children in licensed child care services and the proper operation of licensed child care services through the fair and appropriate use of the powers of enforcement under the *Child Care Act 2002*.

Enforcement action will be taken where –

- a breach of the legislation has been identified,
- the non-compliance has been raised with the licensee (unless the breach raises immediate issues of safety for the children in the child care service), and
- the licensee is unable or unwilling to demonstrate compliance with the legislation within a reasonable timeframe.

The particular enforcement tool used will depend on the seriousness of the non-compliance, the licensee's history of compliance, and the willingness or capacity of the licensee to rectify the breach within a reasonable time.

Roles and Responsibilities:

- Community Support Officers are Authorised Officers appointed under the *Child Care Act 2002*. Managers, Community Capacity and Service Quality and Regional Directors are also appointed as Authorised Officers.
- Authorised Officers (CSOs) -
 - identify issues of non-compliance, and
 - take steps to resolve issues of non-compliance working collaboratively with the licensee where possible and appropriate.
- Authorised Officers may
 - issue compliance notices, and
 - recommend that other enforcement action be taken, eg suspension or revocation of a licence.
- Regional Directors may, on the advice of the authorised officer recommend to the Director-General that more serious enforcement action be taken, eg amendment, suspension or revocation of a licence.

Delegations:

- Authorised Officers appointed pursuant to section 111 of the *Child Care Act 2002* may issue the notices referred to in sections 142 and 143 of the Act.
- Other enforcement powers, including refusal to renew a licence, show cause processes, amendment (other than upon application by the licensee), suspension and revocation of a licence are retained by the Director-General.

Links:

Procedure

Enforcement options for licensed child care services

Related Legislation or Standard

Related Departmental Policy

Power of entry and other powers under the *Child Care Act 2002*

Reporting of Harm or Suspected Harm

Reporting of Deaths, Serious Incidents and Missing Person Policies and Procedures

Forms, Standard Letters or Memorandum

Building Compliance Notice

Compliance Notice

Notice of amendment of licence

Notice of revocation of licence

Notice of suspension of licence

Notice of urgent amendment of licence

Notice of urgent suspension of licence

Show cause notice (amendment of licence)

Show cause notice (suspension of licence)

Show cause notice (revocation of licence)

Show cause notice (renewal of licence)