

# Portfolio Procedures

Department of Communities

Disability Services Queensland

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**Title:** Licensing Centre Based Services  
**Related Policy No.:** 434-1  
**Policy Category:** Child care and family support > child care

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

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## **Purpose:**

These procedures detail the steps and processes involved for licensing (including renewal of licences) centre based child care services in accordance with the legislative requirements, to ensure consistency in the licensing of services across the State.

## **Process:**

The *Chief Executive* or delegated decision maker (the decision maker) has the discretion to issue a licence and to determine any conditions that will apply to a licence.

The decision maker will:

1. Ensure that the processes and considerations outlined in the attachments to this document are adopted and applied in the determination of any application for a new licence and any application for renewal of a licence; and
2. Consider all submissions and information provided within the required timeframes by an applicant prior to determining an application.

The Department will provide all reasonable assistance to applicants and licensees in completing an application for a new licence or renewal of a licence, and will streamline the licensing process to ensure applications are dealt with in a reasonable manner. Where possible, the Department will endeavour to minimise duplication in the provision of information by the licensee, for example, satisfactory completion of the National Childcare Accreditation Council Quality Improvement and Accreditation System process may be sufficient to meet the programming requirements of the licensing process.

## **Attachments**

1. Determining an application for a new licence to operate a centre based child care service
2. Determining an application for renewal of a licence to operate a centre based child care service
3. Determining licence conditions
4. Determining an application for the transfer of a licence
5. Determining a provisional licence

## **Delegations:**

Managers, Community Capacity & Service Quality are the delegated decision-makers for issuing licences for centre based services, except provisional licences.

Regional Directors are the delegated decision-maker for issuing a provisional licence to centre based services.

## **LINKS**

### **Related legislation or standards**

*Child Care Act 2002*

*Child Care Regulation 2003*

Queensland Development Code (Part 22: Child Care Centres)

## ATTACHMENT 1

### DETERMINING AN APPLICATION FOR A NEW LICENCE TO OPERATE A CENTRE BASED CHILD CARE SERVICE

#### 1. The Application

In order to issue a licence an application must be received by the *Chief Executive* or delegated decision maker, ie the Manager in each Region.

The application must be received in the approved form and be accompanied by the prescribed fee.

#### 2. Deciding the Licence

The decision-maker must decide the licence within 90 days of receiving the application form, prescribed fee and other required information being received. **The application must be decided within 90 days of receiving the required information by issuing the licence or refusing to issue the licence.**

The decision-maker must request any other relevant information and documents required to decide the application.

Where the information provided by the applicant is insufficient to decide the application, additional information must be requested by the department. For example, the department may seek more detailed information about the service's policies.

An authorised officer will conduct at least one visit to a centre based service to be satisfied that the licensee meets all requirements prior to a licence being issued.

Once the licensing process is complete, the authorised officer will make a recommendation to the decision maker that the application be approved or not approved. If the licence application is approved a licence will be issued to the applicant.

#### 3. Requirements for operating a centre based child care service

The decision maker must be satisfied that the applicant (referred to in this document as the licensee) has demonstrated that the requirements of the legislation have been met or will be met on the day on which the licence starts.

The decision maker will assess the following requirements in the application for a licence:

- (a) Suitability of licensee and related persons  
The decision maker must be satisfied that the licensee and related persons including executive officers and nominees hold a current positive suitability notice issued by the *Commission for Children and Young People*. The decision maker must receive certified copies of current positive suitability notices with the licence application (section 26 of the *Act*).
- (b) Suitability of staff members  
The decision maker must be satisfied that all carers and all individuals engaged in providing care at a service comply with the *Commission for Children and Young People and Child Guardian Act 2000*. The authorised officer will inspect original or certified copies of notices and /or applications made to the *Commission for Children and Young People and Child Guardian*, as required (sections 27 and 74 of the *Act*).

The decision maker must be satisfied that where staff have not yet been engaged, the licensee can demonstrate an understanding to the authorised officer of his/her obligations under the *Commission for Children and Young People and Child Guardian Act 2000*.

- (c) Staffing  
The decision maker must be satisfied that the licensee has demonstrated that he/she has engaged or will engage adequate and suitable staff to meet the requirements of the *Act* and

*Regulation*, with regard to the proposed licensed capacity and the ages of the children that will be accommodated in the service. This must be demonstrated through the decision maker receiving an example of a weekly staffing roster; information about staff qualifications; details of proposed age groupings and staff/child ratios with the licence application.

(d) First Aid

The decision maker must be satisfied that the licensee has demonstrated whenever child care is being provided at a place under a licence for centre based service, at least 1 staff member with the prescribed first aid competency is present at the place. The decision maker must receive a copy of the staff roster that shows that at all times there is a staff member who has current first aid qualifications and also reflects planning for contingencies, eg absence of the staff member due to illness or holidays. This evidence and the capacity to comply with the first aid qualification requirements must be demonstrated prior to the licence commencing. The authorised officer will inspect original copies or certified copies of the first aid qualification that the licensee is required to keep, as required. (sections 66 and 72 of the *Act*).

(e) Qualifications

The decision maker must be satisfied that the licensee has demonstrated that he/she has employed or will engage appropriately qualified staff to meet all qualification requirements for positions of assistant, group leader and director. The decision maker must receive information about the qualifications of staff and the date of initial employment and the date of commencement of study for staff who are not suitably qualified, together with the application, or prior to the licence commencing. The authorised officer will inspect the certified copies of relevant qualification documents, including evidence of enrolment that the licensee is required to keep, as required. (sections 72 and 73 of the *Act*)

(f) Role Statements

The decision maker must be satisfied that the licensee has prepared and kept up to date a role statement for each position in the service (section 77 of the *Act*). Each role statement must include key duties and responsibilities for each carer and staff member employed by the licensee to ensure the proper conduct of the service. Copies of role statements must be received by the decision maker with the licence application.

(g) Insurance

The decision maker must be satisfied that the licensee has ensured there is in force, for the service, the insurance cover prescribed under the *Regulation* (section 124). Evidence of a current public liability insurance policy of \$10,000,000 must be received by the decision maker with the licence application, or prior to the licence commencing (section 82 of the *Act*).

(h) Policies

The decision maker must be satisfied that the licensee has policies addressing the matters required under section 76 of the *Act*. Copies of the policies the service proposes to use and written information to demonstrate how staff members and carers will be made aware of these policies must be received with the licence application.

(i) Harmful Plants

The decision-maker must be satisfied that the child care centre does not have any plants accessible to children that are poisonous or otherwise pose an unacceptable danger to the children. The licensee must provide evidence of the policies and procedures implemented to demonstrate awareness and management of harmful plants. Licensees should consult Queensland Health's Queensland Poisons Information Centre (website <http://www.health.qld.gov.au/PoisonsInformationCentre>) for information about harmful plants. (Section 54 of the *Regulation*.)

(j) Programming

The decision maker must be satisfied that the licensee is meeting or capable of meeting the programming requirements, as outlined in sections 10 – 13 of the *Child Care Regulation 2003*. The decision maker must receive with the licence application, examples of programming including samples of formats used or proposed to be used and a written document that includes a statement of:

- The service's philosophy in relation to learning and child development outcomes and how it is intended the outcomes will be achieved; and
- The goals relating to the knowledge and skills to be developed through the program.

In order to demonstrate compliance, the authorised officer may also discuss with the Director any additional information required about the program. An authorised officer will review programming at the centre during a monitoring visit following the issue of a licence, as required. (section 89 of the *Act*)

#### **4. Suitability of a child care centre and its facilities**

The decision maker must be satisfied that a child care centre and other facilities used, or proposed to be used, are suitable for the provision of safe and suitable care and for the type of child care to be provided under the licence (section 28 of the *Act*). He/ she must be satisfied that the licensee has demonstrated that the child care centre meets the relevant provisions of the *Queensland Development Code (Part 22: Child Care Centres)* in regard to building requirements. The decision maker must receive a current building certificate (certificate of classification) as evidence of compliance with building standards prior to a licence being issued. (section 28(6) of the *Act*)

In order to assist the decision maker in considering whether any licence conditions should apply to the service (relating to rest periods, the ages, number and groups of children to be provided with care at the service) a copy of the service plans for the centre must be received by the decision maker with the licence application. These must indicate the available indoor space in each room, range of ages to be accommodated in each group, shade measurements and outdoor space. An appropriately qualified person (eg – architect, draftsman, building certifier) must have certified the measurements.

The decision maker has the discretion to determine the suitability of a child care centre and must take into account a range of factors including:

- Fences and gates are secure and in working order;
- Condition of the overall premise including the building and facilities;
- Outdoor play space that is safe and suitable for children to use;
- Whether the centre is attached to a dwelling or located in a hazardous area; and
- Whether the centre is on, or includes, a level above ground level.

The decision maker must be satisfied that the child care centre is safe and suitable for use as a child care centre and may request additional information from the licensee to determine the suitability of the centre. For example a risk assessment report may be requested where a possible risk is identified.

#### **5. Transporting children**

If the service provides transportation for children, details of numbers of children, staff, times children are transported and vehicle used to transport children must be received with the licence application in order for the decision maker to be satisfied that the licensee is meeting these requirements.

#### **6. Other criteria**

The decision-maker, in making a decision, must have regard to other criteria outlined in section 31 and the Guiding Principles (section 9) of the *Child Care Act 2002*. The Guiding Principles outline the principles under which licensed services are to be conducted and the *Child Care Act 2002* is to be administered.

## ATTACHMENT 2

### DETERMINING AN APPLICATION FOR RENEWAL OF A LICENCE TO OPERATE A CENTRE BASED CHILD CARE SERVICE

The renewal process outlined below is used when a centre based service is due for a licence renewal. (A licence renewal occurs at the end of the term stated on the licence, generally every 3 years.)

#### 1. Timeframes in the renewal process

Five (5) months before the licence expires, the department must provide the licensee with relevant documentation to be completed for renewal of a licence.

If the application received by the decision maker is still current on the expiry day and has not been decided because all required information has not been received, the licence does not expire. The department, within 5 working days, will forward a letter to the licensee requesting the required information in 14 days, after the requirement is made.

#### 2. Information relevant to the renewal

To enable the licence renewal application to be decided, the decision maker must be satisfied that all of the requirements assessed in the initial application for a licence have been maintained by the licensee (see *Determining an application for a licence to operate a centre based child care service – Attachment 1*).

The decision maker must receive from the licensee all required information, including documents and copies of documents, requested in the application for renewal form in order for the application for renewal to be properly considered. In addition to satisfying himself/herself that the legislative standards have been maintained, the decision maker will have regard to the following issues in determining the renewal application: -

##### (a) Programming

The decision maker will accept evidence if provided by the licensee of current accreditation under the Commonwealth Quality Improvement and Accreditation System to satisfy the department that the programming requirements in the legislation are being met (eg by providing the department with a copy of the validation report for the service). However, if the department has received a complaint during the term of the licence, or for any other reason the authorised officer has concerns in respect of the programming for the service, the department may request additional information, eg copies of programming materials, or, an authorised officer will conduct a specific visit to the service to observe the implementation of the program prior to deciding the renewal application, as required.

##### (b) Standard requirements and rest periods

The decision maker must receive with the licence application an example of a weekly staff roster, or other evidence if that is available, to demonstrate that the standard requirements and other requirements applicable during any rest periods are being met. In order to satisfy the decision maker that the regulatory requirements are being met, the information provided must include:-

- the number of children in each group;
- the ages of the children in a group;
- the involvement of qualified group leaders, qualified assistants or other persons with a group; and
- any related matters about adult supervision of the children in care.

##### (c) Suitability of Child Care Centre and its Facilities

The decision-maker must be satisfied by the licensee that the facilities and equipment at the service are in good condition, workable order and suitable for the number and ages of children accommodated by the service. If there are any matters that require attention the authorised officer must be informed how the licensee will address each identified matter. If the building has undergone any structural changes during the last licence period the decision-maker must receive a building certificate with the licence application **that demonstrates that the centre complies with**

**all relevant building requirements. A decision-maker may request a new version of the service plans that reflect any changes. The plans must indicate the available indoor space in each room, range of ages to be accommodated in each group, shade measurements and outdoor space. An appropriately qualified person (architect, drafts person, building certifier) must have certified the measurements.** If the authorised officer is concerned that the equipment does not meet minimum requirements the authorised officer must request a copy of the centre's inventory in order to demonstrate that the service has facilities that are adequate and appropriate for the ages and numbers of children in care. This inventory must reflect the departmental guidelines on adequate and appropriate facilities.

A child care centre that was licensed prior to the commencement of the *Child Care Act 2002* will be deemed to meet the new building standards contained in the Queensland Development Code and does not require a certificate of classification, except when modifications of the building have occurred. Some child care centres that existed prior to commencement hold unlimited exemptions relating to specific building requirements. Each of these services is listed in the *Child Care Regulation 2003*.

(d) Emergency care provision

The decision maker must be satisfied that the licensee has complied with requirements to keep details of all occasions that emergency care has been used in the centre. The authorised officer will inspect emergency care records during a visit to the centre.

(e) Transporting children

If the service provides transportation for children, details of numbers of children, staff, times children are transported and the vehicle used to transport children must be received with the licence application to enable the decision maker to be satisfied the licensee is meeting all requirements.

An authorised officer must visit the service during the re-licensing process. The purpose of the visit is to verify information provided in the application for renewal and to ensure that there are no outstanding licensing issues. The visit will include a walk through of the licensed premises and the authorised officer may inspect all or a sample of documentation and records held at the centre. The authorised officer may require the licensee to produce other documentation or records at a specified time and place.

### **3. Other criteria**

The decision maker, in making a decision, must have regard to other criteria outlined in section 31 and the Guiding Principles of the *Child Care Act 2002*. The Guiding Principles outlines the principles under which licensed services are to be conducted and the *Child Care Act 2002* is to be administered.

## ATTACHMENT 3

### DETERMINING LICENCE CONDITIONS CENTRE BASED

#### A. Centre based care

Licences to operate centre based services will include mandatory conditions in respect of:

1. the licensed capacity of the service;
2. the ages of the children; and
3. the hours of operation of the service.

Additional optional conditions may also be included in respect of the following:

4. overnight care;
5. rest periods;
6. the building;
7. a notation in respect of whether the building is subject to an exemption; and
8. any other conditions that may be relevant.

#### 1. Licensed capacity

(a) Licensed capacity to reflect actual number of children using the service.

The department must be satisfied that as far as possible the licensed capacity stated on the licence (except for school age care services) reflects the actual number of children using or that the licensee anticipates will be using the service at any one time.

(The *Act* sets out the relevant considerations in determining the licensed capacity for a service (section 32(6)).

(b) Licensed capacity may be set at greater than 75 for limited periods

The decision maker may specify the licensed capacity as different numbers of children at different times. For centre based services, (excluding school age care services), the decision maker may not specify a licensed capacity greater than 75, except for a period of up to 2 hours each day (section 32 (5)), where this condition has been approved.

In addition, for smaller services where the number of children accommodated is less than 75, the decision maker may specify different numbers to apply at different times of the day.

The licensed capacity for a service will generally be set at a figure that, considering the range of factors referred to above will ensure compliance with the indoor and outdoor space and other facility requirements set out in the *Queensland Development Code (Part 22: Child Care Centres)*. The decision maker has the discretion to specify a greater number of children in the licensed capacity.

The department will only stipulate a number in the licensed capacity that is greater than the number of children that would otherwise be permitted to be accommodated with reference to *the Queensland Development Code (Part 22: Child Care Centres)* where:

- there is not a significant difference between the space that would ordinarily be required for the larger number of children and the actual space available; and
  - other facilities are adequate to accommodate the greater number of children during the period specified; and
  - the period of time during which the licensed capacity will be set at a greater figure does not exceed 2 hours; and
  - the licensee is able to demonstrate that the additional number of children will be accommodated safely; and
- the licensee is able to meet all of the regulatory requirements set out in the *Child Care Act 2002 (and Regulation)*, eg relevant qualified staff/child ratios, maximum group sizes, programming requirements.

## **2. Ages of the children that may be provided with care**

The department will specify the ages of the children that may be accommodated in the child care centre as a condition on the licence. In most cases, the ages of the children will be expressed as a range.

In deciding the licence condition relating to ages of children, the decision maker will take into account the way in which the licensee meets the licensing requirements, ie –

- the building standards as set out in the *Queensland Development Code (Part 22: Child Care Centres)*;
- building and facility requirements,
- programming requirements, and
- staffing requirements

The decision maker must be satisfied that the licensee has demonstrated that the he/she meets all of the requirements for licensing under the legislation for the age group that will be accommodated in the centre. For example, the building standards impose different building requirements for services operating for 20 hours or less per week and catering to 30 children or less.

## **3. Hours of operation of the service**

The department will specify the hours of operation as a condition on the licence as follows:

The service may operate for –

- 20 hours of less per week *or*
- more than 20 hours per week

The decision-maker will have regard to the building certificate (ie the way in which the licensee has met the *Queensland Development Code* requirements), in determining the relevant hours of operation of a service and the facilities, programming and staffing.

The decision maker will impose a condition further restricting the hours of operation of a service in appropriate circumstances, such as:

- where the decision maker decides there is a risk to children in operating outside of those hours eg crop dusting of nearby fields takes place weekly between the hours of 7 and 8 am on a Tuesday morning then the licence condition will stipulate that care of children is not to be provided at those times, or
- where the decision maker is not satisfied the licensee is able to meet the requirements for providing care outside of those hours, eg the licensee is unable to demonstrate the presence of two staff members between the hours of 6am and 7am, the licence will stipulate that the centre will not provide care for children before 7am in the morning.

## **4. Overnight care**

The department must stipulate licence conditions where a licensee intends operating a service between the hours of 10pm and 5am (or any part of that time). The conditions applying during the period (section 62(2) of the *Act*) where a service is operating overnight (or, for part of the night) must specify the following details:

- (a) the number of qualified and unqualified staff required at the centre during the night;
- (b) the configuration of children in groups during the night, including reference to rooms in the centre that may be suitable to accommodate the children overnight; and
- (c) any other matters that are relevant to the supervision of the children during the night.

In determining applications for the provision of overnight care, the decision maker will take into account overnight security, overnight fire drill procedures, sleep monitoring procedures for children, programming and equipment, age appropriate meals and snacks provided to children.

## **5. Rest periods**

Where the decision maker has received an application for an amendment to include a licence condition regarding rest periods, the department will begin processing the application once all the required information is received by the decision maker. The decision-maker will decide the application as soon as possible and within 90 days of receipt of all required information. If the

decision maker determines that it is appropriate to do so, the licence conditions will specify the rest periods during each day (not exceeding 2 hours in total per day) (section 63 of the *Act*).

**6. Conditions relating to the use of the building (premises that also contain a home/centres above ground level)**

The decision maker will specify in the licence conditions any additional requirements and restrictions relating to the operation of the centre (sections 28(4) and (5) of the *Act*), where a decision maker receives a proposal to operate a centre at a level above ground level, or, in premises that also contain a home, and the application for the licence is successful.

**7. Centres subject to exemption/s in respect of the building**

The decision-maker will include details relating to any building exemption held by the licensee on the licence (section 188 of the *Act*).

**8. Other conditions**

Division 4, sections 23 to 31, sets out the relevant factors when determining what conditions should apply to a licence. The department will impose additional conditions on the licence where the particular circumstances require it to ensure that the child care is properly provided. **The decision-maker will consider any compliance matters and other factors that would impact on the licensee's ability to provide safe and suitable care to children.**

## **ATTACHMENT 4**

### **DETERMINING AN APPLICATION FOR THE TRANSFER OF A LICENCE**

#### **1. The application**

- Section 51 of the *Child Care Act 2002* allows a person to apply to the department for the transfer of a licence to another person.
- The application must be received in the approved form (Child Care Form 10 – Application for a transfer of licence) and be accompanied by the prescribed fee and other required information.

#### **2. Deciding the licence application**

- The current licensee must give written consent for the transfer of the licence.
- The decision maker decides the licence based on the application form, information and documentation provided by the applicant within 20 days of the application form, fee and other required information being received. The applicant for the licence must advise the department of the preferred transfer date.
- Where the information provided by the applicant is insufficient to decide the application, additional relevant information will be requested by the decision maker. For example, the decision-maker may seek more detailed information about the equipment proposed to be provided at the centre.
- When the application fee, form and all required information is received by the decision-maker, the decision-maker will consider the application.
- Once the licensing process is complete, the authorised officer will make a recommendation to the decision maker that the application should be approved or not approved. If the licence application is approved a licence will be issued to the applicant.
- The licence cannot be transferred until the decision-maker has approved the application.
- Following the transfer of the licence a letter will be sent to the previous licensee advising that the transfer has occurred.
- Within two weeks of the licence being transferred, an authorised officer will visit the service to complete a licence report. (Child Care Form 4 – Licence Report – centre based service).

#### **3. Requirements for operating a centre based service**

The decision maker must be satisfied that the applicant (referred to in this document as the licensee) has demonstrated that the requirements of the legislation have been met or will be met on the day on which the licence starts.

The decision maker will assess the requirements as outlined in Attachment 1 when deciding the application for a licence.

#### **4. Other criteria**

The decision maker, in making a decision, must have regard to other criteria outlined in section 31 and the Guiding Principles of the *Child Care Act 2002*. The Guiding Principles outlines the principles under which licensed services are to be conducted and the *Child Care Act 2002* is to be administered.

## **ATTACHMENT 5**

### **DETERMINING A PROVISIONAL LICENCE**

To determine an application for a new licence – see attachment 1.

Before finally deciding an application for a licence the decision-maker may issue a provisional licence if one or more minor matters are still to be resolved and are able to be resolved within the term of a provisional licence.

The provisional licence is issued for a maximum of 3 months.

The applicant must agree to the issue of the provisional licence.

- The applicant must complete an agreement form (Child Care Form 8).
- The applicant must pay the prescribed fee.

The decision-maker will decide whether or not to issue the provisional licence.