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1. Executive summary

Introduction

Following the release, a statewide public consultation process was undertaken, in which there was broad community participation, including:

- Over 1600 people attending public or sector-specific information sessions
- 35 detailed submissions from peak bodies and sector-specific organisations
- 702 completed feedback forms
- 225 telephone comments and enquiries
- 201 email comments and enquiries.

This report provides a comprehensive overview of the issues and themes that were raised through this process.

Key issues
Feedback indicated an overwhelming support throughout the community for the Victorian Government’s reform agenda of improving outcomes in children’s services.

The draft regulations propose changes consistent with this agenda, as well as with the Government’s commitment to reducing regulatory burden. Other changes were necessary to accommodate the regulation of family day care (FDC) and outside school hours care (OSHC). These two service types will be brought under the regulatory framework on 25 May 2009, subsequent to the passing of the Children’s Legislation Amendment Act 2008.

The majority of the proposals contained in the draft Regulations were uncontroversial. The most significant areas of change proposed in the draft Regulations, and which drew the greatest comment from the community, are outlined in the following sections.

Improving staff/child ratios for children under three in long day care services
Seventy-three per cent of the respondents completing the feedback form indicated that they saw the proposed new staff/child ratios for children under three as appropriate. Of the remaining 27 per cent, the majority argued for even stronger ratios.

Key organisations similarly tended to support this proposed change to staff/child ratios, with thirteen organisations supporting the proposal, six arguing for more staff members per child for this age group, and one key organisation arguing for fewer staff members per child.

Some concerns were raised during public consultations about the impact of improvements to staff/child ratios on service costs, although support for the changes was widespread.
Minimum Certificate III training for all staff and carers

The proposal for a minimum Certificate III training requirement for all staff and carers was supported by 77 per cent of the respondents. Twenty-three key organisations advocated either Certificate III or higher as a minimum training requirement. One key organisation opposed any requirements for minimum training.

Broad support for the proposal was evident at the public consultations. However, some participants expressed concern regarding the availability of trained relief staff and the costs of employing them. Others expressed specific concerns regarding availability of quality training and the practicality of meeting this requirement within the transition period.

Requirement for a degree-qualified early childhood teacher in all long day care Services

Divergent views were expressed in relation to the draft Regulations’ proposed requirement that a degree-qualified early childhood teacher be employed in all standard licensed services. This requirement will primarily relate to long day care services, and particularly those not currently providing a kindergarten program.

The proposal was supported by 62 per cent of the feedback respondents. Public consultations helped to give some qualitative meaning to people’s reservations about the proposal, which generally revolved around concerns about the availability of teachers; the costs of employing them; the impact on stand alone kindergartens; and difficulties in attracting teachers to the long day care environment.

Key organisation feedback was, however, much less equivocal, with nineteen organisations supporting the draft Regulation and one organisation opposing it.

Minimum age requirement of 18 years for all staff and carers

The proposal to require a minimum age of 18 years for staff and carers was supported by 70 per cent of respondents. Concerns expressed in public consultations on this issue focused primarily on the cost impact for services that rely heavily on trainees and other young workers to meet the ratio requirements.

Fourteen key organisations agreed with the proposal, and one advocated for no minimum age requirements.

In addition to the above issues, which generated the most comment, there were also a few issues that tended to be of interest to a relatively small number of respondents, or to more specific parts of the children’s services sector. These issues elicited strong responses, either in terms of very divergent views, or in terms of strong opposition, albeit from a relatively small number of people. These issues are outlined in the following sections.

Grandfathering provisions for Certificate III training

The draft Regulations propose that staff working for five or more years on a full-time basis, or ten or more years on a part-time basis, will not be required to obtain a Certificate III. Fifty-three per cent of the feedback respondents who commented on this issue supported it. Thirty-eight per cent did not.

In public consultation sessions strong opposition to the proposal was voiced by some participants, based on a view that length of experience does not necessarily equate with acquisition of knowledge or skill.

Seven key organisations supported the grandfathering clause and
eleven opposed it. A number of key organisations commented that the regulations should acknowledge the essential knowledge and skills required for workers in the child care industry and that recognition of prior learning mechanism should be implemented.

**Minimum staff requirements in OSHC**

The draft regulations propose that the current regulations’ requirement for a minimum of two staff to be on duty at all times should not apply in some circumstances in small rural and remote OSHC services.

In written feedback, both from key organisations and through the feedback forms, this proposal was supported. However, in some public consultation sessions in metropolitan areas concerns were raised about the proposal and its impact on those OSHC services that are currently operating under a single staff model in metropolitan areas. Two key organisations raised concerns about the single staff model in OSHC; one was concerned about the impact on metropolitan services and the other supported the single staff model. Similar comments were made in free range responses by a small number of participants.

**Family day care to be provided in the carer’s principal residence**

A proposed licence condition for FDC in the draft regulations is that care must be provided in the carer’s primary residence.

Seventy-three per cent of respondents supported this proposal and, of the ten key organisations that commented on this proposal, five supported it, three were neutral and two opposed it.

Opposition to the proposal was sometimes strongly voiced during public consultation sessions, particularly on the basis that a number of carers currently rent separate premises or have converted garages or parts of the home solely for the provision of FDC and want to continue to be able to do this.

**In summary**

The overall picture emerging through the consultation and feedback process was one of broad support for the general directions and, for much of the detail, of the draft regulations. Each of the proposals received majority support.

This does not mean, however, that the issues raised by those who disagreed with some of the proposals are insignificant. The concerns raised in relation to specific proposals will be noted throughout the body of this report and have been considered by the Government in the final draft of the new Children’s Services Regulations.
2. Methodology

Distribution of the Regulatory Impact Statement

A Regulatory Impact Statement (RIS) was certified by the Victorian Competition and Efficiency Commission on 15 January 2009, and released along with the draft regulations by the Minister for Children and Early Childhood Development, Hon Maxine Morand MP, on 21 January 2009.

The RIS and draft regulations were open for public consultation and comment until 25 March 2009, allowing just over double the consultation period required under the Subordinate Legislation Act 1994.

A total of 12,390 copies of the RIS and draft regulations were distributed through a range of means, including a mail out to the sector and responses to individual requests. Around 1500 additional copies were distributed at public consultations. Both documents were also available for download from the Department’s website, www.education.vic.gov.au.

Public consultation sessions

A total of 40 consultation sessions were held throughout metropolitan and regional Victoria, attended by around 1600 people. Attendees were from different parts of the sector and represented different interest groups. Twenty-seven of these sessions were public meetings attended by broad ranges of interest groups, and 13 consultations were targeted to peak bodies and key organisations representing sector groups. Table 1 indicates the percentage of attendees at the public meetings with an interest in the various service types. Note that the sum of percentages here exceeds 100 per cent, as many participants in sessions were involved in more than one service type.

Table 1: Sector representation at public consultations

<table>
<thead>
<tr>
<th>Type of child care</th>
<th>Percentage represented (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kindergarten</td>
<td>32</td>
</tr>
<tr>
<td>Long day care</td>
<td>28</td>
</tr>
<tr>
<td>Family day care</td>
<td>11</td>
</tr>
<tr>
<td>OSHC</td>
<td>11</td>
</tr>
<tr>
<td>Occasional care</td>
<td>10</td>
</tr>
<tr>
<td>Play group</td>
<td>2</td>
</tr>
<tr>
<td>Parent</td>
<td>2</td>
</tr>
<tr>
<td>Neighbourhood house</td>
<td>2</td>
</tr>
<tr>
<td>Sport and recreation</td>
<td>1</td>
</tr>
<tr>
<td>Other</td>
<td>23</td>
</tr>
</tbody>
</table>
The primary purpose of the public consultation sessions was to provide information about the draft regulations and RIS in order to assist participants in preparing their feedback. The sessions were not specifically conducted as a means of obtaining further feedback. Instead, when issues were raised at sessions, participants were encouraged to include those issues in their formal feedback. The extent to which this in fact occurred is not known, as respondents to the feedback form were not asked whether or not they had attended any of the public consultation sessions.

Where issues were raised during the sessions, these were noted and later consolidated. This consolidated analysis of comments made during the sessions has been included in this report. It is important to note, however, that the sessions did not include dedicated time for participants to comment on the draft regulations and, therefore, in the main, comments were only forthcoming when participants had concerns about a particular issue.

**Written submissions**

A survey was developed to gather stakeholder feedback on the proposed regulations, including the impacts and costs and benefits of implementing the regulations. The survey was made available to complete online through the Department’s website, and hard copies were distributed to stakeholders on request and at consultation sessions. The survey opened on 21 January 2009 and closed at 5pm Wednesday 25 March 2009.

A total of 789 submissions were received, with 702 valid responses included in the final analysis.¹ A further 35 responses from key organisations were received and are reported separately. Fifteen submissions were received after the data analysis was conducted and therefore are not included in this report.

Feedback was received in the form of letters, emails, or formal submissions. These were coded and entered into the same database as the survey responses. It is important to note that not all respondents answered all questions in the survey. Some respondents only answered or commented on those questions or issues that were important to them. To address this issue, and to ensure that percentages are not read out of context, in some instances percentages are reported alongside the number count (n = x) for any particular response.

Some respondents used the feedback form to focus a particular issue of concern and reiterate these concerns across all open questions in the survey. This issue was particularly noticeable across the two questions on the impact of the proposed regulations and the ‘other issues’ free response question at the end of the feedback form. To avoid counting an individual’s issue or concern more than once the following two measures were taken:

- Only answers that were relevant to the question asked were counted.
- Where respondents tended to repeat answers across different questions, the highest percentage count from one particular question is reported.

¹ Responses were deemed to be invalid where no question was answered (n = 74), or where the response was identified as a duplicate (n = 13).
A profile of respondents’ involvement in the children’s services sector and their location is provided in tables 2 to 4. Forty-one per cent of respondents (n = 286) indicated that they were associated with more than one service type.

**Table 2: Breakdown of respondents by service type**

<table>
<thead>
<tr>
<th>Type of child care</th>
<th>Number of responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kindergarten</td>
<td>234</td>
</tr>
<tr>
<td>Long day care</td>
<td>235</td>
</tr>
<tr>
<td>Occasional child care</td>
<td>136</td>
</tr>
<tr>
<td>Family day care</td>
<td>143</td>
</tr>
<tr>
<td>Outside school hours care*</td>
<td>210</td>
</tr>
<tr>
<td>Play group</td>
<td>36</td>
</tr>
<tr>
<td>Not applicable</td>
<td>13</td>
</tr>
<tr>
<td>Not stated</td>
<td>11</td>
</tr>
</tbody>
</table>

* Includes before or after school hours care and vacation care.

**Table 3: Breakdown of respondents by sector type**

<table>
<thead>
<tr>
<th>Sector type</th>
<th>Number of responses</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>For profit</td>
<td>130</td>
<td>20</td>
</tr>
<tr>
<td>Not for profit</td>
<td>345</td>
<td>53</td>
</tr>
<tr>
<td>Local government</td>
<td>137</td>
<td>21</td>
</tr>
<tr>
<td>Not applicable</td>
<td>38</td>
<td>6</td>
</tr>
<tr>
<td>Not stated</td>
<td>52</td>
<td>8</td>
</tr>
</tbody>
</table>

**Table 4: Breakdown of respondents by involvement in sector**

<table>
<thead>
<tr>
<th>Involvement in sector</th>
<th>Number of responses</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operator of a children's service</td>
<td>84</td>
<td>12</td>
</tr>
<tr>
<td>Manager of a children's service</td>
<td>256</td>
<td>36</td>
</tr>
<tr>
<td>Member of a management committee</td>
<td>30</td>
<td>4</td>
</tr>
<tr>
<td>Employee of a children's service</td>
<td>142</td>
<td>20</td>
</tr>
<tr>
<td>Family day care carer</td>
<td>39</td>
<td>6</td>
</tr>
<tr>
<td>School</td>
<td>37</td>
<td>5</td>
</tr>
<tr>
<td>University/TAFE</td>
<td>20</td>
<td>3</td>
</tr>
<tr>
<td>Local government</td>
<td>33</td>
<td>5</td>
</tr>
<tr>
<td>Parent</td>
<td>35</td>
<td>5</td>
</tr>
<tr>
<td>Interested citizen</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>Not stated</td>
<td>19</td>
<td>3</td>
</tr>
</tbody>
</table>
### Table 5: Breakdown of respondents by accessibility/remoteness index of Australia (ARIA)

<table>
<thead>
<tr>
<th>ARIA</th>
<th>Number of responses</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major cities of Australia</td>
<td>463</td>
<td>66</td>
</tr>
<tr>
<td>Inner regional Australia</td>
<td>161</td>
<td>23</td>
</tr>
<tr>
<td>Outer regional Australia</td>
<td>39</td>
<td>6</td>
</tr>
<tr>
<td>Not stated</td>
<td>39</td>
<td>6</td>
</tr>
</tbody>
</table>
3. Licensing provisions

The RIS and draft regulations set out proposed changes to the licensing structure for children’s services and family day care in Victoria. A number of changes are also outlined in the draft regulations in respect of the restrictions and conditions imposed on certain types of licences. Survey respondents were asked to comment on their level of support for the proposed licensing structure; whether the conditions imposed for each licence type were appropriate; and whether the licensing fees were adequate.

Licensing types

There was general agreement among respondents that the licence types reflected the range of children’s services provided in Victoria, and that these licence types will better meet the needs of licensees.

Forty-six per cent of respondents strongly agreed or agreed that the proposed licence types would reduce the regulatory burden imposed on licensees, while 41 per cent were neutral on this issue.

When asked about the proposed licence durations, 72 per cent of respondents strongly agreed or agreed that the changes would provide sufficient flexibility for licensees, while fewer than 2 per cent disagreed or strongly disagreed.

Sixty-nine respondents provided additional comments regarding the proposed licensing structure. Stakeholders generally recommended alternative licensing types, or expressed concern regarding the conditions associated with each of the proposed licence types. In relation to licence types, 20 per cent of respondents (n = 14) suggested that a single licence type for services providing before and after school care, and vacation care, would be preferable to two distinct licence types. Ten respondents (14 per cent) commented that the regulatory burden was not sufficiently reduced, or that licensing requirements had not been sufficiently streamlined. Nine per cent (n = 6) argued that a ‘master licence’ for licensees operating services across multiple premises should be introduced. Comments relating to licence conditions are addressed in the following section.

A small number of stakeholders commented that there was a need to further educate the sector as to the application of the revised licensing framework (n = 3), as there was some confusion regarding what licence type would apply to their service, and the details of the licence conditions.

Key organisations

Among the thirteen key organisations that commented on this issue there was general support for the proposed new licence types.

One organisation argued that the proposals for limited hours services were unacceptable, and that children should enjoy the same standards of care regardless of how long they are attending a service.

Public consultations

Participants in public consultation sessions generally expressed support for the proposed new licence types, noting that they seemed to reflect well the unique characteristics of different service types. However, a view was also expressed that this can lead to
compromises in quality for some service types and that this is undesirable, regardless of how little time children might spend at the service.

**Licensing conditions**

The draft regulations incorporate a number of conditions on certain licence types. Survey respondents were asked to comment on each of the conditions. There was general agreement that each of the conditions was appropriate.

Seventy-three per cent of respondents agreed or strongly agreed that not more than 30 per cent of total places at a standard, limited hours or short term service may be occupied by school children.

There was no clear consensus on the requirement for a short term type 1 service to operate for no more than 120 days per year. Fifty-eight per cent agreed or strongly agreed, while 36 per cent were neutral. The results were similar for short term type 2 Services. Fifty-four per cent agreed or strongly agreed and 38 per cent were neutral on the appropriateness of the service operating for no more than 72 hours over three-month period.

Those conditions for which greater than 10 per cent of respondents disagreed or strongly disagreed are outlined in table 6. It contains a comparison of general responses against sector specific responses. It is important to note that many respondents indicated that they did not hold an opinion (that is, answered neutral) for each of the licence conditions. This suggests that, in relation to licensing conditions:

- The occasional care sector was slightly more supportive of proposed conditions relating to limited hours services than was the overall response, although in all cases the proposed conditions were more supported than not.
- The OSHC sector expressed roughly the same level of support for the proposal around restricting OSHC services to school-age children as did the general response, which was very high.
- The FDC respondents were much more opposed to proposals around requiring FDC to be provided in the carer’s primary residence, and around limiting the number of carers to one, than was the general response.

Free text responses regarding the suitability of the proposed licence types frequently referred to the appropriateness of licensing conditions. Of those respondents who did not support the proposed licence types, 15 per cent (n = 10) opposed the restrictions on hours of care provided for an individual child in limited hours services. A small number of respondents opposed the requirement that all children in OSHC services are school children (four respondents, or 6 per cent). These comments generally related to the exclusion of preschool aged children receiving care, and that this would be particularly disadvantageous for schools that operate early learning centres.
Table 6: Licensing conditions: general and sector specific responses

<table>
<thead>
<tr>
<th>Licensing condition</th>
<th>General response</th>
<th>Sector specific response</th>
</tr>
</thead>
<tbody>
<tr>
<td>OSHC services (type 1) care for or educate children only on school days and pupil free days</td>
<td>10 per cent disagreed or strongly disagreed</td>
<td>11 per cent of OSHC respondents disagreed or strongly disagreed</td>
</tr>
<tr>
<td>OSHC services (type 2) care for or education children only on non-school days and pupil free days</td>
<td>15 per cent disagreed or strongly disagreed</td>
<td>22 per cent of OSHC respondents disagreed or strongly disagreed</td>
</tr>
<tr>
<td>All children cared for or educated by OSHC services are school children</td>
<td>10 per cent disagreed or strongly disagreed</td>
<td>14 per cent of OSHC respondents disagreed or strongly disagreed</td>
</tr>
<tr>
<td>Limited hours (type 1) are restricted to caring for an individual child for no more than two hours per day and six hours per week</td>
<td>11 per cent disagreed or strongly disagreed</td>
<td>24 per cent of occasional care respondents disagreed or strongly disagreed</td>
</tr>
<tr>
<td>Limited hours (type 2) are restricted to caring for an individual child for no more than five hours per day and fifteen hours per week</td>
<td>9 per cent disagreed or strongly disagreed</td>
<td>21 per cent of occasional care respondents disagreed or strongly disagreed</td>
</tr>
<tr>
<td>Family day care carers must provide care at their primary residence</td>
<td>12 per cent disagreed or strongly disagreed</td>
<td>36 per cent of FDC respondents disagreed or strongly disagreed</td>
</tr>
<tr>
<td>Only one family day care carer may operate from any one residence at any one time</td>
<td>10 per cent disagreed or strongly disagreed</td>
<td>29 per cent FDC respondents disagreed or strongly disagreed</td>
</tr>
<tr>
<td>Only one family day care carer may operate from a FDC venue at any one time</td>
<td>12 per cent disagreed or strongly disagreed</td>
<td>35 per cent FDC respondents disagreed or strongly disagreed</td>
</tr>
</tbody>
</table>

In the ‘other issues’ free response section of the feedback form some respondents took the opportunity to make further comment on the licensing conditions stating that:

- Preschool aged children should be allowed to attend outside school hours care services \( (n = 9) \).
- Carers in FDC should not be required to work from their primary residence \( (n = 23) \).
- Dual carers in FDC should be allowed to work from the same residence \( (n = 21) \).
- Disagreement with hours a child can be cared for in limited hours type 1 and type 2 licences \( (n = 4) \).
- Four respondents provided additional comments that qualified staff should be required in both limited hours and short term licence types.
Key organisations
For those key organisations that commented on licensing conditions, most were either supportive or neutral about the proposed licensing conditions. Where there was disagreement, this is outlined:

• no more than 30 per cent of places in a standard licensed service may be occupied by school-age children (one organisation disagreed)
• limit of 120 days per year for short term type 1 (one organisation disagreed)
• only school-age children to attend OSHC (three organisations disagreed)
• where FDC is provided in a residence, it must be the carer’s primary residence (two organisations disagreed)
• only one carer to operate from a FDC residence (one organisation disagreed).

Public consultations
During the public consultation sessions the main concerns raised in relation to licensing conditions focused on:

• requiring that OSHC must be provided only to school-age children
• requiring that FDC must be provided at the carer’s primary residence and, to a lesser extent, requiring only one carer per residence.

Public consultations conducted in regional Victoria were particularly supportive of provisions for in-venue care in rural areas, and also raised the need for these to have longer than year-to-year approval.

Licensing fees
The introduction of an integrated licence was generally perceived to provide financial savings to licensees, with 52 per cent of respondents strongly agreeing or agreeing, and 43 per cent of respondents neutral on this issue.

Fee units have generally not increased with the proposed regulations and 70 per cent of respondents felt that the fee units were appropriate. However, this level of support should be interpreted with caution as, of the 702 submissions received, 25 per cent of respondents did not comment on fee units, and a further 20 per cent reported that the question was not applicable to them.

Key organisations
Key organisations were generally supportive or neutral about the proposed provisions relating to licensing fees.
4. Staffing requirements

Staff/child ratios

In relation to the proposed changes to staff/child ratios, some respondents provided comments on ratios for all licence types, while others responded only for the licence type that would apply to their service.

For children under three, the greatest level of agreement was for the proposed ratios for OSHC type 1 and OSHC type 2 licences, with 75 per cent and 73 per cent respectively indicating that a staff/child ratio of 1:15 was appropriate for those service types.

Seventy-three per cent of respondents indicated that a ratio of 1:4 for children under three years of age at standard services was appropriate.

For children over three, there was strong support for more staff members per child across the range of licence types and age groups. The greatest level of support was for improvement in the ratios for children aged over three years in standard children’s services, where 55 per cent of respondents indicated that there should be more staff members per child.

Across both age groups, for limited hours and short term licences, between 60 and 65 per cent of respondents agreed with the proposed ratios for children under three and children over three years of age. Between 33 per cent and 38 per cent of respondents were of the opinion that more staff members per child were required across both age groups.

Fewer than 4 per cent of respondents thought that there should be fewer staff members per child across all licence types, with the exception of the proposed ratio for children under three years of age in a standard children’s service, where 8 per cent indicated a preference for fewer staff members per child.

Of the 215 people with a primary interest in a long day care centre who responded to the question about changing ratios to 1:4 for children under three in standard licensed services, 15 per cent thought that the ratios should require fewer staff, 67 per cent felt the proposals were appropriate, and 18 per cent felt that the regulations should require more staff.

In the ‘other issues’ free response section of the feedback form some respondents took the opportunity to make further comment on the staff/child ratios, stating that:

- A greater improvement in general is required (n = 10).
- An improvement for children over three is required (n = 46).
- Further improvement for children under three is required (n = 6).
- Changes to the ratios will not improve quality (n = 3).
- Lower ratios and excursion ratios are required for OSHC (n = 3).
- Maximum group size should be regulated (n = 6).
- Limited hours and short term licence types should adhere to the same ratios (n = 8).
• Regulation 59 (mixed-age ratios based on the youngest child in the group) is not workable and a mid-range ratio would be easier to implement (n = 15).

**Key organisations**

Key organisations feedback reflected a similar spread of views to general responses on this issue. Thirteen key organisations supported the proposed improvements to staff/child ratios for children under three in standard licensed services, although six argued for greater improvements, and one argued for fewer staff members per child than proposed in the draft regulations.

Four key organisations advocated for improved ratios for older children in standard licensed services, 10 supported the proposal of the draft regulations, and one argued for fewer staff members per child than proposed in the draft regulations.

For the other licence types, some argued for more staff members per child, while no key organisations argued for fewer staff members per child than those proposed in the draft regulations. The majority of key organisations called for greater improvements to staff/child ratios in the cases of children under three years in limited hours type 2 and short term type 2 and all children in short term type 1.

Several key organisations commented on draft Regulation 59, which related to the determination of ratios in mixed-age groups referring to the ratio for the youngest child attending the service. The organisations that commented on this tended mainly to draw attention to the extra costs that it could incur in many cases, particularly where there are relatively small numbers of children under three, with one organisation noting that it could also discourage services from maintaining children in family groupings.

Four key organisations commented that a ratio requirement for excursions in OSHC is not included in the draft regulations and this should be addressed.

**Public consultations**

Throughout public consultations, a similar spectrum of views on the proposed staff/child ratios was expressed. While support for the proposed ratios was widespread, some of the concerns raised included:

• A view from some providers that increased ratios for children under three in long day care would lead to unreasonable costs, loss of places and fee increases.

• A view from some providers of occasional care services, particularly those currently operating with Ministerial Exemptions under the current regulations on staff/child ratios, that the proposed regulations would be too onerous.

• A view from a broad range of participants that ratios for children aged three to six in long day care need to be addressed and improved as soon as possible, and that the Council of Australian Governments (COAG) delays create an unreasonable disadvantage for these children.

• A concern from a number of participants regarding draft Regulation 59, proposing that in mixed age groups the ratios for the youngest child is to apply. Concerns about this issue were raised particularly by services considering a limited hours licence. This concern was also raised to some extent by long day care providers, where
Children may be mixed together to maintain sibling groups or at the end of the day when the numbers of children decreases. Some participants also raised concerns about the draft regulations’ lack of prescription on the issue of staff/child ratios during excursions and argued the Act’s overriding provisions for adequate supervision notwithstanding, that services would default to the prescribed ratios, which would be arguably inadequate during excursions.

Qualified staff/child ratios

In relation to qualified staff/child ratios, some respondents commented on all types of licences, while others responded only for the licence type that would apply to their children’s service.

When considering the total responses received, between 60 per cent and 75 per cent of respondents felt that the proposed qualified staff/child ratio was appropriate across each licence type and age group. Where respondents disagreed with the proposed ratios, they were overwhelmingly in favour of requiring more qualified staff members per child. The greatest level of concern was expressed regarding proposed qualified staff/child ratios for the following licence types and age groups:

- **Standard**: 35 per cent indicated a preference for more qualified staff members per child for children aged three years and over.
- **Limited hours type 1**: 38 per cent indicated a preference for more qualified staff members per child for children under three years, and 37 per cent for children aged three years and over.
- **Short term type 2**: 34 per cent indicated a preference for more qualified staff members per child for children under three years, and 32 per cent for children aged three years and over.

Key organisations

Key organisations mostly supported the proposed qualified staff/child ratios, with relatively small numbers advocating for greater improvements across the various licence types, and one organisation advocating for lower qualified staff/child ratios in standard licensed services.

Public consultations

Where there were concerns expressed about extra staffing requirements in public consultations, particularly in relation to children under three in long day care, similar concerns were also expressed in relation to extra requirements for qualified staff including cost; loss of places; increased fees; difficulty meeting regulations in occasional care; and concerns about implementing draft Regulation 59 (which states the ratios must be based on the age of the youngest child attending the service).

Minimum staffing requirements

The proposed regulations include an extension of the current requirement that a minimum of two staff members be on duty at a children’s service at all times. Respondents were asked to comment on exceptions to this requirement for limited hours, short term and OSHC services.

Survey respondents were broadly in favour of the general requirement, with 92 per cent of respondents strongly agreeing or agreeing that a
requirement to have a minimum of two staff members present at all times was appropriate. However, respondents’ views on the exceptions were mixed. Reported levels of agreement for each of the exceptions were:

- OSHC services: 61 per cent strongly agreed or agreed, and 20 per cent disagreed or strongly disagreed with an exemption to the requirement to have a minimum of two staff members on duty for some small rural and remote services.
- Limited hours services: 61 per cent strongly agreed or agreed, and 24 per cent disagreed or strongly disagreed with an exemption to the requirement to have a minimum of two staff members on duty.
- Short term services: 61 per cent strongly agreed or agreed, and 23 per cent disagreed or strongly disagreed with an exemption to the requirement to have a minimum of two staff members on duty.

In the ‘other issues’ free response section of the feedback form, 12 respondents took the opportunity to make comments that the single staff model should be retained in OSHC services.

**Key organisations**

Key organisations were almost unanimously supportive of minimum staffing requirements. Disagreement only arose in relation to the proposed exceptions: applying to limited hours and short term services (n = 6), and the exception allowing a single staff model for some small rural OSHC services (n = 4).

One key organisation raised particular concerns regarding the impact of any changes to the large number of OSHC services in metropolitan areas currently running on a single staff model, reporting that 60 per cent of single staff model services currently operate in metropolitan areas. One organisation felt that single staff services operating in outer metropolitan areas should be allowed to continue operation. One key organisation raised particular concerns regarding single staff model vacation care, where the hours of care are long and the ratio of 1:15 is difficult to manage.

**Public consultations**

Some concern was raised in public consultation sessions, particularly in metropolitan areas, around the minimum staffing requirements and their impact on those OSHC services currently operating under a single staff model. While this concern was not raised often, it was voiced strongly when it was, with services arguing that this requirement would lead to service closures.

**Minimum age requirement**

The draft regulations include a requirement that all staff members are not less than 18 years of age. Eighty-eight per cent of respondents commented on this proposal, with 70 per cent agreeing that a minimum age of 18 years was appropriate, while 19 per cent of respondents advocated for a minimum age of 16 or 17 years.

In the ‘other issues’ free response section of the feedback form some respondents took the opportunity to make further comments on the minimum age requirement, stating that they did not agree with a minimum age of 18 (n = 5). Others raised concerns about the impact this would have on traineeships and career pathways (n = 9). Further comments on the impact of the draft regulations are outlined later in this report.
Key organisations

Key organisations were, in the main, supportive of the draft regulations’ proposal on this issue, with 14 expressing support, two expressing neutrality and one expressing opposition. The organisation opposing the minimum age requirement argued for no minimum age to be prescribed in the regulations. Another organisation argued for a minimum age of 21. One organisation, that noted differing views among their organisation, commented on the impact this proposal may have on younger people who want to pursue a career in the children’s services sector.

Public consultations

This issue raised some criticism in public consultation sessions, particularly from those providers who currently employ a significant number of staff who are aged under 18. Concern was also raised, by these services and others, about the impact that this requirement would have on the ability of services to engage trainees as staff and to count them in the staff/child ratios. It was argued that the minimum age requirement would act as a disincentive for young people to train for the sector, as services would be unlikely to employ them until they were 18 and had appropriate minimum training and, therefore, able to be counted in the staff/child ratios.

Use of volunteers

The draft regulations place a number of restrictions on services’ use of volunteers in meeting staff/child ratios. In considering the proposed limitations regarding volunteers being counted in the staff/child ratios, 79 per cent of respondents strongly agreed or agreed that it is appropriate that volunteers counted in the staff/child ratios are a minimum of 18 years of age, while 14 per cent of respondents disagreed or strongly disagreed with this proposal.

Seventy-six per cent of respondents strongly agreed or agreed that it is appropriate that not more than half the number of individuals counted in staff/child ratios are volunteers. Eighty-three per cent of respondents strongly agreed or agreed that volunteers should not be counted in qualified staff/child ratios.

Key organisations

Key organisations commenting on this issue were supportive of the draft regulations’ proposals for volunteers.

Public consultations

The issue of volunteers did not attract a large response in public consultations, other than in the context of discussions of the issue of minimum age and minimum training for staff, and the consequent concern that this would restrict people under the age of 18 and trainees to care for and educate children as volunteers.
5. Qualification and training requirements

Standard services to employ a qualified early childhood teacher

Eighty-three per cent of respondents (n = 583) commented on the proposed requirement that all standard children’s services employ a teaching staff member who holds an early childhood teaching qualification at degree level or above. Fifty-six per cent of those who chose to comment indicated that this was appropriate, while 31 per cent disagreed. Thirteen per cent of respondents were unsure whether it was appropriate to require services that hold a standard licence to employ a qualified teacher.

A total of 222 people who responded to this question said that their main interest was long day care. Of these, 45 per cent agreed with the proposal, 42 per cent disagreed and the remaining 13 per cent were unsure.

In the ‘other issues’ free response section of the feedback form some respondents took the opportunity to make further comment on the requirement to employ a degree-qualified teacher, stating that they did not support this proposal as it does not recognise expertise of existing staff including those who are diploma qualified (n = 13). Three respondents made additional comments of support for this requirement.

Key organisations

Of the twenty-one key organisations that commented on this proposal, 19 agreed with it, one was unsure and one disagreed. Issues raised by some of the key organisations in relation to this proposal included the need for clarification around the hours that the teacher would be required to work; with which children they would be required to work; what qualifications could and should be acceptable to meet this requirement; and the need to provide upgrade training to diploma-qualified staff.

Public consultations

Comments in public consultations were varied, with the proposal welcomed enthusiastically by some participants and less so by others. Of those participants who were opposed to the proposal, the major concerns were around the availability of teachers, costs, and the impact on those current service arrangements where children attending a long day care centre are escorted to an adjacent but separately licensed kindergarten.

Participants who supported the proposal welcomed the added expertise that a trained teacher might bring to the overall quality of care and education in long day care settings. Others were concerned about the disparity of employment conditions for teachers from other children’s services staff, particularly in relation to leave entitlements and cover for the teachers’ leave.
Minimum training requirement for all staff

The draft regulations introduce a minimum training requirement for all staff members employed at a children’s service and for all carers in FDC. Seventy-seven per cent of respondents felt that the proposed minimum training requirement was appropriate, while 7 per cent were of the opinion that staff should be required to undertake minimum training at a higher level than Certificate III. Thirteen per cent of respondents thought that no minimum training requirement should be imposed.

When looking at sector specific responses, key differences arose for OSHC, where 65 per cent agreed with the proposed minimum training requirement. In contrast, for FDC and occasional care, 85 and 83 per cent respectively agreed with the proposed minimum training requirement.

In the ‘other issues’ free response section of the feedback form, some respondents took the opportunity to make further comment on the minimum training requirements, stating that they supported the proposal (n = 6) or they did not support the proposal on the grounds that it would not improve quality and experience is just as relevant (n = 10).

Key organisations

Of the 24 key organisations that commented on a minimum training requirement for all staff, 20 supported the proposal. Three organisations argued for a higher minimum training requirement than Certificate III, and one argued for no minimum training requirement.

Some organisations advocated for the ability to count trainees in the staff/child ratios as a means of creating greater incentives for services to employ trainees.

Public consultations

Public consultations expressed support for the draft regulations’ proposals on minimum training for staff and carers. Some private providers indicated that it would be difficult to attract sufficient numbers of Certificate III trained staff. They added that, in any case, the costs of employing them would be prohibitive, compared with the current situation where some services employ a number of junior and trainee staff. Some services also suggested that the regulations should allow some flexibility on this issue, to allow some untrained relief staff to care for and educate children during staff breaks.

First aid training

Eighty-nine per cent of respondents commented on the requirement for all staff members to undertake training in first aid and anaphylaxis management. There was strong support for the three regulations governing this area of care:

- 95 per cent of respondents supported the proposal to require first aid training
- 89 per cent of respondents supported the proposal to require training in anaphylaxis management
- 93 per cent of respondents agreed that staff members and FDC carers should be required to administer first aid to children under their care.
Key organisations
There was widespread support for these proposals from those key organisations that commented on them. Only one key organisation raised concerns regarding the adequacy of training and any cross-over with first aid training provided in a Certificate III in Children’s Services.

Public consultations
First aid training was not an issue around which there was much discussion or contention during public consultation sessions, other than noting the value of combining first aid and anaphylaxis training wherever possible and the need to review the current training packages to focus on children and eliminate the three levels of first aid training, as this was seen as confusing.
6. Other proposed regulations

Record keeping

The draft regulations revise the types of records that children’s services are required to hold, and introduce record-keeping requirements for FDC carers. Eighty-five per cent of respondents commented on the proposed changes to the records that children’s services be required to hold on their premises. Eighty-two per cent of respondents reported that the proposed record-keeping regulations were appropriate, and 10 per cent felt services should hold fewer records.

Those respondents indicating that services should be required to hold fewer records predominantly raised concerns about the duration and location of storage. In this regard, issues included:

• Records should only be kept until a child ceases to attend a service (nine respondents).
• The duration for which records should be kept is confusing (nine respondents).
• Storage is a problem for many services (eight respondents).
• FDC carers should hold fewer records in the home; instead, records should be forwarded to the central coordination unit for safekeeping (10 respondents).

Sixty-four per cent of respondents commented on the proposed record-keeping regulations that will apply to FDC. Sixty-three per cent of respondents were of the opinion that the record-keeping requirements were appropriate. Just under one-third of respondents were unsure whether the requirements were appropriate or not.

One hundred and thirteen respondents provided additional comments regarding the type of records that should be kept by services. Of these, 24 per cent (n = 27) suggested additional records that services should be required to hold. Ten per cent of these comments (n = 11) related to records that services are already required to keep, for example accident injury and illness records; medication records; emergency contacts; programming information; court orders; and a menu of food provided by the service. Three respondents suggested that services should be required to ‘keep all records’.

There was strong opposition to the requirement to record a child’s date of birth on the attendance record, with many suggesting that this would be a breach of privacy (20 respondents or 18 per cent). Privacy was also raised in relation to recording a child’s full name on attendance records. Six per cent of respondents (n = 7) suggested that sighting a maternal and child health record was not necessary. A further 10 respondents (9 per cent) indicated that services were generally required to hold too many records.

Key organisations

Generally, key organisations supported the proposed requirements around record keeping, although several organisations did not support the proposal that the child’s date of birth be recorded on the attendance record.
Public consultations
Public consultation sessions tended to raise two sets of concerns in relation to record keeping:

• the proposed new requirement to include the child’s date of birth on the attendance record, which some participants argued could lead to unreasonable invasions of privacy
• the proposed new requirement to record whether or not staff had sighted a child’s maternal and health record, with some participants noting that this regulation was unnecessarily cumbersome and invasive and unnecessary for OSHC, FDC and kindergarten services.

Health and welfare
Survey respondents overwhelmingly supported the health and welfare provisions contained in the draft regulations. All respondents strongly agreed or agreed that children should be cared for in a smoke-free environment. Similarly, 99 per cent strongly agreed or agreed that alcohol or drugs should not be consumed on the premises of a children’s service or FDC residence while children are present; while 96 per cent strongly agreed or agreed that it was appropriate that a proprietor of a children’s service or FDC scheme be required to ensure that no staff member’s or carer’s health adversely affects their ability to care for children.

Key organisations
The health and welfare provisions were broadly supported by key organisations, with the exception that one organisation disagreed with the requirement that a proprietor of a children’s service must ensure that no staff member’s or carer’s health should adversely affect their ability to care for children.

Public consultations
Public consultation participants did not generally comment on these proposals, other than to raise some concerns in some sessions around the capacity of proprietors to assess whether or not staff members or carers have health conditions that adversely affect their capacity to care for and educate children. In some regional sessions there were mixed views on this. Some participants welcomed a change as a way of addressing existing problems.

Equipment and facilities
Eighty-six per cent of respondents commented on the proposed regulation that outdoor space at children’s services should include features that enable children to explore and experience the natural environment. Respondents were overwhelmingly supportive, with 92 per cent strongly agreeing or agreeing that the proposed regulation was appropriate.

Key organisations
The facilities proposals were similarly supported by the majority of key organisations, although one respondent felt that the prescribed seven square metres for outdoor space is inadequate. Some organisations also commented that they felt the requirements for natural features in outdoor space should be more prescriptive, and that they should also apply to OSHC. Comment was also made that outdoor space
requirements are essential for vacation care.

Public consultations
Some participants in the public consultations expressed concern over the proposed shift from prescriptive to performance-based requirements in some of the facilities regulations. Views were expressed that this may lead to less clarity, and more disputes, about what the regulations require.

The proposed new requirement for outdoor space to include access to natural features was broadly supported in public consultations. Some comments were received that outdoor space requirements for vacation care are inadequate.

Food and beverage requirements
The draft regulations introduce a requirement that any food provided by children’s services and FDC be nutritious. Seventy per cent of respondents strongly agreed with this proposal, with a further 27 per cent agreeing. Respondents were generally supportive of the suggestion that children’s services and FDC be required to provide food to children who do not bring adequate food with them, with 83 per cent agreeing or strongly agreeing with this proposal.

Key organisations
The proposal was also broadly supported by key organisations.

Immunisation
Eighty-six per cent of respondents commented on the proposed regulation that proprietors and FDC carers be required to ensure that children who are not immunised against an infectious disease do not attend the service when there is an outbreak of that disease. Eighty per cent were of the opinion that this was appropriate, while 11 per cent were unsure, and 9 per cent reported that this regulation is not appropriate.

Key organisations
Ten key organisations agreed with this proposal, one was unsure and one disagreed. One organisation argued that this proposal should only operate as a recommendation that services make to the parents of children who are not immunised, and that no child should be denied attendance against the parents’ wishes.

Public consultations
During public consultations, some queries were raised as to whether or not homeopathic and other alternative immunisations would meet the requirements of this proposed regulation. It was also suggested by some participants that children who had been exposed to an infectious disease through its incubation period might not need to be excluded. In addition, it was noted that babies could not be immunised against some diseases until 18 months of age, so there was potential to exclude large numbers of very young children for lengthy periods.

Transitional provisions
The draft regulations establish a range of transitional periods for services to meet the requirements of the proposed regulations. There
was widespread support for the proposed transition periods.

Between 15 per cent and 20 per cent of respondents reported that there was too much time to meet the proposed staff/child ratios, qualified staff/child ratios, minimum age requirements, and minimum staff training requirements. Fewer than 10 per cent of respondents suggested that there was insufficient time for services to meet each of the requirements. The exception was the requirement for standard services to employ a degree-qualified early childhood teacher, for which 13 per cent of respondents indicating there was insufficient time provided to meet this regulation.

The greatest level of opposition regarding transitional provisions was reported for the proposed ‘grandfathering clause’, whereby all staff members who were continuously employed full time for a period of five years (or equivalent part time) are considered to satisfy minimum training requirements. Fifty-three per cent of respondents indicated that this was appropriate, while 38 per cent were of the opinion that the grandfathering provision was not appropriate.

In the ‘other issues’ free response section of the feedback form some respondents took the opportunity to make further comments on the grandfathering clause, stating:

- the grandfathering clause was not appropriate and should include some form of recognition of prior learning (n = 16)
- support for the grandfathering clause (n = 9)
- support for the grandfathering clause to apply to FDC (n = 3).

Key organisations

Key organisations generally supported the proposed transitional arrangements, notwithstanding considerable disagreement with the proposed grandfathering provisions, with eleven key organisations disagreeing with the proposal and seven supporting it.

Public consultations

The public consultations made relatively little comment on the proposed transitional provisions, although it was not uncommon for participants who were unsupportive of a particular draft regulation to also express a view that the proposed transitional provisions for that regulation were inadequate. This tended to pertain particularly to draft regulations concerning teaching staff, and increased staff/child ratios for children under three. These views were, however, balanced by those of other respondents, who argued that the transitional provisions were excessive, and that the new regulatory requirements should be phased in more quickly. It was noted that the transitional provision for Certificate III was seen as excessive for FDC and should be reduced to two years.

A similar array of views expressed in feedback around the ‘grandfathering’ issue was also expressed in the public consultations.

Ability to meet draft regulations in required time frame

Additional information was sought regarding children’s services’ and FDC services’ ability to implement the proposed regulations. A total of 299 respondents provided additional comments in relation to what factors may impact upon the ability of a children’s service or FDC service to meet the required regulations within the specified time.
frame. Thirty-eight per cent commented on the cost of the proposals, stating that this would be a barrier to meeting the requirements within the specified timeframes and that funding would be required to make the necessary changes (n = 113).

Nine per cent of respondents were concerned that there was limited time to meet the new requirements (n = 28), while 6 per cent felt that there were no factors that would impact upon a services ability to meet the requirements within the specified time frame (n = 19).

Seven per cent of respondents were concerned that space restrictions in current buildings would make it difficult to meet the proposed ratio requirements (n = 21).

Nineteen per cent commented on workforce shortages as a key issue that would make meeting the proposed regulations challenging (n = 57).

Ten per cent of respondents commented on the difficulties some staff members may have completing studies (verbal and written skills, cost, etc.) and that some staff members may not be willing to undertake further training (n = 30). Eight per cent of respondents commented that finding qualified relief staff, and access to relief staff in general, would make it difficult for staff members to complete training (n = 25).

Seven per cent of respondents felt concerned that the workforce shortage of degree-trained teachers would hinder services’ ability to meet the proposed requirements in the new regulations (n = 22). Four per cent of respondents felt it was important to include trainees in the regulations and some of these respondents referred to junior trainees specifically (n = 11).

Fourteen per cent of respondents would like training to be more accessible, with options for a variety of study methods (n = 41). Five per cent of respondents commented that the quality of available training needs to be improved to ensure that those staff members who go on to complete further study are appropriately qualified and that there is a common standard among registered training organisations (n = 16).

Eleven per cent of respondents commented on concerns with regard to services in rural areas (n = 33). The comments made related to difficulties accessing training, including anaphylaxis training; and workforce shortages, including recruitment and retention difficulties.
7. Costs, benefits and impacts of the proposed regulations

Expected costs
Survey respondents were asked to comment on whether the RIS adequately identified all of the costs associated with the proposed regulations. Of the 81 per cent of respondents who answered this question, just under half (49 per cent) were unsure. Thirty per cent of respondents thought that all costs had been considered, while 19 per cent suggested that there were additional costs that had not been identified.

One hundred and eleven respondents suggested that there were additional costs that were not described in the RIS. Comments broadly related to an underestimation of costs, or use of incorrect assumptions in the economic modelling. Seventeen per cent of respondents (n = 19) mentioned that the costs were ‘incorrect’ without providing any additional details. Many felt that the fee increases across service types, and the increase in staff wages and on-costs, were underestimated (15 and 19 per cent, respectively). Twelve per cent of respondents (n = 13) were of the opinion that costs associated with retraining existing employees, such as study leave and relief staff, had not been considered.

Six respondents (7 per cent) noted that the costs incurred in implementing the proposed regulations would vary across services, and therefore modelling the costs of the proposed regulations on a ‘typical service’ was not accurate. In considering other assumptions underpinning the modelling, 11 per cent of respondents (n = 12) suggested that basing the cost of employing a degree-qualified teacher on a graduate salary was not appropriate, while a further 9 per cent (n = 10) argued that minimum training requirements would result in increased wages.

Twenty-seven per cent of respondents argued that the potential decrease in number of licensed places associated with improved ratios (n = 21), or the facility modifications required to accommodate improved ratios while meeting indoor space requirements (n = 9), had not been considered.

Four respondents felt that it was difficult to understand how costs had been determined, and four commented that it was unclear as to who would bear the costs associated with implementing the changes.

In the ‘other issues’ free response section of the feedback form some respondents took the opportunity to make further comment on the RIS, stating that they had difficulty understanding the document or had concerns about the adequacy of the consultation and the development of policy options (n = 20).

Key organisations
Several key organisations commented on the RIS costings, and seven noted particularly that they believed the costings were underestimated. One organisation felt they were adequate and six were unsure.

Public consultations
Comments made during the public consultation sessions tended primarily to question the costings set out in the RIS and to argue that those costs had been underestimated. Some of these comments were
supplemented with further questioning of the assumptions upon which the RIS costings were based, while other comments were of a more general nature.

Public consultations in both metropolitan and regional Victoria at times raised concerns that the RIS costings were underestimated, although, for the most part, the RIS costings were not a focus for participants. Where concerns were raised about the RIS costings, many tended to base their assumptions on the premise that they would have to shed places to meet the new ratio for children under three years due to space restrictions. This indicated confusion about how the staff/child ratios are calculated; that is, calculations are not worked out per room but on the total number of children under and over three years being cared for and educated by the service.

Expected benefits

The RIS outlines a number of benefits that may be associated with implementing the proposed regulations. Survey respondents were asked to comment on whether the RIS adequately identified all of the benefits associated with the proposed regulations. Of the 81 per cent of respondents who answered this question, 46 per cent thought that all benefits had been identified, while 44 per cent were unsure.

Forty-three respondents (6 per cent) suggested that there were additional benefits not described in the RIS. Of these, 30 per cent (n = 13) did not provide further comment on the benefits they believed were omitted from the RIS, while 12 per cent (n = 5) reiterated costs that had not been considered. Four respondents (10 per cent) were of the opinion that the how the changes would result in improved quality was unclear, and four respondents suggested that the benefits for children arising from improved quality of care were not adequately addressed. Fourteen per cent (n = 7) argued that benefits to employees, such as improved wages, staff retention and professional recognition, were not adequately addressed.

Key organisations

Key organisations were fairly evenly divided in their views about the adequacy of the RIS’s address of the benefits of proposed changes. Five organisations felt the RIS adequately identified these, one felt they were inadequately addressed, and four were unsure.
8. Impacts

The RIS attempts to identify the impacts of implementing the proposed regulations. Survey respondents were asked to comment on the impact of the proposed staff/child ratios, qualified staff/child ratios, minimum training requirements, the quality of child care, affordability of child care, and supply of child care places.

Quality of child care

Stakeholders were of the general opinion that the draft regulations would enable quality child care to be provided to all Victorian children, with 78 per cent strongly agreeing or agreeing with the statement ‘the draft regulations will help to ensure that quality children’s services are provided to all children in formal care’.

The majority of respondents indicated that improved staff/child ratios and qualified staff/child ratios would either increase the quality of care provided (63 per cent), or the quality of care provided would stay the same (32 per cent). Similarly, 64 per cent of respondents indicated that minimum training requirements would improve the quality of care, and 29 per cent suggested that this regulation would have no impact on the quality of care.

Key organisations

Most key organisations commenting on this issue felt that the proposed regulations would lead to improvements in quality in children’s services. A small number were either unsure or felt that there would be no change in quality.

Affordability of child care

Eighty-seven per cent of respondents commented on the impact of the proposed regulations on the affordability of child care in Victoria. Seventy-three per cent of respondents were of the opinion that affordability would decline significantly or somewhat, while fewer than 4 per cent felt that affordability would improve. Twelve per cent of respondents were unsure what impact the regulations would have with regards to affordability.

Related to the perceived impact on affordability, the majority of respondents considered that services would incur cost increases through improvement in staff/child ratios (77 per cent), qualified staff/child ratios (77 per cent), and establishing minimum staff training requirements (70 per cent). However, respondents were generally of the opinion that revenue raised by services would stay the same, or decrease, as a result of these changes. This finding suggests that respondents believe that services will absorb the costs associated with employing additional staff members, or that they incorrectly interpreted revenue to be synonymous with profit.

Nineteen per cent of respondents were unsure of the impact of changes to staff/child ratios and qualified staff/child ratios, and minimum training requirements on revenue raised by services.
Key organisations
Most of the key organisations that commented on this issue felt that the proposed regulations would negatively impact on the affordability of child care. Of the 14 organisations that commented on the general affordability of child care resulting from the proposed changes, four felt that affordability would decline significantly, five that it would decline somewhat, one that it would not change, and four were unsure.

Public consultations
Where participants in the public consultations raised concerns about the RIS costings, these tended to largely focus on the issue of fees and on the anticipated increases. Thus, the comments made in public consultations were chiefly along the lines of arguing that fee increases would be significantly higher than those indicated in the RIS, if the draft regulations were to be adopted. Comments were also made that the number of places offered would have to be reduced because of room size.

Supply of child care places
Survey respondents were asked to comment on the impact that improved staff/child ratios, improved qualified staff/child ratios, and minimum training requirements would have on the number of places offered at children’s services. The proposed staff/child ratios were perceived to either have no effect on the number of places (44 per cent), or to decrease the number of places (38 per cent) available at services. Qualified staff/child ratios were considered to have a similar impact as staff/child ratios, with 52 per cent of respondents suggesting there would be no effect on the number of places available at their children’s service, and 30 per cent indicating that they thought the number of places would decline.

The majority of respondents (70 per cent) were of the opinion that minimum training requirements would not affect the number of places available at children’s services.

Key organisations
Eleven key organisations commented on this issue and, of these, five believed that the proposed regulations would lead to a decrease in availability of child care places, two that availability would stay the same, and four were unsure.

Public consultations
As for the issue of affordability, participants in public consultations who raised concerns about the RIS costings also tended to argue that the draft regulations, particularly concerning staff/child ratios, would lead to a reduction in places.

Regulatory burden
Eighty per cent of respondents commented on the regulatory burden imposed by the proposed regulations. When asked whether the benefits of the proposed regulations outweighed the potential regulatory burden, 55 per cent of respondents either strongly agreed or agreed, 26 per cent thought the benefits were equal to the burden, and 18 per cent disagreed or strongly disagreed.

In order to elicit those regulations that would impose the greatest burden on service providers, survey respondents were asked to rank,
from one to three, those regulations that were considered to be the most burdensome. Sixty-eight per cent of respondents (n = 468) ranked at least one item.²

Four key areas emerged as the most burdensome across all responses, these were: qualified staff/child ratios (15 per cent); staff/child ratios (21 per cent); minimum staff training requirements (20 per cent), and the requirement for standard children’s services to employ a degree-qualified teaching staff member (24 per cent).

**Key organisations**

The majority of key organisational respondents commenting on this issue believed that the benefits of the proposed regulations would outweigh the regulatory burden. This view was put by 10 key organisations. Two were neutral on the question and two disagreed.

**Additional comments on impact of draft regulations**

A total of 274 respondents provided additional comments on the impact of the proposed regulations. Ten per cent of respondents noted that quality care is important and needs to be considered when assessing the impacts of the draft regulations (n = 28). Seven per cent of respondents felt that families would not be able to afford the fee increases resulting from the regulations (n = 19). The remainder of comments received were specifically related to workforce issues.

Twenty-two per cent of respondents commented that higher wages would be required to encourage staff to take on further studies (n = 62). On a similar note, 9 per cent commented that current employment conditions reduce incentives for further study and improvement (n = 26).

Ten per cent of respondents raised concerns regarding workforce issues and shortages related specifically to OSHC due to the nature and hours of work (n = 29 or 13 per cent of total OSHC respondents).

Three per cent of respondents expressed concerns regarding workforce issues for FDC, stating that some carers may not want to study or that recruitment of new carers may be difficult with the new training requirements (n = 9 or 6 per cent of total FDC respondents).

Fourteen per cent of respondents expressed concerns regarding recruitment and retention of staff generally for children’s services, noting current difficulties filling places, particularly with qualified staff (n = 14).

Five per cent of respondents commented that the proposed changes in the draft regulations would help to professionalise the industry and improve its image within the community (n = 15).

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² When entering hard-copy surveys into the database, a large number of responses to this question were deemed invalid, because respondents had either ranked two items at the same level, or had ticked three items rather than ranking them numerically. A response was considered valid where respondents had correctly ranked items numerically, with only the first three items entered into the database.
A small number of respondents commented that:

• New employees should be able to commence employment and begin training within the first six months of employment.
• There is a lack of information and understanding for FDC services and carers.
• There is a need for community support to assist implementation of new regulations.
• Diploma-qualified staff currently teaching kindergarten programs may not be able or may not want to upgrade their qualifications to a degree.

**Key organisations**

Five key organisations expressed concerns about workforce shortages. The key issue raised was difficulty attracting staff to part-time and casual positions, particularly in rural areas, occasional care and OSHC. Retaining staff members was also seen as problematic due to employment conditions. The draft regulations were viewed as likely to heighten this issue. Some key organisations were also concerned that the minimum age and minimum training requirement would be a disincentive for trainees to enter the sector.

**Additional comments on support required to meet draft regulations**

A total of 274 respondents commented on support required to meet the requirements of the regulations within the specified transition periods. One of the key requirements raised was the need for funding. Thirty-one (n = 84) suggested funding for training; 21 per cent (n = 57) suggested funding in general, and 12 per cent (n = 33) suggested funding for relief staff to backfill positions.

Of the remaining respondents who stated that they would require additional funding:

• 7 per cent would like funded first aid and anaphylaxis training (n = 18)
• 7 per cent required funding to upgrade facilities to meet new ratio requirements (n = 18)
• 5 per cent suggested funding to pay for staff wages (n = 13)
• 4 per cent would like to see additional scholarships made available (n = 10)
• 4 per cent suggested funding for rewards and incentives for services to meet new requirements (n = 11)
• 3 per cent suggested funding for additional staff to meet new ratios (n = 7)
• 3 per cent suggested the removal or reduction of fees for courses (n = 7)
• 3 per cent mentioned additional funding would be required in rural areas specifically (n = 5)
• 3 per cent would like additional funding for incentives to employ a degree-qualified early childhood teacher (n = 7)
• one respondent suggested funding for recruitment.

There were also a number of comments that services would require additional support to meet the training requirements:
• 9 per cent of respondents suggested more accessible training would be required (n = 24) and 7 per cent would like the training to be flexible (i.e. provided in a variety of formats, etc.)
• 5 per cent of respondents would like to see accessible recognition of prior learning processes available for staff (n = 15), in particular two respondents would like to see the process available for kindergarten assistants
• 3 per cent of respondents suggested that the availability of places in courses will need to be increased (n = 7)
• 3 per cent of respondents commented that traineeships will be required (n = 7)
• small numbers of respondents called for training to be provided by local councils (n = 3); combined first aid and anaphylaxis training (n = 2); and assistance for CALD community members (n = 2).

Four per cent of respondents suggested the need for exemptions and flexibility in meeting staffing requirements due to workforce shortages in the industry. Smaller numbers of respondents suggested:
• the need for more staff to backfill and relieve staff who are training (n = 3)
• increased wages as an incentive to train (n = 3)
• a need for more staff in the industry (n = 2)
• a need for more degree-qualified teachers (n = 1).

A number of respondents commented that there was a need for information and support to meet the new requirements within the specified transition times. Ten per cent of respondents suggested information and training on the new requirements would be needed (n = 27). Two per cent commented that there was a need for support from the community (n = 6), and 2 per cent commented that there was a need for well-trained children’s services advisors (n = 6).

Other comments received included the need for a flexible approach with regard to the diverse needs of different service types (4 per cent, n = 10); flexibility with the implementation of ratio requirements (n = 1); and an increased rebate for children under three years (n = 1). Four respondents commented that no support was required as the recommendations were already implemented for their service.

**Key organisations**

Feedback from key organisations made considerable comment on factors that might impact upon the sector’s capacity to meet the requirements of the proposed regulations. Workforce shortages were seen as particularly significant in this regard. The question of resources was very much akin to this, with many organisations commenting on the need for funding to enable them to meet the requirements of the proposed regulations, most commonly in relation to the training and employment of extra staff and the need for financial support for capital works.
9. Key benefits and disadvantages

Survey respondents were asked to nominate three benefits and three disadvantages associated with the proposed regulations. Respondents frequently framed their response in terms of:

- support, or otherwise, for specific regulations
- support, or otherwise, for proposed licensing restrictions or conditions
- factors that may impact on services’ ability to implement the regulations.

Benefits

Sixty per cent of respondents (n = 420) put forward one or more benefit arising from the proposed regulations. The most frequently cited benefits comprised improved quality of care provided to children (39 per cent, n = 162); the proposed minimum training requirement for staff (36 per cent, n = 152); and improved staff/child ratios (34 per cent, n = 143).

Where respondents mentioned minimum training requirements and improved ratios, they typically referred to how these changes would result in improved quality of care. Regulation of all service types, including OSHC and FDC, was a primary benefit noted by 16 per cent of respondents (n = 67), and was seen to enable the provision of a consistent quality of care across the sector.

Twenty per cent of respondents (n = 96) mentioned benefits for staff, including that the regulations would assist to establish career pathways within the sector, result in improved professionalisation of the industry, and improve employee working conditions. Seven per cent (n = 31) of respondents felt that the proposed regulations may increase recognition and awareness of the importance of the early years and raise the profile of the early childhood education and child care sector. Similarly, 11 respondents (3 per cent) noted that regulations may enhance the status of FDC within the early childhood sector.

Other commonly cited benefits included:

- first aid and anaphylaxis management training requirements (32 respondents)
- reduced risk of harm to children (29 respondents)
- improved developmental outcomes for children (24 respondents).

In the free response section of the feedback form some respondents commented favourably on the draft regulations agreeing that the proposals would result in benefits for children and the sector more broadly (n = 27).

Disadvantages

Fifty-nine per cent of respondents (n = 414) put forward one or more disadvantages arising from the proposed regulations. A variety of disadvantages were cited, the most frequent being increased cost of service provision, mentioned by 35 per cent of respondents (n = 146), including 5 per cent (n = 20) who specifically referred to the costs
associated with training. Twenty-nine per cent (n = 122) noted that the changes would result in either an increase in fees paid by parents or a decrease in the affordability of child care. Fourteen per cent (n = 59) suggested that there would be a decrease in the number of licensed places available as a result of changes to staff/child ratios.

Many respondents raised workforce issues. Of particular concern, mentioned by 30 per cent of respondents (n = 123), was the ability to attract and retain sufficient staff (including qualified staff, teachers and casual staff) to meet improved staff/child ratio requirements. The burden imposed on existing staff to obtain qualifications was mentioned by 8 per cent of respondents (n = 32), with 14 per cent of the opinion that staff and carers, would leave the industry rather than undertake training (n = 56).

Some respondents expressed disappointment that the ‘ratios didn’t go far enough’ (n = 6), in that there was no improvement in staff/child ratios for children aged three years and over (n = 26), and that the proposed ratio and minimum training requirements would not apply to limited hours and short term services (n = 11).

A number of respondents felt that the proposed regulations would threaten the financial viability of services and potentially result in the contraction of the child care sector (7 per cent, n = 28).

In the free response section of the feedback form there were mixed comments on the regulatory burden. Respondents disagreed as to whether this would increase or not; others would like further streamlining; and some commented on an overlap with quality assurance (n = 13). Other comments were:

- There is a lack of alignment with the Council of Australian Governments (COAG) Reform Agenda (n = 7).
- The changes do not go far enough (n = 4).

**Key organisations**

Key organisations identified a number of key benefits that they believed would arise from the draft regulations. Increased quality in children’s services was the most prominent of these, with a number of organisations also remarking that the draft regulations would lead to increased professionalisation of the sector.

The major disadvantage of the draft regulations raised by key organisations was a reduction in affordability and availability of children’s services. Workforce concerns were also raised by several organisations, particularly in terms of the capacity of the workforce to deliver the standards and outcomes required by the draft regulations.
10. Feasibility of alternative proposals

The Children’s Services Regulations 2009 Regulatory Impact Statement highlights two alternatives to the regulatory proposals. The first alternative proposal (alternative one) comprises the adoption of maximum allowable group size, in addition to the proposed staff/child ratios, qualified staff/child ratios and qualification requirements. The second option (alternative two) involves adopting more stringent staff/child ratios and qualified staff/child ratios than outlined in the draft regulations, but does not place any constraint on maximum permissible group size.

Survey respondents were invited to comment on the feasibility of each of the proposed alternatives. Qualitative analysis of the responses received found that only a proportion of respondents provided a clear indication of the feasibility of each of the alternatives, while few discussed the relative merits of each option under consideration. Respondents tended to discuss either the benefits or disadvantages of each option, or indicated support for the underpinning rationale while simultaneously noting the barriers to implementing the proposal. For example, a response characteristic of the feedback received included the statement ‘would decrease affordability for families and restrict the numbers of children in care – but would also promote high quality care for children’.

Given the nature of the feedback received, qualitative responses were coded with regard to feasibility, general preference, and the advantages and disadvantages associated with each of the alternatives.

Alternative one: inclusion of group size limits

Two hundred and sixty respondents commented on the feasibility of implementing a maximal permissible group size. Of these, 21 per cent (n = 57) stated that this alternative was not feasible, while 4 per cent (n = 11) indicated that maximum group size would be able to be implemented. In considering whether alternative one was preferable or desirable, 43 per cent (n = 114) suggested that this was generally desirable, while 10 per cent (n = 27) felt that restricting group size was not preferable. A further 16 per cent (n = 41) provided no indication as to whether implementation of group size limits was desirable or practical, or cited both benefits and disadvantages associated with this option.

The benefits associated with regulating the maximum allowable group size included that small groups were generally beneficial to children in terms of enabling greater individual interaction with child care staff, or promoting positive outcomes (22 per cent, n = 55). Small groups were also seen to promote higher quality care (8 per cent, n = 20) and better working conditions for staff (3 per cent, n = 8). A small number of respondents (6 per cent, n = 15) who supported alternative one suggested that a maximum group size of 30 children was too large, and that the maximum group size permissible should be imposed with a lower prescribed limit.
Those respondents who argued that imposing a maximum group size was not feasible emphasised the practical barriers to implementation, including the costs associated with the proposal. Thirty-seven respondents (14 per cent) stated that group size restrictions would be too costly, particularly in relation to modifications to facilities and other infrastructure. Three respondents (less than 2 per cent) noted that this issue could be overcome, providing a flexible definition of what constitutes a ‘room’ was adopted; while four respondents (less than 2 per cent) suggested that group size limits be considered for new applicants or new purpose-built premises only. Fourteen per cent of respondents (n = 37) indicated that the adoption of alternative one would result in a decrease in licensed capacity at centres. A small number of respondents (3 per cent, n = 9) felt that this would, in turn, threaten the financial viability of centres.

Eight per cent of respondents (n = 22) noted that group sizes were already restrained by the interaction of regulations governing staff/child ratios and space requirements (square metres per child).

Some respondents suggested that regulations limiting group size and providing for improved staff/child ratios should be implemented (n = 3). Others argued that improving staff/child ratios was more important than limiting the maximum permissible group size (n = 5), suggesting that some respondents in the sector were unclear that alternative one included the proposed improvements to staff/child ratios.

**Key organisations**

A majority of the key organisations supported the option to limit permissible group sizes. However, their views on how group size limits should be most appropriately prescribed varied greatly. Organisations supporting the limiting of groups sizes often acknowledged that this could lead to additional costs, but argued that these costs would be amply outweighed by the benefits.

Other organisations opposed the concept of group size limits, with one organisation arguing that the results that the option of group size limits seeks to create can be met in other ways, such as through reliance on the Act’s provisions around health, safety, wellbeing and development of children.

**Alternative two: more stringent staff/child ratios**

Two hundred and fifty-two respondents commented on the feasibility of, or preference for, implementing greater improvements to staff/child ratios than proposed in the draft regulations. Fewer than half of these respondents indicated whether this alternative would be workable, with 29 per cent (n = 73) suggesting that further improvements to staff/child ratios were not feasible, and 6 per cent (n = 15) commenting that this was feasible.

Just under half of those providing feedback in relation to alternative two noted that greater improvements to ratios were desirable (49 per cent, n = 124), while 6 per cent (n = 15) expressed opposition to the concept. A further 12 per cent (n = 31) provided no indication as to whether implementation of greater improvements to ratios was desirable or practical, or alternatively cited both benefits and disadvantages associated with this option.

The benefits arising from the adoption of alternative two were similar to those cited for alternative one. Twenty-three per cent of respondents (n
felt that further improvements in staff/child ratios would improve the quality of care provided to children or promote positive outcomes for children. Twenty-six respondents (10 per cent) framed their preference for this option in terms of improved ratios for children aged over three years. A range of preferred ratios were suggested; however, these typically aligned with the alternative as outlined in the RIS, suggesting that respondents had overlooked the detail of this option. Five respondents (3 per cent) put forward even greater improvements to ratios than proposed under alternative two.

Practical barriers to the implementation of improved staff/child ratios were the costs associated with employing more staff, with 29 per cent (n = 72) suggesting that this alternative was too costly, and/or would result in a decline in the affordability of child care. An additional 7 per cent (n = 17) felt that this option was not feasible, as it would threaten the financial viability of children’s services. Twenty-eight respondents (10 per cent) cited difficulty recruiting sufficient staff as an obstacle to adopting improved staff/child ratios.

Other issues mentioned in relation to adopting improved staff/child ratios included:

• Improved ratios would result in a decrease in licensed capacity, or the number of places offered by a service (11 respondents).
• Improved ratios should be adopted in addition to regulating the maximum permissible group size (seven respondents).
• Improved ratios for OSHC should also be considered (five respondents).
• Improved ratios would better cater for children with additional needs (four respondents).

Key organisations

A few key organisations supported the proposal of alternative two. However, some reservations about the practicality of this, particularly in the current economic climate, were also noted. A considerable number of organisations also expressed disagreement with the notion of improved staff/child ratios.
11. Other issues

The final question on the feedback form asked respondents to list any other issues of concern. This elicited a wide range of feedback. In order to provide a summary of the feedback received during the consultation process, not all of these comments can be reported here. Comments not included in this section of the report are those for which only a very small number of people commented or comments that were outside of the scope of the draft regulations. The focus of this section is on comments that are specifically relevant to the draft regulations and RIS.

Public consultation sessions were very much structured around the content of the draft regulations and RIS. Feedback during these sessions was, in general, related to the specifics of these two documents. Participants at times raised ‘other issues’ during the discussions and, where relevant, these comments are outlined here.

Occasional care
One key organisation and a small number of respondents called for staffing exemptions to continue to apply in occasional care services (n = 4).

Outside school hours care
A number of comments were received specifically relating to OSHC services:

- There was disagreement with the proposal to allow children to leave an OSHC service unaccompanied; nine respondents, two key organisations and participants at public consultation sessions raised this issue.
- One key organisation raised concerns that the requirements regarding safety of toilets in OSHC are inadequate and a clear definition of ‘genuine accessibility’ is required.
- One key organisation recommended that fencing and security requirements for OSHC be included in the regulations.

Family day care
The following comments were received from key organisations in relation to FDC:

- A suggestion that a requirement should be included to ensure that fencing and security arrangements in FDC homes do not impede ready access to the property by parents, children’s services advisers or field staff.
- It was recommended that the working with children checks and criminal history checks should be implemented for all members of the carer’s household who are over 18 years.
- It was suggested that the words ‘any medical condition’ should replace ‘anaphylaxis’ in draft Regulation 72(4)(d): removal of child by staff member or FDC carer. This would mean that any medication a child requires for any medical condition, not only anaphylaxis medication, would need to be taken when the child is taken outside the premises of the children’s service or carer’s home.
• Concerns were raised that the register of carers may restrict hours and days worked.

National Standards and Quality Assurance
Five key organisations commented on the relationship between the draft regulations and National Standards and Quality Assurance. Clarification of the relationship between these various requirements, cross-referencing and duplication were key issues raised.

Playgroups
Two key organisations and a small number of respondents commented that the draft regulations do not mention playgroups and FDC playgroups (n = 2). In section 5(1B) of The Children’s Services Legislation Amendment Act 2009, playgroups are dealt with through a new provision commencing on 25 May 2009, in which playgroups are noted in the non-application of the Act.

Programming
Two key organisations raised the need for a definition of quality programming and for the performance-based approach to programming to be continued.

Comments stressing the need for a robust approach to the monitoring of children’s programming were raised in some public consultation sessions. This is a matter more linked to the implementation of the legislation than to the drafting of the regulations.

Routine outings
One key organisation did not support the requirement for a consent form for routine outings conducted on the same school site, suggesting instead that parents should be informed via programming documentation. With regard to FDC, one key organisation suggested amending the example outing in draft Regulation 71 from ‘shopping trip’ to ‘library’ or ‘playgroup’.

Planning Time
Seven key organisations supported including a minimum time allocation for staff to plan programs in the regulations.

Children with additional needs
One key organisation recommended that special development schools’ early education programs be included in the regulations. Another key organisation would like the regulations to acknowledge that children with a disability require more support, and a small number of respondents supported this view (n = 7).

Further clarification required
A number of respondents commented that further guidance was required on the practical implementation of the new regulations (n = 25).

Three key organisations commented that the Department of Education and Early Childhood Development should deliver information and/or training opportunities in the new regulations in formats such as education programs, resource kits and practice notes.

It was evident from comments received at the public consultation sessions that there was confusion about the ways in which the staff/child ratios are calculated, particularly in terms of whether or not the regulations require them to be counted across the whole centre, or to be calculated separately for every room. Although this is principally
an issue for operational guidance, a number of consultation participants expressed a view that the matter needs to be better clarified in the wording of the regulations.

In some consultation sessions the need for consistency in the publication of information about children’s services was raised, particularly in relation to compliance history. Although the publication of information is provided for in the Act, participants in consultation sessions noted its inextricable link to the regulations.

**Other comments**

Four key organisations would like Regulation 56 of the current regulations – transitional provision for staff qualified under the 1988 regulations – to no longer apply.
12. Next steps

This report aims to summarise the key issues raised and feedback received during the consultation process after the release of the draft regulations and RIS.

The responses received to the draft regulations were overwhelmingly positive. Increasing staff/child ratios, minimum Certificate III training for all staff and carers, the requirement for a degree-qualified early childhood teacher in all long day care services, and the minimum age requirement of 18 years were all supported. Some key issues were of concern to small numbers or sections of the children’s services sector, yet elicited strong opposition. These included grandfathering provisions for Certificate III training; minimum staff requirements in OSHC; and FDC to be provided in the carers’ principal residence.

The analysis of feedback received, which is detailed in this report, will assist in the finalisation of the Children’s Services Regulations 2009 implemented on 25 May 2009. A ‘statement of reasons’, in the form of a letter summarising the feedback and advising of the proposed changes to the draft regulations, will be sent to all services and key organisations.

Once the regulations have been finalised, training will be provided to the children’s services sector to ensure that providers, staff, carers and other interested members of the community are aware of the new regulatory requirements. Training will commence after the new regulations come into effect on 25 May 2009.