



COMMUNITY CHILD CARE CO-OPERATIVE
LTD. (NSW)

ABN 81 174 903 921

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National Quality Framework Regulations Exposure Draft Submission

Early Childhood Quality Group

Department of Education, Employment and Workplace Relations

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Please find attached a submission from Community Child Care Co-operative (NSW) to DEEWR on the National Quality Framework Regulations Exposure Draft.

Thank you for the opportunity to comment on the draft Regulations.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Leanne Gibbs', is written in a cursive style.

Leanne Gibbs

CEO

Community Child Care Co-operative (NSW) Community Child Care Co-operative (NSW) was established in 1978 and is a not-for-profit organisation that promotes, supports and advocates for quality children's services; meeting the needs of children, their families and the community.

Community Child Care Co-operative NSW has a variety of roles in the NSW children's services sector which leave us uniquely placed to provide this submission.

We are:

- A peak organisation in NSW representing over 1300 children's services, families and individuals. Although Community Child Care Co-operative represents services in all areas of the children's services sector, our full members are community based, not for profit long day care services and community based, not for profit preschools. Our submission thus predominantly reflects the interests of these two groups. Between 1991 and 2001 the number of places in privately owned for-profit long day care services (a significant proportion of which were owned by corporations) increased by almost 400 per cent compared to only 55 per cent in not-for-profit services. Currently less than 35% of early childhood services in NSW are community based.
- A Registered Training Organisation offering a variety of nationally accredited VET courses to children's services in NSW and their employees. We also deliver distance education to employees engaged undertaking traineeships in children's services across NSW.
- The lead agency of Children's Services Central, the Professional Support Co-ordinator in NSW. This program, funded by the Australian Government, under the Inclusion and Professional Support Program, provides a range of professional development to all Australian Government Approved Child Care Services in NSW. As the provider of the majority of professional development and in-service training course to the majority of the early education and care workforce in NSW we are uniquely placed to comment on issues relating to the ongoing professional development needs of the children's services workforce.
- A well respected advocacy organisation for children's services in NSW.

CCCC endeavours to:

- Provide leadership which empowers the decision makers within children's services.
- Identify service provision gaps and needs, and proactively target resources to these areas.
- Support and collaborate with other children's services providers who reflect similar philosophical beliefs.
- Embrace the value of difference and debate.
- Be a role model for best practice in corporate governance and organisational operation.

Preamble

Community Child Care Co-operative would like to place on the public record our support for the implementation of the National Quality Framework. We believe that once fully implemented the NQF will, without doubt, improve the quality of education and care to Australia's children. We would like to place this on record as well as our appreciation to the Commonwealth government for their leadership of the NQF and to the individual public servants, from both the Commonwealth and State and Territory Governments, who have progressed the NQF this far.

Community Child Care believes that the three major areas of practice that the NQF will positively impact upon are those that are vital for quality service provision: qualifications of educators, educator to child ratios and provision of preschool education.

Community Child Care believes that the draft Regulations are, given the inherent difficulties in creating national regulations, a reasonable attempt at regulating children's services. Where they fall short however, is where those drafting the regulations have given way to pragmatics over vision in improving the quality of care in these same three areas: qualifications of educators, educator to child ratios and provision of preschool education.

Community Child Care thus has major concerns with the following areas of the draft Regulations:

- **Teacher requirements.** We believe some of the exemptions in requirements for teaching staff have weakened the initial promise of the NQF in this area. We also are concerned with the inequity of access to teachers that the Regulations codify.
- **Qualifications.** We believe that the prerequisites for becoming a certified supervisor are inadequate, that the lack of requirement to always have two educators on site at any one time in centre based care is problematic, that the role of the educational leader needs more specificity, and that educators under 18 years of age should not be able to be counted within ratios.
- **Provision of preschool education.** We believe that the intent of this requirement has been compromised in the draft Regulations.
- **Ratios.** Until Schedule 8 is published, it is impossible for us to comment on how children will fare in terms of staff/child ratios. If the reckoner for calculating mixed age ratios (as present in the National Quality Standard) is to be codified in Schedule 8, CCCC would classify this as another major area of concern. CCCC is also concerned at suggestions that ratios may not have to be met at all times.
- **Group size.** The omission of any regulatory requirement for group size in centre based care weakens the Regulations.

Community Child Care also has concerns with other areas of the draft Regulations.

The National Quality Framework process was initiated with an absolute commitment by all Governments in Australia to improving the quality of education and care. We emphatically request that the promise of the NQF is not undermined or compromised by these inadequately executed aspects of the Regulations.

Major Areas of Concern

Teacher Requirements

1. **Absence of Early Childhood Teacher** (Regulation 149). CCCC believes that the inclusion of this provision that allows early childhood teachers to be absent for short periods of illness or annual leave, without a breach of Regulation 146, 147 and 148 is a serious watering down of the intent of the *National Partnership Agreement on the National Quality Agenda* which so clearly recognised the importance of qualified staff in the delivery of quality early education and care. When a teacher is absent from a primary or secondary school parents have the rightful expectation that that person will be replaced by a similarly qualified professional. Parents of children in the critical early years should also have that expectation.
2. **Confusion of teacher requirements for NSW services** (Regulation 149). Although Regulation 144 makes it clear that Schedule 4 acts in replacement of Division 5 for NSW services, CCCC has already had to explain to services in NSW that this means that Regulation 149 does not apply to the majority of our state's services. Having a situation where Regulation 149 will only apply within NSW to services in 29 places and under will lead to inadvertent breaching of the regulation by larger services. We believe that if Regulation 129 remains in the final regulations (and we believe it shouldn't) it needs to be separately indicated at this point that this does not apply to those services covered by separate requirements in Schedule 4.
3. **Inequity of access to a teacher.** CCCC is extremely concerned that the draft Regulations codify inequity of access to a teacher. A child's access to an early childhood teacher should not depend on the state or territory they were born in or the size of the early education and care service they attend.

In NSW alone, if the draft Regulations are enacted we will have:

- ECEC services which are licensed for 30+ children per day that will be required to have teacher/s in attendance at all times that the service is educating and caring for 30 or more children;
- ECEC services which are licensed from 25 -29 children that will only be required to have a teacher in attendance for 6 hours a day if the service operates more than 50 hours per week or 60% of the time if it opens for less than 50 hours; and
- ECEC services which are licensed for less than 25 children that will only require a teacher 20% of the time a service is open (and the teacher does not have to work directly with children).

No children should miss out on having a teacher. Every primary school child has a teacher! Research consistently shows that early childhood teachers engage in practices that lesser qualified staff don't and that these practices lead to higher quality early education and care (e.g. Whitebook 2003¹). Research shows that teachers interact more with children than other staff do, have more positive interactions and have a positive impact on children's pre-reading and social skills (eg Siraj –Blatchford et al., 2003²) Where teachers are in management positions they exercise strong leadership.

¹ M. Whitebook, 'Early education quality: Higher teacher qualifications for better learning environments - A review of the literature', Center for the Study of Child Care Employment, Berkely, CA, 2003.

² I. Siraj-Blatchford, K. Sylva, B. Taggart, P. Sammons, E.C. Melhuish, & K. Elliot, K., 'Technical Paper 10: Intensive case studies of practice across the foundation stage', The Institute of Education, London, 2003

CCCC understands that there are not currently enough trained teachers in all areas, especially rural and remote areas. The Regulations should not be the place where workforce issues are resolved. Regulations should set minimum standards; through allowing temporary waivers and exemptions for teachers in attendance at services under 25 children, we will create an underclass of children in rural and remote areas.

4. **The role of the ECT** (Regulations 146, 147 and 148). CCCC believes that the requirement to have an ECT in place for only 6 hours per day or 60 per cent of the operating hours of a service is not enough and points to a misunderstanding of the role of a teacher within an early childhood service. Services with teachers in attendance offer higher quality care not just because of the hours teachers deliver face to face with children, but also because of their role in leadership of other staff members. CCCC believes that the teacher requirements should be mandated for all hours a service is operating. If the draft regulations are retained, CCCC believes at the very least that the words “at least” should be included wherever a percentage (60% or 30%) appears, in the same way it included in those clauses that read “at least 6 hours per day”.
5. **Requirements for ECT in services under 25 children and temporary waivers** (Regulation 40) Services should not be able to get a temporary waiver for Regulation 145. The minimum that services need to be able to do to satisfy this Regulation is have a teacher working with them via information communication technology for 20% of the time they are open, calculated on a quarterly basis. This is a weak requirement as is; to give temporary exemption from this requirement seriously undermines the intent of the NQF.
6. **Temporary waivers for teachers** (Regulation 40). The inclusion of regulations 145 to 148 in Regulation 40 means that it would be possible for a child to attend a preschool for 2 years and at no time to have access to a qualified early childhood teacher. This is not ensuring a quality preschool education for this child.
7. **Suitably qualified leader** (Regulation 148b). CCCC has never agreed with the position of the National Partnership Agreement that a “suitably qualified leader” could be substituted for the second teacher in services with more than 80 children. We understand that a pilot to assess the effectiveness of this substitution needs to be completed by 2014. CCCC believes that the appropriate qualification for teaching children is a minimum 3 year university degree specialising in teaching children in the 0-5 age group which involves extensive practicum experience.

Qualifications

8. **Certified Supervisors – sufficient skills** (Regulation 44). In addition to our concerns around the regulatory requirements for teaching staff we also believe that in a number of ways the draft Regulations have weakened the intent of the NQF to strengthen the qualifications of educators overall. The prerequisites for becoming a certified supervisor are too low. Certified Supervisors are placed in day to day charge of a service. They hold personal liability for certain breaches of the Regulations. Given the complexity of the draft Regulations and the Education and Care Services National Law the bar has been set to low for the requirements to be appointed as a certified supervisor in early education and care services. The test of “sufficient skills” should be broader than first aid training, previous experience in an education and care service and knowledge of the law and regulations.
9. **Certified Supervisors – experience and qualifications** (Regulation 44). The requirement that Certified Supervisors must have at least 3 years' experience working as an educator or a diploma or early childhood teaching qualification must be changed to require both i.e. 3 years' experience plus a qualification. A newly graduated holder of a diploma does not have the required skills and experience to be placed in charge of a centre based early childhood service or Family Day Care Scheme. The Regulations as a whole will only be as strong as their implementation – by allowing inexperienced workers to be responsible for the Regulations being upheld within centres, the intent of the Regulations to improve quality of education and care provision will be weakened. CCCC has anecdotal evidence over a number of years of new graduates being pressured to take on supervisor roles within no understanding of the legal consequences for themselves and their centres for breaches of regulations.
10. **Two educators on site** (Omission from the Regulations).The omission of any requirement to always have two educators on site at any one time in centre based care is problematic. CCCC does not believe that a lone educator should be left alone with a preschool age child at any time. This is for the protection of both the child and the educator.
11. **Role of Educational Leader** (Regulation 132). The role of the educational leader needs to be more specific within the Regulations. The draft Regulations state only that they must “lead the development and implementation of education programs in the service”. CCCC believes that this should be more strongly defined within the Regulations. The Regulations are the major place where providers derive their obligations. If the intent of this role is not further spelt out, the role will naturally be weakened and misunderstood.
12. **Qualifications to be an Educational Leader** (Omission from the Regulations).Where services are required to employ early childhood teacher/s the service should be required to appoint a teacher as the Educational Leader. If a teacher is employed in a service that service should not be able to appoint anyone with a lesser qualification to the position of educational leader. CCCC believes that we should be moving towards a situation where a degree in early childhood should be a prerequisite for appointment as an Educational Leader.
13. **Supervision of underage educators** (Regulation 134). CCCC believes that children should not be able to be employed as educators within an early education and care service as they have insufficient maturity for the education of young children. In NSW CCCC, understands it is not legally possible to complete a Working with Children Check on a legal child. That said, if children (i.e. under 18 year olds) are going to be allowed to be educators, to insist that they

must be supervised only by an adult who is working towards a Diploma is not a sufficient safeguard. Regulation 134 (b) (ii) should be omitted from the final Regulations.

14. **Underage educators and ratios** (Omission from the Regulations). Educators under 18 years of age should not be able to be counted towards required staff: child ratios. The omission of this requirement from the Regulation weakens the intent of the ratio improvements.
15. **Underage educators and temporary waivers** (Regulation 40). Services should not be able to get a temporary waiver for Regulation 134 (Educators who are under 18 to be supervised). A service that was granted a temporary waiver for Regulation 134 and 141 could operate under the control of 2 teenagers with only Certificate III qualifications. This is not in the best interests of children.
16. **Currency of child protection training** (Regulation 94). This regulation requires only that the nominated supervisor and educators have successfully completed training about child protection. There appears to be no requirement for currency of child protection training and no requirement which specifies the level of this training. CCCC believes all educators should complete the nationally approved unit of competency of *CHCCHILD401A Identify and respond to children and young people at risk* and attend a refresher on this national unit of competency at least every three years.
17. **Centre-based services—general educator qualifications** (Regulation 141) CCCC is concerned with the lack of clarity of this requirement. The wording of Regulation 141 (a) is that *“at least 50 per cent of the educators who are required to meet the relevant educator to child ratios for the service must have, or be actively working towards, at least an approved diploma level education and care qualification.”*

This does not make it crystal clear as to whether this means that 50% of all educators who are on duty to satisfy the requirements of Regulation 138 (educator to child ratios) must have a Diploma or 50% of all staff educators employed by the service. This must be clarified within the Regulations.

If a service has above ratio staff numbers we presume 50% of these do not have to hold a Diploma. CCCC recommends this Regulation be altered to make specific reference to Regulation 138 and be further clarified in education materials and service guidelines.

If Regulation 141 does not just refer to ratioed staff numbers, but to all staff on duty, a problem would exist with workers funded under DEEWR's Inclusion Support Subsidy. If two ISS workers were employed, one would have to be a Diploma qualified staff member, although the subsidy would not nearly cover the pay rate of a Diploma Qualified worker.

Provision of preschool education

18. **High Quality Rating** (Regulation 58) CCCC believes that there has been a weakening of the intent of the requirement for children in the year before school to receive a preschool education in the drafting of the Regulations. Services are required under Regulation 81 of the draft Regulations to deliver an education program that contributes to a number of outcomes for each child including the child becoming a confident and involved learner and an effective communicator. How can you deliver an education program to pre-schoolers that can meet this requirement if you do not directly offer within your centre a preschool program? CCCC argues that it is not possible for an early education and care centre based service to deliver high quality in the educational programs and practice quality area unless that service directly offers a “play based learning program, planned and delivered by an early childhood qualified teacher for a minimum of 10 hours a week (15 hours a week from 1 January 2013) for 40 weeks per year”.
19. We believe that this weakening and inconsistency must be addressed by either:
- separating the requirements for centre based early education and care and family day care schemes and having Regulation 58 (2) (b) only apply to family day care and not centre based care. This would mean all early centre based care services would have to directly provide a preschool program in order to get a high quality rating.
 - Grandfather the provision of preschool programs for all NSW services. CCCC is aware that not all long day care services in other states have historically delivered preschool programs. However children in NSW attending long day care services have had access to a preschool education in long day care centres as well as dedicated preschools because of our requirements for employment of early childhood teachers. We believe that early education is vital for children, and believe that care is inherent in education. If any service in NSW were to stop providing a preschool program because the Regulations would allow them to achieve a high quality rating by merely providing parents with information about preschool providers and supporting a child’s attendance at a preschool program, this would be a real loss for children in NSW.

Ratios

20. **Mixed age group ratios.** Until Schedule 8 is published, it is impossible for us to comment on how children will fare in terms of staff/child ratios. If the reckoner for calculating mixed age ratios as present in the National Quality Standard is to be codified in Schedule 8, CCCC would classify this as another major area of concern. It is disappointing that Schedule 8 was not released prior to the comments deadline on the draft Regulations. CCCC hopes that further time will be given to comment on this Schedule when it is released.
21. **Ratios to be met at all times** (Omission from the Regulations). As far as CCCC can ascertain there is nothing in the draft Regulations which would release a centre based service from meeting the ratios at all times, including during staff rest and meal breaks. As this approach was canvassed in the initial Information Paper we are glad that it has not been formalised in the draft Regulations. CCCC, would however, like to see specific reference to the need for ratios to be met at all times including during staff rest and meal breaks to be added in to

Regulation 137 and in Schedule 4. We are aware that this is present in Element 4.1.1 of the National Quality Standard but would also like to see it present in the Regulations to remove any doubt that the ratios must be met at all times.

Group sizes

22. **Group sizes** – (Omission from Regulation 87). The draft Regulations’ only acknowledgement of group sizes as a determinant of quality is that services must provide children “with opportunities to interact and develop positive relationships with each other and with staff members of the service” and that for the purposes of this “the approved provider or nominated supervisor must have regard to the size and the composition of the groups in which children are being educated and cared for”. In preparation of this submission CCCC did a review of research available concerning group size. Although it difficult to isolate group size from other factors such as ratios in determining quality provision within early centre based care, and difficult to arrive at an adequate definition of group size, on the balance, the research suggests that smaller groups are important for the provision of quality care.
23. Babies and toddlers, in particular require smaller groups. Harrison found that smaller groups are particularly important for younger children “who need greater support from caregivers to manage their emotions and learn to use pro-social behaviour with peers”. (Harrison, L. J. 2008³). Smaller group sizes also lower infection rates, improve safety and reduce noise, stimulation and confusion (cited in Press 2006⁴). Smaller groups also enable the formation of caring relationships between children – larger groups lead to “loss of intimacy, meaningful shared experiences, and the ability to engage in discovery through play (Lally et al.,1994 cited in Press 2006⁵).
24. For the Regulations not to include mandatory group sizes for each age group in early education and care services is seriously remiss. Community Child Care strongly recommends the inclusion of mandatory group sizes in the Regulations.

³ Harrison, L. (2008), Does Child Care Quality Matter? Family Matters No 79, Australian Institute of Family Studies 14-26

⁴ Press, F. (2006). What about the kids? Policy directions for improving the experiences of infants and young people in a changing world.

⁵ ibid

Other Concerns

Omissions

There are a number of areas where CCCC believes there are omissions from the Regulations – where the inclusion of a requirement would strengthen the quality of education and care being offered to children. These include:

25. **Premise checking.** There is no requirement that premises of centre based early child services are checked for children at the end of the day. There have been enough instances of children being locked in services at the end of a day to warrant this being a specific inclusion.
26. **Fencing and Security** (Regulation 123). This regulation requires a service’s outdoor space to be “enclosed by a fence or barrier that is of such a height that children who are preschool age or under cannot go through, over or under it.” CCCC believes that the wording should be changed to refer to height and **design**.
27. **Qualifications for Cooks.** There is no requirement that those working as cooks in an early education and care centre based service must have any sort of qualification despite children being classified as vulnerable persons under Standard 3.3.1 of the Food Standards Code, and despite Regulations 89-91 placing specific requirements on services around food production. CCCC recommends the attainment of specific competencies from nationally accredited training such as Food Safety - Follow Basic Food Safety Practices (HLTFS207B) and Menu Planning - Plan and Evaluate Meals and Menus to Meet Recommended Dietary and Cultural Needs (HLTNA302B) being incorporated as requirements for cooks within centre based early education and care services within the Regulations.
28. **Signing Out** (Regulation 110) This Regulation allows for the departure of a child from a service if they are (amongst other persons) given into the care of a person authorised by a parent or authorised nominee, but there is no requirement that the authorisation be in a specific format (e.g. in writing). This needs to be strengthened to give services clear indications of requirements.
29. **Proportion of school age children.** There seems to be no limit on the number of school age children a service offering care for pre-schoolers can take. NSW Regulations had such a requirement and we believe that this is an important omission from the draft National Regulations.
30. **Safe travel.** Community Child Care is aware that the *Kids and Traffic*, Early Childhood Road Safety Education Program, have made specific submission to the Regulations Review concerning safe travel. CCCC supports the recommendations made in this submission.
31. **Policies.** (Regulation 75) Community Child Care believes all services should have a child protection policy and believes that the requirement in this Regulation that services should have a policy on “providing a child safe environment” does not go far enough. CCCC also believes that all services should have a policy on inclusion of children with additional needs.

Enforcement and Compliance

32. **Infringement Offences** (Regulation 225). CCCC believes that the prescribed infringement offences are too broad. The Education and Care Services National Law states that the payment of an infringement penalty expiates the offence and is not to be considered in assessing and rating a service. A service could therefore (for example) not provide adequate indoor space for a period, pay an infringement penalty of \$200 and still be rated as a High Quality service. As devised, this system will enable some operators to pay an infringement penalty rather than improve quality. We believe Regulations 116 and 117 (indoor and outdoor space requirements) and Regulation 123 (fencing) should be removed from the list. As it is the prescribed offences are disproportionate to the gravity of the breach. Removing 116 and 117 will ensure that the infringement penalties are commensurate with the seriousness of the breach.
33. **Revenue raising through Infringement Offences** (Regulation 225). CCCC is concerned that some State Governments could use the infringement penalties system as a form of revenue raising from children's services, with infringement penalties being issued with more regard to the revenue collected, than the intent of the Regulation in protection of children.
34. **Compliance and enforcement information** (Regulation 221). CCCC is concerned that the Regulatory authority can choose to publish the award and payment of an infringement notice. If the payment of an infringement notice is not an admission of guilt and the payment of the penalty expiates the offence, why should the Regulator then be able to publish details of this?
35. **Complexity of the monitoring and compliance regime.** CCCC believes that a comprehensive education campaign needs to be implemented after 2012 to ensure that services are aware of the monitoring and compliance measures available to regulators. Misinformation is already circulating within the sector and clarification of the different types of compliance measures available to be used in case of breaches is essential. CCCC would also like to see full publication of the policy and procedures jointly adopted by the regulatory authorities regarding the use of the various compliance measures available to them. This is a key area where national consistency is vitally important.

Excursions

36. **Requirements for Excursions** (Regulations 111,112,113).CCCC has strong concerns about the impact of the proposed Regulations on the conduct of excursions. Over the last 10 years we have witnessed more and more services opting out of excursions on the grounds that they are too complex and are too risky. This ‘moral panic’ about excursions has taken hold largely because of regulatory changes within NSW designed to make excursions safer. A balance must be struck in the Regulations between protecting children and being a disincentive for the inclusion of excursions as a regular part of a service’s educational program and practice. Services will only feel comfortable about conducting an excursion if the requirements under the Regulation are clear and explicit. CCCC believes this is one area where the Regulations should be made more directive. Having best practice within another document only gives rise to confusion about absolute requirements. A practitioner expressed this issue to CCCC as follows:

“Excursions are problematic. The discussion paper suggests there will be a schedule attached to the Regs that will make strong recommendations re various issues re excursions. We run a risk. If there is nothing set down then a centre does its risk assessment and if nothing goes wrong all is well. If anything goes wrong however, then the risk assessment was inadequate. Service staff can’t win.”

37. **Ratios for excursions** (Omission from the Regulations) CCCC believes that specific staff: child ratios should be set for the conduct of excursions. This is required to absolutely flag to a service that increasing the adult:child ratio is one of the best mitigations against danger on an excursion – especially for children under preschool age.
38. **Risk Assessment** (Regulation 112) The requirement to complete a risk assessment is in line with current risk mitigation practices and formalises processes undertaken by services anyway, but is a new concept for many children’s services. Provision (as a separate schedule of the Regulations) of a proforma for this will reduce the disincentive action that the requirement to complete a risk assessment could produce.

Service guidelines versus tighter regulations

39. CCCC is pleased that in the framing of the draft Regulations that there has been a move towards outcomes focussed Regulation - services can demonstrate that they meet a Regulation's outcome without the Regulation specifying the exact manner of meeting the outcome required. This is particularly noticeable in the facilities requirements. However, CCCC has some specific concerns about this manner of regulating and requests that these be taken on board.
40. The first concern is that of the potential for confusion to be built into the system where there is variation between best practice guidelines, operator's handbooks, the Guide to the National Quality Standard and the Regulation. Services in NSW are used to a situation where they have a definitive Regulation and may also have to consult Quality Assurance material to ensure they are "doing things right". The plethora of guides which may now have to be consulted, in addition to much lengthier regulations, will cause confusion and inadvertent breaching of the regulations.
41. The second concern is that outcomes based regulation gives greater leeway to individual assessors and compliance officers to interpret whether a service is meeting the Regulations. Services could face assessors having differing interpretations over words such as *adequate* and what this might mean in practice. Generally, this latitude in absolute requirements may work well for higher quality services and yet simultaneously give lower quality services freedom to manipulate requirements, especially in the facilities area.
42. Our third concern is that this manner of regulating does not always work well in a children's services environment where service staff do not have the time to explore and research best practice. A practitioner expressed this issue to CCCC as follows:
- "Is there a set 'what should be included' list for first aid kits? These 'lists' vary enough within medical bodies as is – between hospitals, ambulance services and Department of Health, there is no set 'list' of what should, or should not be in a first aid kit. No definite - so how are we to work towards achieving this when we can't get adequate answers now?"
43. Likewise CCCC's attempts at ascertaining what would be the correct depth of soft-fall for a service took no less than an hour through the process of consulting the Regulations, the National Quality Standard, the Guide to the National Quality Standard and finally industry advisory bodies' websites. Children's services in NSW, particularly preschools, often have teaching directors who only get a few hours a week away from the floor to research and organise matters such as these. There are clearly some Regulations (such as in these two examples) where definitive requirements would aid compliance.
44. Our final concern in this area is that sometimes the Regulations are framed from a compliance viewpoint rather than with the aim of giving certainty of requirements to services. A practitioner expressed this issue to CCCC as follows:
- "Fence height is not specified. Centres must ensure a child cannot go under over or through a fence. Catch 22 if no child gets out then your fence is OK. If any child gets out then your fence was not OK regardless of how high, how secure, or how well maintained the fence is."

Other issues

45. **Ratings Levels (Regulation 54)** CCCC does not believe that the ratings have been named in such a way as to make it clear for families to understand a service's rating, and believes that the bottom three rating levels need to be renamed. Excellent and High Quality Rating are both named in such a way as the names are aligned with their general meaning. A service which gets a national quality standard rating could be seen, in absence of knowledge of the other ratings to be high quality. A foundation rating does not reflect the fact that a service has not met the national quality standard. CCCC is also concerned that the ratings do not reflect the fact that the Regulations are minimum standards.
46. **Annual fees** (Schedule 6). CCCC is concerned that there is not much variation for annual fees for the size of service. The maximum service size allowed for is over 80 children. CCCC believes that service's fees should be proportionate to a service's capacity to pay and the cost of doing assessments on them. This is an issue especially for NSW preschool services which have limited incomes. CCCC suggests the introduction of a middle fee for services 25 to 60 places and a higher fee for services above 80 places for all fees where the size of the service is the determinant of the fee.
47. **Separate play space for babies** (Regulation 116). CCCC is concerned that this requirement could lead to the use of play pens. Some NSW services have distinct areas for 0-3s and 3s to 5s – fulfilling this requirement could be difficult. The lack of a definition for 'separate' is also problematic and leaves too much in the hands of an assessor to determine. There is also the danger that this could lead to an interpretation that babies can only play in a separate space. CCCC suggests this be removed from the Regulation and included in best practice documents.
48. **Management and Control** (National Law). CCCC wishes to note that we believe that the capacity of a Regulatory Authority to assess whether a person who becomes a person with management or control of a service after the grant of the provider approval is a fit and proper person is rightly restricted, in the case of community based services, to the Executive members of the Association. Services in NSW have struggled in recent years with the requirements to prove fitness of every member of a management committee. This had proved to be a disincentive to joining a management committee.
49. **Implementation of the Regulations.** The Regulations will change many of the operational requirements for early education and care centres in NSW, and in Australia. Community Child Care Co-operative was commissioned by our State Regulator, the then Department of Community Services, to implement a comprehensive professional development program when our State Regulations were substantially changed. This enabled services to proceed with confidence under the new regulations, confident that they were complying and confident that they were implementing the improved requirements successfully. For these new National regulations to be achieve their aim of improving the quality of education and care to children across Australia, their adoption must be accompanied by a well thought out implementation plan which has a multi-faceted professional development program and resources for the sector prioritised.
50. **Training of Assessors and compliance staff.** CCCC believes that it is vitally important that the assessors and compliance staff who are responsible for assessing children's services compliance with the Regulations receive extensive training. In NSW we have witnessed

good regulation undermined by inconsistent compliance requirements by those charged with assessing compliance. Unless the regulatory staff are trained to have complete understanding of the regulatory implement and complete objectivity in assessment, the benefits of the National Regulation will be undermined. When children's services become aware of inconsistent application between regulatory staff and the use of the Regulation as a tool to hinder children's services pursuit of quality, their faith in the Regulation as a mechanism to protect children becomes undermined. This leads over time to lack of adherence across the board.