

# Information Sheet

## Legislative Authority and Responsibilities for Licence Applicants under the *Child Care Act 2001*

7 November 2014

### **What is a licence holder/licensee?**

A licence holder (i.e. the licensee) is a person or organisation (service operator) who has applied for, and been granted, a licence to operate a child care service under the *Child Care Act 2001*.

Although the *Child Care Act 2001* refers to an applicant being a person, this does not restrict the applicant to being an individual. The applicant may also be an incorporated body, company, partnership or a government agency. The Act allows for either a service operator or an individual employee to hold the licence.

### **What are the licensee's responsibilities?**

Whilst the day to day operations of the service may be delegated to an appointed person in charge, the licensee is responsible for ensuring that at all times the appropriate Tasmanian Licensing Standards are implemented. This includes, for example, ensuring that:

- written policies, practices, procedures and record systems are implemented and maintained, and that client confidentiality is maintained at all times; and
- the correct ratios of educators to children are maintained.

### **How does a licensee achieve this?**

As the licensee is not able to be on the premises at all times, it is important that processes are put in place that reassure the licensee that those in charge of the service on a day to day basis are meeting the standards at all times; and that there are sound communication strategies in place to discuss any concerns or issues.

During licensing assessment visits, it is preferable that the licensee or licensee representative(s) is present for at least part of the time, in order that issues can be discussed with those responsible for the licence, rather than with staff members who may not have the authority to resolve those issues.

### **Why are licensee representatives required if the service operator is the licensee?**

The *Child Care Act 2001* requires an applicant to be approved as a 'fit and proper' person in order to hold a licence. To make this assessment, a number of matters, as outlined in Section 15A(2), must be taken into account. Where the service operator holds the licence, it is not practical to assess each member, e.g. from a company, government agency or incorporated management committee, in relation to all these issues.

The Education and Care Unit therefore requires the service operator to nominate at least two representatives for licensing purposes.

This is generally done during the licence application process, although it may also occur at other times when the need to appoint new representatives does not coincide with a renewal of licence. In these situations, the 'Notification of change of details of service operator and/or licensee representatives' form is used.

### **Who should be the licensee representatives?**

It is expected that the licensee representatives are the persons who are in the best position to represent the service operator in relation to licensing matters.

Where the service operator is a body and holds the licence, the licensee representatives are generally members of the service operator. However, there are occasions where it is more appropriate that employees or managers of the service be the representatives, e.g. with a Council or large organisation where a staff member is delegated the responsibility for the oversight of the service(s).

Where the service operator is an individual and holds the licence (i.e. individual owner of the centre and licensee), **or** where an employee is authorised by the service operator to hold the licence that person is the licensee; and licensee representatives are not required.

### **What is the role of the licensee representatives?**

Where the service operator holds the licence, that body, and not the licensee representatives specifically, retains the responsibilities that, under the Act, apply to the licence holder. The name of the service operator is written on the licence, not the names of the licensee representatives.

Each member of the service operator is not expected to fully understand nor play an identical role in overseeing the service in relation to licensing. Consequently, the licensee representatives provide the interface between the Education and Care Unit and the licensee in relation to licensing matters. They are also likely to play a significant role in communicating directly with the service on behalf of the service operator.

In order to fulfil the role of the licence holder in ensuring that the licensing standards are maintained at all times, it will be necessary for the licensee representatives to:

- become familiar with the *Child Care Act 2001* and the appropriate *Tasmanian Licensing Standards*;
- develop a sound understanding of the concept of duty of care; and
- develop appropriate communication strategies with the staff.

### **Is there an approval process to be a licensee/licensee representative?**

Yes. You will need to successfully complete a number of checks demonstrating that you are a 'fit and proper' person. These checks include evidence of holding a Tasmanian Working with Children Check and the completion of a Declaration Form. Other persons involved/to be involved in the service will also need to demonstrate their suitability for their particular role.

For further information on this approval process, see the Information Sheet on Fitness and Propriety Assessments.

#### **CONTACT DETAILS**

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