



**T**he ALRC is looking at how the Commonwealth regulates and funds child care services under the Children's Services Program of the Department of Health, Housing, Local Government and Community Services. The Commission is developing new, user friendly legislation as part of the Commission's wider review of Commonwealth legislation including aged care and disability services legislation.

## CHILD CARE SERVICES UNDER THE SPOTLIGHT

The Commission has published a discussion paper, called *Child Care (ALRC DP 55)*, and has been holding public meetings and seminars in all capital cities and some regional centres around Australia throughout November and December. The discussion paper describes the Children's Services Program and considers the issues the Commission has been asked to examine from the point of view of

- families as users of child care services
- services providers receiving Commonwealth funding, and
- the Commonwealth.

The Commission would like to hear what individuals and groups with an interest in child care think about the proposals and the questions in the discussion paper. We welcome written and oral submissions. The final date for written submissions is 31 January 1994.

### *Satisfying the interests of families*

The discussion paper examines strategies for ensuring that the administration of the program reflects the Commonwealth's access and equity and social justice policies. It asks if these strategies are effective. It notes that there are inequities in Childcare Assistance for outside school hours care services compared to other service types. The paper proposes that receiving operational subsidy funding should depend on whether outside school hours care services offer Commonwealth Childcare Assistance to families. The paper asks whether eligibility for, and the amount of, Childcare Assistance should be the same for all service types. It discusses additional Childcare Assistance funding in family day care and asks whether there are good reasons for this additional funding.

The paper explores strategies for promoting service quality and proposes that new legislation should ensure that all Commonwealth funded children's services meet certain basic standards and that, should those standards not be maintained, the Department could take remedial action.

With a view to encouraging family participation the paper discusses what sort of information parents using childcare services might need, who should supply it and how it should be distributed. The paper discusses parent

participation in community managed child care services and asks whether parental participation improves those services, whether private services approved to receive Childcare Assistance should have to consult parents on matters that affect them and whether more needs to be done to enable parents with special needs to participate in, or be consulted about, management.

Commonwealth agencies hold a considerable amount of personal information about families with, very often, inadequate protective safeguards. The paper discusses ways of protecting personal information and asks whether there are circumstances when sensitive information about parents or children has been disclosed by a service when it should not have been.

Children's services need a satisfactory mechanism for dealing with complaints from families. The paper proposes that it should be a condition of approving a children's service that the service have such a mechanism. It asks what kinds of complaints families are likely to lodge about a service and what kinds of procedures would make parents feel more comfortable about complaining to a service. The paper also considers whether there should be a separate body to review decisions that the service makes.

### *Funding services efficiently*

The paper proposes a legislative basis for the funding process with legislation clearly setting out the steps a service must take to receive Commonwealth funding. It proposes that, generally speaking, the Commonwealth should give funding only to services that have been approved under the legislation and suggests the kinds of conditions to which

approvals should be subject. The paper proposes that the Secretary of the Department should only be able to suspend or revoke an approval on grounds specified in legislation.

The paper examines the decisions the Department makes about funding and considers whether they should be subject to review and, if so, by whom. It proposes that some of these decisions should be reviewable on their merits by the Administrative Appeals Tribunal and asks whether each of the decisions the Department makes about funding should be reviewable on their merits.

### *Protecting the interests of family day carers*

The paper takes into account the particular problems of family day carers, such as problems in the relationship between family day carers and their coordination units. It discusses ways of encouraging carer participation in the management of units and asks what information carers need, who should provide it, and how it should be provided. It asks, specifically, whether rights and responsibilities should be set out in written agreements. The paper proposes making the participation of carers in the management of a service a condition of its funding. It also asks how to encourage Aboriginal and Torres Strait Islander people and people of non-English speaking backgrounds to become carers and to participate in the management of services.

The paper suggests that coordination units should safeguard personal information about carers in the same way as services should be required to protect personal information about families. For carers who have complaints about coordination units, the paper emphasises the importance of

internal review mechanisms and proposes making it a condition of approval of a coordination unit that it have a satisfactory internal complaints handling mechanism. The paper considers what kinds of complaints carers are likely to make about a service, what kinds of procedures would make carers feel more comfortable about complaining to a service and whether services should be required to have a satisfactory internal complaints mechanism for some or all carer complaints. The paper also canvases various types of external review bodies to deal with some or all of carer complaints and coordination unit decisions.

### *Protecting information about services*

The paper proposes that new legislation should have provisions protecting commercial information held by the Department. It asks what sort of commercial information should be protected by a secrecy provision and it asks what conduct in relation to commercial information should be prohibited by a secrecy provision. The paper discusses information held by the National Childcare Accreditation Council (NCAC) and asks what sort of protection is appropriate for information about its services.

### *Ensuring the Commonwealth achieves its objectives*

The paper considers whether services should be required to incorporate as a condition of funding and whether that might create difficulties for unincorporated services. It describes how the Department plans service provision and asks whether all Commonwealth

funded services should be subject to a planning process and, if so, what kind.

After examining why the Department provides capital for building services and the problems in achieving its goals the paper proposes that

- capital funding should only be advanced to the registered operator of the children's service concerned
- all capital funding should be subject to conditions.

The paper asks

- how the Commonwealth can protect its capital investment in child care centres
- whether capital funding should be subject to conditions, binding on both the landowner and the operator, that will ensure the service stays open, and

- on what basis to calculate the amount of grant money to be repaid.

Addressing the question of how to make services accountable for their recurrent funding, the paper proposes that the new legislation should

- impose record-keeping duties on services
- provide the powers of Commonwealth officers and the reciprocal duties of operators
- require services to notify the Department of any change in circumstances that may affect the service's entitlement to funding.

It also suggests duties that should be imposed on the management and staff of services and it asks whether services will have difficulty in complying with these duties and what the implications are of imposing these duties on family day carers.

The paper considers ways to enforce obligations assumed by recipients of Commonwealth funding. It proposes that

- the legislation should give the Secretary (of the Department) power to suspend the registration of an operator and service and funding approvals in specified circumstances including non-compliance with a condition of an approval.
- the Secretary should be able to revoke an approval that has been suspended after 30 days.

It asks whether the Secretary should have these powers, in what circumstances the Secretary should be able to revoke an approval and whether the new legislation should have a specific offence prohibiting the making of false or misleading statements in applications for funding.