

Children's Services in Victoria

Information for parents
and guardians

Every
child,
every
opportunity



Children's services legislation – how the system works

As a parent or guardian you want to be sure that your child's care is always in the best possible hands.

Like most families, there will be many different times and circumstances in which you will need your child to be cared for by someone else, either on a regular basis or every now and then.

Victoria has laws and regulations that prescribe how this care should be provided in many of these situations.

Children are vulnerable, no matter where they are or who they are with, and as parents you want them to be safe. Children are also always learning, no matter where they are or who they are with, and parents want these learning experiences to be positive and healthy ones. The Victorian Government therefore regulates the care of children in more formal types of care arrangements in order to ensure that they are protected from harm and that their opportunities for development are maximised.

This brochure explains to you the types of situations where the care of your child is licensed and regulated by the Children's Services Act 1996 (the Act) and the Children's Services Regulations 2009 (the Regulations).

It also provides you with some information about the different aspects of care that are subject to regulation. Whenever your child is being cared for by a licensed children's service you are entitled to know what the legislation expects of the service.

It is also important that you know where to go to make a complaint if you think the service is not meeting its obligations. This brochure provides the available contact details (see page 7).



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Children's services legislation



The Act is a Victorian law that sets up a licensing and regulatory system for services that care for or educate children. It sets out when a service is required to obtain a licence and it places a range of obligations on the service, including the obligation to comply with the Regulations. The Regulations are detailed, comprehensive rules supporting the Act and set out the minimum standards that licensed children's services must meet.

Anyone involved in running a children's service in Victoria has responsibilities under the Act and the Regulations – the licensee, the manager, staff, volunteers and family day carers. As a parent or guardian, you are entitled to expect that everyone at the service your child goes to is taking their responsibilities seriously.

Children's services advisers employed by the Department of Education and Early Childhood Development (the Department) regularly monitor licensed children's services to ensure that they are complying with the Act and the Regulations. The Act and the Regulations are mandatory and actions can be taken against a service if it is not complying with them. These actions can range from directives to change some aspect of the service through to more severe actions, such as closing the service down or prosecuting the licensee or other persons.

In the Act, the term 'children's service' is used only to describe those situations or care arrangements that are required by law to have a licence. Any care arrangement that is outside this definition is not considered a children's service under the Act and does not require a children's services licence.

If someone is caring for your child in a situation that fits the Act's definition of a children's service, then they must obtain a licence (subject to some exceptions). To operate or even advertise an unlicensed children's service, when the Act requires the service to be licensed, is a serious offence. It is therefore important that you have a reasonable understanding of the sorts of services that must be licensed and regulated under the legislation.

If your child is attending a service that is required to be licensed:

- you are entitled to inspect the service's licence at any time
- the licence should be on display at the entrance to the service.

Other information that must be displayed includes:

- the names of those who are in charge of the service
- fees charged
- an outline of the children's programs
- details of emergency evacuation procedures
- who to contact about complaints.

Information about children's services where statutory action has been taken due to failure to comply with the children's services legislation is published on the Department of Education and Early Childhood Development's website at www.education.vic.gov.au/licensedchildservices

What services are required to obtain a licence?

In general, it is the intent of the law only to regulate the more formal types of care arrangements.

As there are such varied arrangements by which children are cared for by people other than their parents or guardians, the law defining a children's service (that is, a service that must obtain a licence in order to operate) has a number of parts to it and also a number of exceptions.

In general, it is the intent of the law only to regulate the more formal types of care arrangements. Parents and guardians often make informal arrangements for someone else to care for their children. These sorts of informal care arrangements generally do not need to be licensed. The more formal arrangements do.

Some of the factors that are important in determining whether or not a service needs to be licensed are:

- how many children are being cared for
- how old the children are
- whether the service is receiving any sort of payment or reward in exchange for caring for the children
- whether you are present while the service is caring for your child.

This brochure looks at some of the main types of care arrangements that you might use for your child, and explains how each of these points applies in each of those situations.



Centre-based care

Centre-based care is when care is provided somewhere other than a home.



If your child is being cared for away from the family home setting – either on a regular basis or occasionally – then, in most cases, that service would be required to have a licence. This is often known as centre-based care.

The law says that these arrangements must be licensed if the service is providing care or education for four or more children under the age of 13 years in the absence of their parents or guardians, and:

- the service is receiving a fee or reward (which could include a non-monetary reward) for providing the care or education; or
- the parents or guardians of the children use the services or facilities at the service whilst their children are being cared for, for example, at a sports and leisure centre that may provide free childcare for its customers.

These rules apply throughout Victoria, regardless of how often your child attends the children's service. Some examples of centre-based children's services are:

- long day care services
- kindergartens
- occasional care services, including neighbourhood houses
- outside school hours care services
- child care services provided at a sports and leisure centre
- child-minding services provided at a conference or agricultural show
- child-minding services provided at a holiday resort.

Exceptions

There are some exceptions to services being required to obtain a licence. These include some playgroups, single instruction groups, and schools.

Some playgroups

Playgroups registered with Playgroup Victoria Inc. do not need to be licensed. Playgroup Victoria Inc. has a number of guidelines that their members are obliged to follow, including that there should always be at least one parent, guardian or caregiver present for every four children in the group.

If a playgroup is not registered with Playgroup Victoria Inc., then it will need to determine if the arrangements meet the criteria of a 'children's service' and, if so, it will require a licence. Playgroups where the children's parents are all present with the children do not need to be licensed.

Single instruction groups

Where a group of children are receiving instruction in a single activity or sport, there is no need for the service to be licensed. This might include such things as after-school sports practice, music lessons, ballet or Sunday school.

Schools

When a school is providing education within the terms of the Education and Training Reform Act 2006 it does not have to have a children's services licence. This therefore applies to the education provided in registered schools during the normal school day for children at preparatory level (Prep) or above. However, when a school is providing outside school hours care (before and after school or vacation care) a children's services licence is required.

Family day care

Family day care is where child care is provided in the carer's own home under a formal arrangement.

Family day care is where child care is provided in the carer's own home under a formal arrangement. In such cases, the service your carer is registered with will be required to have a licence. Some of the laws that apply to family day care schemes/services include that:

- carers must never care for more than seven children at any one time (including the carer's own children)
- carers must never care for more than four children under six years of age at any one time (except if the children under six are all siblings, in which case no more than six siblings under age six may be cared for or educated at any one time; or the children are students who are enrolled at a school)
- the carer must be registered with a family day care scheme/service that is licensed under the legislation.

Sometimes, family day care schemes/services deliver some services in venues other than a carer's home. This is known as 'in venue' care. In venue care can only be delivered by a licensed family day care scheme or service, and only when the Department has approved the venue.

If the carer is not complying with these requirements, they are operating an unlicensed children's service, which is a serious offence under the Act.

Exceptions

If your child is being cared for in someone else's home through an informal arrangement there is no need to have a licence; for example, when neighbours take turns caring for each other's children when the children return home from school.



Nannies

Nannies provide care in a child's own home.

If you engage a carer, such as a nanny, to look after your own child in your own home, there is no need for a licence.

Nannies can also look after some additional children, other than the child whose home it is, as long as there are not more than four children under school age at any one time. If there are more than four children under school age in a nanny's care at any one time, then this care may meet the criteria of a 'children's service' and, if so, a licence may be required.

What is covered by the Act and the Regulations?

The Act and the Regulations cover a large range of matters relevant to how a children's service operates in relation to the children.

The Act and the Regulations cover a large range of matters relevant to how a children's service operates in relation to the children.

The Act requires a licensed children's service to:

- protect your child from harm and from hazards
- provide an educational or recreational program for your child
- ensure your child is not unreasonably disciplined
- provide adequate supervision for your child
- ensure adequacy and maintenance of the premises
- manage anaphylaxis
- meet the required child/staff ratios
- manage serious incidents
- where authorised, administer medications to your child.

The Regulations set out in detail the minimum standards with which all services must comply. They cover the requirements for:

- how many staff the service must have on duty to care for or educate the children according to the number and ages of children present
- training and qualifications staff must have
- arrangements that must be in place for dealing with emergencies
- arrangements that must be in place around who can collect your child from the service
- arrangements for excursions and outings
- first aid and medication
- managing anaphylaxis
- records that must be kept at the service
- information the service must make available to parents or carers
- provision of food to your child
- indoor and outdoor space.



Where should I go to get more information?

If you would like more information about early childhood services in Victoria, read *Welcome to Early Childhood Services – A Parent's Guide to Early Childhood Services in Victoria in 2010* (specific information on child care begins on page 19). You can download a copy by visiting the Department's website at www.education.vic.gov.au/about/publications/newsinfo/welcomeecservices.htm

If you want to find out more about what the Act and the Regulations require:

- ask your child's service to give you access to their copy of the Act and the Regulations
- get your own copy of the Act and the Regulations from Information Victoria via www.bookshop.vic.gov.au

- refer to any of the publications or resources produced by the Department at www.education.vic.gov.au/licensedchildservices
- contact the Department's Licensed Services Enquiry Line by telephone on 1300 307 415 or by sending an email to licensed.childrens.services@edumail.vic.gov.au
- talk to a children's services adviser at your nearest regional office of the Department. Contacts can be found at www.education.vic.gov.au/about/structure



When you're not sure whether a particular service should be licensed

The law about licensing children's services can sometimes seem confusing and it's not always immediately clear whether or not a particular arrangement fits under the Act's definition of a children's service.

If you are not sure whether a particular service should be licensed you should contact a children's services adviser at your nearest regional office of the Department for further information. To find out more go to www.education.vic.gov.au/licensedchildservices

For additional information related to unlicensed care, visit the website of the Office of the Child Safety Commissioner at www.ocsc.vic.gov.au

For information related to playgroups, visit the website of Playgroup Victoria Inc. at www.playgroup.org.au

