



# Transferring a Service Approval

May | 2018

This fact sheet provides information about the requirements for transferring an education and care service approval in South Australia.

## Terms used in this factsheet:

**Transferring Approved Provider:** An approved provider who holds a service approval that they propose to transfer to another approved provider.

**Receiving Approved Provider:** An approved provider who is intending to purchase, or otherwise procure a service from another approved provider.

**Declared Approved Service:** A service that was either a licensed child care centre under the *Children's Services Act SA 1985* (the previous law) or operating as a Preschool or Out of School Hours Care service prior to 1 January 2012.

**Savings Provisions for Declared Approved Services:** The Education and Care Services National Regulations (the National Regulations) include savings provisions that allow services operating before 1 January 2012 to continue to operate under the same space requirements that existed prior to the commencement of the National Law. However, a service transfer will end the savings provision. Please refer to regulations 337 for long day care services, 338 for preschools and 339 for out of school hours care services.

## *Important information to consider before planning a transfer of a declared approved service*

## Current Law applies from the Time of Transfer

When a declared approved centre based service is transferred to another approved provider, the current requirements of the National Law concerning indoor and outdoor space come into effect. The declared approved service must then meet the current unencumbered indoor and outdoor space requirements that are specified in regulations 107 and 108.

Consequently, the indoor and outdoor space available for children's activities at the service must be re-calculated by a building practitioner, using the criteria in regulations 107 and 108.

It is important that you contact the Education Standards Board (the Board) if you are intending to transfer a declared approved service to discuss any implications that it may have on the indoor and outdoor space requirements.

*For information on the current requirements for calculating indoor and outdoor unencumbered space please refer to information provided on page 4 of this fact sheet.*

## The Transfer Process

### **Step 1) Notifying the Education Standards Board 42 Days in Advance**

The transferring approved provider and the receiving approved provider must jointly notify the Board at least 42 days before the transfer is intended to take effect (including all the required information). The Board may accept a shorter timeframe only in exceptional circumstances.

The form Notification of Transfer of service approval – centre based (SA04) is available through the National Quality Agenda IT System (NQA ITS) public portal.

### ***For declared approved services only***

If transferring a declared approved centre based service, a current building floor plan and site plan must be submitted with the notification form.

The building floor plan must clearly indicate:

- all room usages throughout;
  - all encumbrances such as built-in cupboards, sinks, lockers;
  - all facilities provided such as toilets, hand wash basins, nappy change facilities and food preparation areas; and
  - unencumbered indoor play spaces
- A site plan is also required indicating:
- all children's outdoor play space;
  - the location of storage sheds, fences and gates; and
  - unencumbered outdoor play spaces.

A schedule of calculations provided by a building practitioner is usually required advising of the unencumbered indoor and outdoor space available to children, in accordance with current regulatory requirements. These calculations, as well as the number of children's toilets and basins, will determine the maximum capacity of the service that can be transferred to the new approved provider.

Please refer to the supporting information on page 4 about calculating unencumbered indoor and outdoor space.

Please note, if you are transferring a service that is not a declared approved service you may be required to provide a building floor and site plan if there have been changes to the service premises or areas used for children since the service approval.

has concerns about other relevant matters relating to the transfer. If the Board has intervened in the transfer then the transfer must not proceed until the Board consents to the transfer.

### **• Request further information**

The Board may request further information to assist with its determination to consent or intervene in the transfer. The Board may also suspend the transfer or determine that more time is required to make a decision.

### ***For declared approved services only***

If sufficient information has not been provided to determine the unencumbered indoor and outdoor space for children, it may delay the transfer process. Once the required information is provided, the Board will confirm the maximum number of children that can be educated and cared for at the service following the transfer.

### ***Step 3) After the transfer***

Once the Board has consented to the transfer, both the transferring approved provider and the receiving approved provider must notify the Board in writing within 2 days after the transfer takes effect specifying the date of the transfer. This notification may be received via the Board's email at [EducationStandardsBoard@sa.gov.au](mailto:EducationStandardsBoard@sa.gov.au)

When the Board receives this notification, an amended service approval will be provided to the receiving approved provider.

### ***Other important matters to consider relating to the transfer***

There are a number of other matters that must be considered in relation to a proposed transfer.

These include:

- the transfer of documents and records relating to children currently enrolled at the service. The documents are listed in regulation 177 and include records such as enrolment, accident, injury, medication records, and child development assessments and evaluations. The documents must not be transferred unless a parent of the child has first consented to the transfer.
- The storage of documents relating to children who previously attended the service and are not currently enrolled at the service is the responsibility of the transferring approved provider.
- Updating documentation such as the service policies and procedures, philosophy, service related forms and the quality improvement plan to ensure they are current and reflect the receiving approved provider's policies and practices.
- Giving written notice to parents of children enrolled at the service at least two days before the transfer of service approval has taken effect. The

### ***Step 2) Assessing the transfer notification***

Once all the documentation has been submitted, the Board will assess the information and make a determination. The Board may consent, intervene or request further information:

#### **• Consent**

Consent is taken to be given if the Board does not intervene in the transfer. It is anticipated that the transfer of service approval will take place on the specified date that was provided on the notification.

#### **• Intervene**

The Board will notify both the transferring approved provider and the receiving approved provider if it decides to intervene in the transfer at least 28 days before the date on which the transfer is intended to take effect; provided that the transfer notification and all the supporting documentation was received at least 42 days before the intended transfer date. The Board will outline the reasons for the intervention such as concerns about the management capability, financial capacity or history of compliance relating to the receiving approved provider or if the Board

receiving approved provider is responsible for this notice.

## Information about declared approved services and how the unencumbered space requirements are calculated

**Long day care services** that were previously licensed under the *Children's Services Act 1985* were taken to hold a service approval from 1 January 2012 with their current indoor and outdoor status. It is important to note that the method used to calculate usable unencumbered space for children prior to 1 January 2012 was different to the current method. For example, cot sleep rooms were able to be counted towards the unencumbered space and thoroughfare areas were not excluded. There were also different minimum indoor and outdoor space requirements applied at different times.

*As a result, calculations under the current requirements may impact on the approved maximum number of children to be educated and cared for at a service.*

**Preschool and Out of School Hours care services** that were operating immediately before 1 January 2012 were taken to hold a service approval at that time with their existing indoor and outdoor spaces.

## Information about Indoor and outdoor space requirements

Regulation 107 prescribes that for each child being educated and cared for by the service there must be at least 3.25 square metres of unencumbered indoor space.

When calculating unencumbered indoor space the following areas are excluded:

- passageways or thoroughfares (including door swings)
- toilet and hygiene facilities
- nappy changing areas or areas for preparing bottles
- areas permanently set aside for the use or storage of cots
- areas permanently set aside for storage
- areas or rooms for staff or administration
- other spaces that are not suitable for children.

The area of a kitchen is also to be excluded unless the kitchen is primarily to be used by children as part of the educational program provided by the service.

Regulation 108 prescribes that for each child being educated and cared for by the service there must be at least 7.00 square metres of unencumbered outdoor space.

When calculating unencumbered outdoor space the following areas are excluded:

- pathways or thoroughfares, except where used by children as part of the education and care program
- car parking areas
- storage sheds or other storage areas
- other spaces that are not suitable for children.

## Information about thoroughfare areas

Passageways or thoroughfare areas, including door swings, are not included as countable play spaces as they are not considered to be usable space for children. These areas are used for the movement of adults or children.

In these circumstances, 1 square metre for each single and 2 square metres for each double thoroughfare opening is deducted from the total space that is to be counted for capacity purposes. This applies to all thoroughfare areas into and between children's rooms regardless of where the thoroughfare is located or how doors are configured. Additionally, other encumbrances such as built-in cupboards, sinks, lockers are also deducted from the total space to determine the unencumbered space available to children. Similarly 1 or 2 square metre deductions also apply to gates and doors located in the outdoor space.

## Counting a verandah area as indoor space

An approved provider may apply to the Board seeking approval for a verandah area to be included in calculating the area of indoor space if:

- the area is suitable for children;
- can be suitably weatherproofed; and
- is appropriate for the safety and wellbeing of children.

Please refer to the fact sheet [Verandah areas counted as indoor space](#) for information to consider when applying for a verandah area to be counted as indoor space. If approved, counting the verandah area as indoor space can assist with calculating the maximum number of children able to be educated and cared for at a service.

## Contact details

Early Childhood Services

Phone: 08 8226 0077 or 1800 882 413

Website: [www.esb.sa.gov.au](http://www.esb.sa.gov.au)

Email: [EducationStandardsBoard@sa.gov.au](mailto:EducationStandardsBoard@sa.gov.au)