

### Standard 3.3.1 Food Service to Vulnerable Persons

## Update on implementation in the Children's Services Sector

January 2009

### **Public consultation on the draft Regulation and Regulatory Impact Statement has now commenced**

The draft Regulation and the Regulatory Impact Statement on a proposed amendment to *Food Regulation 2004* regarding childcare centres are now available for comments and submissions.

Currently, certain food businesses providing services to vulnerable persons (such as hospitals and aged care facilities) have to prepare and implement a food safety program and be licensed. This current requirement exempts food businesses providing services in childcare centres.

The proposed Regulation would amend *Food Regulation 2004* to remove that exemption and extend these requirements to food businesses providing services in childcare centres.

Comments and submissions on the proposed Regulation and Regulatory Impact Statement are invited and should be sent to one of the below contact addresses no later than the close of business on 6 March 2009.

Submissions to:                      Child Care Centres Regulation  
   Science and Policy Branch  
   NSW Food Authority  
   PO Box 6682  
   SILVERWATER NSW 1811

Or email:                                [contact@foodauthority.nsw.gov.au](mailto:contact@foodauthority.nsw.gov.au)

Or fax:                                    02 9647 0026

Final date for submissions:    6 March 2009

A copy of the proposed Regulation and Regulatory Impact Statement is available on the Authority's website or by contacting the NSW Food Authority Helpline on 1300 552 406.

## Current requirements

Previously the Authority received queries as to whether centres not providing meals, but providing snacks such as cut fruit, biscuits and dip are covered by the food standards. The information below states what activities are captured by the current requirements of the Food Standards Code.

### When food standards apply

All commercial children's services providing food for sale, or as part of the service, have to meet the current requirements of the *Food Standards Code*, in particular, the two mandatory standards:

- Standard 3.2.2 (Food Safety Practices and General Requirements) and
- Standard 3.2.3 (Food Premises and Equipment).

There are some circumstances in which, even when children bring their lunches from home, the childcare centre **will** need to comply with Standards 3.2.2 and 3.2.3. These are when the childcare centre provides snacks of any type to the children, eg dry biscuits, fruit, cheese etc.

The Standards also apply if the centre provides any of the following:

- replacement food (eg in place of unsuitable food supplied by parents)
- extra food for special occasions
- extra food for education purposes eg where carers and children prepare food together

These will requirements will also apply once Standard 3.3.1 is introduced for childcare centres in NSW.

### When food standards do not apply

Under the following circumstances a childcare centre is **not** deemed to be a food business and therefore Standards 3.2.2 and 3.2.3 **do not** apply to it:

- Sandwiches are brought from home and stored in the fridge
- Food is brought from home and reheated by the childcare centre in the microwave
- Fruit is brought from home and cut by the centre

**Remember, the national start date of 5 October 2008 for the standard *does not* apply in NSW**

The Authority has introduced a new law which means Standard 3.3.1 will not apply to NSW childcare centres until the Authority has identified the best way to implement it. As such, the national start date of 5 October 2008 does not apply in NSW.

The Authority will keep the sector informed of the new start date. Childcare centres can be assured they will have plenty of notice of the new start date and will be given time to develop their food safety program.

**The Authority is proposing to provide support to centres to help implement their Food Safety Program**

If the Standard is implemented in NSW by Regulation, the Authority will be able to support businesses to implement their food safety program. It is likely this will include a template food safety program tailored to the childcare sector.

As the Authority will set a new start date for the Standard in NSW with plenty of time to implement a food safety program, the Authority recommends businesses hold off on developing their own food safety program for the moment.

**To get ready, services should ensure they meet the requirements of the *Food Standards Code***

Services should ensure that they meet current legal requirements, including Standard 3.2.2 (Food Safety Practices and General Requirements) and Standard 3.2.3 (Food Premises and Equipment). These Standards are available on the web at <http://www.foodstandards.gov.au/thecode/foodsafetystandardsaustraliaonly/index.cfm>

## Background information

The information below was presented in our September 2008 newsletter however is still relevant especially for those who have only recently heard about the new Standard...

### **A new national Standard for food safety in childcare facilities will commence in the near future**

The new national Standard<sup>1</sup> requires certain businesses to develop a food safety program.

The Standard aims to protect the most vulnerable members of our community. Because young children are more vulnerable to foodborne illness than the general population, improving food safety controls in food service to this group (eg in childcare centres) is a priority.

### **The Standard only applies to certain child care centres**

The Standard applies to centres who provide food that is 'potentially hazardous'<sup>2</sup>. Centres who do not provide food for sale, or who are only handling food brought from home are not covered by the Standard. The Standard applies to long day care centres, employer sponsored child care and occasional care centres, plus certain businesses who supply food to these centres.

The Standard *does not* apply to family day care or before/out of school care. The Standard also *does not* apply to a service providing preschool education conducted by a school. For more information on which businesses are included, refer to Food Standards Australia New Zealand's Guide to Standard 3.3.1, which can be accessed at

<http://www.foodstandards.gov.au/srcfiles/Std%20331-Food%20Safety%20Prog%20Vul%20Pers-guideFNL1.pdf>

### **News – a new local government partnership affecting inspections in Children's Services Sector**

On 1 July 2008, a new law commenced which sees councils having a stronger role in food regulation. This should provide a level playing field for all food businesses with inspections of food businesses occurring in all local council areas.

*As a result, it is likely your childcare facility will be inspected by local council this year. Your business may be charged certain fees. These include an annual administration charge and inspection fees, and fees for issuing and reinspecting improvement notices. For more information see the Authority's website:*

<http://www.foodauthority.nsw.gov.au/localgovernment/food-regulation-partnership/>

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<sup>1</sup> Standard 3.3.1 of the *Australia New Zealand Food Standards Code* titled *Food Safety Programs for Food Service to Vulnerable Persons*, and was gazetted on 5 October 2006 and commences 5 October 2008

<sup>2</sup> Potentially hazardous means the food needs to be stored at certain temperatures to minimise growth of food poisoning bacteria. For example, food that needs to be kept in the fridge, or kept hot.