

Chapter 1

Ministry of Education

Section 1.02

Child Care Program (Licensed Daycare)

Follow-Up on VFM Section 3.02, 2014 Annual Report

RECOMMENDATION STATUS OVERVIEW					
	# of Actions Recommended	Status of Actions Recommended			
		Fully Implemented	In Process of Being Implemented	Little or No Progress	Will Not Be Implemented
Recommendation 1	4	3.0		1.0	
Recommendation 2	6	4.0	1	1.0	
Recommendation 3	4	2.0	1		1
Recommendation 4	4	3.0	1		
Recommendation 5	5	2.0	2	1.0	
Recommendation 6	4	4.0			
Recommendation 7	3	1.0	1	1.0	
Recommendation 8	4	2.5	1	0.5	
Recommendation 9	6	4.0	1		1
Recommendation 10	3	2.0	1		
Total	43	27.5	9	4.5	2
%	100	64	21	10	5

Background

The Ministry of Education (Ministry) is responsible under the *Child Care and Early Years Act* (which replaced the *Day Nurseries Act* on August 31, 2015) and its regulations for ensuring the safety of children in licensed child care operations. These responsibilities include issuing and renewing child care operator licences, inspecting and monitoring licensed facilities, gathering information on serious occurrences in licensed facilities, and investigating complaints.

There are two types of licensed child care operations in Ontario: centre-based and home child care agencies (previously referred to as private-home daycare agencies). Both centre- and home-based care is provided by for-profit and not-for-profit operators, municipalities and First Nations bands. Home child care agencies co-ordinate home-based child care at private residences, with each home caring for six or fewer children. **Figure 1** shows the number of licensed child care centres and home child care agencies in Ontario, along with the system's total licensed capacity, as of March 2014 and March 2016.

Figure 1: Centre-Based Child Care and Home Child Care Agencies in Ontario, 2014 and 2016

Source of data: Ministry of Education

Type of Facility	March 31, 2014			March 31, 2016		
	Licences Issued	# of Locations	Licensed Capacity	Licences Issued	# of Locations	Licensed Capacity
Centre-based child care	5,069	5,069	317,868	5,276	5,276	389,286
Home child care	126	5,765	16,142*	122	7,504	29,266*
Total	5,195	10,834	334,010	5,398	12,780	418,552

* Estimated by the Ministry.

In our *2014 Annual Report*, we found that the Ministry needed to do significantly more to reduce the risk and incidence of serious occurrences to children by ensuring that licensed child care operators protect the health, safety and well-being of children in their care. The Ministry could do this by strengthening its inspection processes and related enforcement actions over licensed child care operators.

More than 29,000 serious occurrences were reported to the Ministry by licensed child care operators between January 1, 2009, and May 31, 2014. Serious occurrences include a serious injury to a child, abuse of a child, a child gone missing, fire or other disaster, and physical or safety threats on the premises.

We found that many of these incidents were not reported to the Ministry on a timely basis and that child care operators may not be reporting all serious occurrences to the Ministry.

As well, we noted cases where the same concerns about child health, safety and well-being were noted in multiple inspections, but only a limited number of actions were taken in response over the last five years.

Although the current legislation outlines grounds on which the Ministry can revoke or refuse to renew a licence, we noted there were no guidelines to help staff determine when such enforcement actions would be appropriate.

Other significant issues included the following:

- Over the last five years, program advisors had not inspected about one-third of child care operators before their licences expired. As well, we found many examples where operators with ongoing child health and safety concerns were not being monitored any more closely than well-run child care centres. For example, our sample of operators with provisional licences—operators considered to be high risk—found that more than 80% of them were not inspected until after their licence had expired. Therefore, there was no timely verification that the previously noted safety concerns had been resolved.
- Ontario did not require child care operators and their staff to obtain vulnerable-sector police checks, which are required in Alberta and Saskatchewan. These checks are more thorough than criminal reference checks, and are designed to screen people who work with children or others considered at greater risk than the general public. A vulnerable-sector check is already required by Ontario's Ministry of Health and Long-Term Care for people seeking employment in long-term-care homes.
- The caseloads of Ministry program advisors, who carry out licensing, inspection, complaint and serious occurrences duties, had been growing significantly. Since 2005, the number of child care operators increased by 33%, while the number of program advisors remained relatively constant. As a result, over

half of the program advisors were responsible for the inspection and oversight of more than 100 child care centres each, compared to an average caseload of 65 centres per advisor in 2005.

- Program advisors exercised a great deal of discretion during the course of their work because Ministry policies and guidelines were often vague or nonexistent. For example, there were no guidelines on how to verify that medications, cleaning supplies and other hazardous substances were properly stored and inaccessible to children. We noted that program advisor verification could range from minimal to thorough.

On August 31, 2015, the *Day Nurseries Act* was replaced with the *Child Care and Early Years Act, 2014 (Act)*, which together with its regulations now outlines the requirements for the health, safety and well-being of children in licensed child care facilities.

The Ministry is phasing in the new legislation over two years, with all requirements to be implemented by September 1, 2017. The most significant changes from the *Day Nurseries Act* and its regulations are in the areas of staff screening measures and criminal reference checks, enforcement, and children's programs.

We made 10 recommendations, consisting of 43 actions needed for improvement, and received the Ministry's commitment that it would take action to address them.

Status of Actions Taken on Recommendations

The Ministry of Education provided us with information in the spring and summer of 2016 on the current status of our recommendations. According to that information, the status is that 85% of our recommended actions are either "fully implemented" or "in the process of being implemented."

Since our audit in 2014, the Ministry has established an Enforcement Unit and implemented a tiered (risk-based) licensing approach for the inspection of child care centres. It has also drafted several program directives in areas such as serious occurrences and complaints, processing new licensing applications, and police record checks.

However, little progress has been made on 10% of our recommended actions, including some that pertain to performance measures, and new applicants. Specifically, the Ministry has more work to do in the areas of developing guidelines to help program advisors assess whether applicants are sufficiently competent to establish child care operations. It also has more to do to develop performance measures to evaluate all aspects of the Ministry's vision, including the quality and accessibility of child care.

Two recommendations will not be implemented. These pertain to developing a risk-based approach for the inspection of home child care agencies, and posting serious occurrences online. We continue to believe that a risk-based approach to inspections should be implemented for home child care agencies, which care for about 29,300 children. We also believe that serious occurrences should be posted online because a parent has the right to know this information when making their child care choice.

The status of the actions taken on each recommendation is described in the following sections.

Program Effectiveness and Reporting

Recommendation 1

To help ensure the delivery of a high-quality, accessible and co-ordinated child care system in Ontario that encourages child cognitive, language and social development, the Ministry of Education should:

- *develop a detailed plan for completing the implementation of the remaining medium term actions from Modernizing Child Care in Ontario, including putting mandatory*

provincial program guidelines in place and improving data collection, evaluation and reporting;

Status: Fully implemented.

Details

In spring 2016, the Ministry approved a plan for completing implementation of the remaining medium-term actions from *Modernizing Child Care in Ontario*, a 2012 discussion paper that detailed the government's long-term vision for child care.

The plan included putting mandatory provincial program guidelines in place, and improving data collection, evaluation and reporting. On August 31, 2015, mandatory provincial program guidelines were introduced and are outlined in the regulations to the new *Child Care and Early Years Act*.

The Ministry also improved the collection, evaluation and reporting of data for licensed child care in Ontario. However, it said that it would take longer to implement other actions in the plan such as assigning children in licensed child care an Ontario Education Number, and reviewing and updating the special needs resourcing program. The Ministry told us that work on these actions is under way, but more consultations and decisions were needed before it could determine when they would be fully implemented.

- *develop more useful guidance to assist program advisors to more consistently evaluate child care programs being delivered to ensure that those programs meet expectations for effective child development;*

Status: Fully implemented.

Details

In our *2014 Annual Report*, we reported that the 2012 discussion paper, *Modernizing Child Care in Ontario*, noted that over the next three years, a mandatory provincial program guideline would be developed for child care operators to enhance program quality and consistency.

In April 2014, the Ministry released *How Does Learning Happen?*, a resource document that dis-

cusses learning through relationships for those who work with young children and their families. The document was intended to support teaching and curriculum development in early-years programs. However, at the time of our audit, implementation of this guideline was optional, and the Ministry had not determined when, or even if, implementation would become mandatory.

Since our audit, the Ministry has implemented new legislative requirements for child care programs that it outlined in the regulation to the new *Child Care and Early Years Act*. Starting on August 31, 2015, the Ministry made it mandatory for licensed child care operators to implement the *How Does Learning Happen?* program guideline for child care programs. Specifically, in addition to developing a program statement that is consistent with the Ministry-developed resource guide, licensed child care operators are also now required to develop goals and implement strategies (defined by the Ministry as observable measurable actions) to achieve program goals for 10 specific criteria, including:

- promoting the health, safety, nutrition and well-being of children;
- fostering children's exploration, play and inquiry; and
- planning for and creating positive learning environments and experiences that support every child's learning and development.

In addition, operators are now required to document the actions they have taken to achieve the program goals, and to review the impact these actions are having on children and their families. Program advisors are now required to verify during on-site inspections that operators do in fact have documented strategies in place to review the impact that their actions are having on children and their families.

- *collect and analyze all relevant information about child care operators to assist with program management and oversight; and*

Status: Fully implemented.

Details

Since our audit in 2014, the Ministry has started collecting and recording better information to assist in the day-to-day management of the child care program, and to improve its oversight of the program. Specifically, since December 2014, the Ministry has been able to generate numerous standard management reports from the Child Care Licensing System on serious occurrences, complaints, expired licences, new licence applications, and staff case-loads, at both a summary level and a detailed level.

The Ministry's corporate office regularly prepares regional-level summary reports from the information stored in the licensing system, and shares it with regional managers at periodic meetings. If any concerns are identified, regional managers are instructed to further investigate and take appropriate action if warranted.

Some examples of these summary reports include:

- the average number of days it takes to process new applications for licences;
- the average number of days it takes to resolve serious occurrences and complaints;
- the percentage of licences expired without a renewal inspection conducted, and the average number of days the licences have been expired; and
- the number of days taken to complete licensing renewal inspections.

The Ministry told us regional managers are also expected to regularly review child care program information to assist them in overseeing and managing child care operators in their region.

In addition, since our audit the Ministry has been able to capture and report program-specific information, including the total capacity at each child care facility, the status of any inspections performed by program advisors, and the type of licence issued to each child care operator (regular, provisional, or short-term).

- *develop performance measures for assessing progress toward the government's long-term*

vision for child care and periodically report on these measures publicly.

Status: Little or no progress.

Details

The Ministry's long-term vision for child care is to build a high-quality, accessible and co-ordinated early learning and child care system that focuses on encouraging learning in a safe, play-based environment that provides for the healthy physical, social, and emotional and cognitive development of children.

In February 2015, the Ministry developed a Child Care Output and Outcome Monitoring Strategy (Strategy) that identified child care performance measures for the licensed child care program. These include the percentage of staff working in the licensed child care sector who are registered early-childhood educators, the percentage change in the number of licensed child care spaces, and the percentage change in the time the Ministry takes to follow up on complaints and serious occurrences from the time they are initially reported.

However, we found that the measures do not address all aspects of the Ministry's vision. For example, the Ministry does not track how many children were placed on a waitlist (i.e., do not have access to child care). As well, although the Ministry established an indicator that measures the number of child care staff who received pedagogical training on the Ministry-developed resource guide entitled, *How Does Learning Happen?*, there are no measures to assess how effective this training was on the healthy physical, social, and emotional and cognitive development of children.

The Strategy indicated that the performance measures are to be reported annually on the Ministry's website, and although the Ministry had collected data on many of the measures, it reported publicly on only one: the percentage of children receiving subsidies by age group. At the time of our follow-up, the Ministry told us that the information was being reviewed by its legal and privacy teams to determine what information could be released publicly.

Licensing New Child Care Operators

Recommendation 2

To help ensure that new child care operators not only comply with legislation and ministry policy but also provide a safe and healthy environment that encourages the social, emotional and intellectual development of children, the Ministry of Education should:

- *develop guidelines to assist program advisors in assessing whether new applicants are sufficiently competent to establish child care operations;*

Status: Little or no progress.

Details

At the time of our follow-up, the Ministry had not developed guidelines to help program advisors assess whether new applicants were sufficiently competent to establish child care operations. The Ministry told us that it planned to consult with other jurisdictions to collect information on how, or even if, they assess the competence of new applicants. The information would be used to determine how new operator competency should be assessed and when the assessments should take place.

- *thoroughly review new operators' policies to ensure that they comply with all Ministry and legislative requirements;*

Status: Fully implemented.

Details

In our 2014 audit, we noted that operator policies were usually not kept on file at the Ministry, and were not available for management review. We also found that these policies were not always in compliance with Ministry and legislative requirements before the licence was issued.

At the time of our follow-up, all required policies (such as those for serious occurrences and criminal reference checks and supporting documents related to inspections) were now retained in the Child Care Licensing System. The Ministry told us that the licensing system has made it easier for regional

managers at any time to review new operators' policies, on-site inspections summaries and other relevant supporting documents so that they can make an informed decision on whether to issue a new licence.

The Ministry informed us that if documents are missing or the applicant's policies do not meet the licensing requirements, the regional manager sends the application back to the program advisor, who follows up with the applicant to make the necessary corrections or obtain the appropriate supporting documents before the licence is issued.

In cases where one or more policies are not in compliance with licensing requirements, the applicant is required to submit a new policy or policies with the non-compliance issues corrected. All versions of the policies are retained in the system, including the final one.

- *provide new applicants with more detailed guidelines, templates and examples of best practices to assist them in developing the policies that they are required to have in place before receiving a licence and commencing operations;*

Status: In the process of being implemented by the end of December 2017.

Details

In our 2014 audit, we reported that program advisors indicated that delays in issuing licences to new applicants were often due to the applicant's lack of knowledge about the legislation governing child care, and to insufficient available information for applicants on how to develop appropriate policies. We also noted in many subsequent licensing renewal inspections of existing operators, advisors consistently identified that operator policies, such as those for behaviour management, serious occurrences, medication administration and criminal reference checks, did not meet the requirements.

The Ministry released an updated licensing manual for child care centres in October 2015, and another for home child care providers in June 2016, to reflect the licensing requirements under the new legislation. The manuals identified items

for operators to consider when developing their policies and provided links to resources to help operators comply with the new legislative requirements. However, at the time of our follow-up, the Ministry had not developed sample policies and procedures it considered best practice, or templates that new applicants or existing child care operators could look to for guidance when developing their own policies and procedures. The Ministry told us it plans to develop sample policies to assist the licensees in meeting legislative requirements, which it expects to issue by the end of December 2017.

- *track the time it takes new applicants to become licensed, document the reasons for any delays and take appropriate action where necessary;*
Status: Fully implemented.

Details

In our 2014 audit, we noted that it can take a new applicant anywhere from one to 18 months to obtain a licence to operate a child care facility in Ontario.

The Ministry began in December 2014 to electronically track the time it takes to issue new licences. It found that between October 2015 and December 2015, it took an average of 12 months to process a new licence application, with times ranging from 14 days to 21 months. This suggests that application-processing times have not improved since our 2014 audit.

The Child Care Licensing System can record important information such as the reasons for any delays in processing new applicants, but program advisors are not required to document the reasons. Instead, the Ministry's corporate office reviews quarterly reports of processing times for new applicants for each of its regional offices, and it told us these reports are shared with regional managers at periodic meetings. If any significant concerns are identified with the length of processing times, direction would be provided to regional managers to investigate and determine if any further actions were needed.

The Ministry also noted that many factors can affect application processing times, including the size and type of the proposed program, whether the physical premises require construction or renovations, and the applicant's experience in operating a child care centre.

- *provide regional managers with sufficient evidence and documentation to support issuing licences to new child care operators; and*

Status: Fully implemented.

Details

In our 2014 audit, we noted that operator policies were usually not kept on file at the Ministry and were unavailable for management review. We also found that these policies were not always in compliance before the licence was issued.

All the required policies and supporting documents, including those related to inspections, are now retained in the Child Care Licensing System, and managers can access them at any time. The system retains all versions of the policies submitted by the new operator, including the final version. In the past, if such documents were received electronically, they would reside on the program advisor's personal computer or a shared drive.

In addition, the licensing system provides fields where program advisors can document any notes or issues related to a file. Regional managers can view this information in the system when deciding whether to issue a licence to a new operator.

- *gauge the risk of non-compliance posed by each new operator, assess the length of time for which a new licence is issued based on this risk and monitor new operators accordingly.*

Status: Fully implemented.

Details

In an effort to identify and correct non-compliance issues on a timelier basis, the Ministry began in August 2015 to require licensing staff to conduct mandatory unannounced inspections of new operators soon after they begin operating, where

geographically possible and while children are in their care. Based on a list of inspections conducted on new operators since August 2015, we noted that 53% of new operators had been inspected within three months of being licensed.

The Ministry also told us that its Enforcement Unit, established since our audit, reviews applicants' history of violations and identifies any past enforcement actions taken against them (e.g., a new applicant may have been charged as an unlicensed provider) to help regional managers decide whether to issue a new licence to new or existing operators. Together, these actions determine what type of licence to issue and for how long.

A draft directive on processing new licensing applications includes procedures to look at an applicant's history of violations for any information that might affect the decision to issue them a licence. The directive also contains procedures to assess an applicant's qualifications by verifying with applicable professional associations that the applicant is not prohibited from providing child care based on any past conduct. The Ministry expects to implement the directive following consultations with stakeholders.

Child Care Licence Renewals and Inspections

Recommendation 3

To ensure that child care operators are inspected in a timely manner to verify that they maintain compliance with legislative requirements and deliver services to children in a healthy, safe environment, the Ministry of Education should:

- *take more effective action against operators that do not submit their licence renewal forms on time and link inspection scheduling to licence expiry date rather than receipt of the licence renewal form;*

Status: In the process of being implemented by the end of September 2017.

Details

Since the introduction of the Child Care Licensing System, notifications for the need to renew a licence are sent three months before expiry of the licence to both the operators and the respective program advisors. At the time of our follow-up, the Ministry had developed a draft directive on expired licences that provides guidance to licensing staff on suspending a licence in cases where an operator does not submit its application renewal form and fee on time. The Ministry expects to implement the directive in September 2017.

Unannounced licence renewal inspections for existing operators continue to be performed only after the operator has submitted a licence renewal form. The Ministry told us that it prefers to conduct inspections only if it knows the operator is committed to continue to deliver child care services. However, in addition to the licence renewal inspections conducted on child care centres, under the tiered (risk-based) licensing approach the Ministry began implementing at the end of August 2016 (described in the following recommended action), child care centres that have been operating at least three years and are categorized as Tier 1 or Tier 3 are expected to undergo an unannounced inspection within their licensing period as well as when they submit their renewal form.

- *identify high-risk operators and develop a risk-based approach for determining how often these and other child care operators should be inspected;*

Status: Fully implemented for child care centres. Will not be implemented for home child care agencies. The Office of the Auditor General continues to support implementation of this recommendation for home child care agencies.

Details

On March 18, 2015, the Ministry approved implementation of a tiered (risk-based) approach for licensing child care centres. Under tiered licensing, the Ministry places each child care centre into one

of three tiers based on the operator's history of compliance with the Ministry's policies and legislative requirements over the last three years.

The Child Care Licensing System automatically generates a tier category for each child care centre based on the number and risk level of each centre's non-compliances, and on whether the centre has received a provisional licence or has had any enforcement action taken against it.

The tier category determines the term of the licence to be issued, how often the child care centre is to be inspected, and the level of monitoring to be conducted. For example, centres categorized as Tier 1 are issued a licence for a maximum of two years, and receive an abbreviated inspection that focuses on high-risk requirements at the time of licence renewal, and another, interim monitoring inspection some time during the licensing period.

Tier 2 centres are issued a licence for a maximum term of one year and, like Tier 1 centres, receive an abbreviated inspection at the time of licence renewal. However, these centres would only have an interim monitoring inspection if there was a serious occurrence or complaint that warranted a site visit during the licensing period.

Centres categorized as Tier 3 would also be issued a licence for a maximum term of one year and would undergo a full inspection every year. They would also have at least one additional monitoring inspection during the licensing period to help them achieve and maintain compliance with licensing requirements.

Each centre's tier category would be re-calculated at the time their licence is to be renewed.

As of July 2016, a total of 4,239 child care centres were categorized into tiers as follows:

- 12% were in Tier 1;
- 78% in Tier 2; and
- 10% in Tier 3.

The Ministry had inspected 72 child care centres as of April 2016, and told us that the results of these inspections would be used to evaluate the abbreviated inspections performed on Tier 1 and 2

operators, and make any necessary modifications. The Ministry began inspecting all child care centres using the tiered licensing approach at the end of August 2016.

The Ministry is not implementing the tiered system for licensed home child care agencies. It inspects these agencies annually and relies on the agencies to inspect the home child care premises they oversee at least once every quarter, as required by legislation. We continue to believe that a risk-based approach to inspections should be implemented for home child care agencies, which care for about 29,300 children.

The Ministry is also not implementing the tiered system for child care centres that have been licensed for less than three years, in order to give them time to develop a history of performance. These types of operators continue to be licensed under the Ministry's existing system.

- *formulate a plan using this risk-based approach to address the backlog of inspections so that operators can be inspected before their licences expire; and*

Status: Fully implemented.

Details

The Ministry has reduced the backlog of inspections from 32.2% at the time of our audit in 2014 to 13% as of March 31, 2016, through the following actions:

- In fall 2014, a dedicated Enforcement Unit was established that assumed full responsibility for all follow-ups in the unlicensed child care sector and for administering enforcement actions under the new Act. Previously, these responsibilities were carried out by program advisors. Licensing staff now work exclusively on licensed child care cases.
- Since July 2014, a combination of temporary and permanent have been hired to assist with the backlog of inspections and to continue to support child care licensing activities. In 2015, the Ministry also hired five senior program

advisors to oversee program advisors at the regional offices. Senior program advisors have been assisting with the backlog by pre-screening and approving licences for regional managers (so that applications can be processed faster) and by conducting inspections.

- A new senior manager position was created and filled on March 29, 2016. The senior manager's responsibilities include implementing strategies to manage program advisors' caseloads.
- Better information available from the Child Care Licensing System also helped the Ministry identify reasons for the backlog. For example, program advisors in one region were consistently setting licences to expire at the end of the month, but now are distributing expiry dates throughout the month so as to not face a difficult-to-manage workload at the end of the month.

In an effort to prevent backlogs from accumulating, the Ministry directed licensing staff in August 2015 to devote at least three days a week to renewal inspections, and provided guidance on timelines for completing licensing inspections. Program advisors were instructed to finalize renewal inspections within five business days of the compliance date set out in an inspection, and send the licence renewal recommendation to their manager.

- *schedule visits in a way that minimizes timing predictability.*

**Status: Fully implemented for child care centres.
Will not be implemented for home child care agencies.**

Details

Licence renewal inspections for existing operators continue to be performed only after the operator has submitted a licence renewal form because, the Ministry said, it prefers to conduct inspections only if it knows the operator will continue to deliver the service.

However, in addition to the licence renewal inspections of child care centres, the tiered licensing (risk-based) approach that the Ministry launched at the end of August 2016 also requires program advisors to perform unannounced inspections on Tier 1 and Tier 3 centres during their licensing period.

Tier 1 centres receive one unannounced inspection within at least two years, and Tier 3 centres receive one unannounced inspection within at least one year. Program advisors are expected to schedule these inspections in a way that reduces their predictability.

As noted earlier, tiered licensing will not be implemented for child care centres that have been operating for less than three years and for licensed home child care agencies.

Recommendation 4

To ensure that effective inspection procedures are in place to verify that child care operators maintain compliance with legislative requirements and deliver services to children in a healthy, safe environment, the Ministry of Education should:

- *enhance the procedural guidelines for inspections conducted by program advisors to include detailed minimum procedures to be performed;*

Status: Fully implemented.

Details

In 2014 we found that the procedural guidelines for assessing compliance with licensing requirements were vague, so program advisors exercised a great deal of discretion when filling out the inspection checklist. For example, advisors were required to ensure that child care staff had the required health assessments and immunizations before commencing employment. However, one program advisor we spoke to at the time said that details of the requirements were not in the procedural guidelines or otherwise communicated to program advisors. The advisor also did not know which health assessments

and immunizations were required, or how often the vaccinations needed to be updated.

In 2015 the Ministry updated the child care centre inspection checklist used by program advisors to reflect the licensing requirements under the new legislation, and to incorporate compliance indicators that were previously not included. We noted that compliance indicators are still too general, and do not provide enough guidance to program advisors on how to consistently assess compliance with the new licensing requirements.

However, the Ministry had taken other steps to help program advisors better understand the procedures to be performed during an inspection. For example, program advisors can submit questions to corporate office which are then responded to and distributed to all licensing staff. Other initiatives, such as formal training on conducting inspections and an “inter-rater reliability” process (that is, having two Ministry staff conduct separate licensing inspections of the same child care operator to see if they reach the same conclusion), are discussed in the following recommended actions.

- *provide regular program advisor training and training updates on inspection guidelines;*

Status: In the process of being implemented by February 2017.

Details

Since our audit in 2014, the Ministry’s corporate office has provided formal training to program advisors on Ministry policies and legislative licensing requirements for child care programs.

In August 2015 and November 2015, the Ministry provided program advisors with training on assessing compliance with the licensing requirements of the *Child Care and Early Years Act* and its regulations. In January 2016, more training sessions were delivered that focused on assessing compliance with program statement requirements, enforcement, and the requirements for risk-based inspections.

The Ministry informed us a training strategy for new and existing program advisors and regional managers would be developed by February 2017.

- *have program advisors document the procedures performed and the conclusions they reach during inspections and retain all relevant documentation for subsequent management review; and*

Status: Fully implemented.

Details

We noted in our 2014 audit that program advisors had a lot of discretion in their inspections of child care operators. We therefore recommended that they document how they determined that an operator had corrected its non-compliance issues and was now meeting licensing requirements.

Since our audit in 2014, the Ministry has upgraded the electronic inspection checklist used to document inspection results to allow program advisors to upload photographs and any other supporting documents from the operators’ premises that demonstrate that the licensee has met compliance requirements, including a licensee’s written confirmation that it had rectified any non-compliance issues identified.

After the on-site part of the inspection is completed, program advisors can also upload any additional supporting documents provided by the operator to show that they have complied with the licensing requirements.

All the supporting documents are to be retained in the system for management review.

- *periodically rotate program advisor caseloads to help compensate for inconsistencies in inspection practices.*

Status: Fully implemented.

Details

In 2014 we reported that the Ministry did not have a policy requiring the periodic rotation of program advisors to ensure that different perspectives are

brought to the inspection process, and to help compensate for inconsistencies in inspection practices.

The Ministry told us that rotating program advisor caseloads can pose challenges. For example, it would be difficult to rotate advisors in some regions because of the distances involved, and the only solution could be to ask program advisors to relocate.

Instead of focusing on rotating caseloads, the Ministry implemented an “inter-rater reliability” process in fall 2015 that involves two Ministry staff conducting separate licensing inspections of the same child care operator independently of one another. Any discrepancies found in the compliance assessment ratings between the two inspectors are identified for review. A Ministry team from corporate office reviews the discrepancies with the two inspectors and determines the appropriate compliance assessment rating. The Ministry informed us that these results are shared with regional managers at branch meetings, who are then expected to review with their program advisors the scenarios which gave rise to the discrepancies in compliance assessment ratings.

At the time of our follow-up, the Ministry had completed three rounds of this “inter-rater reliability” exercise, and had shared the results of the first two rounds with licensing staff. The Ministry also told us it planned to undertake this exercise at least once a year.

Recommendation 5

To ensure that adequate policies and procedures are in place to enforce operators’ compliance with legislative requirements and to help ensure that operators deliver services to children in a healthy, safe environment, the Ministry of Education should:

- *obtain appropriate supporting documentation to verify that any observed noncompliance is rectified and for management oversight purposes;*

Status: Little or no progress.

Details

In our 2014 audit, for a sample of inspection files we reviewed, we found that in most cases the Ministry had accepted only a written confirmation from the licensee as evidence that they had rectified the non-compliance issues identified during the inspection.

At the time of our follow-up, the Ministry still had not developed guidelines to assist program advisors in determining how they should follow up on non-compliance issues to ensure that operators actually resolved concerns.

The Ministry issued a directive that requires program advisors to upload supporting documents (for example, emails, photos, and other documentation) in its licensing system, as confirmation that the licensee has rectified the non-compliances. However, it still did not provide direction on what type of supporting documentation would be warranted in certain situations or circumstances. For example, in certain cases a written confirmation from the licensee would be sufficient whereas in other cases other documents would be warranted.

Although the Ministry told us that its Internal Audit department plans to periodically review a sample of inspection files to verify that documentation requirements are being met across the province, the audit plans did not provide details on the nature and scope of any audit work to be performed in this area.

- *more closely monitor, as required, operators that have been issued a provisional licence;*

Status: Fully implemented.

Details

Under the tiered (risk-based) licensing approach the Ministry implemented at the end of August 2016, child care centres that have been operating for at least three years and that have been issued a provisional licence—the Tier 3 operators—will be monitored more closely. Specifically, program advisors are required to conduct unannounced inspections of these operators soon

after renewing their licence, with a focus on critical and high-risk requirements. In addition, licensing staff determine whether additional inspections are required for these operators during the maximum one-year licensing period.

The Ministry also advised us that since our audit, program advisors have been using a number of approaches to more closely monitor licensees that have been issued a provisional licence. These approaches include requiring licensees to document actions that describes how and when they plan to come into compliance with the requirements, and requiring that they regularly submit documents such as logs or photographs to demonstrate that they have complied and continue to comply with the requirements.

- *develop or enhance guidelines related to issuing a short-term licence; extending a provisional licence beyond three months; meetings between regional managers and child care operators; and suspending, revoking or refusing to renew a licence;*

Status: In the process of being implemented by the end of December 2016.

Details

In 2014, Ministry policy stated that provisional licences could be issued for up to three months, and could be extended only under exceptional circumstances. Our review of a sample of provisional licences at that time found that some operators were receiving licences that alternated between provisional and short-term. We were concerned that short-term rather than provisional licences were sometimes being given to avoid issuing consecutive provisional licences. Ministry policy at the time also stated that issuance of two consecutive three-month provisional licences for the same offence was sufficient time for the operator to comply before enforcement action was taken.

Under the new legislation, the Ministry clarified that a provisional licence can be issued for a maximum term of up to one year. If the licensee fails to remedy the non-compliance issues, the

provisional licence may be renewed only once, provided the Ministry is satisfied that the licensee's failure to come into compliance was due to circumstances beyond their control. In addition, effective August 29, 2016, the Ministry discontinued the practice of issuing short-term licences.

At the time of our follow-up, the Ministry had also developed draft guidelines related to refusing to issue, renew or revoke a licence. The Ministry also told us it was working on developing guidelines for meetings between regional managers and child care operators on recurring non-compliance issues. The Ministry expects to release final guidelines for both by the end of December 2016.

- *disclose on its child care website all non-compliance issues noted during inspections in sufficient detail to give parents a sense of the risk posed to their children; and*

Status: Fully implemented.

Details

In 2014, we reported that for 20% of the inspections we reviewed, not all non-compliance issues identified were reported on the Ministry's child care website, as required by policy. As well, we noted that the website provided only general statements regarding non-compliance issues, not the actual observed details. For example, in one instance the website notes that a centre did not meet the requirements of the local medical officer of health. However, no details were provided to give parents a sense of what that concern was or the risk posed to their children.

The Ministry still does not disclose actual observed details of non-compliance on its website. However, it has since the end of August 2016 posted the risk level of each non-compliance issue identified during an inspection, providing parents with a sense of the risk posed to their children.

Non-compliance issues are categorized as critical, high, moderate, or low, and are defined on the Ministry's website. An issue assessed as critical means there is a direct threat that could, or has,

resulted in serious harm to the health, safety, and well being of a child. An issue categorized as low means there is no likely threat to a child's health, safety and well-being.

Based on findings from 10 parent focus groups conducted by the Ministry, parents gave positive feedback about the inspection information provided on the Ministry's website. The website directs parents to the licensee for more information, or for a copy of the detailed licensing inspection report, if they have a concern about a non-compliance issue.

- *administer effective enforcement action against operators that have not complied with legislative and ministry requirements.*

Status: In the process of being implemented by January 1, 2017.

Details

Since our audit in 2014, the Ministry has established an Enforcement Unit to enforce the new legislation (*Child Care and Early Years Act* and its regulations) and administer any enforcement measures against operators that do not comply with licensing requirements.

This legislation, which took effect on August 31, 2015, has also strengthened the Ministry's ability to administer enforcement measures against licensees that do not comply with licensing requirements. It includes more provisions that, if contravened, could result in a charge being laid against the operator. Examples of chargeable contraventions are operating multiple child care sites without a licence, preventing parental access to the child care premises, and employing an individual whose membership in the College of Early Childhood Educators was revoked. The legislation also includes additional enforcement measures. For example, it permits the Ministry to require operators to take a specified action, or refrain from an action, to achieve compliance with a licensing requirement.

Administrative penalties can also be applied to operators that fail to comply with any of 16 provisions under the Act. The regulation specifies

the amount of the penalty that can be applied. For example, a \$2,000 penalty can be imposed on operators that do not provide a criminal reference check to the Ministry.

Beginning January 1, 2017, another 10 provisions under the new legislation will take effect that, if contravened, could result in operators being fined. For example, the Ministry could impose a penalty of \$2,000 for each child in excess of the staff-to-child ratios prescribed in the Act.

Recommendation 6

To ensure that adequate policies and procedures are in place to verify that private-home day care agencies comply with legislative requirements and deliver services to children in a healthy, safe environment, the Ministry of Education should:

- *develop more detailed inspection guidelines for program advisors;*

Status: Fully implemented.

Details

In 2014 we accompanied program advisors during inspections of home day care providers, and found that they performed different procedures at different locations. We reported that standardized Ministry procedures would help ensure that all significant requirements were consistently reviewed.

In 2015 the Ministry updated the inspection checklist for home child care agencies and providers to reflect licensing requirements under the new legislation. In 2016 the checklist was further updated to incorporate compliance indicators that had previously not been included. We noted that compliance indicators are still too general, and do not provide enough guidance to program advisors on how to consistently assess compliance with the new licensing requirements.

However, the Ministry had taken other steps to help program advisors better understand the procedures to be performed during an inspection. For example, it had provided formal training on conducting inspections, and program advisors can

submit questions to corporate office, which are responded to and then distributed to all licensing staff.

- *ensure that the minimum number of homes are visited during agency inspections;*

Status: Fully implemented.

Details

In our 2014 audit, we noted instances where program advisors had visited less than the 5% minimum of home daycare providers. Since our audit, the Ministry issued a directive with guidance to program advisors on the minimum number of homes to be visited for a home child care agency licensing renewal inspection (at least 10% of homes for agencies that oversee up to 200 home daycares, and at least 7% of homes for agencies that oversee 201 or more homes). For 90% of home child care agencies that underwent a renewal inspection since December 2015, program advisors inspected the minimum required number of home daycares. Also, the Ministry upgraded its licensing inspection software to prevent a program advisor from closing an inspection before ensuring that they had visited the required number of homes.

- *verify that the agencies' licensing inspection checklists are complete; and*

Status: Fully implemented.

Details

We found in half of the files we reviewed in our 2014 audit that some questions in the agency inspection checklists were not answered.

Since our audit, the Ministry has updated its licensing inspection software to prevent program advisors from finalizing their inspection until all checklist questions are addressed.

The Ministry also issued a directive to program advisors and regional managers to ensure that the agency and home child care location licensing inspection checklists are complete, and that all applicable checklist questions are assessed and documented.

- *consider developing inspection checklists for agency staff.*

Status: Fully implemented.

Details

Since our audit in 2014, the Ministry had developed an inspection checklist to be used by agency staff while performing inspections of home child care premises. This checklist was distributed to agencies for use at the end of August 2016.

Recommendation 7

To help ensure the delivery of a high-quality, accessible and co-ordinated child care system in Ontario that encourages child cognitive, language and social development, the Ministry of Education should:

- *re-evaluate the education requirement for program advisors on a go-forward basis to consider their education level and experience with child care operations;*

Status: Little or no progress.

Details

During our 2014 audit, we noted that only half of the program advisors at the three regions we visited had a diploma in Early Childhood Education.

The Ministry told us it re-evaluated the education requirement for program advisors and was confident about its practices for assessing the education and experience of program advisors. As a result, it did not change these requirements since our audit. The Ministry did not document its evaluation, so there was nothing available for us to review. We continue to believe that it would be beneficial for program advisors to have a diploma in Early Childhood Education.

- *ensure that program advisors are provided with the necessary training and operational supports to effectively perform their job responsibilities; and*

Status: In the process of being implemented by February 2017.

Details

With regards to training, as noted in Recommendation 4, the Ministry had delivered several formal training sessions to program advisors on program policies and legislative requirements, including assessing compliance with program statement requirements, enforcement, and requirements for risk-based inspections of operators. The Ministry expected to develop a training strategy for new and existing program advisors and regional managers by February 2017.

With respect to operational supports, as discussed in Recommendations 4 and 6, the Ministry introduced tools, such as:

- updated inspection checklists used by program advisors to conduct inspections on child care centres, and home child care agencies and their providers;
- a Q&A process whereby program advisors can submit questions to corporate office that are responded to and shared with all licensing staff; and
- the “inter-rater reliability” exercise.

In addition, the Ministry developed a tracking tool to help operators and program advisors verify and maintain compliance with the new legislative requirements for police record checks.

- *assess program advisor caseloads to ensure that sufficient time is available to conduct thorough inspections*

Status: Fully implemented.

Details

Although the average program advisor caseload increased from 87 as of March 2014 to 101 as of June 2016, the Ministry has taken a number of steps since our audit in 2014 to ensure that program advisors have enough time to conduct inspections, including:

- establishment in fall 2014 of a dedicated Enforcement Unit that assumed full responsibility for follow-up in the unlicensed child care sector and for administering all enforce-

- ment actions under the new Act (previously the responsibilities of program advisors); and
- hiring of temporary and permanent staff since July 2014 to assist with program-advisor caseloads, and hiring of a new senior manager in March 2016 whose duties include implementing strategies to manage program advisor caseloads.

In addition, the Ministry told us that regional managers are now using several different approaches to effectively manage program advisor caseloads and further increase the time available for inspections, including:

- having staff prepare monthly work plans;
- instructing program advisors to set varying expiry dates on licences to reduce the number of renewals occurring at the same time; and
- encouraging program advisors to plan the length of their visit based on the risk posed by a licensee, so that a new licensee may get more time than an existing one with a good compliance history.

Regional managers are also able to generate reports from the Child Care Licensing System to help them manage caseloads. For example, a report that shows the status of each licence can be used by managers to see where delays are occurring in the process so they can consider strategies to keep renewal applications moving forward.

Criminal Reference Checks

Recommendation 8

To help ensure that child care operators provide a safe and healthy environment that encourages the social, emotional and intellectual development of children, the Ministry of Education should:

- *review its policy regarding criminal reference checks to assess whether it needs to be updated, who it explicitly applies to and the appropriateness of exemptions;*

Status: Fully implemented.

Details

Since our audit in 2014, the Ministry has reviewed its policy regarding criminal reference checks, and strengthened the requirements.

The new legislation that took effect August 31, 2015, specifies which individuals must submit to a vulnerable sector check (previously, only a criminal reference check was required). Specifically, a person licensed to operate a child care centre is required to obtain a vulnerable sector check from every employee, volunteer and student regardless of whether they interact with children. The requirement applies to such individuals as cooks, drivers, and maintenance staff employed by the licensee. Home child care agencies must also obtain vulnerable sector checks from their employees, the home child care providers they oversee, every person who is ordinarily a resident of the private home and every person who is regularly on the premises.

In addition, the Ministry now requires that vulnerable sector checks be updated every five years. Also, every year between the vulnerable sector checks, individuals must submit an offence declaration that lists all criminal convictions.

In our 2014 report, we noted that applicants could be exempt from submitting a criminal reference check if they met all of the following criteria: the child care centre was incorporated and its board of directors did not have contact with children; the applicant already held a licence issued by the Ministry or operated another program in the community; and the applicant had an established record of providing service in the community. The Ministry has since eliminated these exemptions.

- *confirm that criminal reference checks have been obtained and are on file for all new operators and verify that board directors and other staff without checks do not have direct contact with children;*

Status: In the process of being implemented by the end of December 2016.

Details

The Ministry told us that a new applicant would not be issued a licence until the required police record checks have been submitted to the Ministry and the program advisor has reviewed and approved the documents. Also, the checks are retained in the Child Care Licensing System and can, if needed, be accessed by regional managers for their review.

Under the new legislation implemented on August 31, 2015, the Ministry requires child care staff regardless of whether they have direct contact with children to submit a vulnerable sector check. In the case where a new applicant is a corporation, Ministry policy now requires all members of the board of directors of the corporation to submit either a vulnerable sector check if they have direct contact with children or a criminal reference check if they do not. At the time of our audit in 2014, only members of the board of directors who had direct contact with children were required to submit only a criminal reference check. At the time of our follow-up, the Ministry had also developed a draft directive on actions program advisors should take in cases where applicants have not submitted or completed the appropriate police record checks, which includes both a criminal reference check and a vulnerable sector check. The Ministry expects to implement this directive by December 2016.

- *require that all criminal reference checks for operators and child care staff be periodically updated; and*

Status: Fully implemented for child care staff. Little or no progress for child care operators.

Details

As of August 31, 2015, the Ministry requires child care operators to obtain a vulnerable sector check from child care staff every five years, and an offence declaration in every calendar year except in a year where they have submitted a vulnerable sector check.

Child care operators are required to submit a criminal reference check or a vulnerable sector

check if they interact with children, when they apply for a new licence. The Ministry informed us that it would be requiring licensees to periodically update the criminal reference checks or the vulnerable sector checks; however, more work needed to be done on how that would be implemented.

- *require vulnerable sector checks in addition to regular criminal reference checks.*

Status: Fully implemented.

Details

As of August 31, 2015, the Ministry requires child care operators to obtain a vulnerable sector check from child care staff. Also, child care operators that interact with children are now required to submit a vulnerable sector check to the Ministry.

Serious Occurrences

Recommendation 9

To help reduce the risk to the health and safety of children at child care facilities and to appropriately address, report and analyze serious incidents, the Ministry of Education should:

- *develop guidelines for investigating and following up on serious occurrences;*

Status: Fully implemented.

Details

In March 2015 the Ministry upgraded the Child Care Licensing System to include fields that program advisors must fill in to document the actions they took to follow up on serious occurrences.

Program advisors are now required to document the method used to follow up on the serious occurrence (e.g., site-visit, email, or phone call), the date they conducted the follow-up, the name and position of the person they spoke with, and any additional details relevant to the follow-up.

In addition, in October 2016 the Ministry issued a directive on serious occurrences that contains guidelines for investigating and following up on such occurrences.

- *develop procedures for verifying that child care staff are aware of serious occurrence policies, including how to identify, respond to, document and report serious occurrences;*

Status: Fully implemented.

Details

In 2014 we identified a number of incidents that did not meet the legislative and Ministry definition of a serious occurrence, but were reported as such to the Ministry (e.g., a child who suffered minor injuries). We identified other incidents that did qualify as serious occurrences but that were not reported to the Ministry.

The newly issued directive on serious occurrences includes guidance on what constitutes a reportable serious occurrence and what does not.

Beginning August 29, 2016, the new legislation requires child care operators to annually review their serious-occurrence policies with all staff and any other appropriate individuals (such as volunteers, home child care providers, and residents of a home daycare). These individuals are also required to sign a document indicating the date they reviewed the policy and with whom. In August 2016, the Ministry revised its inspection checklists to require program advisors to review these records.

- *take more effective action against operators that do not comply with legislated reporting requirements, including those that do not properly report serious occurrences;*

Status: In the process of being implemented by January 1, 2017.

Details

Beginning on January 1, 2017, the new legislation allows the Ministry to impose a new administrative penalty of \$2,000 on licensees that do not report serious occurrences to the Ministry within the required 24 hours.

- *consider developing protocols with other investigative authorities to share information;*

Status: Fully implemented.

Details

On February 17, 2015, the Ministry signed an information-sharing protocol with the Ministry of Children and Youth Services, which oversees the province's Children's Aid Societies. It also signed a protocol in January 2015 with the Public Health Division of the Ministry of Health and Long-Term Care, and in August 2016 with the Office of the Chief Coroner and the Frontenac, Lennox and Addington Children's Aid Society. In addition, the Ministry had also drafted information sharing protocols with the Ontario Provincial Police and the Peel Region Children's Aid Society.

- *analyze serious occurrences by operator to identify any potential operator or systemic concerns; and*

Status: Fully implemented.

Details

As of December 2014, the Ministry was able to generate reports that provide detailed information, as well as high-level summaries, on all serious occurrences in the province. Program advisors can generate reports that detail all serious occurrences by type for each child care operator in their caseload.

In addition, the Ministry's corporate office prepares summary reports of serious occurrences that are shared periodically with regional managers to identify any systemic concerns that need to be further investigated.

The newly issued directive on serious occurrences also includes direction to licensing staff on expectations for reviewing serious occurrences.

- *consider posting serious occurrences online where parents can readily access them.*

Status: Will not be implemented.

Details

The Ministry decided it would not implement this recommendation. It told us that the posting of serious occurrences online would require in-depth consultations with its stakeholders and legal

counsel, and may not provide good information to parents because it does not include follow-up information. It also told us that it may create a disincentive for operators to report serious occurrences. We continue to believe that serious occurrences should be posted online because a parent has the right to know this information when making their child care choice.

Complaints

Recommendation 10

To ensure that complaints are adequately investigated and to help identify concerns that may not be readily apparent during inspections, the Ministry of Education should:

- *perform timely management review of reported complaints and the results of investigations;*

Status: Fully implemented.

Details

Since our audit, the Ministry has started tracking the time it takes to process complaints. It told us that in cases where complaint-resolution times were identified as a concern, regional managers were instructed to investigate and take appropriate action to ensure more timely review of complaints.

For the period between October 2015 and December 2015, the average time to process a complaint was 21.5 days, from the date the complaint was received until the date an investigation was completed, including the required review by the regional manager.

Although we have no exact comparative data from our last audit, we did test a sample of complaints in 2014 and noted that it took an average of 150 days from the time an investigation was completed until the time regional managers reviewed it.

- *confirm with complainants that their concerns have been investigated; and*

Status: Fully implemented.

Details

Starting December 2014, where a complainant provides their email address, the Child Care Licensing System automatically notifies the complainant that their complaint has been received. Once the program advisor has followed up on the complaint and closed it, the complainant receives a system-generated email notifying them that the Ministry followed up on their concerns, along with a high-level summary of the outcome of the program advisor's investigation. In situations where the complainant provides a phone number, but no email address, the program advisor is expected to call the complainant to notify them of the results of the investigation, and document the telephone call in the licensing system.

- *regularly review and analyze the nature of complaints received and use this information to develop procedures such as conducting surprise site visits to child care operations to help mitigate the risks identified.*

Status: In the process of being implemented by the end of December 2016.

Details

In December 2014, the Ministry started capturing information on the number and nature of complaints, such as those related to the abuse or neglect of children and the buildings and accommodations at child care premises for each region.

The Ministry's corporate office prepares summary reports on complaints, including the number and nature of those complaints, which are shared with regional managers to identify areas that may warrant further investigation and follow-up.

The Ministry's review of complaints data identified that two of the more serious categories of complaints related to allegations of abuse and supervision of children. In response to the trends in complaints, the Ministry informed us that licensing staff were following up with a local Children's Aid Society on allegations of abuse.

At another region where supervision of children was identified as a concern, the Ministry told us the regional manager reviewed the relevant section from the licensing manual for child care centres at a stakeholder and community meeting to raise awareness of the requirements for supervision of children.

The Ministry has also drafted a directive that guides licensing staff on how to review complaints on licensed child care facilities that it expects to issue by the end of December 2016.