

Inquest into the death of Lucas Tran

Lucas Tran was five months old when he died suddenly and unexpectedly on 18 November 2015 from sudden infant death syndrome. At the time of his death, Lucas was being cared for by a family day care educator.

Deputy State Coroner John Lock delivered his findings of inquest on 17 April 2019.

The Queensland Government responds to recommendations directed to government agencies at inquests by informing the community if a recommendation will be implemented or the reason why a recommendation is not supported.

The departments named in this response will provide implementation updates until the recommendation is delivered. Further information relating the implementation of recommendations can be obtained from the responsible minister named in the response.

Recommendation 1

The Queensland Police Service and the Department of Education consider implementing a memorandum of understanding or some other protocol regarding the sharing of information that may be relevant to each of their separate investigatory responsibilities for incidents that arise within a child care environment.

Response and action: the recommendation is implemented.

Responsible agency: Queensland Police Service (lead), supported by the Department of Education.

On 2 October 2019 the Minister for Police and Minister for Corrective Services, and the Minister for Education and Minister for Industrial Relations responded:

The Department of Education met with the Queensland Police Service to discuss current policies and legislation regarding the sharing of information between the two agencies.

The Department of Education and the Queensland Police Service will develop a process for the sharing of information and will liaise quarterly to review this process

Further consultation with key Queensland Police Service stakeholders, including the Police Communications Centre, Operational Improvement Unit and Legal Division, is required.

On 31 March 2020 the Minister for Police and Minister for Corrective Services, and the Minister for Education and Minister for Industrial Relations responded:

The Department of Education and the Queensland Police Service agreed to a process for sharing of information in relation to the concerns raised during the inquest.

Recommendation 2

The Ministerial Council and the Australian Children's Education Quality Authority consider changes to the national law and the national regulations to require all family day care educators to hold a Certificate III in Children's Services before they commence caring for children.

Response and action: the recommendation is implemented.

Responsible agency: Department of Education.

On 2 October 2019 the Minister for Education and Minister for Industrial Relations responded:

Education Council (a ministerial council on school education, early childhood and higher education) is undertaking a review of the national law and regulations governing early childhood education and care services. The review will consider whether to mandate family day care educators to hold a Certificate III in Children's Services before they begin caring for children in a family day care service.

As part of the review, Education Council will release a consultation regulatory impact statement. Subject to Education Council approval, the statement will outline options regarding increasing the qualification requirements for family day care educators and seek views on their impact on the early childhood education and care sector. Education Council will consider the feedback from the sector, families and communities and determine whether to implement regulatory or legislative changes.

On 31 March 2020 the Minister for Education and Minister for Industrial Relations responded:

Education Council is undertaking a review of the national quality framework governing early childhood education and care services, including family day care services. The review will consider whether to mandate family day care educators and other early childhood services operating with a single educator to hold a Certificate III in Children's Services before they begin caring for children as part of an approved education and care service.

The review is currently in the consultation regulation impact statement stage, with a number of options proposed on this issue such as removing the 'actively working towards' provisions for family day care educators and requiring these educators to hold an approved certificate III qualification prior to commencing their role in a family day care service.

As part of the review, sector consultation on the consultation regulation impact statement (CRIS) will occur and the final agreed option/s will be put forward in a decision regulation impact statement (DRS) for education ministers' endorsement. Timing for the various stages of the review will now extend into 2021 due to delays resulting from COVID-19.

On 28 July 2020 the Minister for Education and Minister for Industrial Relations responded:

Progress of the 2019 national quality framework review has been delayed due to the impacts of the COVID-19 health pandemic. As a result, the various stages of the review will extend into 2021. Sector consultation on the CRIS is proposed to occur as part of the review during February to April 2021 with the final agreed option/s to be put forward in a DRIS for education ministers' endorsement in late 2021.

On 5 January 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The 2019 national quality framework review governing early childhood education and care services, including family day care services, is currently progressing to the consultation regulation impact statement (consultation RIS) stage. The consultation RIS will include a number of proposed options including requiring that family day care educators hold a certificate III qualification before they can care for children.

Work on the 2019 national quality framework review was delayed due to the COVID-19 health pandemic, and various stages of the review have extended into 2021. The Education Council endorsed the consultation RIS at their 11 December 2020 meeting, with national stakeholder consultation on the consultation RIS planned to occur during February to April 2021. Education ministers' endorsement on a decision regulation impact statement is proposed for late 2021.

On 17 June 2021 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The 2019 national quality framework review governing early childhood education and care services, including

family day care services, is currently in the decision regulation impact statement (RIS) preparation stage. Consultation on the consultation RIS occurred in early 2021 and included a number of proposed options including requiring that family day care educators hold a certificate III qualification before they can care for children.

Various stages of the national quality framework review have extended into 2021 and 2022. Following consultation on the consultation RIS in early 2021, the decision RIS is currently being developed. The national quality framework review subgroup of the early childhood policy group is leading this work, chaired by New South Wales Early Childhood Education. It is currently anticipated it will be sent to education ministers for endorsement in March 2022.

On 3 February 2022 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The decision RIS is in the final stages of development.

The decision RIS is anticipated to go to the education ministers' meeting for endorsement by mid-2022.

On 12 October 2022 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

On 6 May 2022 Education Ministers approved the decision RIS for the 2019 National Quality Framework (NQF) Review, which was released on 8 June 2022. The decision RIS includes details of the proposals and final decisions made by Ministers and is available on the 2019 NQF Review website (<https://www.nqfreview.com.au>). In regards to family day care (FDC) educators, the decision from the NQF Review is that all FDC educators must hold at least an approved Certificate III qualification prior to commencing their role in an FDC service. FDC educators can no longer be 'actively working towards' the qualification.

The majority of changes recommended from the 2019 NQF Review involve updating the National Law and Regulations so that regulatory changes can come into effect from mid-2023 in all states and territories. While the majority of legislative changes are not expected to commence before mid-2023, some guidance recommended by the 2019 NQF Review may be provided before mid-2023 to ensure an immediate benefit for education and care services. This will also ensure adequate lead time to assist providers and their services to improve their compliance.

The Australian Children's Education & Care Quality Authority, working with and on behalf of all governments, will provide more detailed information to explain the changes over coming months, including notification about the commencement dates for each of the agreed changes.

Recommendation 3

The Ministerial Council and the Australian Children's Education Quality Authority consider changes to the national law and the national regulations to require information about safe sleeping practices/SIDS and complaints mechanisms be given to parents of children who attend family day care.

Response and action: the recommendation is agreed to in part and implementation is complete.

Responsible agency: Department of Education.

On 2 October 2019 the Minister for Education and Minister for Industrial Relations responded:

Education Council (a ministerial council on school education, early childhood and higher education) is undertaking a review of the national law and regulations governing early childhood education and care

services. The review will include consideration of the provision of information about safe sleeping practices/SIDS and complaints mechanisms to parents of children who attend family day care.

As part of the review, the Education Council will release a consultation regulatory impact statement. Subject to Education Council approval, the statement will outline options for requiring information about safe sleeping practices/SIDS and complaints mechanisms be given to parents of children who attend family day care and seek views on their impact on the early childhood education and care sector. Education Council will consider the feedback from the sector, families and communities and determine whether to implement regulatory or legislative changes.

On 31 March 2020 the Minister for Education and Minister for Industrial Relations responded:

The national law and regulations governing early childhood services require family day care services to have policies and procedures available for families on sleep and rest, and on complaints. Families must be told of any changes to these policies and procedures. Services must also clearly display the name and telephone number of the person to whom complaints may be made. The Guide to the National Quality Framework (as amended in October 2018) provides that authorised officers may sight evidence that information about the service's approach to safe sleep is documented and shared with families in the course of their assessment and rating, and compliance monitoring.

Education Council is undertaking a review of the National Quality Framework governing early childhood education and care services, including family day care services. The review is currently in the consultation regulation impact statement stage, with a number of options currently proposed on sleep and rest requirements, for example, legislative change to require compulsory sleep training for all educators who care for sleeping children (birth to five years).

As part of the review, sector consultation on the consultation regulation impact statement (CRIS) will occur and the final agreed option/s will be put forward in a decision regulation impact statement (DRS) for education ministers' endorsement. Timing for the various stages of the review will now extend into 2021 due to delays resulting from COVID-19.