

**NEW SOUTH WALES
DEPARTMENT
OF EDUCATION
AND TRAINING**



**GUIDELINES
FOR
NOT-FOR-PROFIT
OUT OF SCHOOL HOURS
CENTRES
IN
NSW GOVERNMENT SCHOOLS**

Implementation Date

OOSH Guidelines for Not-For-Profit Centres Operating in NSW Government Schools
Printed on 11/15/2004

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**DRAFT GUIDELINES FOR NOT-FOR-PROFIT OUT OF SCHOOL
HOURS CENTRES IN NSW GOVERNMENT SCHOOLS**

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OUT OF SCHOOL HOURS

DRAFT GUIDELINES FOR NOT-FOR-PROFIT CENTRES OPERATING IN NSW GOVERNMENT SCHOOLS

1. Abstract

This document provides guidelines to inform Principals about the establishment and operation of not-for-profit Out of School Hours (OOSH) services on Department of Education and Training (Department) sites.

2. Applicability

These guidelines apply to all not-for-profit OOSH services established on Department sites.

These guidelines do not apply to commercial OOSH centres which may be established on a landlord and tenant basis. To establish a commercial OOSH centre you will need to contact your Regional Asset Management Unit.

3. Superseded Documents

These guidelines replace the provisions on not-for-profit Out of School Hours centres contained in Department's *Community Use of School Facilities Policy Statement*.

4. Context

There are approximately 800 Out of School Hours (OOSH) services in NSW, approximately 60 per cent of which are located on government school sites. The services are provided in government schools by a range of operators: for-profit organisations or not-for-profit organisations such as Parents and Citizens' Associations, local government or community-based groups. The majority of the services on government school sites are not-for-profit services.¹

The Department, in principle, supports the establishment of OOSH centres on school sites to meet local community requirements, as the operation of an OOSH centre on a school site provides a valued community service to students and their families.

The provision of a quality OOSH service on a school site offers opportunities for effective partnerships between families, school staff and OOSH service staff. This can be a very beneficial relationship for the school which can enhance enrolments, assist families and provide a reliable, regular tenant in non-school time which can assist with the security of school premises.

¹ Based on 2004 information provided by Network of Community Activities.

The OOSH service will be most effective when there are open lines of communication between the school and the OOSH service provider. This includes notification of any works to occur at the school that may impact on the delivery of services by the OOSH or any activities of the OOSH service that may impact on the school.

The location of OOSH services on school sites is a complementary community use and is supported by the Department where there is surplus accommodation within a school and where the school agrees to the establishment of a centre.

While there is no specific legislative reference for the operation of OOSH centres in government schools, not-for-profit, community based OOSH services may operate under these guidelines and must be charged only utility and other operational costs. A lease or a license agreement must be completed before the operation of a new OOSH service can commence. This lease or license is a standard agreement that must be prepared in consultation with the Regional Asset Management Unit.

Commercial OOSH centres must be established on a landlord and tenant basis. Different procedures for the establishment of commercial child care centres apply and the Principal must contact the Regional Asset Management Unit for further information should schools contemplate engaging in such activities. It should be noted that commercial OOSH centres are subject to a competitive tendering process in consultation with the Regional Asset Management Unit.

5. Glossary

1. **Out of School Hours (OOSH)** services provide care and activity programs before school, after school and/or during school vacations and cater for students attending school, usually aged from 5 to 12 years. OOSH is the name of care and activity programs in NSW while Outside School Hours Care (OSHC) is the name of child care services for school aged children funded by the Commonwealth.
2. A **not-for-profit** service provider is defined as running an OOSH operation which does not generate a profit, and where a profit, if made, is directed back into improving the operation of the OOSH service. Such organisations include community groups, parent managed services and umbrella organisations such as church groups, YM/WCAs. Not-for-profit organisations are run by a voluntary committee.
3. A **for-profit** service provider operates an OOSH program that is intended to generate profit for the owner and/or operator. These are commercial OOSH services.
4. **Surplus accommodation:** permanent space within the school which is not required in order to accommodate formal school activities.

5. **Shared accommodation:** permanent or demountable accommodation located on the school site and belonging to the Department which can be utilised out of school hours by other users, for example the school's hall.
6. **Approved use:** a licence or lease agreement to recognise the use of facilities for agreed activities. It relates to the school's entitlement to request additional demountable accommodation when there is an increase in enrolments rather than requiring the approved use, in this instance an OOSH centre, to be removed.
7. **Licence:** a legal agreement between the school and the service provider, taking into account the requirements of both users, and other relevant Department policy related documents. A licence is used where facilities are shared.
8. **Lease:** a legal agreement between the school and the service provider, taking into account the requirements of both users, and other relevant Department policy related documents. A Lease is generally used where facilities (building and/or land) is used exclusively by the service provider and may require subdivision and the provision of separate services to conform to legislative requirements.
9. **Community owned accommodation:** buildings (either permanent or demountable) funded by the school community or other sponsors located on the school site from which the OOSH service operates.
10. **Children and Young Persons (Care and Protection) Act 1998:** the CYP(C&P) Act contains provisions for child protection issues for which staff have responsibilities to users of the service. Chapter 3 is of particular relevance.
11. **Ombudsman Amendment (Child Protection and Community Services) Act 1998:** extends the jurisdiction of the Ombudsman to include child protection issues.
12. **Child Protection (Prohibited Employment) Act 1998:** the provisions of this act make it mandatory for any person working in, or seeking work in, child-related employment to declare that they are not a prohibited person by completing a *Prohibited Employment Declaration* before continuing or commencing work with children. A prohibited person is a person convicted of a serious sex offence. It is an offence for a prohibited person to apply for, undertake or remain in child-related employment.
13. **Commission for Children and Young People Act 1998:** The Act requires that all people commencing **paid** work, that primarily involves direct contact with children where that contact is unsupervised, foster carers and ministers of religion **must** be screened.

6. Requirements for the Establishment of a Not-For-Profit Out Of School Hours Centres in an existing NSW Government School

Where a school develops a proposal or where a not-for-profit agency approaches the school to establish an OOSH centre on an existing school site, the school principal will:

- determine whether there is suitable accommodation available to house the centre. This may be surplus accommodation, shared accommodation or vacant land, or a mix of all three. Proposed use of this accommodation must be discussed with the Asset Management Directorate, through the Regional Asset Management Unit.
- ascertain the views of the wider school community regarding the operation of a not for profit OOSH centre operating from the school site.
- ascertain the views of the local council through contact with the council's Community Services Unit where appropriate, for example if building works are required. It may be necessary to discuss this with the Regional Asset Management Unit prior to approaching the local council.

Where a proposal to establish an OOSH service is received from a voluntary agency, local council² or parent managed group it is necessary to establish the not-for-profit status of the organisation concerned. A copy of the Certificate of Incorporation, Parents and Citizens Association equivalent under the *Education Act 1990*, or evidence of the group working towards incorporation and the organisation's constitution would most likely satisfy this requirement.

Once suitable accommodation has been identified, the views of the wider school community and local council ascertained and the service provider is approved, a Licence or a Lease Agreement should be drawn up in consultation with the Regional Asset Management Unit and co-signed by the service provider and the Department's representative (usually the General Manager, Asset Management or delegate). The Licence/Lease Agreement must be revised and re-signed where any material changes occur to the agreed terms and conditions. The License/Lease Agreement will identify where this is appropriate.

A standard Licence/Lease Agreement has been developed by the Asset Management Directorate for the establishment of not-for-profit OOSH services on school sites. The purpose of developing the standard agreement is to keep

² Local councils may run not-for-profit OOSH services, but they may also operate commercial centres. If the OOSH service proposed by a local council is not-for-profit, it may be considered under these guidelines. If a commercial centre is proposed by a local council then the Principal must contact the Regional Asset Management Unit.

costs to a minimum. The Principal will need to contact the Regional Asset Management Unit to work through the preparation of this Licence/Lease Agreement, addressing the particular requirements of individual schools. Where the standard Licence/Lease Agreement is used in its entirety then the legal costs will be minimized. The cost of any changes to the standard Licence/Lease Agreement will be met by the OOSH service (service provider).

If any costs are incurred as a result of the establishment of the OOSH service, these costs must be met by the service provider. This could include legal, valuation, survey and sub-division costs, as appropriate. It should be noted that leases of five years or more (including options for extension) must be registered on the Property Title and must conform to legislative requirements which may include subdivision and the provision of separate services (i.e. water and sewerage) to the site. In such cases these costs must be met by the service provider.

After the license or lease agreement has been completed to establish a not-for-profit OOSH centre and before commencement of the service, the service provider must be registered with the NSW Commission for Children and Young People and must comply with the requirements of the child protection employment legislation. The service provider must confirm in writing that all employees of the service have submitted a prohibited employment declaration to the service provider and have a satisfactory *Working with Children Check* outcome.

The Department does not construct OOSH facilities. Should there be a need to construct or provide relocatable specialist accommodation on site the matter must be referred by the Principal through the Regional Director to the Regional Asset Management Unit.

Any additional accommodation or refurbishment must be provided by the service provider. Disabled access to the OOSH centre is the responsibility of the service provider. Any alterations within existing school facilities must be approved by the General Manager, Asset Management. Where modifications are made to facilities, the service provider must make good any changes at the termination of the agreement unless otherwise agreed with the Asset Management Directorate in consultation with the Principal.

Where an OOSH service requires improved or additional facilities at the school, for example increased toilets, or where it requires higher maintenance expectations, then these costs must be met by the service provider.

A checklist of additional considerations for the establishment of an OOSH centre are at Attachment 1.

National Standards for OOSH services were endorsed by all states and territories in 1996. Implementation is the responsibility of the states and territories and in NSW they are not mandatory. National Standards cover facilities, health and safety, staffing, service procedures and administrative

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functions. Copies of the National Standards can be viewed on www.netoosh.org.au.

Between July and September 2003 the Commonwealth Department of Family and Community Services required all Child Care Benefit (CCB) approved OOSH services to register with the National Childcare Accreditation Council (NCAC) for quality assurance (QA). OOSH services will nominate a date between March 2004 and August 2006 to go through the QA process.

Quality Assurance covers the following quality areas (www.ncac.gov.au):

1. Respect for children
2. Staff interactions and relationships with children
3. Partnerships with families and community links
4. Programming and evaluation
5. Play and development
6. Health nutrition and well being
7. Protective care and safety
8. Managing to support quality.

7. Issues in Establishing an OOSH Service in a School

The following issues should be considered and resolved in establishing a not-for-profit OOSH service in a NSW Government school. Where marked with an asterisk (*), the item must be included in the Licence/Lease Agreement.

- **Appropriate remuneration*** – Basic charges should be in line with the Cost Recovery guidelines at Attachment 2.
- **Specified Period of Operation*** – The Minister for Education and Training has approved an OOSH service as a legitimate use for surplus accommodation, removing the issue of demountable entitlements as a constraint to service operation. In order to increase the viability of service provision, it is recommended that a Licence/Lease Agreement for a period of five (5) calendar years be entered into. This period should indicate:
 - Options for extension
 - Options for either signatory to terminate the licence/lease – this should be specific on issues such as default of payment, loss of viability for the service, irreconcilable differences (especially management, appropriate use and care of facilities), breaches of statutory requirements such as the *Child and Young Persons (Care and Protection) Act 1998*.
 - Notice required for termination.

Note: if an Incorporated Association is wound up, it is important that correct legal processes are followed according to the Association's constitution or as indicated in the Incorporation Association's Act Part 8.

It should also be noted that leases with periods of operation of greater than five years (including options for extension) must be registered on the Property Title and must conform to legislative requirements which may include subdivision and the provision of separate services (i.e. water and sewerage) to the site. This may incur additional costs which must be met by the service provider.

- **Change of Status*** – Should the service provider change from a not-for-profit to a for-profit operator at any time during the specified period, the Licence/Lease Agreement must be terminated. A commercial service would be subject to the provisions in the *Guidelines for the Establishment of Child Care Centres and Pre-Schools in Existing Schools* and are subject to a competitive tendering process. The Principal should contact the Regional Asset Management Unit for further information.
- **Facilities and Amenities included in the Licence Agreement*** – A clear statement of facilities and amenities (including furniture and equipment) must be incorporated in the Licence/Lease Agreement. It should also address issues relating to the enhancement and maintenance of facilities.
- **Insurance*** - A clear statement of insurance coverage must be incorporated in the Licence/Lease Agreement. Department requires evidence of public liability coverage of at least \$10 million. The insurance policy must be current. A copy of the Certificate of Insurance must be sighted by the Principal. Some service providers, such as local government services, may be covered by an insurance policy that has been taken out centrally by their organisation. In these instances schools should contact Department's Legal Services Unit for advice.
- **Responsibilities of both parties*** – The school principal and the service provider must clearly state the responsibilities of both parties in the use of facilities and amenities and operation of the service on the site. This should include issues specific to the site and community (such as conduct of the service, additional cleaning that may be required as a result of the service), as well as responsibilities under legislative requirements (such as the *Child and Young Persons (Care and Protection) Act 1998*, Building Code of Australia, Occupational Health and Safety Act).

See Attachment 1 for Additional Considerations.

- **Dispute Resolution** – Complaints should be dealt with under the Department's Complaints Resolution Policy.

8. Contacts

If you have any queries regarding properties issues you should contact the Regional Asset Management Unit.

Enquiries relating to the operation of an OOSH service should be directed to local OOSH management.

Applications from organisations proposing to establish a new Out of School Hours service or apply for additional places should contact the Department of Family and Community Services on 1300 653 227.

Information regarding the National Standards for Outside School Hours Care can be downloaded from the Department of Family and Community Services website at: <http://www.facs.gov.au> (Go to Publications, then to Child Care then to Child Care Services Handbook).

ATTACHMENT 1

ADDITIONAL CONSIDERATIONS - CHECKLIST FOR PRINCIPALS CONSIDERING THE ESTABLISHMENT OF AN OOSH CENTRE

Establish the status of the organisation proposing to operate the OOSH centre

1. Is the proposed centre a commercial operation?
If yes, these centres are subject to a tendering process and not covered by this agreement. (Contact your Regional Asset Management Unit)

2. Is the proposed centre a not-for-profit operation?
To ascertain the group's not-for-profit status the following needs to be established.

Is the group:

- an incorporated association? If not, is it intending to become incorporated? If so, evidence is required.
- a committee of the school's Parents and Citizens' Association?
- a Local Council?
- an umbrella group? Eg. Church group, YMCA, etc.

3. Who is the contact person for the group?

4. Has a parent survey been undertaken to assess need for the centre?

5. Is the centre intended for students from other schools? (Government funding requires this access).

6. Does the centre intend to operate before school, after school and/or during vacation service?

7. Does the group intend to apply for funding and approval for Child Care Benefit from Department of Family and Community Services (FaCS)
Further information can be obtained from FaCS on telephone number 1300 653 227 or at www.facs.gov.au

8. Has the group contacted Network of Community Activities for information and advice? Network can be contacted on telephone number 02 9212 3244 or at www.netoosh.org.au

9. What available accommodation on the school site is the service intending to operate from?

10. Is the accommodation to be shared or will the centre be the priority user with approved user status as defined in the glossary 5.6 of the Guidelines?

11. Does the space comply with the National Standards? A copy of the National Standards is available on Network's website at www.netoosh.org.au

Other Points to consider

- A standard lease or licence agreement will need to be signed.
- There are standard charges for utilities set out in the agreement.
- The centre will have to register with the Commission for Children and Young People in accordance with the Child Protection (Prohibited Employment) Act 1998 and all staff will need to undertake the Working with Children Check.

- What arrangements need to be made regarding:
 - Cleaning ie Who? When?(contact with cleaning contract supervisor)
 - Security access and lock up provisions. (If on security contact school security and update regular use details).
 - Are kitchen facilities required for breakfast or afternoon snack?
 - What parking requirements are needed for OOSH staff?
 - Drop off / pick up provisions for parents/carers ie designated entry points.

- If OOSH has equipment requiring storage how is this to be facilitated and secured?

- What provisions are to be made for critical incident reporting/OH&S matters/accidents?

- Are additional facilities required if vacation sessions are to be held?
- If the school facility is to be shared, what agreed process is to be used to accommodate variation of routine by either party?

- What provisions will be made for regular communication between OOSH and school?

ATTACHMENT 2

A calculator for determining the recovery of costs for an OOSH service can be found on the Primary Principal's Association website at www.nswppa.org.au

COST RECOVERY (2004)

It should be noted that the following set charges are to assist principals to achieve cost recovery for facilities. **They are not market rental rates.** The charges will be reviewed annually and this attachment will be updated when necessary. Schools will be advised accordingly.

Cost recovery for equipment (eg telephones, photocopiers, computers), outdoor and sporting facilities and other services would need to be assessed by schools within the principles of charging for utilities and operational costs.

POWER AND HEATING/COOLING CLASSROOMS.

These charges are expressed as dollars per room per hour.

Upkeep allowance is an estimate to cover maintenance and replacement cost.

| FIXTURE | COST | UPKEEP ALLOWANCE | TOTAL CHARGE |
|--|--------|------------------|--------------|
| Lighting/power | \$0.31 | \$0.31 | \$0.62 |
| Electric Heating | \$0.52 | \$0.52 | \$1.04 |
| Gas Heating | \$0.40 | \$0.40 | \$0.80 |
| Cooling fans | \$0.04 | \$0.04 | \$0.08 |
| Air conditioning (average for heating and cooling – thermostatically controlled) | | | |
| Small (per unit) | \$0.18 | \$0.18 | \$0.36 |
| Large (split or ducted) | \$0.40 | \$0.40 | \$0.80 |

OTHER ROOMS

These charges are expressed as dollars per square metre per hour and include the upkeep allowance detailed above.

| FIXTURE | TOTAL CHARGE |
|------------------|--------------|
| Lighting/power | \$0.011 |
| Electric Heating | \$0.017 |
| Gas Heating | \$0.014 |
| Air conditioning | \$0.014 |

TRADE WASTE COLLECTION

To calculate an approximate per capita charge per hour for water usage and trade waste the following is recommended:

Take the annual cost for each of these items and divide by the number of school days. This gives the total cost per day.

Divide the total cost per day by the number of hours in the school day. This gives the total cost per hour.

Divide the total cost per hour by the school population (students and staff). This gives an approximate per capita cost per hour.

EXAMPLE FOR UTILITY COST RECOVERY:

An example is given to show how a charge can be determined for an OOSH service provider in order for the school to recover utilities costs:

Example: A not-for-profit OOSH uses one classroom between 7am and 9am and between 3pm and 6pm, school days. There are 202 school days in a year). The OOSH service caters for 30 children per day. The room has fans but no air-conditioning. The room has gas heating. The calculations include use of the toilets and heating.

CALCULATION FOR POWER AND HEATING

Lighting and Power: $\$0.62 \times 5 \text{ hours/day} \times 202 \text{ days} = \626.20

Cooling Fans: $\$0.08 \times 5 \text{ hours/day} \times 101 \text{ days} = \40.40

Heating: $\$0.80 \times 5 \text{ hours/day} \times 101 \text{ days} = \404.00

Total for lighting,
power, fans and
heating:

$\$626.20 + \$40.40 + \$404.00$
 $= \$1070.60 \text{ per annum or } \26.77 per week

CALCULATION FOR WATER

The school has a population of 500 and an annual water bill of \$7000.

$$\begin{aligned} \$7000 / 202 \text{ days} &= \$34.65 \\ \$34.65 / 7 \text{ hours} &= \$4.95 \\ \$4.95 / 500 &= \$0.0099 \text{ per capita per hour} \end{aligned}$$

$$\begin{aligned} \text{Cost for water} &= \$0.0099 \times 30 \text{ children} \times 5 \text{ hours/day} \times 202 \\ &\text{days} \\ &= \$299.97 \text{ per annum or } \$7.32 \text{ per week} \end{aligned}$$

TOTAL CHARGE

This school would charge the not-for-profit OOSH service provider:

$$\$1070.60 + \$299.97 = \$1,370.57 \text{ per annum}$$