

Chapter 3

Ministry of Education

Section 3.02

Child Care Program (Licensed Daycare)

Background

The Ministry of Education (Ministry) is responsible for the administration of the *Day Nurseries Act* (Act) and its regulations, which together make up the legislation that outlines the requirements for the health, safety and well-being of children in licensed child care facilities. Licensed child care operators are required to comply with the standards set out in legislation. The Ministry is responsible for developing policies to support licensed child care, providing funds to subsidize the cost of child care, issuing and renewing licences, inspecting and monitoring licensed child care facilities, obtaining information about serious occurrences and investigating complaints.

There are two types of licensed child care operations in Ontario: centre-based child care and private-home day care agencies. Centre-based care is provided by for-profit and not-for-profit operators, municipalities and First Nations bands. Private-home day care agencies co-ordinate home-based child care at private residences, with each home providing service to five children or less.

Figure 1 shows the number of licensed child care centres and private-home day care agencies, along with the system's total licensed capacity (defined in legislation as the maximum number of children

Figure 1: Centre-based Child Care and Private-home Daycare Agencies in Ontario, as of July 2014

Source of data: Ministry of Education

Type of Facility	Licences Issued	# of Locations	Licensed Capacity
Centre-based child care	5,093	5,093	317,726
Private-home daycare	126	5,081	16,769
Total	5,219	10,174	334,495

allowed to be in attendance at one time as set out in the child care licence).

Without a licence, individuals are permitted to provide child care services for up to five children under 10 years of age in addition to their own children. These unlicensed operations are not associated with an agency, are not required to meet the standards established in legislation, and are not regulated, licensed or inspected by the Ministry.

In April 2010, the government announced the transfer of responsibility for child care from the Ministry of Children and Youth Services to the Ministry of Education in order to integrate child care with early years education. A phased approach was used for this transfer, with the responsibility for child care licensing, inspection and enforcement being transferred over in January 2012.

A 2012 discussion paper titled *Modernizing Child Care in Ontario* notes that 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 for both pre-school and school-aged children. The discussion paper also proposes several actions aimed at improving the delivery of child care such as updating the funding process, providing capital funding, modernizing legislation, developing mandatory program guidelines for child care operators and improving data collection to better evaluate outcomes and improve accountability.

Child care licensing, inspection and enforcement functions, which are the Ministry's responsibility, are performed by 48 full-time and, at the time of our audit, 12 temporary program advisors, who report to regional managers at six regional offices. In addition to 74 First Nations bands and three related agencies that are responsible for child care funding in their communities, a regulation to the Act designates 47 municipal areas as child care service managers. The bands, agencies and municipal service managers are responsible for managing funding within legislative and policy parameters, including the provision of child care fee subsidies to eligible families. In the 2013/14 fiscal year, the Ministry of Education transferred \$965 million (\$959 million in the 2012/13 fiscal year) to bands, municipal service managers and other organizations to support child care.

Audit Objective and Scope

The objective of our audit of the child care program was to assess whether the Ministry has effective oversight and management processes to ensure that licensed child care operators comply with legislation and ministry policies that are in place to encourage and protect the health, safety and development of children in their care.

Funding for child care was the major focus of our last audit of child care in 2005. However, on this audit our work covered Ministry responsibilities for licensing, inspection and enforcement. We did not review the child care funding oversight

responsibilities of municipal service managers and First Nations bands. We also did not assess unlicensed child care because a review by the Office of the Ombudsman of Ontario, prompted by the death of a child in an unlicensed home-based day care, was in process. Senior management reviewed and agreed to our audit objective and associated audit criteria.

Our audit work was conducted at the Ministry's head office and at selected regional and local offices. Of the six regional offices, we visited three: Toronto Central, Barrie and Ottawa. In addition, we visited three local offices: Newmarket and Oshawa in the Barrie region and Kingston in the Ottawa region. We also accompanied ministry program advisors on a limited number of site inspections, researched child care oversight practices in other jurisdictions and sought the opinions of several child care associations.

Our audit fieldwork was conducted from January to May 2014, and we focused our sampling on ministry files for the last two years (2012 and 2013) but reviewed previous years' files where it was necessary to assess operator history. In addition, we analyzed statistical data for the past five calendar years (2009 to 2013).

In July 2014, the Minister reintroduced the *Child Care Modernization Act, 2014*, in the Ontario Legislature. If this Act (which was tabled as Bill 10, the *Child Care and Early Years Act, 2014*) is passed, it will replace the *Day Nurseries Act*. The new Act proposes to foster the learning, development, health and well-being of children and to enhance their safety. With respect to licensing, inspection and enforcement, the proposed legislation provides additional conditions upon which to refuse to issue or renew a licence or revoke an existing licence. The new Act also provides additional enforcement options for dealing with child care operators that do not comply, including compliance orders, protection orders and administrative penalties.

Summary

Given its responsibility for the *Day Nurseries Act*, the Ministry of Education needs to do significantly more to reduce the risk of and incidents of serious occurrences to ensure the health, safety and well-being of children in the care of licensed operators and private-home day care agencies. We believe that inspections and the related enforcement actions over centre-based child care operators and private-home day care agencies need to be strengthened in order to reduce the incidence and risk of serious occurrences affecting children in licensed child care facilities.

More than 29,000 serious occurrences (ranging broadly in severity) were reported to the Ministry by licensed child care operators and private-home day care agencies between January 1, 2009 and May 31, 2014 (see **Figure 8**). Serious occurrences include a serious injury to a child, the abuse of a child, any situation where a child has gone missing, a fire or other disaster, as well as physical or safety standard threats on the premises. As a result of our work, we are also concerned that operators are not reporting serious occurrences accurately, on a timely basis and, more importantly, may not be reporting all serious occurrences to the Ministry.

We noted cases where the same child health, safety and well-being concerns were observed on multiple inspections. Although legislation provides grounds for when the Ministry can revoke or refuse to renew a license, we noted that there are no guidelines to assist staff in determining when such courses of action are appropriate.

The following are some of our significant concerns:

- ***Inspections not conducted on a timely basis.***

We noted many examples where operators with a history of non-compliance, considered to be high risk, were not being monitored more closely than well-run child care centres. For example, as of May 2014, one high-risk

child care centre had not been inspected since November 2012 despite recent non-compliance issues including a lack of child supervision due to inadequate staff, improper food storage practices and failing to restrict children's access to cleaning products and knives. Overall, in the last five years, program advisors have not inspected approximately one-third of child care operators before the expiry date of their child care licence. As well, we assessed a sample of operators with provisional licences, which are considered to be high risk, and found that more than 80% were inspected only after the expiry date on their licence.

- ***Enforcement of inspection findings needs to be strengthened.***

During our audit, we noted many instances where concerns relating to child health and safety were not addressed by child care operators on a timely basis. We also noted that operators that repeatedly contravened the Act were issued successive provisional licences with no further enforcement action. Over the last five years, only 18 enforcement actions were taken against child care operators.

- ***Criminal reference check practices need review.***

During our audit, we noted that the Ministry did not always verify that a criminal reference check had been obtained by child care operators for themselves and their staff who have direct access to children. As well, the Ministry does not require child care operators and their staff to obtain vulnerable sector checks. A vulnerable sector check is designed to identify and screen individuals who have a history of questionable or abusive behaviours and who wish to work with children or anyone else considered vulnerable or at greater risk than the general population. It is more thorough than a criminal reference check and includes additional searches such as restraining orders, pardoned convictions and police contacts for threatening or violent behaviour. Both Alberta and Saskatchewan

require child care staff to obtain vulnerable sector checks as does Ontario's Ministry of Health and Long-Term Care for people seeking employment in nursing homes or long-term-care facilities. Several Ontario school boards also require a vulnerable sector check from people volunteering or seeking employment in elementary and secondary schools.

- **Caseload of program advisors increasing.** Since 2005, the number of child care operators has increased from 3,900 to 5,200 or 33%, while the number of program advisors is relatively unchanged. As a result, there has been a similar increase in the average caseload of program advisors. Half the advisors were responsible for the inspection and oversight of more than 100 child care centres. This increased caseload is in addition to program advisors' other duties such as licensing and following up on serious occurrences and complaints. Consequently, the Ministry needs to review its staffing to ensure that thorough inspections are conducted so that children are effectively cared for in a safe and healthy environment.
- **Risk of inconsistent oversight of child care operators.** Program advisors issuing licences and conducting inspections recommending the licensing of child care operators exercise a great deal of discretion when conducting their work because ministry policies and guidelines are often vague or non-existent. The risk exists that work is performed inconsistently. 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 observed that program advisor verification ranged from minimal (check a few cupboards) to thorough (check all cupboards and storage areas).
- **Improved management information required.** At the start of our audit, we asked the Ministry's head office to provide various management reports that we would consider

necessary to ensure effective oversight of licensed child care operators. We found that data was not collected on the number of children enrolled in licensed care; a record of the status of facility inspections was not maintained; complaint logs had to be consolidated from various sources; and information on serious occurrences would have to be extracted from the computer systems and obtained from a municipal service manager. As a result, we concluded that, even though the Ministry implemented a new system during the audit that will provide a variety of management reports, management did not have the information necessary to properly oversee the child care program.

- **Serious occurrence oversight needs improvement.** Child care operators have reported more than 29,000 serious occurrences to the Ministry in the last five years. By definition, these are very serious incidents that often involve medical attention, children's aid and/or emergency services. We found that many of these incidents were not being reported to the Ministry within 24 hours as required, including a case of alleged physical abuse by a child care employee that was witnessed by another staff member. We also concluded that program advisors were not adequately reviewing the operators' serious occurrence policies because we noted that some policies in our sample did not properly identify what constitutes a serious occurrence and that half the policies did not state all of the requirements regarding reporting these occurrences to the Ministry.

OVERALL MINISTRY RESPONSE

The Ministry appreciates the findings and recommendations of the Auditor General that will help build on the improvements and initiatives that are currently underway to modernize child care: a key priority for the Ministry of Education.

The Ministry's response outlines specific actions being taken in each of the 10 areas raised by the Auditor General.

On July 10, 2014, the government reintroduced the *Child Care Modernization Act, 2014* (Bill 10). If passed, the proposed act will provide enhanced oversight and increased access, and will strengthen the quality of the child care and early years system. In addition, the recent release of a pedagogical framework (that is, a framework related to the methods and practice of teaching) entitled *How Does Learning Happen? Ontario's Pedagogy for the Early Years* will support quality programs. As it moves forward, the Ministry will seek to build linkages between its pedagogical framework and its licensing standards.

Data capacity has been substantially enhanced by the implementation of the Child Care Licensing System (CCLS) in December 2013. This new system should enable the timely collection of relevant information to support program management, planning and oversight. The CCLS is a web-based system that allows prospective and existing child care operators and ministry staff to complete online licensing activities, including new licence applications, renewals, revisions and serious occurrences. Planned enhancements to the CCLS include a new licensed complaints module to be implemented in November 2014.

A detailed orientation module in the CCLS was developed for new applicants, and an enhanced internal directive is being created to provide staff with additional direction regarding new applicants. Staff will be provided with training as this new directive is implemented.

Additional staff have been recruited, including temporary staff to support timely inspections of licensed child care programs and to support new applicants, and a permanent enforcement unit for unlicensed child care has been established. We will continue to analyze permanent staffing needs and workload issues

on an ongoing basis. As of October 2014, the percentage of overdue licenses has been reduced to approximately 15%, cutting the backlog by more than half. The Ministry plans to move toward risk-based licensing, which would enable a licensing and monitoring system based on objective criteria such as licensing history.

Program advisors are highly qualified, with many having extensive experience in the child care sector and knowledge of child development. In addition, almost 70% of current program advisors hold Early Childhood Education credentials. The Ministry will continue to monitor and assess the educational requirements of staff. The Ministry has also introduced five new Senior Program Advisor positions to support regional oversight, enhance consistency and enable additional training for staff.

To support consistent licensing practices, the Ministry will continue to update internal directives and provide comprehensive training for staff to provide clarity in the application of these internal directives. The directives under development include provisional/short-term licences, criminal reference checks, licensed child care complaints and serious occurrences. The Ministry has also recently updated its internal directive on private-home child care to clarify requirements for these licences.

A review is currently being conducted on serious occurrence policy and criminal reference check requirements, and the Ministry will update internal directives in these areas as well. The Ministry has also met with partner ministries regarding information sharing in relation to child care. To support information for parents, mechanisms will be explored to enhance the information available, including consideration of options for posting serious occurrences online.

Detailed Audit Observations

Program Effectiveness and Reporting

More Work Needs to Be Done to Implement Ministry's Long-term Vision

The 2012 *Modernizing Child Care in Ontario* discussion paper details the government's long-term vision for child care. Not only is the Ministry expected to build a high-quality, accessible and co-ordinated early learning and child care system, but this system is expected to focus on encouraging learning in a safe, play-based environment that provides for healthy physical, social, emotional and cognitive development. The system is also intended to facilitate early identification and intervention for children in need of special supports. Where possible, child care services are to be located in or linked with schools to be more accommodating for both children and their families.

With regard to the government's long-term vision, the Ministry has not developed any performance measures for reporting on the progress made toward achieving this vision. However, with regard to the proposed actions aimed at maintaining and improving child care, the Ministry has made progress with three of these actions:

- In 2012, the Ministry began providing capital funding to school boards to retrofit child care spaces in schools to serve younger children.
- In 2013, the Ministry introduced a new transfer-payment funding formula.
- In July 2014, the *Child Care Modernization Act, 2014*, which was reintroduced in the Legislature as Bill 10, is intended to replace the *Day Nurseries Act*.

The Ministry is still working on the remaining two actions: developing a mandatory provincial program guideline and improving data collection to better evaluate outcomes and improve accountability.

Limited Information Currently Compiled and Recorded to Assess Operational Performance

In *Modernizing Child Care in Ontario*, the Ministry of Education states that data collection and monitoring are critical for public accountability and reporting, and could aid in early identification and intervention to support children with a range of abilities. However, the Ministry has not been capturing program-specific information at the operator level. At the start of our audit, we asked how many children were in attendance at each child care facility but the Ministry could only estimate the total number of children in Ontario's licensed child care facilities. Actual data was not available.

We also asked for various management reports from the Ministry's head office that we would consider necessary to assess effective oversight over licensed child care operators. We were informed that the Ministry did not maintain an overall record on the status of inspections performed by program advisors, that complaint logs would have to be consolidated from information collected by each region and that information about serious occurrences would have to be consolidated from information collected within the Ministry and from a municipal service manager.

We also requested a listing of all short-term licences issued, given that program advisors had told us that operators who had received such licences were considered higher risk and therefore required more oversight. However, the Ministry informed us that it did not track this information and it was unable to generate a list of operators with short-term licences. In addition, we needed to extract raw data from the Ministry's computer system to obtain useful information on inspections, and we had to obtain information on complaints and serious occurrences from various sources to acquire consolidated data for those two areas.

During our audit, we had additional concerns regarding both the reliability of the information provided to us and the availability of information necessary for the Ministry's head office to assess

the operational performance of the regional offices. However, the Ministry informed us that the role of head office is to provide direction and set performance expectations for the regional offices, as well as provide guidance and support when needed.

In December 2013, the Ministry replaced the information system that the Ministry of Children and Youth Services had been using with the Child Care Licensing System (CCLS). The new CCLS is a web-based system that allows prospective and existing child care operators and ministry staff to complete licensing activities online, including new licence applications, licence renewals, licence revisions, ministry approval for staff and serious occurrence submissions. The system replaces the Ministry's previous paper-based processes for child care licensing activities.

Provincial Child Care Programming Guideline Is Optional

In our 2005 audit of child care, we noted that a 2004 report released by the Organisation for Economic Co-operation and Development concluded that most Canadian provinces lacked the child care curriculum frameworks necessary to support quality programs and the experiences that enhance children's social, language and cognitive development. At that time, we recommended that the Ministry develop a child care curriculum policy framework and implement more detailed and helpful guidance to assist child care staff.

The 2012 *Modernizing Child Care in Ontario* notes that over the next three years a mandatory provincial program guideline will be developed for child care operators to enhance program quality and consistency. In April 2014, the Ministry released *How Does Learning Happen?*, a resource guide that discusses learning through relationships for those who work with young children and their families and is intended to support teaching and curriculum development in early years programs. The guide includes goals for children and expectations for children's programming. At the time of our

audit, child care operator implementation of this program guideline was optional and the Ministry had not determined when or if implementation would become mandatory.

Our 2005 audit also noted that the regulations and the *Day Nurseries Manual* allowed both ministry and child care staff to exercise a high degree of discretion in determining whether the activities being offered to children enhanced child learning and development. For example, the regulations state that there should be a program of activities that is varied and flexible and that includes activities appropriate for the developmental levels of the children enrolled, incorporating group and individual activities; activities designed to promote gross and fine motor skills, as well as language, cognitive activities, social and emotional development; and active and quiet play. However, the manual gives no further specifics about the program of activities that program operators should be implementing.

We continue to be concerned about the level of discretion that exists with regard to evaluating program quality. The licensing inspection checklist requires program advisors to verify that the operator has a program of activities in place. However, when we accompanied program advisors on inspections, we found that there were no specific requirements being used by the advisors to evaluate the activities delivered by child care providers. The advisor typically performed a quick review of the planned activities for the week and checked to see if there were sufficient toys and books available.

Some complaints received by the Ministry indicated that parents have been concerned about the quality of programs in child care settings. For example, the Ministry received a complaint from a parent stating that there were no activities at the centre where her child was enrolled and that children were bored. We noted that although the most recent inspection of this operator had not identified any concerns about the quality of the program of activities, a site visit six months later to follow up on this complaint revealed that no program plan was posted and that a flexible program of activities was not provided, as required.

If a mandatory provincial program guideline is introduced to strengthen the recent discretionary guideline, the Ministry will need to address how programs at child care settings will be evaluated to ensure program quality.

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;
- 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;
- collect and analyze all relevant information about child care operators to assist with program management and oversight; and
- develop performance measures for assessing progress toward the government's long-term vision for child care and periodically report on these measures publicly.

MINISTRY RESPONSE

The Ministry is committed to working with its partners to modernize the child care system by planning for and implementing the proposed actions in the *Modernizing Child Care in Ontario* discussion paper. In addition to the actions related to funding and proposed legislation, the Ministry recently released *How Does Learning Happen? Ontario's Pedagogy for the Early Years* (HDLH). This document is a professional learning resource to support program design

and pedagogy in early years programs, and the Ministry has developed a number of resources to support it.

Bill 10, if passed, would mandate high quality programming in child care by:

- identifying the provision of high quality experiences and positive outcomes for children within a provincial framework; and
- providing the authority for the Minister to guide operators by issuing policy statements on child care programming and pedagogy.

In the future, the Ministry will seek to build linkages between HDLH and the licensing standards to provide guidance to licensed child care programs and program advisors to support consistency in the quality of child care programming.

The new Child Care Licensing System (CCLS) has automated many child care licensing business processes, improved access to licensing data and will support the analysis of licensing history. To enhance oversight, since February 2014, management has had access to reports that could be pulled from the CCLS. The Ministry is developing a reporting module in the CCLS for December 2014 that will be used to run periodic reports on licence renewals, new licence applications, serious occurrences and complaints. This will enable regular analysis of licensing data to identify emerging issues and sector trends.

In 2012, all licensed child care operators were surveyed on their workforce, parent fees, program hours, days of operation, staff wages, and finances. Over 70% of the licensed child care operators provided responses. The Ministry is considering future data collection to update this information. The proposed legislation, if passed, would include authority to collect complete information to support the evaluation of child care and early years programs and services. In addition, a new branch was created to provide a dedicated focus on data quality, validation and analytics to support stronger performance measures and reporting.

Licensing New Child Care Operators

To become a licensed child care operator, applicants submit a fee of \$15 along with a completed application form that outlines details of the proposed program. The applicant is also required to submit a criminal reference check and other supporting documentation that demonstrates compliance with the licensing requirements. Program advisors carry out site visits during the application process to review the premises, equipment and operational policies, and to provide advice on any changes that may be needed to achieve compliance. Approximately two weeks before the operator starts providing services to children, a program advisor performs a licensing inspection to formally document that the applicant has complied with all legislative and ministry requirements. If the applicant passes that inspection, a licence is issued. The licence pertains to specific premises and by legislation can be issued for up to 12 months. **Figure 2** shows that over 1,700 new licences were issued over the last five calendar years (2009–2013).

Delays in Licensing New Child Care Operators

We identified 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. Program advisors indicated that delays are often due to the applicant's lack of knowledge about the legislation governing child care, as well as insufficient information being available for applicants about how to develop appropriate policies. Many program advisors told us that they provide certain applicants with significant assistance to help them achieve compliance. These advisors also expressed concerns that some prospective operators would likely not remain in compliance because they did not seem to understand the purpose or intent of the licensing requirements.

The Act allows the Ministry to refuse to issue a licence if an applicant is not competent, if the

Figure 2: Licences Issued to New Operators, 2009–2013

Source of data: Ministry of Education

Calendar Year	# of Licences Issued
2009	385
2010	272
2011	357
2012	403
2013	318
Total	1,735

applicant's past conduct suggests that the applicant will not operate in accordance with legislation or if the premises do not comply with all requirements. We noted that, although the Ministry's internal guidelines ask staff to question if there is anything to indicate that the applicant is not competent to operate a facility in a responsible manner, there is little guidance to assist program advisors in arriving at this decision. Since taking over the child care program's licensing functions in January 2012, the Ministry has issued over 700 new licences and has not refused a single applicant.

Many program advisors also stated that other job functions, such as following up on complaints and serious occurrences, as well as performing inspections on existing operators, take priority over licensing new child care operations. Regional managers at the three regions we visited did not track the time taken to license new operators and did not question advisors about those applicants that were taking a significant amount of time to become licensed.

Compliance Not Always Verified Before Applicants Are Issued a Licence

Licences should be issued only to applicants that can successfully demonstrate that they will operate in compliance with all legislative and ministry requirements. If an applicant has not demonstrated compliance, any concerns are supposed to be rectified before a licence is issued.

For a sample of new operators, we reviewed the details of the initial inspection report and the supporting documentation submitted by the applicant to determine if they had complied with requirements before a licence was issued. We found that supporting documents relating to municipal approvals, playground inspections and floor and site plans met requirements. These documents were normally kept on file at the Ministry and were available for review by regional managers.

In contrast, operator policies were usually not kept on file at the Ministry and were not available for management review. Proper policies need to be in place at new child care operations before a licence is issued to ensure a safe and healthy environment for children. However, we found evidence that these policies were not always in compliance before the licence was issued. In one instance, the inspection checklist indicated that the applicant had not demonstrated compliance for over one-third of the requirements. For example, the applicant had not obtained the required criminal reference checks, the medication administration policy was incomplete, potential safety hazards (including unstable bookshelves) were observed, and not enough staff were scheduled to commence operations. We were informed that a subsequent visit was made to verify compliance but there was no evidence on file to verify that such a follow-up visit had been undertaken or to demonstrate that the non-compliance issues had been resolved.

We also noted that, 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. By nature, such policies change very little, if at all, over time and they should be in place before the operator starts providing services to children.

Guidelines Needed for Timely Monitoring of New Operators

The initial child care licence for a new operator can be issued for as little as three months and up to a maximum of 12 months. Program advisors informed us that the decision regarding how many months the initial licence will be issued for is based on an assessment of the operator's competency. Operators that are seen to be competent, and therefore likely to be compliant with legislation and policy, are issued licences for a longer period of time. However, we found that there were no guidelines to assess competency and any such assessments to justify the number of months for the initial licence had not been documented.

The Ministry has also not established guidelines for monitoring new operators after the initial licence is issued and the operator begins providing services to children. Once a facility is in operation, an inspection visit is necessary to ensure full compliance because several requirements cannot be assessed until children are present. For example, before child care operations begin, program advisors cannot verify that sufficient staffing ratios are being maintained or that emergency procedures are in place for each child who has severe allergies. Inspection visits for new operators are to be performed before the initial three- to 12-month licence has expired. We reviewed a sample of these inspection reports for new operators and found a number of non-compliance issues that could have been identified in a more timely manner:

- For an operator whose initial licence was issued for six months, the first licensing renewal inspection identified many non-compliance issues. For example, the program advisor noted that there was no evidence that staff had obtained the required criminal reference checks, something that should have been done before the initial licence was issued. The advisor also observed a potential choking hazard as an infant was being fed while lying on his back in a crib, and children were not

properly supervised as toddlers were wandering around unattended.

- For an operator with an initial 11-month licence, the program advisor noted in the first licensing renewal inspection that medication was not kept in a locked container, emergency procedures for a child with severe allergies had not been reviewed with employees and the required number of qualified staff had not been hired.
- For an operator whose initial licence was issued for 12 months, the first licensing renewal inspection noted a number of problems: hazardous materials such as medical supplies, cleaning materials and electrical equipment were within the reach of children; the operator had not implemented a criminal reference check policy; and equipment and furnishings were not safe or in a good state of repair.

We noted that in British Columbia, newly licensed facilities receive a risk assessment inspection within six to eight months of commencing operations. This risk assessment quantifies the scope and severity of the risk posed to individuals being cared for to determine the frequency and timing of subsequent inspections.

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

- track the time it takes new applicants to become licensed, document the reasons for any delays and take appropriate action where necessary;
- provide regional managers with sufficient evidence and documentation to support issuing licences to new child care operators; and
- 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.

MINISTRY RESPONSE

The social, emotional and intellectual development of children is a key priority for the Ministry of Education. We are committed to working with child care operators to help support legislative and policy compliance, and to supporting their important work.

An internal licensing directive will be created and training will be provided to give additional direction to regional offices on the licence application process, including assessments of applicant competencies and the review of applicant policies and procedures.

A webinar will be delivered in November 2014 for new applicants to provide additional information about licensing requirements and the application process. The Ministry will also develop additional tools and sample policies and procedures to assist applicants in meeting licensing requirements.

The Child Care Licensing System (CCLS) also includes a detailed orientation module that provides information to new applicants about licensing requirements, responsibilities of child care operators, and the new licence application process. The *Day Nurseries Act* for Supervisors

website is an additional tool to support supervisors and operators in child care to better understand provincial licensing requirements.

Reports on in-process new licence applications are now being pulled from the CCLS on a regular basis. The reports include the status of the application and the number of days in process, and will be used to track progress of the licensing process and expedite delays.

Application information, including supporting documentation, can now be submitted by applicants online in the CCLS, which has streamlined the review process for program advisors and made documentation more readily accessible to regional managers for the licence decision process.

The internal licensing directive being created will also give additional direction to regional offices regarding new operators in areas such as the assessment of compliance and regarding appropriate monitoring and oversight, and will standardize the issuance of short-term and provisional licences.

Child Care Licence Renewals and Inspections

One-Third of Operators Are Not Inspected on a Timely Basis

To renew their child care licence, operators must submit a renewal form along with a \$10 fee one month before their licence expires. Operators provide the same general information that is required during the new operator application process. Once the renewal form is received, an unannounced inspection is to be performed to ensure that the operator is still in compliance with licensing requirements. Operators who submit their renewal applications after licence expiry are charged a \$25 late fee. **Figure 3** shows the number of inspections performed in each region over the last five calendar years (2009–2013).

The Ministry tries to conduct unannounced inspections within a month of receiving the licence renewal form. We selected a sample of renewal files and found that the majority of operators submitted their renewal forms on time. Program advisors informed us that they informed operators that submitted their renewal form late that they were operating illegally. However, the Ministry permitted these centres to continue operations. For one of the files we sampled, the centre was operating without a licence for over 225 days, and no inspection had been performed during this time because the renewal form had not been submitted. Linking unannounced inspections to the receipt of renewal forms, instead of conducting them at any random time, eliminates the surprise element of unannounced inspections. This is a concern because some compliance risks, such as the need to have the proper number of staff on duty, can only be effectively verified with an unexpected on-site visit.

We found that over the last five years, program advisors have not inspected approximately one-third of child care operators before the expiry of their child care licence. Advisors are responsible for maintaining their own inspection schedules, and at the time of our audit, no inspection logs were maintained by regional managers or the Ministry's head office. We also found that much of the regional managers' oversight of inspection scheduling is reactive, as they only periodically generate reports that show which licences have expired. See **Figure 4** for a summary of expired licences.

The Ministry has not developed a formal plan to address its inspection backlog and to ensure that operators are inspected before their licence expires. Some of the program advisors we spoke with stated that they were encouraged to perform two inspections per day in order to stay up to date with their caseload. However, when we accompanied program advisors on inspections, we noted that inspections can take from half a day to two days to complete, depending on the number of rooms to be inspected, whether the advisor is visiting the

Figure 3: Number of Inspections Performed by Region, 2009–2013

Source of data: Ministry of Education

Region (Calendar Year)	2009	2010	2011	2012	2013	Total
Barrie	1,066	1,042	1,199	817	803	4,927
London	1,248	1,309	1,214	1,232	999	6,002
Northern	431	432	402	427	361	2,053
Ottawa	734	750	752	616	343	3,195
Toronto Central	1,071	1,080	989	973	786	4,899
Toronto West	892	862	879	882	694	4,209
Total	5,442	5,475	5,435	4,947	3,986	25,285

Figure 4: Operators with Expired Licences Not Yet Inspected as of March 31, 2014

Source of data: Ministry of Education

Region	# of Licences	# Expired	% Expired	Maximum Days Expired	Average # of Days Expired
Barrie	1,133	469	41.4	501	166
London	1,152	246	21.4	294	45
Northern	396	51	12.9	645	68
Ottawa	684	261	38.2	516	238
Toronto Central	957	259	27.1	243	67
Toronto West	873	388	44.4	437	91
Total/Overall Average	5,195	1,674	32.2%	645	124

centre for the first time and the number of non-compliance issues noted.

The Ministry does not use a risk-based process to manage its inspection caseload. Such a process would systematically assess operators relative to their risk of not complying with legislation. Program advisors informed us that there are no guidelines to specifically categorize an operator as high risk, but those operators who are issued provisional licences (operators who are given time to come into compliance) or short-term licences (issued for less than one year) are considered high priority. However, operators who fall into this category are not tracked, and there is no process for ensuring that they are more closely monitored than operators who are more compliant.

We noted many examples of high-risk operators that were monitored even less frequently than well-run child care operations. For example, in a four-year period, one centre had its licence

suspended, was then issued a provisional licence and was issued two short-term licences after that. A number of significant non-compliance issues had been noted, such as a lack of child supervision due to inadequate staff, improper food storage practices and failing to restrict children's access to cleaning products and knives. The most recent inspection of this operator had been performed in November 2012. The Ministry subsequently issued a short-term licence due to expire in August 2013. However, as of May 2014, nine months after its licence expired and 18 months after the last inspection, this high-risk operator had still not been inspected. We assessed a sample of operators with provisional licences and found that more than 80% were inspected after their licences expired.

The discussion paper *Modernizing Child Care in Ontario* noted that a move toward risk-based licensing would allow for effective resource allocation to support the health and safety of children in licensed

child care. However, at the time of our audit, the Ministry had not begun implementing a risk-based inspection process. We noted that British Columbia has a risk assessment process where operators are categorized based on their current and historical compliance with standards and any operator found to be high risk is to be inspected more frequently.

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;
- identify high-risk operators and develop a risk-based approach for determining how often these and other child care operators should be inspected;
- 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
- schedule visits in a way that minimizes timing predictability.

MINISTRY RESPONSE

The Ministry is placing a priority on child care operators being 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 CCLS has automated and streamlined the licence renewal process for operators and frequent notifications are now sent to operators that have not yet submitted their renewal application.

For the longer term, the Ministry plans to move toward risk-based licensing, which would enable a licensing and monitoring system based

on objective criteria such as licensing history. This approach could encourage greater compliance by recognizing high performing child care operators with consistent compliance records, and by providing additional supports to operators with patterns of non-compliance.

The Ministry has recruited additional program advisors to support timely inspections of licensed child care programs and to support licensing for new applicants. As of October 2014, the percentage of overdue licences has been reduced to approximately 15%, cutting the backlog by more than half. The Ministry continues to focus its efforts on the backlog and will provide direction that the scheduling of inspections be prioritized based on a review of licensing history and the length of time overdue.

To reduce the predictability of licensing visits, the Ministry will assess the feasibility of increasing the use of unannounced monitoring visits.

Inspection Procedural Guidelines and Management Review Need Improvement

To assess whether child care operators are complying with the licensing requirements, program advisors are required to complete an inspection checklist. The checklist contains 278 questions and is to be used in conjunction with ministry procedural guidelines. However, we found that the procedural guidelines for assessing compliance with the licensing requirements are vague. As a result, program advisors exercise a great deal of discretion when filling out the inspection checklist. We spoke to several program advisors and accompanied some on inspections to determine the types of procedures performed. We noted the following concerns:

- Program advisors are expected to verify that medications, cleaning supplies and other hazardous substances are properly stored so that they are inaccessible to children. During the inspections we attended, we observed that some program advisors would check all

storage areas and cupboards, whereas others would inspect only a few cupboards. In one instance, the Ministry received a complaint that a child had obtained access to window cleaning fluid. The child had poured the liquid over himself and risked ingesting it. More detailed inspection procedures or minimum recommended procedures to assess the storage of hazardous products could help identify such risks.

- One operator had been inspected by the same program advisor for the previous eight years. In 2014, the operator was assigned to a different program advisor and we accompanied this program advisor on the inspection. This inspection identified a significant number of non-compliance issues, many of which should have been identified when the child care centre first began operating. For example, various policies, such as those for criminal reference checks and serious occurrences, did not outline all the legislative and ministry requirements; almost half of the children enrolled did not have emergency information on file; and there was no written behaviour management policy. The Ministry does not have a policy requiring that program advisors be periodically rotated to ensure that different perspectives are brought to the inspection process and to help compensate for inconsistencies in inspection practices.
- Advisors are required to ensure that child care staff have the required health assessments and immunizations before commencing employment. One of the program advisors we spoke to stated that details of the requirements were not in the procedural guidelines or otherwise communicated to program advisors. She also did not know which health assessments and immunizations were required or how often vaccinations needed to be updated.

Overall, we determined that the regional manager's quality review process for inspections needs to be improved. We were advised that regional

managers review each file, focusing on non-compliance issues identified during the inspection. However, given the high degree of discretion expected from program advisors, more emphasis is needed on having program advisors document how they concluded that the operator has met the licensing requirements. For example, any noted compliance should be accompanied by a description of the activities performed by the program advisor before reaching that conclusion. Two of the regional managers we spoke to stated that, if they have time, they accompany program advisors on inspections. However, the majority of program advisors stated that they had never been accompanied on an inspection by their regional manager.

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;
- provide regular program advisor training and training updates on inspection guidelines;
- have program advisors document the procedures performed and the conclusions they reach during inspections and retain all relevant documentation for subsequent management review; and
- periodically rotate program advisor case-loads to help compensate for inconsistencies in inspection practices.

MINISTRY RESPONSE

Since the transfer of child care licensing from the Ministry of Children and Youth Services to the Ministry of Education, seven new internal directives have been developed and three existing

directives have been updated. Other directives are currently being updated, such as an internal licensing directive that will support the consistent interpretation and application of the *Day Nurseries Act*.

Various staff training programs have been ongoing since January 2012, and additional training on new and updated internal directives will begin in November 2014. In addition, over the last year, the Ministry has conducted training on the licensing process, interpretation of the *Day Nurseries Act*, and standards for documentation. A four-day comprehensive training module has also been developed for new program advisors; it was conducted in July 2013 and August 2014.

The Ministry is developing a comprehensive training strategy to support new program advisors and regional managers, as well as the ongoing learning and development of existing staff. The Ministry has also introduced five new Senior Program Advisor positions to enable additional training for staff, to support regional oversight, and enhance licensing practices. These new practices will help provide consistency in licensing conclusions, and will outline expectations regarding the retention of relevant documentation.

Where geography permits, rotations of caseloads occur on an occasional basis. The Ministry will consider rotating caseloads among program advisors on a more frequent basis, where feasible, while promoting consistency in practice.

Enforcement in Cases of Operator Non-compliance Needs to Be Strengthened

The *Day Nurseries Act* stipulates that it is an offence to knowingly provide false information, operate a day nursery without a licence, operate while a licence is suspended or fail to comply with a court-ordered injunction. Individuals who are convicted of any of these offences could be liable to a fine of up to \$2,000 a day and/or imprisonment for a year. Additionally, any individual who is found guilty of obstructing an inspection can receive a fine of up to \$5,000 and/or up to two years' imprisonment. Ministry staff stated that to the best of their knowledge, no charges have been laid against any licensed operators in at least the last five years. **Figure 5** shows that the Ministry took only 18 enforcement actions (which **Figure 5** also describes) against child care operators during the last five years.

We reviewed a sample of inspection files where a regular licence was issued and noted that the majority of operators initially had some non-compliance issues that could affect child health and safety. In most of these cases the operator had sent an email to the program advisor stating that the problem had been rectified. However, no supporting documentation, such as an updated policy, was submitted to verify that the non-compliance had been rectified. We noted cases where the same non-compliance issues were observed on multiple inspections. For example, in three consecutive inspections of one operator, the advisor noted that there was no written procedure for monitoring behaviour management practices. The operator

Figure 5: Enforcement Actions Taken by the Ministry, 2009–2013

Source of data: Ministry of Education

Enforcement Mechanism (Calendar Year)	2009	2010	2011	2012	2013	Total
Refusal to renew a licence	0	1	2	0	1	4
Revocation of a licence	1	0	0	0	0	1
Licence suspension*	1	1	6	3*	1	12
Injunctions to cease non-compliance	0	0	0	0	1	1
Charges laid	0	0	0	0	0	0
Total	2	2	8	3	3	18

* The Office of the Auditor General of Ontario found an additional Notice of Direction to suspend a licence that was not included in the list provided by the Ministry from 2009 through 2013.

submitted emails stating that the policy now included the required information and the program advisor issued the operator a regular licence. However, the non-compliance had clearly not been rectified because if the information was documented after the first inspection, it would not have been an issue in the two subsequent inspections. The Ministry has not developed guidelines to assist program advisors in determining how they should follow up on non-compliance issues to ensure that operators actually resolve concerns.

All non-compliance issues noted during inspections are to be recorded on the Ministry's child care website. However, the website provides 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 the what the concern was or the risk posed to their children. In addition, for 20% of the inspections we reviewed, non-compliance issues identified were not reported on the Ministry's website. For example, one inspection determined that the equipment and furnishings at a child care centre were not safe. However, this was not listed as a non-compliance item on the Ministry's website.

During the licensing renewal inspection process, if program advisors determine that an operator is not complying with licensing requirements, the advisor is to document the non-compliance, outline the steps necessary to achieve compliance, and set a date by which the non-compliance should be resolved. Ministry policy allows operators up to 10 working days to correct any non-compliance issues. However, if the operator is unable to come into compliance within this time or if the non-compliance poses a risk to children's safety, a provisional licence is required to be issued. **Figure 6** shows the number of provisional licences issued in the five calendar years 2009 through 2013.

Ministry policy states that provisional licences are to be issued for up to three months and can be issued for a longer period of time only under excep-

tional circumstances, which must be documented. However, we noted that almost half of the provisional licences we sampled were issued for durations ranging from four to six months without the required documented rationale. Further, program advisors are supposed to closely monitor and document the operator's effort to achieve compliance during the provisional licence's term. This information can then be used in determining whether further enforcement action as set out in legislation, such as revoking or refusing to renew a licence, is necessary. However, we noted that two-thirds of the provisional licences sampled had no documented evidence of any increased monitoring.

Ministry policy states that the issuance of two consecutive three-month provisional licences for the same offence should provide sufficient time for the operator to comply before any enforcement action is taken. We identified that 22 operators have been issued multiple provisional licences over the past two years. The most recent inspection of one operator that had been issued four consecutive provisional licences noted that the operator had not ensured that emergency procedures for children with severe allergic reactions had been reviewed with staff, hazardous cleaning materials were accessible to children and brackets at the base of playground equipment had exposed screws and were not safe. Even so, another provisional licence was issued with no further enforcement action. Although legislation provides grounds for when the Ministry can revoke or refuse to renew a licence, we noted that there are no guidelines to assist regional

Figure 6: Provisional Licences Issued, 2009–2013

Source of data: Ministry of Education

Calendar Year	# of Provisional Licences Issued
2009	98
2010	90
2011	83
2012	60
2013	49
Total	380

offices in determining when such courses of action are appropriate.

Our review of provisional licences also identified that some operators were receiving licences that alternated between provisional licences and short-term licences (operators issued either are considered high risk). We were informed that short-term licences are issued when program advisors would like to monitor operators more frequently. However, we were concerned that, on occasion, short-term licences were being issued instead of provisional licenses to avoid issuing consecutive provisional licences. We noted that there were no guidelines outlining when it is appropriate to issue a short-term licence. We also noted that the Ministry had not kept track of the short-term licences issued and could not extract this information from its computer system. Consequently, we could not determine the total number of high-risk child care operators.

We were informed by staff at the three regions we visited that if there are concerns about numerous non-compliances or recurring non-compliance issues, further action may involve a meeting between the operator and the regional manager. There are no formal guidelines or policies regarding these meetings but we noted that the manager and operator meet to discuss a plan to rectify the non-compliance. In one such case, a centre had been getting progressively more unsanitary with each inspection. This centre had not been closed down, because it was in an area with limited child care options. Ultimately, a complaint had been received that the centre had a foul smell, mice and a cook who was preparing food while ill. Eventually, after the regional manager met with the operator, the centre was cleaned up. Only one of the three regions we visited tracked which operators had been called in for meetings. This region had held five meetings in 2012, four in 2013 and eight from January to May 2014.

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 non-compliance is rectified and for management oversight purposes;
- more closely monitor, as required, operators that have been issued a provisional licence;
- 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;
- 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
- administer effective enforcement action against operators that have not complied with legislative and ministry requirements.

MINISTRY RESPONSE

To support compliance and the delivery of services to children in a healthy, safe environment, the Ministry will implement a regular process of file review to enhance consistency and improve file documentation. This process will also provide guidance to program advisors in their assessment of inspection findings and the extent of follow-up actions to be taken.

The Ministry will develop an internal licensing directive on enforcement that will provide additional direction regarding the management and monitoring of provisional licences, the criteria for issuing and monitoring short-term licences, and the range and progression of

enforcement actions available to regional offices to address chronic non-compliance. Bill 10, if passed, will provide additional authority regarding enforcement. In addition, the move toward a risk-based approach will provide more guidance and consistency in enforcement actions.

The Ministry currently provides information about licensed child care programs, including inspection findings, on the Licensed Child Care website. Upon request, operators are also required to provide parents with a copy of the detailed licence inspection checklist. To be more informative, the Ministry will explore mechanisms to enhance the detail of the information available online to parents.

The proposed legislation, if passed, would also provide a range of new and enhanced enforcement options that could be used to take effective action against operators in contravention of statutory requirements and regulations. This includes compliance orders, protection orders, administrative penalties, restraining orders and an obligation to publish contraventions.

Oversight of Private-home Day Care Agencies Needs to Be Strengthened

Private-home day care agencies are licensed to operate a network of home-based child care in private residences. These agencies screen, approve and monitor the home day care providers and are required to inspect each residence every three months. Program advisors inspect these agencies to assess compliance with licensing requirements and are required to visit 5% to 10% of the private residences to observe agency staff as they carry out their inspections.

To inspect an agency, program advisors use an inspection checklist similar to that used for centre-based child care but modified for private-home day care licensing requirements. We found that some questions in the agency inspection checklists were not answered for more than half of the files we

reviewed. For example, there was no confirmation that the dogs and cats at one provider's home had been inoculated against rabies. In another instance, the advisor had not verified that any firearms in the home were locked away and inaccessible to children. We also noted a few instances from our sample of ministry inspections of agencies where program advisors had not visited at least the minimum 5% of provider homes.

Private-home day care agencies are required to inspect their home day care providers once every three months. Agency staff perform this inspection using their own checklist. We reviewed a sample of checklists developed by different agencies, and we noted that one agency's checklist was very detailed and generally complied with the Act but another was very brief and did not satisfy all the requirements. For example, there was no requirement to ensure that working smoke alarms are installed on every storey of the provider's residence. The Ministry does not provide a template to assist agencies in developing inspection procedures to ensure that all licensing requirements are assessed consistently province-wide. One agency operator we visited suggested that such assistance would be beneficial to all private-home day care agencies.

We accompanied program advisors during inspections of home day care providers and identified that the program advisors were performing different procedures at different provider locations. For example, one program advisor questioned home providers thoroughly about their knowledge of certain policies, whereas another advisor only asked the provider about the timeout component of the behaviour management policy. We also noted that procedures followed by the same program advisor differed across different home provider locations. For example, at two homes visited, one program advisor asked where the knives were kept to ensure that they were out of children's reach. However, the same program advisor did not ask this of the third home provider visited. Standardized ministry procedures would help ensure that all significant requirements are consistently reviewed.

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;
- ensure that the minimum number of homes are visited during agency inspections;
- verify that the agencies' licensing inspection checklists are complete; and
- consider developing inspection checklists for agency staff.

MINISTRY RESPONSE

The Ministry recently updated its licensing directives to provide greater detail on private-home day care licensing, including clarifying the minimum sample size of homes to be visited for a private-home day care licensing inspection, and expectations regarding management oversight in approving these licenses.

In addition to clearer direction, the licensing inspection software is currently being updated to ensure that inspection checklists are completed in their entirety before a licence can be issued.

The Ministry will work with private-home day care agencies to create a sample agency checklist that sets out the minimum requirements for home inspections.

Review of Program Advisor Caseloads and Training Needed

During this audit, the Ministry employed about 48 permanent program advisors. To help address workload issues, the Ministry hired an additional 12 temporary staff on 18-month contracts, for a total of 60 active program advisors (exact numbers fluctuate due to events such as retirements, maternity leaves and new hires). At the time of our last audit

in 2005, there were also about 60 program advisors, although, for some, their responsibilities included the inspection of facilities other than child care centres. Nevertheless, the number of child care centres has substantially increased, from 3,900 in 2005 to 5,200 in 2014, a 33% increase. In addition, program advisor caseloads increased proportionally (from 67 to 87 centres per advisor) and half of the program advisors were responsible for the inspection and oversight of more than 100 child care centres. **Figure 7** shows the average caseload by regional office.

While some advisors have significantly higher caseloads, one of the program advisors we spoke to stated that she has 125 centres to oversee and that some centres take more than a day to inspect. She also said that in order to keep up, she has had to conduct four inspections in one day. Such time constraints create a risk that advisors may not have sufficient time to perform thorough inspections, especially considering that the advisors' duties also include other major functions, such as licensing new operators, following up on serious occurrences/complaints and taking enforcement action when necessary.

To perform these duties, program advisors are expected to exercise a great deal of judgment. It is therefore important that they receive sufficient training and guidance to ensure that they exercise their judgment effectively. Legislation requires supervisors at child care centres to have a diploma in Early Childhood Education but a similar educational background is not mandatory for program advisors. At the three regions we visited, we found that only half of the program advisors had this qualification.

In July 2013, the Ministry's head office provided new program advisors with four days of training on strategies for preparing, executing and documenting licensing inspections. The Ministry informed us that all program advisors received this training by September 2014. However, at the time we interviewed them, most had not completed this training. Many stated that they were trained by job-shadowing a more experienced program advisor

Figure 7: Regional Office Caseload per Advisor, as of March 2014

Source of data: Ministry of Education

Regional Office	Permanent Program Advisors	Temporary Program Advisors	Total Program Advisors	Licensed Facilities	Centres per Advisor
Barrie	10	4	14	1,139	81
London	9	1	10	1,157	116
Northern	5	0	5	398	80
Ottawa	7	2	9	695	77
Toronto Central	10	2	12	958	80
Toronto West	7	3	10	872	87
Total/Average	48	12	60	5,219	87

for approximately one week and had not been officially trained on the policies or guidelines they are required to follow. One advisor even told us that she was unaware of the complaints policy and had not been informed that investigations required a review by the regional manager until months after she had begun working as a program advisor.

The program advisors we spoke with said that they would like to receive training on interpreting the legislation and on the specific procedures necessary to be performed to appropriately answer the questions on the inspection checklist. As well, program advisors informed us that they would like additional supports for ease of reference while performing inspections, such as mini-checklists that list all policies and their requirements, documentation required to be verified in staff and children's files and the requirements to be observed in the child care room. We noted that some program advisors had created such supports for their own use.

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;

- ensure that program advisors are provided with the necessary training and operational supports to effectively perform their job responsibilities; and
- assess program advisor caseloads to ensure that sufficient time is available to conduct thorough inspections.

MINISTRY RESPONSE

The Ministry has added a new position, Senior Program Advisor, in the regions to support regional oversight, enhance consistency and support training. This position requires the Registered Early Childhood Educator designation. The Ministry will continue to assess education requirements of branch staff.

Currently, almost 70% of program advisors have an Early Childhood Education diploma, which is an increase from 57% in 2008. The credentials of other advisors include Child and Youth Worker diploma and Bachelor/Master of Social Work. Many program advisors also have extensive experience in Ontario's child care sector. Any new program advisors are now required to have specialized knowledge of principles and practices of child learning and development, as well as extensive child care experience.

Training on program quality has been provided to regional managers and program advisors, and the Ministry is implementing a 12-month capacity building strategy in relation to *How Does Learning Happen?* for Ministry staff. As previously noted, various staff training programs have been ongoing since January 2012, and additional training on new and updated internal directives will begin in November 2014.

The Ministry has established a new Enforcement Unit with nine new staff to address matters relating to unlicensed child care. The unit is fully staffed and trained. There is a transition plan in place to move the responsibility for the investigations of unlicensed child care providers from the licenced child care program advisors to the Enforcement Unit by the end of 2014.

The Ministry will continue to analyze permanent staffing needs, but in the meantime, additional staff have been recruited, including 16 temporary program advisors in the regional offices to address overdue licences and support new applicants. In addition, the CCLS has maximized efficiencies for ministry staff by replacing manual, paper processes with a more streamlined automated system.

The Ministry is also conducting an analysis of licensing activities and caseloads to identify mechanisms to ensure even distribution of workload and appropriate allocation of resources across regions.

Criminal Reference Checks

Criminal Reference Checks for Some Prospective New Operators Not Obtained

Prospective operators are required to submit a criminal reference check before being licensed. The purpose of this check is to help ensure the safety and well-being of the children in care and the responsible operation of the licensed day care. The Ministry exempts applicants from submitting a check if all of the following criteria are met:

- The child care centre is incorporated and its board of directors do not have direct contact with children.
- The applicant currently holds a licence issued by the Ministry or operates another program in the community.
- The applicant has an established record of providing service in the community.

We reviewed a sample of new operators and found that 50% had proper criminal reference checks on file. However, we also noted that:

- For another 35% of the new operators sampled, we were informed that there was no criminal reference check on file because the applicant qualified for an exemption. However, in these cases program advisors had not documented how they determined that the exemption criteria had been met. Additionally, program advisors could not demonstrate how they would assess that a given operator had an established record of providing service in the community or that directors would not have direct contact with children.
- In the remaining 15% of cases, we were informed that although there was no criminal reference check on file, a check had been received but was subsequently destroyed or returned to the operator. In some of these cases, the program advisor had documented the names of the individuals who had submitted the criminal reference checks. However, in many other cases we noted that there was nothing on file to confirm that a reference check had been received. Ministry policy requires regional offices to develop procedures to safeguard criminal reference checks but none of the offices we visited had developed such procedures.

Ministry policy does not require operators to periodically submit up-to-date criminal reference checks. In one case, we noted that an applicant had submitted a criminal reference check dated 2008 with a 2013 application to open a new child care facility. We were informed that this applicant was

relocating to the new facility and that the criminal reference check that had been submitted for the old location was being used.

Criminal Reference Checks for Some Child Care Staff Not Reviewed by the Ministry

All new operators are required to develop criminal reference check policies for child care staff and volunteers. The Ministry's policy, developed in 1995, states that the criminal reference check makes up part of the hiring process and, even if a check reveals a history of criminal charges or convictions, that does not necessarily preclude employment. Operators are advised to consider the nature and circumstances surrounding any past charges and convictions, and are given sole responsibility for hiring decisions.

During inspections, the Ministry requires operators to confirm that they have developed and implemented criminal reference check policies. We accompanied program advisors on several inspections and observed that program advisors reviewed staff files to determine if a criminal reference check had been received. However, at times these checks were kept in sealed envelopes, which the advisor did not open. As a result, program advisors did not verify that a check had been received or, if so, what information it revealed. On one visit, we observed a food preparer engaging with children but the program advisor had not ensured that a criminal reference check was required or had been received for this employee.

We also noted that in one recent situation, a child care employee was charged with sexual interference with a child subsequent to being hired. This offence related to a child who was not enrolled at the centre where this individual was employed. Although the operator terminated this person's employment, the program advisor in charge of inspecting this centre could not confirm whether a criminal reference check was on file for this employee or whether the individual had had any previous criminal activity.

We reviewed a number of criminal reference check policies developed by operators to assess whether they complied with ministry requirements. While some operator policies were deficient, other operators had included best practices that went beyond ministry requirements:

- Ministry criminal reference check policy applies only to child care employees and volunteers who have direct contact with children. However, some operator policies also require criminal reference checks from staff who do not have direct contact with children, such as cooks, drivers and maintenance employees.
- Ministry criminal reference check policy does not require child care operators or their staff to periodically submit updated checks. Some operators require that a criminal reference check be performed every five years.
- Some child care operators require a vulnerable sector check be done rather than the regular criminal reference check required by the Ministry. A vulnerable sector check is designed to screen individuals who wish to work with children or anyone else considered vulnerable or at greater risk than the general population. It is a more thorough check that includes additional searches such as restraining orders, pardoned convictions and police contacts for threatening or violent behaviour.

We noted that several school boards in Ontario have recently begun to require vulnerable sector checks from people volunteering or seeking employment in elementary and secondary schools. Some municipalities also require vulnerable sector checks for child care workers. In addition, both Alberta and Saskatchewan require child care staff to obtain vulnerable sector checks, as does Ontario's Ministry of Health and Long-Term Care for people seeking employment in nursing homes or long-term-care facilities.

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;
- 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;
- require that all criminal reference checks for operators and child care staff be periodically updated; and
- require vulnerable sector checks in addition to regular criminal reference checks.

MINISTRY RESPONSE

The Ministry is in the process of updating the internal licensing directive regarding criminal reference checks to clarify the requirements of the Ministry's Criminal Check Policy, including standards for documentation. Training on the updated directive will be provided to regional offices.

To enhance consistency and improve documentation, the Ministry will put in place a regular process of file review to assess compliance with documentation standards.

Bill 10, if passed, will include a number of provisions providing for authority related to criminal reference checks that will allow the director or inspector to require a criminal reference check from licensed child care providers and any person prescribed by regulation. The proposed legislation would also provide authority for a director or inspector to require a criminal reference check from any person where there

are reasonable grounds to believe the person has been convicted of specified offences set out in the Act.

Bill 10, if passed, will also provide the authority to make regulations to require child care providers to screen staff and volunteers using screening measures that could include criminal reference checks, regular declarations and vulnerable sector screening.

Serious Occurrences

A regulation to the Act outlines five categories of grievous incidents, called serious occurrences, that child care operators must report to the Ministry: the death of, serious injury to, or abuse of a child; an operational safety threat; and a disaster (such as a fire on the premises). A Ministry policy has added two more categories of serious occurrence: any situation where a child has gone missing and any complaint "by or about a child or any other serious occurrence that is considered serious in nature." Serious occurrences often involve medical services, children's aid and/or emergency services. The regulation also requires child care operators to develop written policies containing procedures for responding to serious occurrences and reporting them to the Ministry. From January 2009 through May 31, 2014, child care operators reported over 29,000 serious occurrences to the Ministry, as detailed in **Figure 8**.

More Timely and Complete Reporting of Serious Occurrences Required

We reviewed a sample of complaints that the Ministry had received from the public and identified that some described incidents that qualified as serious occurrences but had not been reported to the Ministry. These incidents involved, for example, children who had been left unattended and a child who had received a concussion while in the centre. As a result, we were concerned that operators are not reporting all serious occurrences to the Ministry.

Figure 8: Serious Occurrences Reported to the Ministry, by Type, 2009–2014

Source of data: Ministry of Education and municipal service managers

Serious Occurrence (Calendar Year)	2009	2010	2011	2012	2013	2014*	Total
Death of a child	2	0	3	0	1	0	6
Serious injury to a child	2,471	2,623	2,656	2,546	2,351	866	13,513
Abuse of a child	506	446	412	392	377	202	2,335
Fire or other disaster	978	747	1,289	656	1,154	267	5,091
Physical or safety standards	351	399	480	456	421	165	2,272
Missing child	420	467	437	428	383	150	2,285
Serious complaint	708	603	685	628	698	608	3,930
Total	5,436	5,285	5,962	5,106	5,385	2,258	29,432

*To May 31, 2014.

For each incident, the operator must post a serious occurrence notification form in the child care centre or private-home day care. Operators also must submit a notification report that includes a description of the occurrence within 24 hours. Ministry policy states that the 24-hour clock starts when child care staff become aware of an incident or when they deem the incident to be serious (called the “deemed date”). We assessed the incident date, deemed date and the notification date of a sample of serious occurrences and found that for almost 50% of the cases reviewed, the deemed date was identical to the notification date, even though the incident had occurred, on average, seven days earlier. For an additional 30% of our sample, the occurrence was reported an average of six days after having been deemed to be serious, including a case of alleged physical abuse by child care staff that was witnessed by another staff member. For most of those cases, the program advisors told us that child care staff had not informed their supervisors about the occurrence in a timely manner, which resulted in the Ministry not being informed within 24 hours as required.

Within seven business days after an operator notifies the Ministry of a serious occurrence, the operator must submit an inquiry report. This report includes the current status of the situation and provides details of any proposed further action. For most of the serious occurrences we

reviewed, an inquiry report was submitted within seven business days as required. In fact, half of the inquiry reports were received on the same day as the notification reports.

Upon receiving the inquiry report, the Ministry assesses the operator’s actions to determine whether a further review should be undertaken. We noted that program advisors sometimes communicate with operators to obtain additional information about the serious occurrence so that they can determine whether the operator took appropriate action. However, the Ministry does not have specific guidelines to assist program advisors in determining how to investigate serious occurrences. By contrast, the Ministry’s complaints policy requires program advisors to perform a site visit within five business days of receiving a complaint.

For occurrences that suggest a child is in need of protection or has suffered abuse, other authorities such as the police, children’s aid and public health may be involved. These authorities usually conduct an investigation and then the Ministry is required to follow up to determine if there are any related child care concerns. We reviewed several cases involving other authorities and found that, at times, program advisors had followed up solely with the child care operator to determine the outcome of an investigation. For example, in two of the cases where a child died, the operator informed the advisor that the child had stopped breathing. The advisor did not

know the actual cause of death or whether any child care weaknesses might have been contributing factors. Although the Ministry investigates such incidents, it is not always informed of the results of investigations done by other authorities. In April 2014, one of the regional offices visited signed a protocol with the local children's aid society to enhance communication, collaboration and co-ordination. Establishing similar protocols with such authorities would assist regional offices in obtaining reliable information regarding the outcome of any investigations and thus might not only prevent duplication of efforts but provide insight to reduce the risk of future serious occurrences.

Serious Occurrence Process Not Used Effectively to Help Ensure Quality Care

During inspections, program advisors are supposed to verify that operators have serious occurrence policies in place that contain all of the ministry requirements. However, we found that many of the operator policies we reviewed did not include all ministry policy requirements. For example, some did not include the requirements to submit an enquiry report within seven days, notify the coroner in the event of death, contact children's aid if there is suspected abuse and report all incidents to a designated staff member. Some operator policies did not even identify the seven serious occurrence categories. Consequently, we concluded that program advisors were not adequately reviewing operator serious occurrence policies during inspections.

Ministry policy and legislation are quite specific as to what constitutes a serious occurrence. However, we identified a number of incidents that did not meet the legislative and ministry definition of a serious occurrence. For example, we noted cases where a child was hurt and had first aid applied but the injuries were minor. To report such incidents as serious not only causes unnecessary work for both ministry and child care staff but also distorts the overall picture of serious occurrences. We noted a best practice implemented by one operator whereby

staff were required to sign and date a declaration that they are aware of the serious occurrence policy, that they will follow the outlined procedures and that the policy will be reviewed with them on an annual basis.

Child care operators are required to complete an annual summary report of their serious occurrences by type, and program advisors are expected to review this report during inspections. However, the inspection checklist does not include a question to prompt program advisors to perform this procedure, and we did not observe any advisors doing so during the inspection visits we attended. The Ministry has stated that such serious occurrence reporting provides an effective means of monitoring the appropriateness and quality of service delivery. However, we found that advisors do not analyze serious occurrences at the operator level to help identify concerns about the quality of child care being delivered. We selected a sample of serious occurrences, where sufficient information was available and noted that a few operators had over 50 occurrences since 2009, as shown in **Figure 9**.

Operators are required to post a Serious Occurrence Notification Form in a conspicuous place near

Figure 9: Number of Serious Occurrences per Operator, 2009–2014¹

Source of data: Ministry of Education and municipal service managers

# of Serious Occurrences per Operator	# of Operators	Total # of Serious Occurrences
More than 50	9	634
41-50	18	786
31-40	40	1,396
21-30	169	4,123
11-20	572	8,226
6-10	863	6,593
1-5	3,059	7,052
Unknown ²	—	622
Total	4,730³	29,432

1. To May 31, 2014.

2. Insufficient information was available to categorize these serious occurrences.

3. Does not include all operators, because some did not have any serious occurrences on record.

an entrance commonly used by parents. This form is to provide a brief description of the incident; the date, time and place of the occurrence; the action taken by the operator; and any long-term plans to minimize the likelihood of a future recurrence. The purpose of this notification is to provide parents with information about serious occurrences that happen at the facility their child attends. We noted a complaint from a parent stating that notification forms were not being posted. Program advisors told us that notification forms are to be retained on file and are reviewed during licensing inspections. However, since there is no online posting of serious occurrences on the Ministry's child care website, program advisors may not be able to verify that the form is actually posted unless they make a site visit.

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;
- 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;
- take more effective action against operators that do not comply with legislated reporting requirements, including those that do not properly report serious occurrences;
- consider developing protocols with other investigative authorities to share information;
- analyze serious occurrences by operator to identify any potential operator or systemic concerns; and
- consider posting serious occurrences online where parents can readily access them.

MINISTRY RESPONSE

The Ministry has recently implemented a range of improvements related to serious occurrences, including a comprehensive review, now under way, of its policy (Serious Occurrence Reporting Procedure) for licensed child care programs. This review included an analysis of serious occurrence categories, definitions and reporting procedures. On the basis of this analysis, as well as on feedback from child care stakeholders, the Ministry will update its policy and internal licensing directive. Training on the new policy and directive will be conducted on serious occurrence reporting for operators and on serious occurrence investigation and follow-up for ministry staff.

The CCLS has introduced a standard process for documenting ministry serious occurrence follow-up activities. This will provide program advisors with a view of the child care operator's serious occurrence history to identify patterns and assist in the follow-up.

The new legislation, if passed, would provide a range of new and enhanced enforcement options that could be used to take effective action against operators that are in contravention of legislative and regulatory requirements, including requirements to properly report serious occurrences. The new and enhanced enforcement options include compliance, protection and restraining orders, and administrative penalties.

The Ministry has met with the ministries of Children and Youth Services, Health and Long-Term Care, Municipal Affairs and Housing, and Community Safety and Correctional Services regarding sharing information relating to concerns about licensed child care programs. The Ministry is also working with the Office of the Chief Coroner to explore a process for information sharing on child deaths in child care settings.

In addition, if passed, Bill 10 would set out those persons designated by regulation (these could include public health officials and children's aid society officials) who have a duty to report when they observe in the course of their employment any situations where a child's safety is at risk. The proposed legislation will also provide clarity regarding the collection and sharing of personal information for specified purposes, including ensuring compliance with the Act and regulations.

Serious occurrence notification forms are posted in day nurseries and private-home day care locations for a minimum of 10 business days. The Ministry is currently considering options for posting serious occurrence information online.

Complaints

Most complaints received by the Ministry about child care operators come from parents or child care staff. The Ministry does not track or analyze the types of complaints received but we determined that the majority of the complaints relate to insufficient staff given the number of children present; unsupervised children; the cleanliness of child care facilities; and allegations of abusive staff behaviour. The Ministry considers complaints from the public to be an important aid in enforcing the *Day Nurseries Act*. As shown in **Figure 10**, the Ministry received a total of almost 2,300 complaints over five years from January 1, 2009, to May 31, 2014.

According to Ministry policy, when a complaint is received, program advisors are required to contact complainants within three days to inform them that an investigation will be conducted. Within five days of receiving the complaint, the program advisor must investigate by conducting an unannounced site visit to verify the substance of the complaint and to address any concerns that may warrant attention. Any decision to investigate complaints by another means must be approved and documented by the

regional manager. When an investigation has been completed, a letter is to be sent to the complainant advising that the Ministry has followed up on their concerns. As the final step in the complaints process, regional managers review the actions taken by the program advisors to ensure that complaints are being investigated properly.

When we reviewed a sample of complaints received by the Ministry, we found that the majority of the complaints had been acknowledged immediately, because they were received over the telephone and most were investigated with a site visit within the required five business days. Complaints received by email or letter were also responded to within the required time frame. However, in almost all cases advisors did not contact the complainant as required after the investigation had been completed.

We reviewed several complaints from child care employees about centres that did not have enough staff given the age and number of children present at a particular time. Other complaints made by child care staff noted that operators had been falsifying work records to appear compliant with staff-to-children ratios. Given the nature of and potential risk posed by such complaints, inspections may not effectively detect such conditions if, as previously noted, the timing of those inspections is predictable. Therefore, more frequent unannounced site visits may be warranted to reintroduce the element of surprise into the Ministry's oversight process.

Figure 10: Number of Complaints Received by the Ministry, 2009–2014

Source of data: Ministry of Education

Calendar Year	# of Complaints
2009	434
2010	451
2011	334
2012	272
2013	528
2014*	266
Total	2,285

*To May 31, 2014.

From the complaints we reviewed, we found that the average time between the program advisor completing an investigation and the required regional manager review was approximately 150 days. The timing of this review ranged from immediately after the program advisor's investigation was complete to over 500 days later. Untimely review may result in delaying the regional manager's assessment of the program advisor's actions, which could in turn delay necessary corrective actions aimed at reducing threats to child health and safety.

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

MINISTRY RESPONSE

The Ministry is updating its internal licensing directive regarding the procedures for responding to complaints about licensed child care providers. The directive will be informed by internal file reviews and will include performance standards for follow-up, management review and communication with the complainant.

The Ministry is also developing a new module in the CCLS where regional offices will manage licensed complaints. The new module will establish a consistent business process for dealing with complaints and will enhance the Ministry's capacity to conduct data analysis to identify trends and emerging issues.

Training on the updated directive and new CCLS module will be conducted in November 2014.