promoting high quality early childhood education and care services: beyond risk management, performatve constructions of regulation
Marianne Fenech and Jennifer Sumson
Journal of Early Childhood Research 2007 5: 263
DOI: 10.1177/1476718X07080472

The online version of this article can be found at:
http://ecr.sagepub.com/content/5/3/263
 whilst regulation is utilized by governments in Australia and internationally as a means of promoting quality standards in early childhood education and care (ECEC) services, a growing body of literature is critical of the detrimental effect of this regulation. Drawing on our investigation into early childhood teachers' perceptions of the impact of regulation on quality practices we suggest that the way regulation is constructed limits its capacity to effect high quality standards. After problematizing the use of risk management and performative constructs of regulation, we call for regulatory reform that transcends these dominant constructions. We contend that a transformed system of regulatory accountability underpinned by notions of 'a decent and non-humiliating society', socially just policies and professional trust presents as a useful way forward.

**KEYWORDS** accreditation, childcare policy, long day care, quality care, regulation
insulting to the whole notion of what the environment is for young children ... A safe environment is one that has as many qualified staff as you can find, all being attentive and engaged with the children in the outdoor environment and who understand the risks that the environment can have but who at the same time ... [enable children to take] appropriate risks. (Ros, a university qualified early childhood teacher)

Introduction

Quality early childhood education and care (ECEC) services are increasingly seen by governments in OECD countries as essential to economic and social objectives, in particular, employment, health and educational outcomes (Neuman, 2005). To this end, ECEC services are sites of varying and often intensive government regulation (Gormley, 2000; Osgood, 2004); regulation being the controlling of services through rules, sanctions, rewards and punishments (Gore, 1998) as a means to promote and safeguard quality standards. A small but growing body of Australian and international literature, however, has problematized the impact of regulation on quality in ECEC services. Concerns raised by this literature include a narrowing and normalizing of what constitutes quality and professional practice to a prescribed, technical list of practices and outcomes (Cannella, 1997; Dahlberg and Moss, 2005; Grieshaber, 2002; Osgood, 2004, 2006); a constraining of teachers' autonomy in their professional decision-making (Grieshaber, 2000; Hatch, 2002a); a use of child observations to primarily satisfy external audiences (Grieshaber et al., 2000; Hatch and Grieshaber, 2002); and a perception by teachers that administrative requirements are time consuming, unnecessary, and of limited benefit to children or staff (Duncan, 2004; Novinger and O'Brien, 2003).

These concerns raise questions that provide the focus of this article. Do these concerns arise from a particular construction of regulation? How might the limitations of current systems of regulation be addressed? How might government ECEC policy more effectively promote high quality standards in long day care (LDC)? What reforms might early childhood teachers advocate for?

We approach these questions from the perspective that whilst the current regulation of ECEC services may be regarded as problematic, regulatory accountability can be of benefit to children and early childhood teachers. Therefore, we do not propose a deregulation of ECEC services. We do, however, believe that it is important to consider these questions given the potential costs to quality standards and practices that may arise from policy decisions – in this instance, to do with the regulation of ECEC services – that are ‘ill informed, ill considered, or otherwise made on dubious grounds’ (Sumsion, 2006a: 99–100).

In the first half of this article, we consider these questions using the regulatory environment overseeing LDC centres in New South Wales (NSW), Australia, as a case in point. We begin by over viewing the provision of ECEC services in Australia and the way LDC services in NSW are regulated. Next, we show how...
findings from our investigation into early childhood teachers' perceptions of the impact of regulation on their professional practice and quality care support. A growing body of Australian and international literature problematizes regulation as an effective means of assuring quality in children's services. Then, adopting a Foucauldian perspective, we suggest that the regulatory environment in NSW is constructed as a tool of governmentality (Foucault, 1991 [1978]), embedded in performative and risk management discourses, as the excerpt from Ros at the beginning of this article suggests. We argue that because these constructions of regulation provide a narrow and limiting approach to how teachers might view, promote and safeguard quality standards in ECEC services, they need to be transcended through regulatory reform.

The second half of this article focuses on how LDC centres, and ECEC services in general, might be otherwise regulated. As a springboard to considering possibilities for change to the regulatory environment in NSW and more broadly, we report the reforms proposed by the early childhood teachers in our study. We analyse their suggested reforms through a Foucauldian lens, and contend that whilst these proposals may lead to some improvements in facilitating quality standards, teachers' suggested 'ways forward' do not, on the whole, allow for current power relations inherent in the current regulatory environment to be transformed. Drawing on the critical views of three participants in our study, we move on to consider possibilities for change that transcend 'existing political, social, and economic frames of reference' (Sumson, 2006b: 7). In particular, and as alluded to earlier by Ros, we consider notions of a decent non-humiliating society (Margalit, 1996), socially just policies (Wishart et al., 2006) and professional trust (Power, 1994, 1997, 2004) as platforms for alternative regulatory systems. Finally, as a means of adding impetus to the establishing of reconceptualized regulatory environments for ECEC services, we conclude by raising three possible future research directions.

the provision of LDC services in NSW, Australia

LDC centres operate for a minimum 10 hours a day, 48 weeks of the year (Press and Hayes, 2000). NSW is the only Australian state that requires three or four year university qualified early childhood teachers to be employed in LDC centres (Press, 2006). This requirement, however, only applies to centres that are licensed for 30 or more children, and the number of early childhood teachers that must be employed is dependent on the number of children attending the centre. Staff in NSW LDC centres, therefore, comprise at least one, and up to three, of the following: early childhood teachers, child care workers with tertiary level qualifications at diploma level following two years of study at a technical college, and staff with no specific early childhood qualification.
Approximately 66 per cent of all LDC centres across Australia are private (for profit) centres (Commonwealth of Australia, 2005), owned and operated as stand-alone centres, small chains, or by corporations listed on the Australian Stock Exchange. ABC Learning, a major corporate childcare provider, currently comprises approximately 18 per cent of all LDC centres in Australia (ABC Learning Centres Limited, 2006; National Childcare Accreditation Council, 2006b). How the increasing corporatization of LDC might impact on regulations and quality standards and practices, is an issue of much conjecture in the Australian literature (Goodfellow, 2005; Kilderry, 2006; Press and Woodrow, 2005; Sumsion, 2006a).

the regulation of LDC centres in NSW

All LDC centres in NSW are required to operate in accordance with up to 86 legal, statutory, and other regulatory requirements. At the forefront of this regulatory environment are the NSW Children’s Services Regulation 2004 (NSW Department of Community Services, 2004), which encompasses 53 requirements, and the national Quality Improvement and Accreditation System (National Childcare Accreditation Council, 2005a). The number of requirements early childhood teachers working in LDC in NSW are required to comply with is dependent on their particular role. Specifically, teachers employed in management positions are accountable for a greater number of requirements than staff with teaching responsibilities only.

Administered by the Department of Community Services (DoCS), the Children’s Services Regulation (hereafter referred to as the Regulation) aims to ‘ensure the safety, welfare and wellbeing of children in children's services’ (Dawson, 2004). The Regulation establishes minimum structural standards such as teacher qualifications, child/staff ratios, group sizes, and building and property specifications which LDC centres must fulfil in order to have their licence granted or renewed. Licenses are granted for a period of three years, with interim spot checks conducted by the Department’s Children’s Services Advisors.

Supplementing the Regulation is the national system of quality assurance, the Quality Improvement and Accreditation System (QIAS). Whilst not compulsory, centres are compelled to participate in this system as parent eligibility for Federal government fee subsidies and tax rebates is dependent on the centre their child attends having accredited status. Currently, 97 per cent of LDC centres across Australia are accredited (National Childcare Accreditation Council, 2006a).

QIAS aims to ‘provide children in centre-based care throughout Australia with high quality care that best promotes their learning and development in the vital
early years' (National Childcare Accreditation Council, 2005a: 3). Designed to supplement the base level of quality set in state regulations, QIAS addresses process quality, or the quality of children's experiences whilst in care. Currently QIAS encompasses seven quality areas: staff relationships with children and peers; partnerships with families; programming and evaluation; children's experiences and learning; protective care and safety; health, nutrition and well-being; and managing to support quality (National Childcare Accreditation Council, 2005a). Each quality area is reflected by key principles which are quantified by a substantial list of 708 indicators that centres must prove they are meeting. Centres are required to undergo a process of self-reflection and external validation every two and a half years. Those centres that are deemed to meet ‘a composite rating of Satisfactory or higher on all seven quality areas' (National Childcare Accreditation Council, 2005b: 2) are accredited.

In the following section, we problematize the positing of this two-tiered system of regulation in government discourses as a necessary and effective mechanism of quality assurance. First, we briefly outline concerns raised by early childhood teachers who participated in a study aimed at investigating teacher perceptions of the impact of regulation on quality and professional practice. We then locate these findings in a Foucauldian perspective, suggesting that as regulatory systems underpinned by risk management and performative discourses, the Regulation and QIAS may be seen as tools of governmentality, and thus limited in the extent to which they are able to promote quality in LDC centres.

**problematizing the regulation of LDC centres in NSW**

**teacher perceptions of the impact of regulation**

In a three-year study, we adopted a mixed methods approach to investigate how university qualified teachers working in LDC in NSW perceived regulation to impact on their professional practice and provision of quality care. Data were generated through a state-wide survey completed by 212 respondents; seven focus group discussions comprising a total of 54 participants; and two rounds of in-depth interviews with 16 early childhood teachers. Whilst survey and focus group participants to some extent viewed QIAS and the Regulation as facilitators of quality practices (Fenech et al., 2006, 2007), they also were mixed in their views as to whether these regulatory systems fulfilled their respective intentions. Many participants suggested that in its current form and in the way it is applied, this two-tiered regulatory framework appears limited in its capacity to promote and safeguard quality and may in fact be impeding quality. Specific concerns pertained first, to participants’ perceptions of the regulatory environment's unfulfilled intentions, such as the Regulation's inadequate structural standards
and QIAS's simplistic and technical approach to quality. Second, participants perceived the regulatory environment to generate unintended spillover effects, in particular, a constraining of teachers' professional autonomy, a detrimental impact on teachers' time, and excessive risk management teaching practices that compromise children's quality experiences.

**a Foucauldian perspective: risk management and performative constructions of regulation**

Gormley (2000: 56) asserts that regulation can ‘take different forms’. From a Foucauldian, social constructionist perspective, we suggest that the perceptions of teachers in our study, in terms of the benefits and deleterious effects of regulation, are owing to the ‘form’ the regulatory environment in NSW takes. In particular, we suggest that the perceived impact of regulation is owing to its construction as a tool of governmentality (Foucault, 1991 [1978]). That is, in many respects we see regulation as a tactic by which governments efficiently structure the ‘possible field of action of others’ (Foucault, 1983: 221) – in this case early childhood teachers, children and the general public – so as to meet their own interests (e.g. to be seen as ‘doing something’ about quality in ECEC services) whilst at the same time, averting threats to these interests (Ball, 1990; Rose, 1999). As such, the regulatory environment may well facilitate quality standards in LDC centres, but its capacity to do so is dependent on state interests.

In conceptualizing regulation as a tool of governmentality, we see the regulatory environment in NSW constructed around two sets of discourses, both of which can limit the capacity of regulation to promote and safeguard quality standards in ECEC services. The first is to do with risk management discourses. As we have argued elsewhere (Fenech et al., under review), under the guise of mitigating risks to children in care, regulatory frameworks in NSW seemingly remain subordinate to securing state interests and meeting the state's own institutional risks. As such, we have suggested that this construction of regulation can compromise high quality standards of care, privilege institutional risks over risks to children, and generate its own threats to high quality standards in ECEC services.

Secondly, as a tool of governmentality, we see regulation as a manifestation of ‘performativity’ discourses (Ball, 2003). Ball uses the term ‘performativity’ to mean:

>a technology, a culture and a mode of regulation that employs judgements, comparisons and displays as means of incentive, control, attrition and change – based on rewards and sanctions (both material and symbolic). The performances (of individual subjects or organizations) serve as measures of productivity or output, or displays of ‘quality’, or ‘moments’ of promotion or inspection. As such they stand for, encapsulate or represent the worth, quality or value of an individual or organization within a field
The issue of who controls the field of judgement is crucial. (Ball, 2003: 216, emphasis added)

The concerns raised by teachers in our study pertaining to the constraining impact of regulation, in particular, on their professional autonomy and decision-making, suggests that in the existing NSW regulatory environment, control over ‘the field of judgement’ lies with the state and its regulatory bodies. This can be problematic for the provision of high quality in LDC centres, with some early childhood teachers in our study (Fenech and Sumsion, 2007; Fenech et al., 2006) perceiving the regulatory environment, QIAS in particular, to confine quality to technical practices (Moss, 2006).

From a governmentality perspective then, and in light of our findings and the concerns about regulation raised in the literature, we suggest that regulatory reform is needed so that quality in ECEC services can be more actively promoted. Further, we propose that this reform be situated in discourses that counter the privileging of risk management and performativity constructions. We anticipate that regulation underpinned by alternative discourses could provide spaces to allow and enable teachers to exercise power so they may be more of a dominant player in determining ‘the field of judgement’ that Ball (2003: 216) speaks of.

As a springboard to considering possibilities for change to the regulatory environment in NSW and more broadly, we report early childhood teachers' suggestions concerning regulatory reforms. Mindful of the disciplinary, self-regulating power of regulation (Foucault, 1977) we suggest that whilst teachers' proposals may lead to some improvements in facilitating quality standards, their suggested ‘ways forward’ do not, on the whole, appear to move away from a risk management, performatory construction of regulation. In the final part of this article, then, we consider possibilities for change that transcend ‘existing political, social, and economic frames of reference’ (Sumsion, 2006b: 7).

**teacher perceptions of an improved system of regulation**

As part of our study of early childhood teachers’ perceptions of the impact of regulation in LDC, we investigated participants' views on whether they perceived the current two-tiered system required changes, and if so, what these changes might entail. Data presented in this section are drawn from survey findings pertaining to these questions.

Surveys were distributed to 1683 LDC centres across NSW (94% of all centres). Respondents were eligible to participate if they had a university teaching qualification and were working in a position that involved both management and teaching responsibilities.

A total of 212 completed eligible surveys were returned. For several reasons, it is difficult to ascertain what response rate this represents. Findings, therefore, need
to be read in light of responses being from a small group of qualified, generally experienced early childhood teachers working predominantly in management positions in not-for-profit centres.

Of the 206 respondents who noted whether they wanted changes made to the regulatory environment, 187 (83%) wanted at least ‘some’ changes made. In an open question about suggested changes, 133 respondents offered at least one suggestion. The six most common suggestions are discussed below.

The most common reform suggested by respondents was to strengthen the Regulation's structural standards on staff–child ratios, group sizes and teacher qualifications (n = 66). This suggestion is consistent with what Australian policy analysts such as Press (2006) advocate, given that NSW standards in each of these areas are below nationally and internationally recommended standards. A two-tiered regulatory framework underpinned by robust standards presents as an important reform that can better promote structural standards of quality in ECEC services. As international research (e.g. Phillips et al., 2000; Phillipsen et al., 1997) has shown, regulations with strong structural standards can enhance the quality of care provided in ECEC settings. Further, based on findings from our study (Fenech and Sumsion, 2007) that point to current structural standards impeding teachers' capacity to critically reflect on their practice, we see that a Regulation that decreases staff–child ratios, reduces group sizes, and requires more university qualified teachers in ECEC settings may facilitate teachers' capacity to practice in less technical, performative ways.

Three other suggestions made by respondents—streamlining regulatory requirements to minimize paperwork (n = 49), giving teachers greater autonomy in their decision-making (n = 33), and regulatory bodies supporting and working more collaboratively with early childhood teachers (n = 22) – also appear to have scope to promote quality practices and to affect ‘who controls the field of judgement’ (Ball, 2003: 216) about what these quality practices might look like. Relieving early childhood teachers of perceived excessive documentation requirements could address levels of job dissatisfaction and turnover rates that may emanate from a perceived regulatory burden and which, as adult-work quality dimensions (Goelman et al., 2000), can adversely affect quality practices. More fundamentally, this reform could also mitigate the potential of regulation to keep early childhood teachers ‘productive’ and ‘docile’ (Foucault, 1977; Grieshaber, 2002). Giving teachers greater professional autonomy, in their practice and in their capacity to collaboratively engage with regulatory bodies, seems crucial to regulatory reform. We suggest, however, that to be effective, these proposals would need to be located in a regulatory framework that was underpinned by discourses other than risk management and performativity, which we discuss in the following section of this article.
Other suggestions made by respondents were for regulatory bodies to monitor and enforce requirements more stringently \((n = 31)\), and to interpret and enforce requirements with greater consistency \((n = 18)\). We acknowledge that these tighter controls may be regarded as necessary to monitor services perceived to be providing questionable quality practices. However, we are cautious of the potential impact of such increased surveillance on LDC centres generally. We are concerned that these initiatives may reinforce technical, performative constructions of quality, and entrench early childhood teachers as ‘the risk’ or ‘problem’ to be managed (Fenech et al., under review), whilst deflecting attention away from more fundamental, structural barriers to quality that continue to go unaddressed in successive government policies.

**reconceptualizing regulatory accountability: some possibilities**

Overall, we feel there is scope to move beyond participants’ suggestions and conceptualize alternative forms of regulatory accountability. In the remainder of this article, then, we take up Sumsion’s (2006b) notion of ‘critical imagination’ to propose alternative underpinnings for a regulatory environment that conceptualizes quality beyond performative and risk management constructions. To critically imagine is to challenge and think beyond privileged discourses, and to reframe current problems in ways that lead to greater equity and social justice (Sumsion, 2006b). Following Cannella’s (1997) approach of identifying value laden themes as foundations for transformation, we critically imagine a reconceptualized form of regulatory accountability based on three interrelated concepts: Margalit’s (1996) decent, non-humiliating society; Wishart et al.’s (2006) socially just management policies; and Power’s (1994, 1997, 2004) trust-based audit systems.

We use these ideas in particular because as we attempt to illustrate in the following sections, these ideas resonate in the critical but silenced voices of three highly experienced participants in our study – Sue, Ros and Maria. These teachers participated in the interview phase of our study and are widely regarded by their peers as innovative practitioners who provide high quality care. We chose to privilege their voices for several reasons. First, because of our speculation that concerns about the current form of regulation may be more prevalent than what was expressed in our study but for the disciplinary, self-regulating power of government discourses on teachers (Fenech and Sumsion, 2007). Second, because the approach of these three teachers to quality transcends the risk management, performative constructions inherent in the current regulatory environment. And third, by promoting their ‘subjugated knowledges’ (Foucault, 1980: 82), we might propose alternative discourses to underpin a transformed system of regulation.
regulation that reflects a decent, non-humiliating society

For Margalit, a ‘decent society’ is ‘a society whose institutions do not humiliate people’ (Margalit, 1996: 1), that is, the laws and practices of institutions convey respect to those under their jurisdiction and in this sense are ‘non-humiliating’. Margalit frames his notion of ‘a decent society’ in negative terms such as ‘non-humiliating’ out of a belief that a negative construction can generate a stronger compulsion to act (in the sense of doing something about an identified concern or problem) than a positive construction. Margalit describes multiple ways institutions can humiliate: when they do not honour human rights; when they cast a group of people as inferior or deficit; when they ‘corrupt’ a person’s integrity; when they objectify human beings and do not treat them as holistic beings; and when their bureaucracies take on a mechanistic quality, treating those under their authority uniformly. Whether representatives of an institution – for example, policy-makers and reviewers from regulatory bodies such as the National Childcare Accreditation Council (NCAC) and DoCS – intend to humiliate is a moot point for Margalit. The key concern is whether grounds can be made for humiliation, irrespective of the intent.

Margalit’s ideas resonate with the frustrations and concerns voiced by Sue, Ros and Maria. The regulatory environment appeared to humiliate these teachers and children in a multitude of ways, as the following excerpts suggest:

(i) Through an exploitation of early childhood teachers:

> It does wear thin and you do think – you look at the pay packet and you look at the expenditure of energy [that goes into meeting regulatory requirements] and you go, ‘There isn’t a match’. (Sue)

(ii) Through a uniform ‘lowest common denominator’ approach to quality standards and practices:

> Sue: The real problem, and it’s what QIAS and regs are trying to fix, is that lowest common denominator. Because that’s what NCAC say and that’s what regs say … they say ‘it’s not your kind of service that we worry about’.

> Interviewer: But you’re caught up in it.

> Sue: But we’re caught up in having to meet the same requirements as those people who have less tacit knowledge about children and the experiences that would benefit them.

(iii) Through teachers being evaluated by reviewers from regulatory bodies with less qualifications and experience:

> Someone with a two years’ qualification [from NCAC] – how dare they judge me and our practice here! (Ros)

(iv) Through the regulatory environment’s deficit viewing of children and its compromising of children’s rights:
I think that there's some expectation on the part of [reviewers from regulatory bodies] that there is a written record of development which means for some, they then have to be accountable for planning for language as separate entities. For me, I think that really compromises how we perceive and see children and certainly that's not something I'm in favour of. There needs to be a celebration of the fact that children's potentials and their strengths and competence support their development of areas in which they are still emerging. (Maria)

I think [the Regulation] is more about self protection than it is about protection for the children really. I think regulations are about child protection but I also think that the interpretation of those are very much about ensuring 'I'm not compromised'. And that alarms me because the rights of the child are being diminished by the rights of the adults. And then you're moving back into an adult agenda as opposed to a collaborative agenda. (Maria)

(v) Through a diminishing of the complexities that constitute quality ECEC:

I think everyone now just gets the Validator's report and makes sure their cords are away and does all that sort of stuff and ticks off the boxes and if you acquiesce to absolutely everything, the upshot is no one can question whatever. You find a bilingual poster and you stick it on the wall for the occasion. You know, it just diminishes! I find that whole process somewhat insulting. (Maria)

These views of Sue, Ros and Maria remind us of the concerns raised by many participants in our study that the regulatory environment is perceived to constrain teachers' professional autonomy and judgement, devalue and undermine their professional expertise, and adopt a narrow, one-size-fits-all approach to quality. It seems feasible to postulate, then, that many teachers in LDC may experience one if not more aspects of the regulatory environment as humiliating. Reflecting on our conceptualizing of regulation as a tool of governmentality, we are reminded of Cannella's (1997: 148) thoughts on government regulation, that 'the creation of teachers as agents of the state cannot be separated from the view that women are not competent or sophisticated enough to control their own behaviour'.

How then might current regulatory systems be transformed so as to be non-humiliating? The views of Maria and Sue, articulated in the excerpts below, provide some worthwhile ideas. These ideas pertain to a system of regulatory accountability that begins to move away from risk management and performative discourses. It is a system that allows for and acknowledges multiple approaches to quality practices, in which collaboration, discussion, mentoring, and teachers' expertise are valued.

I want an opportunity to celebrate the quality of the service. The innovative practice that's happening. All that sort of stuff. And in some way, shape, or form, to be able to be the recipient of new and interesting ideas, as well as to be sharing some perspectives about what our service is great at and this is the way we do things to connect with families, or whatever it may be. (Maria)
It is important to have accountability frameworks but not to the extent that they impact on your practice. I think that there should be two phases ... Why should we have to acquiesce to the lowest common denominator? Why can't they have, for centres where there are early childhood teachers and more qualified staff than trainees, a different version? ... There has to be a better way for us to be able to articulate our work in a better framework. Because there is no room to talk about it properly or comprehensively. (Sue)

These excerpts allow us to begin to imagine what a non-humiliating regulatory environment might look like. In the following section, we build on these ideas by again drawing on the views of Ros, Maria and Sue to consider Wishart et al.'s (2006) notion of socially just-based policies.

regulation that is socially just

Wishart et al.'s (2006) critique of ‘youth at risk’ policy discourse corresponds with our problematization of regulatory discourse in that both discourses emanate from social control policy interventions. According to Wishart et al., social control policy models accentuate individual pathologies in their construction and management of societal risks. Applying this idea to the ECEC context, social control driven policies may infer that without regulation, children are at risk because given the information asymmetry parents face about quality ECEC services (Gormley, 2000), early childhood teachers cannot necessarily be trusted to provide high quality care.

It is not our intention to romanticize the commitment and capacity of all early childhood teachers to provide quality standards of ECEC, or to devalue the role regulation can play in addressing risks to children posed by centres in which children's well-being is compromised. However, we do not regard a regulatory environment based on social control agendas as illustrative of ‘a decent society’. Such an approach, we believe, has the potential to shift regulatory requirements to the lowest common denominator, as Sue alluded to earlier. That is, in establishing regulatory requirements and processes that specifically target early childhood teachers who may be compromising children’s well-being, regulation can thwart the vision and innovation of those teachers committed to high standards of ECEC. This is because these teachers are subject to the same requirements as those whose practices are perceived to be problematic.

More fundamentally, a social control approach to regulation can deflect attention away from contextual factors that inhibit quality practices. Sue, Maria and Ros made numerous references to what they perceived to be contextual barriers to quality, as the following quotes illustrate:

(i) A devaluing of early childhood teachers:

The notion of audit trails reflects the need for band-aids. QIAS is down to ensuring the least possible damage, which is a reflection of the move away from professional
and qualified staff to trainees and contract staff and minimal qualified staff being able to pass. (Sue)

(ii) Poor working conditions:

What are the changes that I would like to see? That there aren't trainees who are being exploited being paid $17,000 and working full jobs and studying. That the pay is reflective of the jobs that you've got and the responsibilities that you have. (Sue)

(iii) Government policy that is conducive to a growth of corporate LDC centres:

I think that at some point when we decided it was OK to be vying for children on the stock exchange something's gone a little haywire. And that alarms me. (Maria)

(iv) Regulatory systems that do not incorporate robust structural standards:

If you have high qualified staff, low group numbers, high staff ratios and established staff you can be pretty assured that what's going on is good. Now, QIAS never mentions this ... (Ros)

Social justice-based policies take a macro-approach to risk (Wishart et al., 2006). In the ECEC context, such a model of regulatory and more general ECEC policy would address the contextual barriers to quality such as those identified by Ros, Maria and Sue. Adopting a social justice rather than a social control model of accountability appears to provide scope for an alternative, non-humiliating positioning of early childhood teachers and a more respectful regard for children because this policy model seemingly allows for a fundamental, structural addressing of barriers to quality standards. Social justice policy models appear contrary to a governmentality approach to regulation, which as we discussed earlier, sees the addressing of quality issues in ECEC as contingent on state interests. From a social justice perspective, we imagine a system of regulation that is located in an integrated ECEC policy approach whereby governments take greater responsibility and are as accountable as early childhood teachers for quality in ECEC services.

We imagine that moving away from social control policy agendas that can humiliate to social justice models that are non-humiliating and respectful would allow for a third aspect of what we envision in a transformed system of regulatory accountability: professional trust.

regulation that trusts

In his critique of the rise of the ‘audit society’ in Britain, Power (1994, 1997, 2004) maintains that accountability systems attempt to manage risk through technologies of risk performativity. Power questions the effectiveness of this approach, arguing that they may do little more than produce ‘layers of pseudo-comfort about risk’ (Power, 2004: 50). More fundamentally, he argues that
there is an essential ‘pathology' (Power, 1997: 137) to this audit society, with the explosion of ‘checking' diminishing the place for ‘trusting'. Further, because such audit systems are predominantly characterized by external control, distrust and discipline, they shift the flow of power and displace public trust away from teachers to regulatory bodies and their accountability systems.

From our interviews with Ros, Maria and Sue, we see that similar claims can be made of the regulatory environment that currently oversees LDC centres in NSW. Whilst trust was integral to these teachers’ professional decision-making, they expressed frustration at having to conform to standardized regulations that devalued the place of trust in their professional practice:

[Working in a regulatory environment is] horrible. It’s utterly horrible. It’s distrustful of our professional knowledge and wisdom. It’s dismissive of our professional knowledge and wisdom … The regulatory environment, both QIAS and the Regulation tries to idiot proof the world. (Ros)

My concern is that there isn’t any room for negotiation … there has to be a standard for everyone … So the system is now set up for exactly that … [whereas in the past] your DoCS’ Advisor would get to know your centre staff, and what they were capable of, and build up a rapport and a trust in their work. (Sue)

Power (1997: 146) espouses alternative accountability mechanisms that have a preparedness for ‘discomfort' and are rooted in ‘a new political discourse of uncertainty' (Power, 2004: 57). By this he means regulatory frameworks that are based on trust:

A new politics of uncertainty must provide the necessary, if not sufficient, institutional conditions, for intelligent trust in expert judgement to flourish, and for the recovery and development of the idea of honest professional opinion. (Power, 2004: 63)

In other words, regulatory systems that trust will respect early childhood teachers with demonstrated high quality practices. These systems will reflect a confidence in these teachers' expertise, ethics and commitment, and provide greater scope for them to exercise autonomy, individually and within a team context, without requiring onerous monitoring and assessment accountabilities.

As a response to risk-constructed, performative modes of accountability, the call for greater trust to be invested in early childhood teachers, and teachers more broadly, is not new (e.g. Day, 2005; Frowe, 2005; Groundwater-Smith and Sachs, 2002). Nonetheless, we have located this idea as something to critically imagine because whilst there may be a general acceptance that trust is integral to being a professional and making professional judgements (Evetts, 2006; Frowe, 2005) we wonder what the idea of being trusted means to early childhood teachers. Do these teachers want the responsibility that comes with being trusted? On what basis do they perceive they ought to be trusted (if at all), and trusted to do what?
Being professional is a social construction and therefore offers multiple possibilities for how ‘trust’ may be interpreted and applied. For example, from a Foucauldian (1977) perspective, does the self-regulating, disciplinary power of a regulatory environment confine the notion of trust and professionalism to an adherence of truth-based, predefined regulatory requirements, and therefore a supposed demonstration of quality practices? Does it create teachers who are ‘politically neutral’ experts (Cannella, 1997: 143), whose ethical practices conform to a detached application of moral truths and technical practices (Dahlberg and Moss, 2005), and who operate as what Groundwater-Smith and Sachs (2002: 352) refer to as ‘the new entrepreneurial teacher professional … controlling and regulative, externally defined and standards led’?

Our vision for a transformed regulatory framework imagines trust and professionalism differently. Drawing on the socially just platform for teacher accountability discussed earlier, we envisage ECEC services as sites where professional trust is grounded in competent, university qualified teachers who engage in quality practices by autonomously and critically applying their knowledge and expertise with reference to socially just, political and ethical frames of reference in their decision-making (Cannella, 1997; Dahlberg and Moss, 2005). In other words, we see teachers placing greater trust in their and their team’s capacity to have an ‘active ethical practice’ (Dahlberg and Moss, 2005: 69), and for regulatory systems to trust teachers to act in this way. Dahlberg and Moss use the term ‘active ethical practice’ to mean teachers assuming responsibility for ‘facing and making choices, rather than following universal codes or laws’ (Dahlberg and Moss, 2005: 70).

The assumption here is that staff in ECEC teaching positions warrant being trusted and have the capacity and will to exercise professional judgements in the space that being trusted provides. As the following excerpts from Maria and Ros suggest, however, this assumption may be problematic because of teachers’ varying abilities and experience, and the variable contexts in which they work:

I can understand why the regs exist. But for me, [regulatory bodies] need to be recognizing the relationships that occur within the service, that these educators are constantly engaged and constantly supporting children in the way they interact with a range of resources so that in another service, that might not be safe. In this service, I trust my educators. But then there’s the cold blanket understanding that ‘but it’s in breach of the regs’. (Maria)

It’s just like going to the dentist who says that ‘I have just sterilized these instruments, would you sign off that you have seen me sterilize them?’ Trust? That’s his job … You’re narrowing the possibilities for yourself and for teachers in an appalling way by a regulatory environment that does not trust the teachers that work in it. But I wouldn’t trust an 18-year-old that’s working the seventh shift at [a corporate] centre. I wouldn’t trust them. I don’t know how you legislate for that not to happen. I don’t know how
you let a place like ours fly and soar and be at the cutting edge for early learning for young children and protect at the same time, children in [a corporate] centre where the curriculum is faxed to them and they have 18-year-olds on hourly rates. (Ros)

Maria and Ros's comments alert us to the potential dangers to quality standards that a blind placing of trust in early childhood teachers and other staff might bring. Advocating for greater trust in early childhood teachers should not be interpreted as a call for lax regulations or indeed, for ECEC services to be self-regulated. Rather, integral to a regulatory environment that trusts is a broader ECEC policy context that does not humiliate teachers and children in ECEC services and that addresses the contextual barriers to quality identified earlier in this article. We see that these three interrelated ideas collectively have the potential to underpin a transformed regulatory environment that could more actively and effectively promote and safeguard quality standards in ECEC services.

future research possibilities

As a way of gauging the feasibility of this transformed system of regulation, we end our article by proposing three future research directions. First, we propose that future studies investigate early childhood teachers’ views about a reconceptualized regulatory environment that moves away from risk management and performativity discourses towards non-humiliation, social justice and professional trust agendas. In our study, these ideas did not feature as key ‘ways forward’. Given the proliferation of performative regulatory discourses, opportunities for a process of conscientization (Freire, 1970), in which privileged truths about risk management and performativity discourses are problematized, may be pertinent. Critical and collaborative action research (Hatch, 2002b; Mac Naughton, 2005) may well present as a useful methodological tool for this purpose, given their potential to enable participants to critically reflect on and actively address the deleterious impact current regulatory systems have on their practice.

It also seems worth exploring the perceptions of reviewers from regulatory bodies such as NCAC and DoCS. Do they share the concerns teachers in our study raised about the deleterious impact of regulation? Do they work under similar constraints? To what extent, if at all, do they consider a transformed approach to regulation, one that better effects quality standards and practices, is needed? Would they affiliate with the ideas presented in this article as to what a transformed regulatory environment might look like? Existing research into the impact of regulation on ECEC services is largely confined to commentary, whilst the relatively small number of empirical studies appears to focus on teachers’ perspectives. Thus the perceptions of reviewers from regulatory bodies appears relatively unexplored.
Finally, on a broader policy level, given the diverse approaches with which OECD countries approach the governance of ECEC services (Gormley, 2000; Neuman, 2005), it seems worth investigating which of these approaches might be more conducive to a regulatory system that transcends current risk management and performativity constructions, and potentially lead to a more effective facilitation of quality practices. Neuman’s (2005) preliminary overview of three central dimensions of governance suggests that systems with integrated administrative auspices (that is, one auspice body overseeing care and education early childhood services), that are decentralized, and that are publicly provided may be more conducive to a transformed accountability framework. This proposition, however, requires further empirical research.

**Conclusion**

Foucault’s work attunes us to the idea that as a social construction, regulation that is premised on risk management and performativity discourses is neither given nor fixed. The current political climate in Australia that espouses the importance of quality ECEC appears to provide opportunities for early childhood teachers to agitate for transformed accountability mechanisms that address the deleterious impact regulation can have on their professional practice and their capacity to provide quality care. In this article, we have proposed three interrelated underpinnings for a transformed system of regulatory accountability: that it reflect a decent, non-humiliating society, that it emanate from a socially just policy platform and that it trust early childhood teachers who demonstrate high quality ECEC.

As a final point, we would like to reiterate that in this article we have sought to present possible alternatives to current regulatory frameworks, rather than advocate for a deregulation of ECEC services. We believe that there is a place for the regulation of ECEC services. However, whilst used primarily as a tool of governmentality, constructed in risk and performativity discourses that narrow the parameters of how quality is perceived, we suggest that regulation may well remain limited in its capacity to effect quality standards in ECEC services.

**Acknowledgements**

This article draws on doctoral research funded by the Australian Research Council. We gratefully acknowledge the financial and in-kind support of our industry partners, the Western Sydney Regional Organization of Councils and the NSW Independent Education Union. We acknowledge the contribution of Dr Joy Goodfellow who reviewed an earlier draft of this article.
notes

1. First, the number of eligible respondents – qualified teachers with both management and teaching responsibilities – in NSW LDC is unknown. Second, the database used to distribute the surveys included centres licensed for less than 30 places and which under the Regulation, are not required to employ a qualified teacher. Currently in NSW, this figure stands at 31 per cent of LDC centres (Jones, personal communication, 2005). Third, no data are kept on the distribution of qualified teachers across LDC centres in NSW. Census data show that only 12 per cent and 15 per cent of staff employed in private centres and community-based centres respectively have early childhood teaching qualifications (Commonwealth of Australia, 2005). Whilst these percentages translate to significant numbers of teaching staff – 1087 in private centres and 999 in community-based ones – the distribution of these staff across centres is not known.

2. Pseudonyms are used to maintain these teachers’ anonymity.

3. In this phase of the study, 16 early childhood teachers participated in two rounds of in-depth interviews. Further details on the methodology of this interview phase can be found in Fenech and Sumsion (in press).

References


**correspondence**

Marianne Fenech, Lecturer, Institute of Early Childhood, Macquarie University, NSW 2109, Australia. [email: marianne.fenech@aces.mq.edu.au]