



**EARLY LEARNING AND CARE  
COUNCIL OF AUSTRALIA**

# Early Learning and Care Council of Australia

Submission to the Senate Education and Employment  
Legislation Committee:

*Family Assistance Legislation Amendment (Building on the  
Child Care Package) Bill 2019*

September 2019

## **SUBMISSION TO THE SENATE EDUCATION AND EMPLOYMENT LEGISLATION COMMITTEE: FAMILY ASSISTANCE LEGISLATION AMENDMENT (BUILDING ON THE CHILD CARE PACKAGE) BILL 2019**

### **About ELACCA**

The Early Learning and Care Council of Australia (ELACCA) was incorporated in 2014 to promote the value of quality early learning and care as an integral part of Australia's education system. Our membership constitutes some of the largest early learning providers in the country from all parts of the sector, including both long day care (for-profit and not-for-profit providers) and community kindergartens/preschools.

As well as promoting the value of quality early learning and the need for greater public investment, we advocate the right of all children to access quality early learning and care, particularly children facing disadvantage. We do this by drawing on the broad knowledge and practical experience of our members and representing their views and issues to decision makers in government, the media and the public.

More information about ELACCA is available at: [www.elacca.org.au](http://www.elacca.org.au)

### **Summary**

ELACCA is grateful for the opportunity to provide advice to the Senate Committee on the proposed Family Assistance Legislation Amendment (Building on the Child Care Package) Bill 2019. Our members largely support the amendments in the Bill, which addresses some of the issues we have raised since the implementation of the new Child Care Package.

ELACCA welcomes many of the amendments that reduce administrative burden (i.e. red tape) for early learning and care providers and the families they support. However, more information is required regarding the subordinate legislation underpinning two proposed amendments and one proposed change is not supported.

### **Amendments supported**

1. Extending the timeframe for enrolments ceasing due to non-attendance from eight to 14 weeks

ELACCA supports and welcomes this amendment.

This is a positive change as it will reduce administrative burden for providers of vacation care and for multicultural families who have extended overseas travel.

2. Removing the 50 per cent limit on the number of children that a provider can self-certify for Additional Child Care Subsidy – Child Wellbeing

ELACCA supports and welcomes this amendment.

This is a positive change as it will resolve issues for services who enrol and support high numbers of children at risk of abuse or neglect, such as those located in low socioeconomic areas where vulnerability and disadvantage is more prevalent.

## Amendments supported with change/clarification

### 3. Treatment of third party payments in calculating CCS

ELACCA supports this amendment but requests that the Minister's Rules are drafted to be sufficiently broad so as to incorporate non-government organisations and philanthropic funds as third party co-contributors, as well as state and territory government fee subsidies.

According to the Explanatory Memorandum, this amendment is proposed to support the objective of acting in the best interests of the child, specifically in relation to breaking the cycle of poverty through access to quality child care. The Explanatory Memorandum also acknowledges that even a small co-contribution to child care fees can be a barrier to access for some families. There are a range of non-government organisations, support services, human services agencies and philanthropic organisations that support this objective by reducing or removing cost as a barrier to accessing early learning for children and families.

As drafted, the proposed legislative amendments are broad enough to include co-payments from such charities or social services agencies, subject to how 'prescribed payments' are defined in the subordinate legislation.

ELACCA therefore requests that the Minister's Rules, include the following criteria for endorsing charitable or philanthropic third party payments as payments prescribed by the Minister's rules in accordance with proposed new sub-clause 2(2A)(c) of Schedule 2 of the A New Tax System (Family Assistance) Act 1999:

- That the payment be for the purpose of reducing or eliminating out of pocket costs for vulnerable or disadvantaged children and families in accessing early learning; and
- That the party making the payment be a charitable or not for profit organisation or fund.

We are aware of only a small number of funds that would qualify under such criteria (such as the Early Learning Fund auspiced by the Benevolent Society, the Aboriginal and Torres Strait Islander scholarship fund auspiced by SDN) in addition to state and territory targeted preschool subsidies which have been identified in the Explanatory Memorandum accompanying the Bill.

### 4. Absences before and after physical attendance at a service

ELACCA supports this amendment, subject to further information about what will constitute 'specific circumstances' in the subordinate legislation.

The proposal to allow Child Care Subsidy (CCS) to be paid for legitimate, unplanned absences at the start or end of an enrolment is a positive change, as it will reduce the likelihood of families incurring debts for days where they are not CCS eligible.

ELACCA recommends the prescribed absences largely align with the existing provisions around Additional Absences<sup>1</sup> for CCS and ACCS but should also include public holidays and enrolment cancellation notice period (up to a maximum of two weeks).

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<sup>1</sup> Additional absences (CCS, ACCS) <https://guides.dss.gov.au/family-assistance-guide/1/1/a/17>

## **Amendments not supported**

### 5. Changes to the process for making a CCS claim

ELACCA does not support this amendment, as it does not achieve the objective of simplifying CCS claims for families. Rather, the proposed amendments will increase complexity and administrative burden for families.

Currently, families making a claim for CCS have 28 days to provide a Tax File Number (TFN) or bank account details. In the current legislation, the provision of this information is required for the individual's CCS claim to be effective, which affects their CCS eligibility. However, their eligibility is already verified, and this information is only required for the payment (and reconciliation) of subsidies. If the information is not provided within the 28 day window, a family is deemed CCS ineligible and may incur a debt with their provider.

The proposed changes may reduce administrative burden for the Department of Human Services but will *increase* the administrative burden for families. The reduced flexibility will have a disproportionately negative impact on families experiencing vulnerability or disadvantage, such as women and children escaping domestic and family violence who may not have ready access to their personal information.

ELACCA recommends that, in order to avoid confusion for families or families incurring debts, the provision of a TFN and bank account details should be separated so they are not required for a CCS claim to be effective and their late or non-provision does not impact a person's CCS eligibility. Further, ELACCA recommends that individuals have up to 3 months to provide this additional administrative information and that there is an option for administrative appeal, if this timeframe is not able to be met.

## **Amendments to be included in a second tranche of changes**

### 6. Changes to improve accessibility of Additional Child Care Subsidies (ACCS)

ELACCA has consistently highlighted its concerns regarding the current administration of ACCS, particularly in relation to ACCS Child Wellbeing, which supports children at risk of abuse or neglect.

ELACCA recommends that the following amendments be made as a priority, while a more fulsome review of ACCS is completed:

- a) Expanding provider eligible enrolment provisions to provide timely access and continuity of care for children at risk of abuse or neglect – at the very least, for children in out of home care.
- b) Extending the initial ACCS Child Wellbeing Certificate period from 6 weeks to 13 weeks.
- c) Increasing the period for CCS and ACCS back-payments to families from 28 days to 3 months. NB. This should be for all families receiving CCS but particularly for vulnerable families who are eligible for ACCS, at least in the first instance.
- d) All CCS and ACCS back-payments to be made to the provider in the first instance, for families who have applied for/are eligible for ACCS.
- e) Grant the Minister discretion to pronounce that all services in a declared disaster area can grant ACCS Temporary Financial Hardship for a set period following a natural disaster or weather event.

### 7. Ongoing affordability of access to child care and early learning

ELACCA supported the introduction of the Child Care Subsidy as it has improved affordability for most working families and reduced out of pocket costs. However, the inadequate indexation of income

thresholds and fee caps built into the legislation will erode these gains quite rapidly. Attention will need to be brought to bear on these issues in the coming years.

8. Access for children to early learning with a non-working parent

We continue to be concerned about the impact of the activity test on low income families, noting that Government modelling before the introduction of the Child Care Subsidy suggested up to 88,000 low income families would be worse off under the new system primarily because of the activity test. While early departmental data suggests that the proportion of families accessing CCS from low incomes has been higher than expected, the number of families accessing the 24 hour CCS low income entitlement has been lower than expected.

The Government has commissioned an evaluation of the Child Care Subsidy by a consortium led by the Australian Institute of Family Studies and we would urge the Government to pay very close attention to impacts on low income families with a non-working parent.

At the very least, we would recommend that the Government extend the activity test exemption for children attending centre-based early learning programs to the second year before school given the compelling evidence that this will significantly improve children's development, particularly for vulnerable and disadvantaged children<sup>2</sup> whose parents are more likely to not meet the requirements of the activity test<sup>3</sup>.

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<sup>2</sup> Deborah Brennan and Susan Pascoe (2018) *Lifting Our Game: Report of the Review to Achieve Educational Excellence in Australian Schools through Early Childhood Interventions* <https://education.nsw.gov.au/early-childhood-education/whats-happening-in-the-early-childhood-education-sector/lifting-our-game-report>

<sup>3</sup> Mitchell Institute (2016) *Two years of preschool is better than one* <http://www.mitchellinstitute.org.au/reports/two-years-preschool/>