

COALITION SENATORS' DISSENTING REPORT

Background to the inquiry

1.1 The issues of access to high quality and affordable child care are of serious concern to all members of the Australian community. To facilitate significant long term recommendations to ensure meaningful and significant reform a holistic thorough inquiry, at arm's length from government, is required. This would provide greater benefit to the early childhood education and care (ECEC) sector, families and the wider community.

1.2 The Productivity Commission (PC) inquiry is the first time an ECEC sector-wide review has been undertaken, and will provide a holistic view of the challenges facing the sector. Coalition senators are confident the PC inquiry will result in significant long term recommendations and eagerly await the final report.

1.3 Senate committees are not political footballs. They have scarce resources that should be employed to produce substantial, high quality reports based on extensive and comprehensive evidence gathering. Senate reports should be reputable, with high quality reference material that everyone in the policy arena can access with confidence.

1.4 Coalition senators are disappointed that some senators are increasingly finding it appropriate to either duplicate work being undertaken in other forums (for example, the PC inquiry) or to refer matters to committees and then disassociate from the inquiry, including failing to attend public hearings and walking out of public hearings while witnesses are giving evidence. Coalition senators do not believe this is an appropriate approach or the best use of committee time and resources.

National Quality Framework

1.5 Coalition senators recognise the importance of an affordable and high quality ECEC sector and support, in principle, the establishment of a unified national system regulating child care. The National Quality Framework (NQF) is a significant and necessary reform.

1.6 However, Labor's implementation of the regulatory system was excessively heavy-handed and has imposed a thousand new pages of regulations and guidelines on the sector, all of which providers must adhere to.¹

1.7 Coalition senators recognise that any new system will require a transitional period for measures to be 'bedded down'. Some issues can be addressed over time, or

1 For example: See ACECQA, *National Law*, <http://www.acecqa.gov.au/Article.aspx?pid=51&gcpid=2&acpid=372>, (accessed 8 July 2014); Senator the Hon Marise Payne, Minister for Human Services, *Senate Hansard*, 7 July 2014, p. 32.

through the provision of extra information and resources to ECEC service providers. However, there is evidence to suggest that the implementation of the NQF has been highly problematic, with areas of significant concern:

The staged implementation of these reforms has meant that, despite the 'national quality framework' label, the standards and regulatory frameworks are anything but national in practice in many instances. We have outlined a number of examples of this in our submissions. The rhetoric accompanying these reforms at the time was that the reforms would be backed by increased federal funding. This has not eventuated.²

1.8 Coalition senators note evidence presented by witnesses who argued the previous government had not provided enough support to services in their implementation of the NQF. Child Care New South Wales stated:

Whilst the National Quality Framework was brought out with amazingly good intentions and ideals about increasing quality, there was a cost impact. The rhetoric around the framework at the time was that the Rudd government would fund it: 'We are going to invest in early childhood to support these amazing changes that we are making.' That has not happened.³

1.9 Where serious issues are identified, they must be carefully considered and addressed to ensure the ECEC sector is supported in its work providing quality care to children. A system that means a service cannot comply with regulations, or is unable to be viable if it does comply, is not beneficial in the short or longer term.⁴ In these cases, implementation requirements and timeframes must be examined.

Diversity of services

1.10 The committee heard significant evidence from submitters that the ECEC is composed of many different operators offering varying types of early childhood education and care.⁵ This is especially true of services in regional, rural and remote Australia.

In small rural communities the Occasional care facility generally also runs the 3 year fun group and kinder. They are the hub of rural community life. Occasional care provides an introduction to the other services operating out of the facility and creates an opportunity for rural children to form friendships with [like-minded] children that can last right through

2 Ms Nesha O'Neil, President, Child Care New South Wales, *Proof Committee Hansard*, 23 May 2014, p. 1.

3 Ms Nesha O'Neil, President, Child Care New South Wales, *Proof Committee Hansard*, 23 May 2014, p. 8.

4 Ms Nesha O'Neil, President, Child Care New South Wales, *Proof Committee Hansard*, 23 May 2014, p. 1.

5 Department of Education, *Submission 23*, p. 1.

kindergarten and primary school. The closure of Occasional care would most likely see a break down in local community links.⁶

1.11 Regional, rural and remote service providers face considerable challenges in providing services to families and communities, due to a lack of qualified staff, child care facilities⁷ and the lack of occasional care in Communities. Coalition senators recognise that, in many regional, rural and remote communities, lack of access to occasional care has significant detrimental effects on families and communities,⁸ and in many cases Long Day Care (LDC) or Family Day Care (FDC) facilities are either unavailable or unviable.⁹

1.12 Coalition senators note that these challenges include providing additional support and options for disadvantaged and vulnerable children, where the provision of ECEC services is otherwise unviable:

We see quality early childhood places as a really incredibly powerful, protective feature for vulnerable children and families.¹⁰

1.13 A diverse range of childcare options need to be available to reflect the changing nature of family work patterns, while recognising challenges for some services in regional, rural and remote communities.

Managing the regulatory burden

1.14 Coalition senators note that some state and territory governments have already identified issues with the NQF and made amendments to assist services to meet the requirements of the system.¹¹ To ensure the highest quality outcome for parents, sufficient engagement between the ECEC sector and government is essential.

1.15 Delivering a new regulatory system without providing additional financial support has proved largely unsuccessful.¹² As such, Coalition senators believe that all state and territory governments must continue to listen to the ECEC sector and engage in meaningful and ongoing consultation.

1.16 While Coalition senators are committed to increasing ECEC standards of care and workforce participation, the administrative burden of the NQF gives rise to significant concern, specifically where educators are unable to teach as a direct result

6 Ms Natalie Akers, *Submission 46*, p. 2.

7 Ms Rebecca Ryan, Chairperson, Management Committee, Merredin and Districts Childcare and Play School (MADCAPS), *Proof Committee Hansard*, 22 May 2014, p. 26.

8 Ms Natalie Akers, *Submission 46*, p. 1.

9 Ms Natalie Akers, *Submission 46*, pp 1–2.

10 Dr Anne Kennedy, National Secretary, Australian Community Children's Services, *Proof Committee Hansard*, 21 May 2014, p. 9.

11 Standing Council on School Education and Early Childhood, *Communiqué*, 29 November 2013, p. 2.

12 Ms Nesha O'Neil, President, Child Care New South Wales, *Proof Committee Hansard*, 23 May 2014, p. 1.

of regulatory requirements. MADCAPS in Western Australia articulated these challenges clearly when they argued:

We are facing a lot of challenges as a result of regulatory changes that have happened in the childcare industry to do with staffing, and financial challenges as a result of staffing. We think there are also lots of unintended consequences that are occurring as a result of the regulatory changes that are negative. Instead of actually improving the quality of care, they might be diminishing the quality of care in childcare centres.¹³

1.17 Further, MADCAPS argued that regulations have resulted in occasions where they have struggled to stay open without being in breach of the requirements of the NQF, due to labour shortages of appropriately qualified educators.¹⁴

1.18 Early Learning Association of Australia (ELAA) noted that the regulatory burden imposed by the NQF may be directly detracting from its intended goal, to raise education and care standards across the ECEC sector. With reference to the complexity of operating across multiple jurisdictions with multiple regulators, ELAA noted:

So we have certainly wanted to work very closely with ACECQA to try to bring forward how we felt there could be changes made to that structure without fundamentally leading to a diminution of the quality agenda. I think in recent times we have perhaps been concerned that an over-focus on red tape could potentially lead to not recording and not actually analysing the impacts of programs on children.¹⁵

1.19 The City of Boroondara noted that they had received feedback from many services in their area relating to the administrative burden imposed by the NQF. They submitted

Across the board what we are now hearing back from services is that, whilst there still is some administrative burden and they would welcome some enhancements and some streamlining to the system, as they have been through the quality, rating and assessment visit process, they have seen the benefits and the value that that has delivered to them.

...

So the administrative burden that is placed on them can be quite difficult and is taking up a lot of their time.¹⁶

13 Ms Rebecca Ryan, Chairperson, Management Committee, Merredin and Districts Childcare and Play School (MADCAPS), *Proof Committee Hansard*, 22 May 2014, p. 26.

14 Ms Rebecca Ryan, Chairperson, Management Committee, Merredin and Districts Childcare and Play School (MADCAPS), *Proof Committee Hansard*, 22 May 2014, p. 26.

15 Mr Shane Lucas, Chief Executive Officer, Early Learning Association Australia, *Proof Committee Hansard*, 21 May 2014, p. 26.

16 Ms Kylie Mussared, Manager Family, Youth and Recreation Services, City of Boroondara, *Proof Committee Hansard*, 21 May 2014, p. 41.

1.20 The Independent Education Union of Australia noted that there were issues with implementation of the NQF and the regulatory burden had in some cases fallen on early childhood educators.¹⁷

1.21 Early Childhood Australia explained that they had attended workshops with state and territory regulators and ACECQA, in an attempt to work through the regulatory burden imposed by the NQF. The feedback provided relating to supervisor certificate requirements indicated they were particularly burdensome:

...the certified supervisor approval process—that was tying up the state and territory regulatory authorities unnecessarily and was a burden on providers. It has been a difficult one to fix.¹⁸

1.22 ECA also noted:

When providers talk about the regulatory burden, they are often referring to the regulatory burden of the childcare management system, local government regulations around premises, health requirements imposed by other bodies, not necessarily the National Quality Framework, but it gets conflated.¹⁹

1.23 Other submitters and witnesses noted the estimate by ACECQA that implementation and administration of the NQF may cost upwards of \$140 000 for the average long day care centre with 75 places and 15 staff.²⁰

1.24 The Department of Education (the department) noted it had received feedback criticising the additional burden imposed by the NQF on service providers:

The intention was to streamline and reduce duplication between levels of government, so a national regulatory authority, ACECQA, was established ... I think that what has happened is that with all good intention people established processes and some of those processes have added to layers of form-filling and red tape that people had not envisaged.²¹

1.25 The department also noted that many service providers view the NQF as burdensome:

17 Ms Christine Cooper, Independent Education Union of Australia, *Proof Committee Hansard*, 21 May 2014, p. 22.

18 Ms Samantha Page, Chief Executive Officer, Early Childhood Australia, *Proof Committee Hansard*, 22 May 2014, p. 47.

19 Ms Samantha Page, Chief Executive Officer, Early Childhood Australia, *Proof Committee Hansard*, 22 May 2014, p. 50.

20 Senator the Hon Marise Payne, Minister for Human Services, *Senate Hansard*, 7 July 2014, p. 32.

21 Ms Jackie Wilson, Deputy Secretary, Early Childhood Education and Care, Department of Education, *Proof Committee Hansard*, 22 May 2014, p. 5.

[ACECQA's survey] states...that 17 per cent of providers described the ongoing administrative requirements as very burdensome; 60 per cent said quite burdensome; and 20 per cent as somewhat burdensome.²²

1.26 ACECQA admitted in evidence to the committee that their surveys had indicated a significant number of service providers and nominated supervisors found that the NQF imposes a regulatory burden:

...I think it was about 7,000 people. The figures are that 60 per cent of providers perceived the ongoing requirements to be quite burdensome, 20 per cent perceived them to be somewhat burdensome, 17 per cent described the ongoing requirements as very burdensome and two per cent said they are not at all burdensome...²³

1.27 Coalition senators remain concerned that centres are expected to maintain high standards of care under these conditions without passing cost increases on to parents. It is not appropriate to impose excessive administrative costs on centres, and then criticise them for raising fees.

Services are finding that they cannot increase their fees to cover their own costs because their own clients, customers, the parents and the community just cannot afford it.²⁴

1.28 Coalition senators believe that there should be consistent implementation of the NQF across states and territories to provide assurances to parents and reduce unnecessary regulation.

Rating system

1.29 Coalition senators recognise the need for a national rating system to provide meaningful guidance to parents and believe it is imperative that a service provider's rating be properly reflective of a service's usual practices.

1.30 The committee heard evidence from numerous witnesses and submitters relating to the operation of the rating system and difficulties service providers faced in implementing the system.

1.31 ELAA noted that the actual assessment and rating tools may themselves impose an inappropriate regulatory burden, due to the requirements for paperwork and reporting, and the delays in obtaining responses from ACECQA. While the goal of the rating system should be supported, ELAA argued the delays in responses caused by regulators were impacting their ability to provide services:

And certainly there is other paperwork and other reporting aspects of it that, once again, are timely, and we have to do it repeatedly and often. So it is a

22 Ms Jackie Wilson, Deputy Secretary, Early Childhood Education and Care, Department of Education, *Proof Committee Hansard*, 22 May 2014, p. 5.

23 Ms Karen Curtis, Chief Executive Officer, Australian Children's Education and Care Quality Authority, *Proof Committee Hansard*, 23 May 2014, p. 20.

24 Ms Gwynn Bridge, President, Australian Childcare Alliance, *Proof Committee Hansard*, 21 May 2014, p. 34.

matter also of looking at what paperwork we are required to submit and also the time lines involved. Once we submit that paperwork it can be six to nine weeks before we get responses—things like that. So maybe that could also help us in delivering our services.²⁵

1.32 ACA argued that there were significant challenges for services in adapting to the new assessment and rating system, noting that significant numbers of state regulators have not been able to meet the requirements set by ACECQA:

...the states are miles behind where they should be with assessing all the services around Australia. I think even to this date not even half are done, but that could have changed. What it means is that some services have already gone four years without a compliance visit. They may still go another two or three years, because the states are flat out trying to get through, and now those in the first lot they assessed who got 'working towards', which only gave them one year, are now coming up for re-assessment. The assessment is just blowing out.

Our concern is that around Australia there are centres who may wait between now and another three years, which would put it up to about seven years, before they get a compliance visit, because the states are no longer doing those visits to make sure that the service is safe, that the health and safety requirements are being met. They are all coming together in the assessment and rating now; it is all being rolled together.²⁶

1.33 Coalition senators note that some services have been marked down in strange circumstances. These include instances where assessors have made questionable decisions while rating agencies, based on unreasonable or unhelpful observations including:

- not having pictures on the walls at eye height for zero to two year olds;
- conducting Earth Hour during the day and not allowing enough light; and
- a sleeping child was used as an example by the assessor of a centre not providing adequate rest periods.²⁷

1.34 Coalition senators note the National Partnership on the National Quality Agenda, the first major review of the NQF, will be undertaken in 2014. This review will be the first to measure whether the NQF is delivering on its objectives to reduce the regulatory burden whilst also improving quality standards.

Early Years Quality Fund and the Professional Development Fund

1.35 There was significant evidence in the hearings relating to the Early Years Quality Fund (EYQF), and its subsequent replacement by the Professional

25 Ms Joanne Geurts, Board President, Early Learning Association Australia, *Proof Committee Hansard*, 21 May 2014, p. 26.

26 Ms Gwynn Bridge, President, Australian Childcare Alliance, *Proof Committee Hansard*, 21 May 2014, p. 35.

27 Senator the Hon Marise Payne, Minister for Human Services, *Senate Hansard*, p. 32.

Development Fund (PDF). The EYQF was a targeted fund of \$300 million which would have supplemented the wages of only 30 per cent of long day care workers for three years.²⁸ It would not provide any support to any educators in other forms of child care such as Family Day Care, OSHC or kindergarten.²⁹

1.36 In November 2013, the Department of Education released the final report into the EYQF (EYQF Report). The report was prepared by PricewaterhouseCoopers Australia, who noted:

Providing grants to pay wage increases for staff across the classification scale meant that funds were not targeted to the lowest paid staff, as funds were to be used to increase wages for all staff at a service. This includes those staff whose wages were already above the award.

Further, the EYQF also does not target funds to wage pressures related to the increased qualification requirements of the NQF. Funding wage increases for unqualified staff and non-contact staff does not support the objective of the EYQF to increase the number of qualified educators.³⁰

1.37 Further, the EYQF report noted that services were required to have or commit to having an enterprise agreement:

The Department reports that prior to the EYQF the proportion of LDC services covered by enterprise agreements was approximately 25 per cent. For the remaining 75 per cent of existing services that did not have an enterprise agreement, the program required them to negotiate an enterprise agreement or, if they chose not to have an enterprise agreement, then that provider would be precluded from accessing the EYQF.

This enterprise agreement requirement may reduce the administration burden on the Department in ensuring that funds are used for the purpose of wage increases, and is an approach that has previously been used in the aged care sector. However, it was a cause for concern for some staff and services, as it resulted in costs being incurred in relation to time and resourcing for enterprise agreement negotiation.

The Department reports that prior to the announcement of the EYQF, there were approximately 100 enterprise agreements in the sector, but by the end of October 2013, this number had increased to over 400 enterprise agreements in the sector.³¹

1.38 The EYQF Report revealed that the requirement to have or commit to enterprise agreements resulted in an increase in membership for United Voice:

There is evidence that the requirement to have an enterprise agreement was used by United Voice to increase its membership. The Department advises that it monitored all media streams relevant to the EYQF and that the Big

28 Department of Education, *Review into the Early Years Quality Fund*, November 2013, p. iv.

29 Department of Education, *Review into the Early Years Quality Fund*, November 2013, p. iv.

30 Department of Education, *Review into the Early Years Quality Fund*, November 2013, p. iv.

31 Department of Education, *Review into the Early Years Quality Fund*, November 2013, p. v.

Steps Facebook page made several statements that staff needed to join the union in order to be eligible for funding under the EYQF.³²

1.39 The EYQF Report concluded that funding allocated by the Labor government was not sufficient in supporting higher wages, or assisting services in retaining staff.³³

1.40 As evidenced, the money allocated to the EYQF is more appropriately accessed through the government's Professional Development Fund. Coalition senators note that, unlike the EYQF, the new fund is available to all ECEC workers, rather than a minority of child care workers in certain types of child care (ie employees in LDC). This funding will assist all services in training educators to meet the requirements set out in the NQF.³⁴

1.41 Many submitters and witnesses were supportive of the Coalition government's Professional Development Fund, and its stated goal of providing education pathways for educators to meet the requirements set out under the NQF. Ms Kay Doyle, a private service operator stated that she would '...welcome any training or any funding that we can get into the centre because it will be beneficial for staff.'³⁵

1.42 Other submitters recognised that many educators and service providers would welcome any additional resources allocated to assist with meeting the qualification requirements in the NQF. The City of Boroondara argued:

The sector, I believe, would also embrace opportunities to provide professional development. They would also see that that would need to be considered in the context that they still need to provide a service; and, if they are having issues with staffing, how they will backfill those staff. There would need to be some consideration about how that would be implemented.³⁶

1.43 The Australian International Education Union also detailed its support for funding for professional development, stating:

We believe professional development is vitally important in terms of education and staff, and I think our members would reiterate that view as well.³⁷

32 Department of Education, *Review into the Early Years Quality Fund*, November 2013, p. v.

33 Department of Education, *Review into the Early Years Quality Fund*, November 2013, p. x.

34 Assistant Minister for Education, Honourable Sussan Ley MP, *Coalition delivers childcare educators fairer funding*, 10 December 2013, <http://sussanley.com/coalition-delivers-childcare-educators-fairer-funding/> (accessed 8 July 2014).

35 Ms Kay Doyle, *Proof Committee Hansard*, 23 May 2014, p. 43.

36 Ms Kylie Mussared, Manager Family, Youth and Recreation Services, City of Boroondara, *Proof Committee Hansard*, 21 May 2014, p. 44.

37 Ms Correna Haythorpe, Deputy Federal President, Australian Education Union, *Proof Committee Hansard*, 21 May 2014, p. 60.

1.44 The department noted in evidence to the committee that the money originally allocated for the EYQF had been reallocated to the Professional Development Fund, with \$30 million to support vulnerable children:³⁸

In the budget documentation there is also some information that talks about setting up a fund to support vulnerable children. That will come out in the course of the 2014-15 financial year. So there are three different elements: there is the money you talked about and that we have talked about at estimates, which is the payments under EYQF, there is the \$200 million and then there is the \$30 million to support vulnerable children.³⁹

1.45 Coalition senators agree the Professional Development Fund will provide crucial support to early childhood educators and services in regional, rural and remote communities. Further, Coalition senators support the inclusion by the Abbott Government of \$30 million for vulnerable children.

Wages

1.46 The government supports the ongoing role of the Fair Work Commission (FWC) as the independent umpire and believes its role in the wage system as an independent umpire should be retained.

1.47 Coalition senators note the equal remuneration order currently before the FWC relating to the remuneration of early childhood educators.

Conclusion

1.48 Coalition senators commend the hard work and professionalism consistently displayed by early childhood educators around Australia.

1.49 Coalition senators thank all witnesses and submitters to both ECEC inquiries. As detailed above, the Coalition government remains committed to the NQF, but does not support slavish adherence to regulations which have proven to be excessive. Coalition senators therefore support the review of the NQF through the National Partnership in the interests of fine-tuning and streamlining the system.

1.50 Coalition senators look forward to sensible, holistic long term solutions to many of the problems discussed in these hearings when the Productivity Commission releases its final report in late 2014.

Senator Bridget McKenzie Deputy Chair, References

38 Ms Jackie Wilson, Deputy Secretary, Early Childhood Education and Care, Department of Education, *Proof Committee Hansard*, 22 May 2014, p. 7.

39 Ms Jackie Wilson, Deputy Secretary, Early Childhood Education and Care, Department of Education, *Proof Committee Hansard*, 22 May 2014, p. 7.