

LABOR SENATORS' DISSENTING REPORT

Key issues

1.1 Labor Senators do not support the chair's report into the Family Assistance Legislation Amendment (Child Care Measures) Bill (No. 2) 2014 (the bill).

1.2 The Coalition's pre-election policy document, *The Coalition's Policy for Better Child Care and Early Learning*, published in September 2013, states the Coalition's commitment 'to help ensure child care can be more accessible and affordable'. This bill completely goes against that policy statement by forcing up costs for families already facing rising fees.

1.3 Labor believes in good quality, accessible early childhood education and care (ECEC). In government we undertook major reform in the ECEC sector. Part of the reform is still under way. Our reforms focussed on improving educational outcomes for Australian families. The early ECEC sector has overwhelmingly endorsed Labor's reforms.

1.4 Evidence received by submitters, and evidence presented at the public hearing confirm that the measures contained in the bill are simply budget savings measures, as reflected in the budget papers, redirected by government to repair the budget and fund their policy priorities, without proper assessment of the impact on families.

The bill will not deliver the savings measures announced by the government

1.5 The Department of Education (the department) was unable to release accurate data on how families will be affected by the bill. During the public hearing and in further questions on notice, Senators requested this data from the department, who were either unable, or unwilling to provide it.

Senator LINES: Do you have an idea yet of whom this CCB change will impact on and how it will affect them?

Mrs Pearce: That goes to a question on notice from Senator O'Neill that we did answer, actually.

Mr Willing: In the broader sense, the model produces national savings data. The 500,000 families and 800,000 children that we advised of was the smallest breakdown we could find. For example, I think we were asked a question on notice about income ranges. That cannot be provided because the model does not go to the detail of the circumstances of individual families. The data is quite flat in so far as it goes to the child, the hours and then the rate. The model does not then link multiple children of a family back to a parent or family, so it cannot produce the data about a particular family or particular types of families.¹

1 Mr Jeff Willing, Branch Manager, Payments for Families and Services Branch, Department of Education, *Proof Committee Hansard*, p. 6.

1.6 Furthermore, on the issue of retrospectivity outlined in the Bills Digest,² the department were unable to provide any data or assessment of the costs to government or families on retrospectively applying the changes in the bill. Labor Senators of the committee continue to hold concerns regarding the effect of retrospectivity on families, especially considering the government has failed to instruct the department to undertake modelling on the matter.

Mr Willing: If asked we could probably provide some sort of advice or modelling for government.

Senator HANSON-YOUNG: But you have not been asked to do that?

Mr Willing: We have not been asked and we have not done any modelling.³

1.7 We therefore assert that it would be impossible for the government to have any accurate assessment of the costs of administering, or the saving measures achieved by implementing the bill.

The government is avoiding scrutiny over changes to the Child Care Benefit Scheme at the detriment of Australian families.

1.8 Despite new and compelling evidence from peak bodies like Australian Council of Social Service (ACOSS)⁴, key researchers Deborah Brennan and Elizabeth Adamson from the Social Policy Research Centre (UNSW)⁵, and the Parliamentary Joint Committee on Human Rights releasing their Ninth Report of the 44th Parliament that explored the bill⁶, Coalition members of the committee would not agree to hold a hearing receiving evidence from any submitter except the department.

1.9 Labor Senators can therefore only infer that these submitters would have produced evidence oppositional to the government's agenda.

The bill will exacerbate already rising pressures on costs

1.10 Eligibility for CCB has consistently moved away from average earnings. In 2004–5, a family on 70 per cent of average full-time weekly earnings received full CCB. By 2013–14, the income cut off for CCB had fallen to just 55 per cent of average full-time weekly earnings, and by 2019 will fall below 50 per cent.

1.11 Yet, wages for educators remain low in the sector, and Labor Senators do not support a reduction or maintenance of wages to keep costs low, rather increased support from the government to keep services affordable for families.

2 Department of Parliamentary Services (Cth), *Bills Digest*, No.4, 2014–15, p. 8.

3 Mr Jeff Willing, Branch Manager, Payments for Families and Services Branch, Department of Education, *Proof Committee Hansard*, p. 7.

4 Australian Council of Social Services, *Submission 9*.

5 Social Policy Research Centre (UNSW), *Submission 1*.

6 Parliamentary Joint Committee on Human Rights, *Ninth Report of the 44th Parliament; Bills introduced 23 – 26 June 2014; Legislative Instruments received 7 June – 20 June 2014*.

1.12 Labor Senators support evidence given in the Submission by Deborah Brennan and Elizabeth Adamson, Social Policy Research Centre NSW, stating:

There are, of course, sound reasons why some services charge high fees. They may have a particular commitment to quality and employ teachers and educators with higher than required qualifications, they may face high rents or be located in remote areas where all inputs other than labour are likely to be cost more than in urban areas. From a policy perspective, however, there needs to be a way of distinguishing between fees that are high for legitimate reasons and fees that are high because of premium features that parents should purchase for themselves or because excessive profits are being taken.⁷

1.13 Labor Senators refer to similar policy that exists under the *Aged Care Act 1997* for Aged Care Services, where care is funded at an adequate level and the user pays for additional services.

1.14 Evidence submitted to the committee demonstrates that prices are likely to continue to rise above general inflation into the future, continuing the long term decline in the value of child care subsidies.⁸ A continued freeze of income thresholds relating to CCB payments will only increase this erosion.

1.15 The department gave evidence pertaining to this during the public hearing, where Mr Willing of the Department stated that child care prices were forecast to increase annually by around seven per cent on average over the forward estimates.⁹

1.16 Furthermore, Mr Willing gave evidence demonstrating that up to 73 per cent of families (800 000 of the 1.1million children in families eligible for CCB) are likely to be effected by the bill.¹⁰

1.17 The Labor Senators of the Committee note that the costs of basic childcare are rising, and increasing in comparison to average family income. Therefore, Labor Senators believe a further freeze on CCB that decreases the accessibility to childcare for almost 73 per cent of families is unacceptable where money is returned to the budget bottom line rather than reinvested into the sector.

The bill negatively impacts labour force participation of parents, and in particular, infringes on women's right to work

1.18 Child care plays a crucial role in supporting the labour force participation of parents, in particular, women's labour force participation, and family income plays an integral role in allowing access to child care.

7 *Submission 1*, p. 30.

8 *Legislative Out-years Customisable Model of Child Care: 2013-14 Budget*, As cited in *Early Childhood Australia, Submission 5*, p. 7.

9 Mr Jeff Willing, Branch Manager, Payments for Families and Services Branch, Department of Education, *Proof Committee Hansard*, p. 11.

10 Mr Jeff Willing, Branch Manager, Payments for Families and Services Branch, Department of Education, *Proof Committee Hansard*, p. 6.

1.19 According to data from the Australian Bureau of Statistics (ABS), in families with a combined weekly income of \$2 000 or more, 52 per cent of 0–14 year old children regularly participate in child care, compared with 25 per cent in families with a weekly income of \$800 or less. Families earning \$800–999 per week are the least likely to use either formal or informal child care.¹¹

1.20 NATSEM modelling conducted for the Grattan Institute showed that two parents working full time and earning \$40 000 each, with one child in long day care take home only about half the second earner's wage.¹²

1.21 Increases in the out of pocket costs for childcare creates substantial work disincentives, particularly for second earners in couple families, and can significantly reduce if not remove the monetary benefits of work.¹³

1.22 Labor Senators are aware that affordability is a major barrier to children's participation in early learning, and therefore a contributing factor in their ability to access the inarguable benefits gained from early learning, particularly among already disadvantaged children.

1.23 One of the largest childcare providers in Australia, Goodstart Early Learning, have previously expressed their concern at the impact the CCB income threshold freeze would have on affordability, particularly for low-income families:

We are certainly concerned about it over the longer term, because it is a slow burn impact. Low-income families, as I said, are struggling the most with childcare costs. We should be looking to increase assistance for that group rather than reduce it. We are worried that reducing the amount of CCB for working families will have an impact on whether parents can afford to go back to work. People do make very conscious decisions based on their tax after childcare benefit and whether they can return to work.¹⁴

1.24 Similar evidence was submitted to the committee from the Crèche and Kindergarten Association, who noted that parents will not be able to afford the out-of-pocket expenses for childcare and are likely to choose to remove their children from the services. They could also reduce their working hours which will adversely impact on productivity resulting in lost taxation revenue and an increase in family assistance subsidies.¹⁵

1.25 The Parliamentary Joint Committee on Human Rights releasing their Ninth Report of the 44th Parliament, published July 2014, explored the bill. The Committee

11 *Submission 1*, p. 21.

12 Daley, J & McGannon, C., Grattan Institute, *Submission to the Productivity Commission Inquiry on Childcare and Early Childhood Learning*, March 2014, http://grattan.edu.au/wpcontent/uploads/2014/05/228_daley_mcgannon_submission_pc_childcare.pdf (Accessed 26 August 2014).

13 Department of Parliamentary Services (Cth), *Bills Digest*, no.4, 2014-15, p. 8.

14 Department of Parliamentary Services (Cth), *Bills Digest*, no.4, 2014-15, p. 6.

15 The Creche and Kindergarten Associated Limited, *Submission 5*, p. 2.

majority came to a number of conclusions regarding concerns of the bill infringing on human rights conventions.

1.26 Under article 2(1) of *International Covenant on Economic, Social and Cultural Rights* (ICESCR), Australia has certain obligations in relation to the right to work. These include:

- the immediate obligation to satisfy certain minimum aspects of the right;
- the obligation not to unjustifiably take any backwards steps (retrogressive measures) that might affect the right;
- the obligation to ensure the right is made available in a non-discriminatory way; and
- the obligation to take reasonable measures within its available resources to progressively secure broader enjoyment of the right.¹⁶

1.27 Of further relevance to the right to work in this context, the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) requires States parties to implement measures to eliminate discrimination against women in the field of employment. These include the obligation to encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities.

1.28 Accordingly, that Committee recognised that the availability of child care is a critical component of the right to work.

1.29 On exploring the bill, the committee's view was;

- the effect of the measure on the affordability and availability of child care may thus be seen as a limitation on the right to work. The committee notes that the statement of compatibility provides no assessment of the impact of the measures on the right to work.¹⁷

Labor Senators view

1.30 Labor Senators believe that not only does the bill negatively impacts labour force participation of parents, creating a disincentive for work, but infringes on the human rights of 51 per cent of the population and 46 per cent of the working population.

The bill has a disproportionately adverse effect on low-income families

1.31 The committee was presented with damning evidence from the peak body of the community services and welfare sector, ACOSS, regarding the effect of the bill on low income families, in particular:

16 International Covenant on Economic, Social and Cultural Rights, Article 2(1).

17 Parliamentary Joint Committee on Human Rights, *Ninth Report of the 44th Parliament; Bills introduced 23 – 26 June 2014; Legislative Instruments received 7 June – 20 June 2014*.

that the maximum rate income threshold as it stands is only around \$5,000 above a full time minimum wage.

that the majority of families who receive the maximum rate of CCB are sole parent families (72.6%).

that the bill could create a situation where a sole parent faces an effective marginal tax rate of more than 70% due to the combination of income tests for CCB and Family Tax Benefit Part A.¹⁸

1.32 Labor Senators note that whilst the actual dollar amounts outlined in the bill may not be extreme for individual families, it should also be considered in the context of other budget changes which are likely to impact on the affordability of child care, particularly for already disadvantaged and vulnerable families.

1.33 Under the changes proposed in the most recent Coalition budget, parents will be required to pay most of the gap between CCB and actual fees, with the government Jobs, Education and Training (JET) contribution capped at \$8 per hour. The budget also introduces a weekly cap (36 hours per week, down from 50 hours a week for those engaged in approved activities).

1.34 Labor Senators express disappointment that the committee majority failed to recognise the disproportionate impact in vulnerable families who will already be hit hard by a harsh budget.

The bill inappropriately precedes the final report of the Productivity Commission Inquiry into Childcare and Early Childhood Learning

1.35 The Coalition made an election commitment to inject \$2 million into the Productivity Commission Inquiry into Child Care, and to implement any decisions on the matter prior to the final report demonstrates a disregard for the results and makes it difficult for the Commission to provide accurate recommendations, as these recommendations are to be based on existing funding parameters, as per the Terms of Reference.

1.36 The Labor Senators do not support the explanation given in the committee's majority report, and assert that to utilise tax-payer's funds to undertake a multi-million dollar productivity commission inquiry, yet enact amendments to policy before receipt of the outcomes of that report not only undermines the process, but also demonstrates the arrogance of the government.

18 *Submission 9*, p. 1.

Recommendation 1

1.37 The Labor Senators recommend that the Senate reject the bill.

**Senator Sue Lines
Deputy Chair**