

Senate Committee: Education and Employment

**QUESTION ON NOTICE
Supplementary Budget Estimates 2016 - 2017**

Outcome: Early Childhood and Child Care

Department of Education and Training Question No. SQ16-001162

Senator Collins, Jacinta provided in writing

Family Day Care compliance

Question

In relation to Family Day Care:

- (a) How many reports of possible fraud in FDC has the Department received in 2014, 2015 and 2016?
- (b) How many came from the public? From state governments? From other sources?
- (c) How many of those were investigated in each year?
- (d) If some were not investigated, why not?
- (e) How long do investigations take, on average? What is the longest running investigation?
- (f) How many complaints or investigations were referred to the AFP in each year? How many were undertaken by the Department?
- (g) How many investigations have resulted in convictions?
- (h) Has any money been recovered? How much?
- (i) How many instances of child swapping have been uncovered?
- (j) Do FDC educators need insurance? Do all of them have it? How do you know they do?

Answer

Reports of possible fraud

- (a) 2012 — four
2013 — four
2014 — seven
2015 — 22
2016 — 21
- (b) Public — one
State/territory governments — Nil
Other sources — 57 identified internally through departmental compliance reviews.
- (c) 2012 — four
2013 — two
2014 — six
2015 — 12
2016 — five
- (d) Some were not investigated because they did not meet the threshold to conduct a criminal investigation. The Department of Education and Training uses a standard criminal investigation case selection model aligned to the Commonwealth Fraud Control Guidelines and the Department's Fraud Control Plan. Those not assessed under these guidelines as meeting the threshold to conduct a criminal investigation were referred to the departmental compliance team where they were thoroughly reviewed to ensure compliance with relevant administrative practices in accordance with the Family Assistance Law.

From July 2015 to 12 August 2016, the department imposed the following sanctions and penalties on 109 services (up from 51 services in 2014–15). This includes:

- 20 services were suspended (compared with nine services in 2014–15)
 - 40 services were cancelled (a five-fold increase from six services in 2014–15)
 - 30 services had conditions imposed on their continued approval (compared to 20 in 2014–15)
 - 33 services received fines; and
 - 26 services had limits imposed on their educator numbers.
- (e) Investigations take 6–18 months due to the very high standard of evidence required to support the burden of proof (beyond reasonable doubt), contingencies on other agencies, and justice system processes.

The longest running fraud case including time in court is 1427 days.

- (f) Of the 23 (six in 2014; 12 in 2015; five in 2016) fraud investigations undertaken by the department, seven were referred to the Australian Federal Police (AFP) as they met the Australian Government threshold to refer on. In determining referral to the AFP, the department considers the Commonwealth Fraud Control Policy which requires entities to refer all instances of potential serious or complex fraud offences to the AFP, in accordance with the Australian Government Investigation Standards and AFP referral processes.
- (g) 2014 — Nil
2015 — one
2016 — two (and a number pending)
- (h) The department reviews available evidence as a matter of course to determine whether or not there are reasonable grounds to believe that overpayments to services have been made. If overpayments have been made, the department will seek to recover them. Full recovery of money can take time due to long legal processes, and the entity may enter into a repayment plan with the department.

The value of recoveries from investigations and compliance action in one year has increased 30 per cent from \$9.3 million in 2014–15, to \$12.5 million in 2015–16.

- (i) Child swapping is now only permissible under specified circumstances. In the month prior to the Turnbull Government's new child swapping restrictions coming into effect on 12 October 2015, there were approximately 43 per cent of educators involved in child swapping. By March 2016 there were approximately 4.5 per cent of family day care educators continuing to claim sessions of care involving child swapping. Non-compliance with the child swapping measure can only be confirmed once the department has engaged with the service to identify if a specified circumstance applies.

Child Swapping is only permissible under the following specified circumstances:

- the child has been diagnosed as having a disability, or is undergoing continuous assessment of a disability
 - the child lives in a remote or very remote area within Australia
 - the FDC educator is required to work (other than for an approved FDC service)
 - the FDC educator is required to attend particular education or training.
- (j) Family day care educators must hold public liability insurance in accordance with National Law requirements. State and territory regulatory authorities have responsibility for regulating compliance with the National Law.