



Australian Government

Department of Education

Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022

Submission from the Department of
Education to the Senate Standing
Committee on Education and Employment

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Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022

Introduction

The Department of Education (the department) welcomes the opportunity to make a submission to the Senate Standing Committee on Education and Employment.

As the Department of Education, we contribute to Australia's economic prosperity and social wellbeing by creating opportunities and driving better outcomes through access to quality education and learning. This includes the delivery of programs and policies that support Australians to access early childhood education and care (ECEC).

The Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022 gives effect to the Australian Government's Cheaper Child Care policy, fulfilling commitments in the 2022 Federal election to make ECEC more affordable for 96 per cent of families currently using ECEC, with no families being worse off.

The Bill implements a range of measures to increase the level of Child Care Subsidy (CCS) for families, improve child care provider transparency and accountability, improve data and analytics capability, and strengthen payment integrity.

These measures will improve affordability of early learning and care and will reduce barriers for parents — particularly women — to participate in the workforce, study or volunteer, thereby providing wider benefits for families and the economy. This will have wider benefits for the economy, particularly in terms of its recovery following the disruptions caused by COVID-19. Further, the measures will contribute to the Government's gender equality agenda and support children's school-readiness and long-term outcomes by reducing cost barriers to accessing ECEC.

Role of Australian Government in supporting ECEC

The department provides evidence-based policy advice to the Government and delivers policies and programs that support Australians accessing ECEC.

The primary role of the department in ECEC is to provide financial assistance to families for child care, as well as, providing funding to states and territories to support the delivery of 15 hours of preschool per week to children in the year before full time school. This assists families to cover costs, encourages workforce participation (particularly for secondary income earners who are primarily women), and facilitates access to quality early learning opportunities.

Payments made by the Commonwealth include the CCS and the Child Care Safety Net which provides families with heavily subsidised access to ECEC services.

The department also plays an important regulatory role in managing the financial integrity of CCS payments. It is the department's responsibility to deliver a range of functions regarding

integrity and compliance. This is separate to the role of states and territories, who regulate quality and safety.

Finally, the department performs a crucial role in managing systemic risk by monitoring the financial viability of large centre-based day care providers under the current financial viability framework (FVF). The FVF allows the department to identify and mitigate risks of providers with a significant presence in the sector from abruptly exiting the ECEC market due to insolvency.

Child Care Subsidy

The CCS is the main way the Australian Government helps families with ECEC fees. Providers must be approved by the department to receive CCS on behalf of families.

Families must meet eligibility criteria to receive CCS. The amount of CCS a family can get depends on their circumstances. Services Australia looks at:

- a family's income
- how many children a family has in care
- the age of the children in care
- a family's activity level
- the type of care a family uses.

An hourly rate cap applies to how child care subsidies are paid (for centre based day care this is currently \$12.74). This means that CCS entitlement is calculated by applying the family's subsidy rate to the hourly rate cap. Where a service charges above the rate cap, fees above the cap are not subsidised and are paid in full by the family. Together with the principles of co-contribution the hourly rate cap puts pressure on fee growth by encouraging consumers to price shop.

Child Care Safety Net

Through the Child Care Safety Net, the Government provides extra support for vulnerable children, helping them to get a strong start in life and to help their parents work or undertake other activity. The Child Care Safety Net has three parts: Additional Child Care Subsidy (ACCS), the Community Child Care Fund (CCCF) and the Inclusion Support Program (ISP).

Additional Child Care Subsidy

The Additional Child Care Subsidy (ACCS) cuts child care costs significantly for more than 40,000 vulnerable and disadvantaged children, by paying up to 120 per cent of the hourly rate cap to help children at risk of serious abuse or neglect, grandparent principal carers on income support, families experiencing temporary financial hardship, and parents transitioning to work.

Community Child Care Fund

The Community Child Care Fund (CCCF) will deliver approximately \$552.8 million over four years (2022-23 to 2025-26). It supports around 900 services to reduce barriers to accessing ECEC, particularly for children and families in disadvantaged, rural and remote communities, Indigenous communities, and where services are in limited supply. It includes both

competitive grants in which services can apply when grant rounds are open, and restricted grants which support identified services in disadvantaged and vulnerable communities. It also includes special circumstances grants to help services stay open when something unexpected happens, such as natural disasters.

Inclusion Support Program

The Inclusion Support Program (ISP) provides support to mainstream ECEC services to build capability and capacity to include children with additional needs (such as disability, challenging behaviours, serious health conditions, including mental health and trauma related behaviours) alongside their typically developing peers. The ISP provides around \$133 million per year to services.

In Home Care Program

The In Home Care (IHC) program also provides flexible care that supports families' workforce participation and ECEC requirements where other options are not available or appropriate. The program provides access to Government subsidised ECEC in the family home and is targeted to assist parents who work non-standard hours, are geographically isolated or have families with challenging and complex needs.

With funding of \$5 million per year, the IHC service type is delivered through a national network of IHC Support Agencies. Eligible families using IHC receive the CCS or the ACCS.

The Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022

The Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022 (the Bill) makes amendments to the A New Tax System (Family Assistance) Act 1999 (the Family Assistance Act) and the A New Tax System (Family Assistance) (Administration) Act 1999 (the Family Assistance Administration Act), which are the two key Acts that provide assistance to families with ECEC costs through the CCS.

The amendments give effect to a range of measures to increase the level of CCS for families, improve ECEC provider transparency and accountability and strengthen payment integrity.

Details of these measures is provided below.

Child care subsidy

Amendments in Schedule 1 to the Bill will impact the rate of CCS that Australian families are entitled to receive. Specifically, these amendments will offer families earning \$80,000 or less a CCS rate of 90 per cent and offer families earning over \$80,000 a CCS rate that tapers down by one percentage point for each additional \$5,000 of family income until it reaches zero per cent for families earning \$530,000 (new CCS base rate). These changes apply from the first CCS payment fortnight of the income year starting 1 July 2023, 10 July 2023.

The existing measure that provides a Higher CCS rate to families with multiple children aged five or under in care (Higher CCS) will be retained. For second and younger children aged five or under in care, families will receive an additional 30 per cent up to a maximum of 95 per cent, which will continue to apply on top of the former CCS base rate. Families will be

entitled to the Higher CCS rate up until a family income of \$356,756 (2022-23). If families earn \$356,756 (2022-23) or higher, all children in the family will be entitled to the new CCS base rate until it reaches 0 per cent entitlement at \$530,000.

The previous government's Higher CCS measure included another component (phase 2) which was to commence from July 2023. Phase 2 limited families' access to the Higher CCS where the older child was no longer using care. The measure was forecast to save \$34 million over four years, but would have cost more than \$89 million to implement. Given implementation costs, the Bill removes Phase 2.

This Bill fulfils the commitment of the Australian Government in the 2022 Federal election to make ECEC more affordable for 96 per cent of families currently using care, with no families worse off under current CCS settings. It will reduce help out-of-pocket fees for around 96 per cent of Australian families who use formal early childhood education and care services, around 1.26 million families. This will improve affordability, helping to ease cost of living pressures facing Australian families while supporting greater access to ECEC for families. More affordable early childhood learning and care will reduce barriers for parents — particularly women — to participate in the workforce, study or volunteer, thereby providing wider benefits for families and the economy.

ECEC costs are a barrier for many parents and carers to achieve their preferred level of workforce participation. In the ABS 2021 Participation, Job Search and Mobility data there were 73,000 people who wanted to work, were available to start either immediately or within four weeks but did not actively look for work due to child care affordability.

Having children disproportionately affects the workforce participation of women, as they are more likely to be secondary income earners and to work part-time. Workforce participation rates for young men and women (aged 15-24) are similar, but this gap widens significantly when women have children. This participation gap is a key driver of the gender pay gap, which is the difference between men's and women's full-time average weekly earnings. The gender pay gap in Australia was 14.1 per cent in May 2022, according to the most recent data from the Australian Bureau of Statistics.

Treasury estimates these changes will increase the hours worked by women with young children by up to 1.4 million hours per week in 2023-24 - equivalent of up to an extra 37,000 full-time workers. Reducing the cost of ECEC provides an opportunity to support parents to increase their participation in the workforce and help close the gender pay gap.

Sector transparency

Schedule 2 to the Bill seeks to uplift transparency in the ECEC sector to equip families with more information about the services they access.

Currently, only large centre-based day care providers are required to report their financial information to the department. The Bill expands the existing financial reporting requirements to all types of approved child care providers by amending the current definition of 'large child care provider' to include all providers operating 25 or more approved child care services. Providers are also captured by this financial reporting mechanism if they operate 25 services with a related provider, or if they plan to operate 25 services with a related provider in the future. Specified information obtained through

these reporting requirements, such as profits, revenue and details of leasing arrangements, will also be made public.

These changes ensure the department has visibility over the financial health of all large providers operating within the ECEC sector, regardless of their service type. Financial reporting requirements imposed by this transparency regime will enable the department to better identify, monitor and mitigate risks posed to the viability of providers who have a significant sector presence. Further, these measures will ensure families have greater information about the fees they pay to access care.

This is an important step for families, providing them with the ability to compare services and use more information to decide where to send their children to care.

Activity test changes

Schedule 3 to the Bill introduces a minimum level of 36 subsidised hours of ECEC per fortnight for First Nations children, regardless of activity levels. Introducing this minimum level of subsidised hours for First Nations children will support access to, and affordability of, early learning, and directly support Closing the Gap Target 4 (increase the number of First Nations children who are developmentally on track by 2031). These changes are to apply from the first CCS fortnight of the income year starting on 1 July 2023. The CCS income test would continue to apply to determine the CCS percentage payable for the 36 hours of subsidised care, that is, families would still be required to pay gap fees for subsidised hours in accordance with their income level.

Integrity measures

Schedule 4 to the Bill introduces important measures to reduce fraud and non-compliance within ECEC and provides assurance that the Government's investment supports Australian families. Integrity amendments will introduce the requirement for child care providers to collect gap fees via electronic funds transfer, make good governance an eligibility requirement for provider approval and allow the Secretary to specify through rules the information providers need to report each week to receive subsidy payments.

The Bill sets out a requirement for electronic payment of gap fees. This requirement will work in conjunction with existing record keeping obligations to allow the Government to test whether gap fees have been paid. This will present a significant obstacle for fraudulent schemes and services that try to claim CCS for care that isn't occurring, as parents will not pay gap fees for care their child is not booked in to attend, and services will not have the records they need to present for an audit if fraudulently claiming care.

The requirement to pay child care fees via electronic means will have little or no impact on both parents and ECEC services. Many services are voluntarily removing cash payment options as they recognise electronic payment is more efficient, easier to administer and safer for staff who no longer need to handle cash on site.

Likewise, most parents choose to pay fees electronically, with 97.5 percent of parents paying electronically. Families across Australia are accustomed to paying for things electronically, whether it's via direct debit for electricity, online shopping, or automatic transfers to and from a savings account. This includes individuals and families living in regional or remote communities.

There are many electronic payment options available such as EFTPOS, one-off EFT payments and Direct Debits. These options afford the same flexibility as cash, allowing a vulnerable family or those on low incomes to pay whenever funds are available. Individuals or families receiving income support payments can use Services Australia's direct debit service, Centrepay, which has no default fees and has the option of either making one off or ongoing payments.

There will be no need for individuals or families to have internet access to pay their fees as there are a range of alternative electronic payment options available. Banks can set up a payment schedule within a customer's account, on a one-off or a regular basis. Most ECEC services currently accept payments by electronic means and local libraries have free wi-fi and internet access available to the public and there are mobile hotspots servicing remote communities.

In addition, the Bill recognises that there may be exceptional circumstances for some services, such as where the necessary infrastructure does not support electronic payments, or where remoteness or natural disaster creates an impediment. Provision is also made for individuals to be exempt from the requirement where that is needed. The department will be engaging closely with the sector on the design of exemption provisions. Exemption arrangements will also be designed alongside other existing safety net provisions such as ACCS.

The Government is also providing support to the sector to provide extra help for services who need it. The way these supports are rolled out will be designed in consultation with the sector in the lead up to implementation on 1 July 2023.

The Bill also makes good governance arrangements an eligibility requirement for provider approval and gives this requirement appropriate weight when the department makes decisions to approve an ECEC provider or service. The Bill also allows the Secretary to make rules specifying the information a session report must contain and give greater clarity to stakeholders about what information is required to be included in these reports, noting there are no new reporting requirements created. These changes received very little comment during consultation and are expected to have little, if any, impact on the sector.

Educator discount

Schedule 5 to the Bill makes amendments to permit ECEC providers to offer a discount on child care fees to staff engaged as educators, without this affecting the amount of CCS payable for the educator. The amendments provide ongoing legislative authority for a 2021-22 Mid-Year Economic and Fiscal Outlook measure and will support the retention and attraction of early childhood educators in the sector.

Minor amendments

Schedules 6 to 8 to the Bill make minor amendments to improve or clarify the operation of CCS, including:

- clarifying the interactions with CCS where providers waive gap fees for families in prescribed events or circumstances.
- providing additional discretion to allow payment of CCS for absences in exceptional circumstances; and

- changing the period for passing on CCS amounts to families in limited circumstances.

Sector consultation on the Bill

Targeted consultation was undertaken with the sector, via the department's Early Childhood Education and Care Reference Group, from 17 to 24 August 2022. Stakeholder views were considered in the final drafting of the Bill and will also, where relevant, be addressed through implementation. The sector was supportive of measures in this Bill and its benefit to families.

Other Government ECEC commitments to support legislated reforms

Australian Competition and Consumer Commission price inquiry and Productivity Commission review

The Government has committed to tasking the Australian Competition and Consumer Commission (ACCC) with conducting an inquiry into child care prices. The purpose of the inquiry is to investigate the drivers of child care prices and findings from the ACCC inquiry will feed into the Productivity Commission's (PC) broad review into the ECEC sector. The inquiry will commence by January 2023, with an interim report to be provided to the Government by 30 June and a final report by 31 December. The Government will provide the ACCC with \$10.8 million to conduct the inquiry.

The Government has also committed to tasking the PC with undertaking a comprehensive review of the ECEC sector. The review will consider the provision of affordable, accessible, and high quality ECEC that reduces barriers to workforce participation and supports children's development, with the aim of implementing a universal 90 per cent CCS for all families. This review is expected to commence in the first half of 2023, with a final report in 2024.

Early Years Strategy

The Government has committed to developing a new Early Years Strategy to create an integrated, holistic approach to the early years and increase accountability for the education, wellbeing, and development of Australia's children, especially those experiencing vulnerability and disadvantage.

- The development of the Strategy is being led by the Hon Amanda Rishworth MP, Minister for Social Services, and the Hon Dr Anne Aly MP, Minister for Early Childhood Education, in collaboration with other responsible Ministers.
- The Strategy will draw upon the broader evidence associated with children's early development and wellbeing, and consultations across the sector, to set out the Government's vision for the future of Australia's children and their families and put the needs of children and families at the centre of all Australian Government early childhood policy. It will examine programs and funding delivered by the Government that impact early childhood development, identifying ways to:
 - reduce program and funding silos across departments.
 - better integrate and coordinate functions and activities across government, and

- deliver better outcomes for young Australians and their families.
- A key aim of the Strategy is to ensure Government's effort in the early years is focused where it is needed most. This will include thinking about how the Strategy can ensure First Nations children and children experiencing vulnerability or disadvantage are given the best opportunities to support their learning and development and improve lifetime outcomes for them and their families, including through strengthened workforce participation.

Long-term vision for ECEC

On 31 August 2022, National Cabinet agreed all governments would work together on a long-term vision for ECEC to better support parents' workforce participation and deliver improved early learning and child development outcomes as a national priority.

National Cabinet also tasked Education and Early Years Ministers with identifying priority areas for collaboration to support better outcomes across the system, with a particular focus on addressing ECEC workforce shortages.

The vision will take into consideration current and future ECEC initiatives, and will be underpinned by the principles of quality, affordability, equity, and accessibility to help guide collaboration.

Education and Early Years Ministers will provide an update on progress to National Cabinet by the end of 2022.

Targeted support for vulnerable cohorts

First Nations children are underrepresented in ECEC, with 4.3 per cent of children in child care services identifying as First Nations compared with 6.1 per cent of the birth to 5 years population.

To address this, the department is supporting greater access to ECEC for First Nations children through a range of measures.

- \$81.8 million to expand the Connected Beginnings program to up to 50 sites by 2024-25, which once expanded has the potential to support 20 per cent of First Nations children to be safe, healthy, and ready to start school by the age of five.
 - The program currently supports around 11,000 First Nations children in 32 communities.
- \$29.9 million to expand the Restricted Program and fund additional and mostly Aboriginal and Torres Strait Islander-run child care services in remote and very remote communities.
- \$9.5 million to support a trial of an intensive ECEC model that offers high quality ECEC, infant mental health, and family support, in partnership with families and local community organisations and agencies which assists at risk and disadvantaged children make significant early learning and developmental gains.
- \$1.9 million to trial an early learning teaching model that strengthens literacy and numeracy learning in early child education and care settings and undertake an evaluation of the outcomes.

Early Childhood Care and Development Policy Partnership

The Government has committed \$10.2 million to support the Early Childhood Care and Development Policy Partnership (the Partnership), which will enable Australian governments and First Nations partners to develop recommendations which support First Nations children to thrive, including through improving access to care.

The Partnership will focus on issues and actions that will deliver progress against the Priority Reforms and towards the five early childhood Closing the Gap Outcomes, including to ensure First Nations children are engaged in high quality, culturally appropriate early childhood education in their early years.

The Partnership will be co-chaired by SNAICC – National Voice for Our Children - the lead Peak for First Nations children, and the Commonwealth Department of Education. Membership will be comprised of senior officials from each state and territory government and will join five other Peak body representatives and five First Nation community members to support a balance between government and First Nations members.

National Children’s Education and Care Workforce Strategy (the Strategy)

In December 2019, all Education Ministers endorsed the development of a new ten-year national workforce strategy as a joint partnership between all governments, the children’s education and care sector, and other key stakeholders.

The co-designed Strategy, titled ‘Shaping Our Future, the 10-year National Children’s Education and Care Workforce Strategy’, was released on 13 October 2021 and outlines 21 actions to support the recruitment, retention, sustainability and quality of the early childhood education and care sector workforce.

Recognising that a high quality and stable workforce supports children’s learning and development and workforce participation in the broader economy, the Australian Government has committed to funding and implementing the following actions under the Strategy:

- investigating options to streamline skilled migration assessment and approval processes;
- developing new resources and enhance promotion of the career opportunities in ECEC through the Australian Government Jobs Hub website and the National Careers Institute;
- reforming the industry engagement arrangements in the Vocational Education and Training system by establishing new industry clusters;
- developing a recognition of prior learning toolkit to support experienced educators to upskill to complete their Diploma;
- identifying options to ensure fit for purpose data is available on the early childhood workforce;
- funding ACECQA’s development of an ‘induction to the National Quality Framework’ to improve access to core professional development for early childhood educators and teachers. This project is complete and was released by ACECQA in September 2022.

Complementing the Strategy, the Australian Government has committed to a number of initiatives to support workforce supply. These include:

- a \$1 billion 12-month National Skills Agreement, in partnership with the States and Territories, delivering 180,000 fee free TAFE places from January 2023
- 20,000 additional university places to provide more opportunities for under-represented groups to enter higher education across 2023 and 2024;
- Increasing the permanent migration program for 2022–23 to 195,000, providing \$36.1 million to accelerate visa processing and relaxing work restrictions on international students; bursaries for 5000 talented students to enter teaching;
- expanding the High Achieving Teachers program to support up to 1500 professionals to switch careers to teaching;
- the establishment of Jobs and Skills Australia, which will work with governments, employers and unions, and use data and insights from industry to inform government labour market and skills policy;
- reducing the gender pay gap through further empowering the Fair Work Commission to address low pay and conditions across a number of industries, including the ECEC sector.

The Strategy's Implementation and Evaluation Plan was released on 5 September 2022 and commits all governments and the sector to taking the Strategy's actions forward as a priority. It outlines implementation steps for each action and how progress will be monitored and measured.

ECEC Market Projects

In order to better understand issues related to access to ECEC and build capacity to be responsive to them, the Government is developing a Market Strategy to inform its role in ECEC markets and identify opportunities to further support their effective operation. Supporting this, a Market Monitoring Framework is being designed, to measure the performance, adequacy, and sustainability of child care markets.

These market projects have linkages to the broad review of the sector to be conducted by the PC and the ACCC inquiry. Similarly, the market projects may support the operation of current programs designed to improve access to ECEC in thin markets, such as the CCCF, and to increase ECEC participation by vulnerable and disadvantaged cohorts, through Connected Beginnings.