
Submission to the Senate Select Committee on Red Tape

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The Centre for Independent Studies (CIS) welcomes the opportunity to provide a submission to the Senate Select Committee on Red Tape conducting the inquiry into the effect of red tape on childcare.

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The CIS has been a strong advocate for freedom of speech and limited government for more than 40 years. We have always opposed regulations that impose unnecessary restrictions on democratic participation, or that unnecessarily limit the fundamental principle of freedom of speech.

This submission is made by Eugenie Joseph, a Senior Analyst in the economics program at the CIS. I specialise in microeconomic policy issues and am currently undertaking a research project examining the supply-side regulation of the Australian childcare market. I have extensive experience in government, working for the Commonwealth Treasury in Canberra in the areas of taxation, regulation and competition policy. I hold a Bachelor of Economics from the University of Sydney.

Yours sincerely,

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Executive Summary

Childcare fees in Australia have been growing well above inflation in recent years. Across all childcare service types, hourly fees increased on average by 17% in real terms between 2012 and 2017.

Even with generous taxpayer-funded subsidies, out-of-pocket costs have increased significantly for parents. From 2011 to 2017, average weekly out-of-pocket cost of childcare increased by 48.7% in nominal terms or 28.6% in inflation-adjusted terms. At the same time, public expenditure on childcare fee assistance is expected to increase from \$7.2 billion in 2017-18 to over \$9.5 billion in 2021-22.

The childcare sector in Australia has been characterised by growing government intervention in recent decades, culminating in the introduction of the National Quality Framework (NQF). Inevitably, this has precipitated new forms of red tape for the sector. Many of the NQF regulations entail significant administrative and compliance costs, while many of the cited benefits are contestable and not based on compelling evidence.

Staffing regulations are a particular source of burden, as labour-related costs make up over 60% of a childcare provider's total operating costs. The effects of these regulations have been:

- **Growth in the early childhood education and care (ECEC) workforce of 72% since 2010**, which has outpaced the 46% increase in the total number of children in formal child care, but has failed to address the problem of childcare availability and high fees.
- **A quarter of the national childcare workforce is undertaking ECEC-related study** to satisfy the national qualification requirements, which come at a significant cost to workers, employers, taxpayers and – ultimately – parents who use childcare. Obtaining a certificate III qualification in early childhood education and care can cost more than \$3,000 and a diploma around \$10,000. A certificate III can take one year to complete and a diploma around 18 months.
- **The creation of significant regulatory burden for service providers, particularly in regional areas** where it can be difficult to attract and retain qualified staff.¹ Regional providers also have a higher reliance on staffing waivers (temporary exemptions from staffing requirements) than urban providers.

Furthermore, it does not appear that the NQF is meeting a key objective: to promote greater transparency and public awareness of 'quality' levels in child care. Parents continue to display low awareness of the NQF and prioritise affordability and accessibility over 'quality' of childcare.

Introduction

National childcare regulations cover a range of areas including staffing, health and safety, education programs and governance. In most of these areas, red tape is likely to be an issue of concern. However, the focus of this submission is on the staffing regulations — specifically, the minimum qualification and staff-to-child ratio requirements under the NQF. As staff costs can make up over 60% of a childcare service's operating costs, rigid staffing requirements will have a particularly adverse effect, driving up costs for childcare providers which are ultimately passed on to parents in the form of higher fees.

Regulation should be imposed only where it can be demonstrated that the benefits outweigh the costs. However, there is a lack of compelling evidence that staffing regulations lead to improved outcomes for children. Further, staffing regulations place a heavy regulatory burden on both childcare workers and providers. This submission outlines the consequence of such regulation: childcare workers are forced to invest time and effort in obtaining qualifications; childcare providers must employ more staff and support staff training; and parents and taxpayers ultimately bear the costs of these regulations through higher childcare fees.

What constitutes 'red tape'?

While there are different views on what constitutes 'red tape', it can generally be defined as poor-quality, unnecessary or burdensome regulations that impose administrative and compliance costs on individuals, businesses or organisations.

In its submission to this Committee, the Australian Children's Education & Care Quality Authority (ACECQA) stated a view that the 'structural quality' standards under the NQF do not represent red tape. However, it is reasonable to take a broader view of identifying red tape.

Even where a policy objective is recognised as important (for example, early childhood development), some or all of the regulations implementing the policy may be red tape if they are ineffective or an inefficient way to achieve the desired objective. Therefore, it is appropriate that the Committee consider whether the core regulations under the NQF, like staffing and qualification requirements, are red tape.

Occupational regulation in childcare

Occupational regulation is a type of labour market regulation, whereby governments use certain rules and criteria to control entry into a professional occupation or trade. Common forms of occupational regulation include *licensing* (where it is unlawful to practice a profession without government approval) and *certification* (where a regulatory authority issues a certificate based on assessment of the education or skills of a person).

The National Quality Agenda for Early Childhood Education and Care (NQA) imposes a framework of occupational regulation in the ECEC sector both through minimum qualification requirements and staff-to-child ratios for approved childcare providers.

Benefits of occupational regulation

Occupational regulation is often justified where the quality of a service is difficult to assess, so the regulator assures consumers that the provider meets certain minimum requirements. The promotion of public health and safety, for example, is a common objective of occupational regulation. For many consumers, it is important to have a high level of trust in the quality of certain services, such as medical treatments or vehicle safety checks.

Downsides of occupational regulation

However, there are also significant downsides of occupational regulation and some government licensing or certification requirements function as unnecessary 'red tape'.

First, occupational licensing creates regulatory barriers to entry for workers, requiring them to undertake expensive, specialist training and meet subjective requirements — often before they can even apply for a job.

Second, the barriers to entry and cost limit the availability of workers, making it hard and expensive for businesses to find and retain qualified staff. This is especially problematic in poorer communities and regional areas.

Finally, businesses will often also have to submit to regular government inspection and oversight to ensure compliance with the standards (for example childcare services are assessed on their compliance with the NQF). This imposes costs both on businesses, which are passed on to consumers, and government which has to conduct the checks.

The National Quality Framework

Staff-to-child ratios

Under the NQF, the minimum number of staff (or educators) required to educate and care for children at a centre-based service must comply with the following ratios:

- for children from birth to 24 months of age: 1 educator to 4 children;
- for children over 24 months and less than 36 months of age: 1 educator to 5 children;
- for children aged 36 months of age or over (not including children over preschool age): 1 educator to 11 children; and
- for children over preschool age: 1 educator to 15 children.

The NQF also allows state authorities to issue a waiver, if a childcare provider can demonstrate difficulty meeting the staffing requirements — either on a temporary or permanent basis.

Staff qualifications

Under the NQF, 50% of staff required to meet the relevant staff-to-child ratios in a centre-based service working with children preschool age and under, must have, or be actively working towards, at least an approved diploma level education and care qualification.

All other staff required to meet the relevant ratios at the service must have, or be actively working towards, at least an approved certificate III level education and care qualification. The national authority, ACECQA, is required under the law to publish on its website a list of approved qualifications.

In addition, childcare providers must employ a qualified early childhood teacher for a certain number of hours, depending on the number of children in care and hours of operation.

Assessing the costs of regulation

Workforce growth is exceeding increases in availability

The introduction of the NQF has contributed to the sizeable growth in the ECEC workforce in recent years, as childcare providers work to meet the relevant staff-to-child ratios that came into full effect in 2016. Between 2010 and 2016, the workforce size grew in total by around 72%,² compared to a 46% increase in the number of children in formal care over that period.³ This translates to one new worker for every four additional children in care.

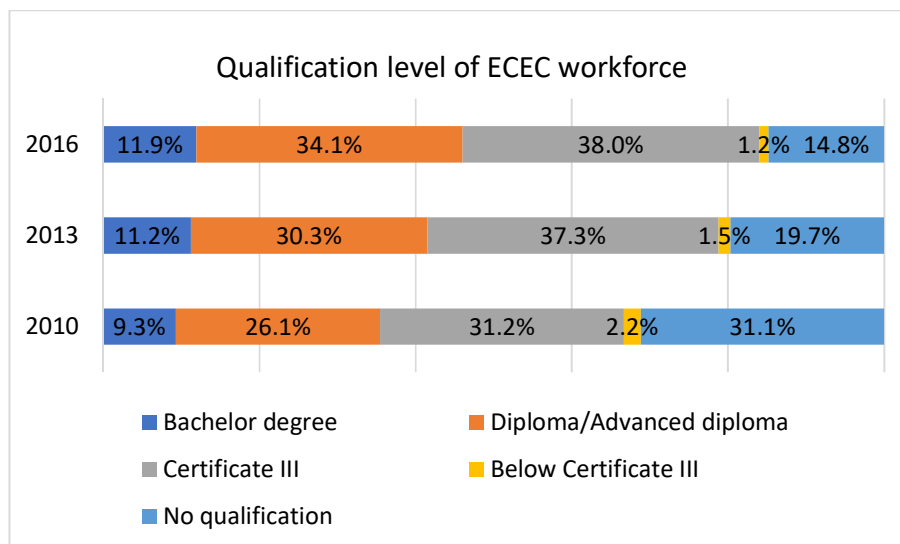
In its 2014 Inquiry into Childcare and Early Childhood Learning, the Productivity Commission reported that the new staff-to-child ratios and qualification requirements had made it more difficult for services to recruit and retain a sufficient number of staff.⁴ Therefore, despite the rapid growth in the workforce, parents continue to report persistent difficulties in finding available or suitable childcare places for their children.⁵

The Productivity Commission also concluded that total wage expenses of the childcare sector would increase as a consequence of the need to recruit additional staff to meet the minimum ratios. This has been borne out by the recent growth in total wage costs of the childcare sector, which have increased from around \$4 billion in 2010 to over \$7.5 billion in 2016.⁶

Qualifications and upskilling rates

The average qualification level of staff who work directly with children in the ECEC sector has increased considerably from 2010 to 2016. Overall, more than four fifths (85.2%) now hold an ECEC-related qualification, compared to 68.9% in 2010. This growth can be largely attributed to the phase-in of national qualification requirements.

There is also significant levels of upskilling among the ECEC workforce. In 2016, over a quarter of contact staff qualified at the certificate III/IV level were studying at a higher level – mostly for a diploma or advance diploma, while 15.8% of staff qualified at the advanced diploma/diploma level were studying for a Bachelor degree or above.⁷



The costs of staffing requirements

Minimum staff-to-child ratios and qualification requirements come at a cost to childcare workers, service providers and ultimately parents and taxpayers who help subsidise childcare services.

Impact on workers

A minimum of a certificate III or diploma level qualification is required for workers seeking long-term employment in formal childcare. Therefore, the costs of obtaining qualifications is unavoidable for most ECEC workers, even if they already have experience of working in childcare.

An approved ECEC-related qualification involves substantial fees, which are often covered in part by taxpayer-funded loans or grants. Based on the federal Department of Education and Training's list of approved training providers, the average course fee for a certificate III in Early Childhood Education and Care is \$3,600, while the average fee for a Diploma of Early Childhood Education and Care is \$10,000.

To obtain a qualification also represents a major time commitment for the worker. A certificate III can take up to a year to complete, while a diploma can take as long as 18 months. Qualifications include compulsory workplace experience with a minimum number of placement hours, noting that ECEC workers may satisfy this requirement through employment at a childcare service.

Qualification must also be recognised as an approved course under the NQF. ECEC workers with qualifications obtained overseas or not included in the approved list, must apply to ACECQA to have that qualification recognised. ACECQA must assess if the qualifications are equivalent to the approved educator qualifications under the NQF.

Impact on providers

Minimum staff-to-child ratios have the effect of increasing labour costs for providers. Staff wages are the largest component of childcare costs, with wage expenses accounting for over 60% of provider operating costs.⁸ In its 2014 childcare inquiry report, the Productivity Commission noted that the staff-to-child ratios and minimum qualifications would affect labour costs of childcare operators. In fact, average wage costs for providers are estimated to have grown by 8% between 2015 and 2016, which the sector has attributed to the impact of the minimum staff-to-child ratios from 1 January 2016.⁹

Furthermore, employers are generally required to pay higher wages for staff holding higher qualifications. Under the award wage system, for example, a diploma-qualified worker will be on a higher pay grade than a certificate-qualified worker.

Impact on parents and taxpayers

Where there is upward pressure on labour costs, these additional costs will generally be passed on in the form of higher childcare fees, paid by parents and taxpayers. In its childcare inquiry report, the Productivity Commission found that costs imposed on childcare providers from regulatory changes had generally been passed through to parents and government. The Commission noted specifically that regulatory-induced changes in wage expenses would be a contributing factor to growth in childcare fees.¹⁰

Since the introduction of the NQF in 2012, public expenditure on childcare fee assistance has increased by 40% in real terms, from around \$4.7 billion to over \$7 billion in 2017-18. For parents,

average weekly out-of-pocket costs of childcare increased by 28.6% in real terms, despite little change in the average number of hours of childcare.¹¹

Impact on future costs

In the absence of any efforts to lighten the burden of regulations, labour and regulatory costs can be expected to continue rising over time. This will flow through to higher childcare fees and, consequently, the more generous Childcare Subsidy, coming into effect from 1 July 2018, will be less effectual than desired in improving childcare affordability. Moreover, qualified workers will expect their pay rates to be commensurate with their qualifications, meaning that real wage growth will be likely over the long-term.

Regulatory burden

The national authority, ACECQA, surveys childcare service providers annually on their experience of regulatory burden associated with the NQF. The survey results for 2017 indicate that 41% of providers had high or very high perceptions of overall regulatory burden from the NQF. This compares to 36% in 2015 and 44% in both 2014 and 2013.

In particular, the survey reported that over 40% of providers identified each of the following aspects as 'high' regulatory burden:

- Quality assessment and ratings visits
- Quality Improvement Plans
- Documenting children's learning
- Maintaining policies and procedures

The CIS suggests that the Committee further investigates these reported areas of regulatory burden. Consideration should be given to the benefits or necessity of these requirements, relative to the regulatory costs imposed.

The survey also highlights waivers as an area of particular regulatory burden for service providers. A majority of respondents considered that the burden of obtaining waivers outweighed the benefits. An approved provider can apply for a waiver from an element of the National Quality Standard, including the staff qualification requirements or staff-to-child ratios. According to ACECQA, an application for a waiver can take up to two months to process.

Notably, most of the 600 waivers in place in 2017 were for staffing arrangements. Services in regional areas have a higher dependence on staff waivers, due to difficulties in the recruitment and retention of staff. For example, 11% of services classified as Remote and 7.4% of services classified as Very Remote held staffing waivers in 2017, compared to 3.9% of childcare services nationally.

Cost of subsidies

As referenced earlier in this submission, out-of-pockets costs of childcare have increased significantly since the introduction of the NQF, with average weekly costs growing by 28.6% in real terms between 2011 and 2017. At the same time, public expenditure on childcare fee assistance has grown by 42% since the introduction of the NQF, or at an annualised rate of 7%.

This real growth in public expenditure is not expected to abate any time soon. Taxpayer-funded fee assistance, due to be restructured as the new Child Care Subsidy from 1 July 2018, is forecasted to increase from \$7.2 billion in 2017-18 to more than \$9.5 billion in 2021-22. This translates to an increase of 32.8% over the next four years. The growing cost of subsidising childcare makes it even more critical to prevent unnecessary regulatory costs from being passed on to parents and taxpayers.

Assessing the benefits of regulation

Quality in childcare: the evidence base

The 2014 CIS research report, *Regulating for Quality in Childcare: The Evidence Base*, examined the evidence base for the national staff-to-child ratios and staff qualification requirements introduced under the NQF. The report found there was little evidence — based on both Australian and international research — that the NQF staffing regulations would improve outcomes for children. In addition, the report concluded the NQF reforms would increase the cost of childcare without measurably improving quality.

The CIS encourages the Committee to consider this report as it highlights the contestability of the theoretical assumptions underpinning the NQF. A copy of the report is provided as an attachment to this submission.

Furthermore, a number of more recent studies published since 2014 have also highlighted the lack of sound evidence underpinning qualification and staffing regulations. For example:

- A study by Del Boca, Monfardini and See (2018) found that more than one year of pre-primary education had no significant effect on school outcomes in children. In addition, the study found that low staff-to-child ratios only had significant effects in limited circumstances.¹²
- A study by Lin and Magnuson (2018) found few associations between teacher qualification level and observed classroom quality in child care.¹³ The study also indicated that teacher education had little effect in predicting children's early academic skills.
- A meta-analysis study by Vermeer et al. (2016) reported only mixed evidence of an association between structural quality factors (including staff-to-child ratios) and measures of process quality.¹⁴

What do parents want from childcare?

A key objective of the NQF is to allow parents to easily observe indicators of quality in childcare and therefore make optimal choices. However, following the introduction of the NQF in 2012, government research found limited awareness of the NQF among families, with parents surveyed suggesting that quality ratings for childcare services would not influence their decisions around childcare.¹⁵ A separate study in 2017 also reported limited awareness of the NQF and concluded that the NQF was not meeting its intended objective to help parents select high-quality ECEC.¹⁶

In 2017, ACECQA undertook further research which found the majority of families were either unaware or unsure that childcare services were rated against the NQF. Parents also ranked the

quality rating of a service as the least important factor when choosing a childcare service, with affordability and location being the most important factors overall.

These findings are also supported by the latest Australian Bureau of Statistics data on childhood education and care, which indicate the most common reason for using formal childcare is work-related (that is, related to the parents' workforce participation) rather than the benefits of childcare for children.

Notably, parents have not changed their reasons for using childcare since the NQF was introduced. For example, 76.7% of parents in 2008 cited work as the main reason for using childcare, compared to 70% of parents in 2018. By comparison, 18% of parents in 2008 cited benefits for children as the main reason, compared to 14.6% of parents today.

If parents are unaware of 'quality' regulations or do not highly value certain indicators of structural quality (such as staff qualifications and staff-to-child ratios), this undermines the justification of red tape created by the NQF and raises the question of whether the benefits of regulation are proportionate to the costs imposed on the sector.

¹ Australian Children's Education & Care Quality Authority. 2017. *National Partnership Annual Performance Report*. p 90.

² Social Research Centre. 2017. *Early Childhood Education and Care National Workforce Census 2016*. Australian National University.

³ Department of Education and Training. 2017. *Early Childhood and Child Care in Summary*. June 2017. Available at: <https://docs.education.gov.au/node/50171>

⁴ Productivity Commission. 2014. *Inquiry into childcare and early childhood learning*. Inquiry report. Canberra.

⁵ Wilkins, R. 2017. *The Household, Income and Labour Dynamics in Australia Survey: Selected Findings from Waves 1 to 15*. Melbourne Institute. Applied Economic & Social Research. The University of Melbourne.

⁶ Bankwest. 2017. *Child Care Industry Report*. Available at: <https://www.bankwest.com.au/content/dam/bankwest/documents/business/national-childcare-barometer-report-2017-final.pdf>

⁷ Social Research Centre. 2017. *Early Childhood Education and Care National Workforce Census 2016*. ANU

⁸ Productivity Commission. 2014. *Inquiry into childcare and early childhood learning*. Inquiry report. Canberra. p. 361

⁹ Australian Childcare Alliance. 2017. *National Childcare Barometer*. Available at: <https://childcarealliance.org.au/aca-surveys/national-childcare-barometer>

¹⁰ Productivity Commission. 2014. *Inquiry into childcare and early childhood learning*. Inquiry report. Canberra. pp. 360-361.

¹¹ Australian Bureau of Statistics. 2018. *ABS 4402.0 Childhood Education and Care, Australia*, June 2017.

¹² Del Boca, D., Monfardini, C., & See, S. G. *Government Education Expenditures, Pre-Primary Education and School Performance: A Cross-Country Analysis* (March 14, 2018). CESifo Working Paper Series No. 6934. Available at: <https://ssrn.com/abstract=3172649>

¹³ Lin, Y., & Magnuson, K. A. *Classroom quality and children's academic skills in child care centers: Understanding the role of teacher qualifications*. *Early Childhood Research Quarterly*. 42 (2018). pp. 215-227

¹⁴ Vermeer, H. et al. 2016. *Quality of Child Care Using the Environment Rating Scales: A Meta-Analysis of International Studies*. *International Journal of Early Childhood*. Vol. 48, Issue 1, pp 33-60.

¹⁵ Hall & Partners. 2014. *Families Research Project: Knowledge and Meaning of National Quality Standards Ratings Pilot Study*. Available at:

http://files.acecqa.gov.au/files/Reports/Families_Research_Project_Hal_Partners_Pilot_Study2.pdf

¹⁶ Hinton, A., Fenech, M. & Degotardi, S. 2017. *Parental knowledge and use of the National Quality Framework in their childcare decision making: Informed believers, informed dismissers and indifferent disregards*.

December 2017. *Australasian Journal of Early Childhood*. Vol. 42, No. 4, pp 69-77.