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Red Tape Committee
Department of the Senate
PO Box 6100
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By email: redtape.sen@aph.gov.au

Response to the Australian Senate Inquiry into Red Tape – effect of red tape on childcare

Dear Senators

Thank you for the invitation and opportunity to comment on the Senate's inquiry into red tape. Our submission relates to child care and red tape in the context of the National Quality Framework (NQF).

The National Quality Framework

The NQF was introduced from 1 January 2012 and is the national system for regulating education and care services, setting standards for market entry, children's safety and wellbeing, and service quality.

More than 15,000 services across Australia are within scope of the NQF, including more than 7,000 long day care services, nearly 4,500 outside school hours care services, more than 3,000 preschools/kindergartens, and around 800 family day care services. There are some 7,500 service providers licensed to operate one or more service, with most providers (around 80%) operating just one service.

The NQF is jointly governed by the Australian Government and all state and territory governments as a means of:

- ensuring the safety, health and wellbeing of children attending these services,
- delivering educational and developmental gains for these children, and
- realising the efficiency benefits and cost effectiveness of a unified national regulatory scheme.

The Australian Children's Education and Care Quality Authority (ACECQA) is the independent national authority established under the *Education and Care Services National Law* (the National

Law) to guide the implementation and administration of the NQF. The State and Territory governments fulfil the role of the 'regulatory authority' under the National Law, with responsibilities covering licensing, service quality rating, and enforcement of legislated standards within their jurisdiction.

The NQF, compliance obligations and 'red tape'

Governments have agreed, following a process of regulatory impact evaluation and sector and public consultation, that a national system of regulation of education and care is necessary. The underpinning intent of this regulation is that young children must not be exposed to unacceptable risks to their safety, health and wellbeing, nor be excluded from the benefits of early learning and educational programs by poor quality education and care services. As observed by the Productivity Commission in its *Inquiry into Childcare and Early Childhood Learning*¹, almost all of Australia's 3.8 million children aged 12 years or under have participated or will participate in some form of early childhood education and care. Many of these children will spend more than eight hours each working day attending a service.

The NQF uses a mixture of outcomes based legislation combined with specified standards for the underpinning structural components of quality. The structural components of quality are readily measured, and include educator to child ratios and workforce formal qualifications.

Governments recognise they should intervene in the education and care sector for a range of reasons, with the overarching goal of improving the wellbeing of children and parents. These reasons, which were outlined in the 2009 *Council of Australian Governments Decision Regulation Impact Statement for Early Childhood Education and Care Quality Reforms*², include:

- Supporting families' workforce participation
- Improving child development through the provision of high quality education and care
- Minimising the risk of harm to children occurring in education and care services – a responsibility of government is to ensure the welfare of vulnerable members of society. Regulation of education and care services provides a basis for establishing and maintaining minimum quality standards, and mitigating the risk that children will come to physical, developmental, social or emotional harm
- Addressing information asymmetries – historically, it has been difficult for families to accurately assess the level of quality on offer by a service. This may limit their ability to make informed decisions regarding their children's attendance. Governments are in a unique position to overcome this and to collect and disseminate data and information which is relevant, reliable and comparable

¹ Productivity Commission (2014), *Childcare and Early Childhood Learning*, Inquiry Report No. 73, Canberra.

² Council of Australian Governments (2009), *Regulation Impact Statement for Early Childhood Education and Care Quality Reforms*.

- Supporting children from disadvantaged backgrounds – the participation of children from disadvantaged backgrounds in high quality early education and care has been found to be associated with increased participation and retention in later education, positive social behaviours in school and later life and higher educational achievement.

In the context of the education and care sector, 'red tape' mainly involves the record keeping, documentation and notification obligations of service providers. The NQF legislation generates some of this paperwork, however a significant share of this 'red tape' is driven through contract compliance obligations that are entered into by service providers so they can access government subsidies. Other 'red tape' is driven by related regulatory schemes, such as planning controls imposed by local governments.

This submission considers the 'red tape' directly attributable to the NQF, and its legislated scheme for licencing, standards and quality rating.

Governments have committed to monitoring and reducing any unnecessary burden associated with the NQF since its introduction in 2012. For example, under both the previous and current *National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care*, ACECQA is responsible for measuring and reporting on perceptions of administrative burden experienced by providers of education and care services.

In ACECQA's view, the underpinning structural quality standards that the NQF legislation applies to education and care services are not 'red tape'. That early childhood services should have sufficient numbers of properly qualified staff is well evidenced in international research and central to achieving the policy objectives of governments.

Rather, research and reporting has focused on administrative compliance burden and in particular, those administrative obligations that service providers perceive as unnecessary or requiring excessive paperwork.

Impact of high quality early childhood education and care

The NQF was created to support the short, medium and long term outcomes of children in Australia, and is based on strong evidence that the earliest stages of a child's development have a significant impact on their later health and development outcomes.^{3,4}

Brain architecture and function develops rapidly during early childhood, making it a vital time for establishing competencies.⁵ A recent, large-scale Australian study found a number of dimensions of

³ Organisation for Economic Co-operation and Development (OECD) (2006), *Starting Strong II, Early Childhood Education and Care*.

⁴ Moore, T.G., Arefadib, N., Deery, A., & West, S. (2017). *The First Thousand Days: An Evidence Paper*. Parkville, Victoria; Centre for Community Child Health, Murdoch Children's Research Institute.

⁵ Ministerial Council for Education, Early Childhood Development and Youth Affairs (2010) *Engaging families in the early childhood development story*, South Australia, pp 15 – 23.

high quality education and care programs had strong positive effects on children's outcomes.⁶ This complements the growing body of international research that shows attendance at high quality early childhood education and care services contributes to children's cognitive, health, social and emotional development⁷ and is significantly related to higher standardised test scores, increased independence, and decreased anti-social behaviour in primary school.^{8,9,10}

Efficiency and cost effectiveness of the regulation of education and care services

Improved efficiency of education and care services regulation was in part achieved by creating a unified national regulatory system under the NQF. The NQF replaced a pre-existing complex system of eight different state and territory regulatory models, and a partially overlapping national quality assurance regulatory scheme operated by the Australian Government.

Prior to the NQF, requirements such as the safety of a service's physical environment were often duplicated in the state/territory licencing and Commonwealth quality assurance processes. Expectations were inconsistent across states and territories, with varying standards for service types, ratio and qualification requirements. Information flows between the nine regulators were highly restricted, and so a provider operating across multiple jurisdictions and regulators could find themselves needing to comply with multiple but slightly varying paperwork, notification and record keeping obligations both within a single jurisdiction (if their services were regulated by the Australian and the state or territory government) or between jurisdictions.

Further, there was a complex system of licensing requirements and minimum standards for different service types, depending on which jurisdiction a provider operated their service in.

While the introduction of the NQF did not immediately result in a single set of national requirements, the phasing out and phasing in of common standards over time was a pragmatic and efficient approach to transitioning from nine disparate regulatory models.

As the NQF continues to mature, and transitional arrangements expire, national consistency of regulated standards has increased for the sector.

⁶ Tayler, C. (2016) The E4Kids study: Assessing the effectiveness of Australian early childhood education and care programs - overview of findings at 2016. Final report to the Partner Organisations of the Effective Early Educational Experiences (E4Kids) study, University of Melbourne.

⁷ Organisation for Economic Cooperation and Development (2012) Starting Strong III: Early Childhood Education and Care, OECD.

⁸ Sylva, K., Melhuish, E., Sammons, P., Siraj-Blatchford, I., and Taggart, B. (2004) Technical Paper 12, The Final Report: Effective Pre-school Education. London: Institute of Education.

⁹ Reynolds, A., Temple, A., et al. (2011) Schoolbased early childhood education and age-28 well-being: Effects by timing, dosage, and subgroups. *Science*, 333, 360.

¹⁰ Consortium for Longitudinal Studies (1983) *As the twig is bent... lasting effects of preschool programs*. Hillsdale, New Jersey: Erlbaum.

Reducing burden for education and care providers

A single legislative system reduces administrative burden for all education and care providers that were previously required to meet separate requirements. It also reduces complexity for providers operating services in multiple jurisdictions and/or multiple service types. Under the NQF, minimum enforceable standards and quality rating assessments are encompassed in a unified system, which has efficiency benefits for both providers and governments. The NQF also offers a more readily understandable set of standards for the many families who move between jurisdictions and/or use multiple service types.

The original policy intent of the NQF set out in the objectives of the National Partnership Agreement and the National Law explicitly include the reduction of regulatory burden, and governments have reaffirmed this principle through the recent National Partnership Review process.

Measuring regulatory burden

ACECQA administers a survey to measure education and care providers' perception of burden associated with administrative requirements under the NQF. This ongoing research was established to identify aspects of the NQF that are difficult and/or burdensome to help guide improvements to the system.

The survey was administered annually between 2013 and 2015, and again in 2017. A fifth survey is planned for 2018.

Overall support for the NQF among providers of education and care services has been consistently above 95% throughout the lifetime of the research, and remained very strong in 2017.

Between 2013 and 2015, there was a statistically significant reduction in the overall perception of administrative burden associated with the regulatory requirements of the NQF. While perceived administrative burden was higher in 2017 than in 2015, it remained lower than in 2013 and 2014.

Perceived overall burden in 2017 was largely influenced by perceptions of burden associated with six administrative requirements. Where respondents to the survey indicated that they found a specified administrative requirement burdensome, they were then asked whether they felt the benefits accrued from that requirement outweighed the burden associated with it.

Four of the six requirements, including documenting children's learning and maintaining policies and procedures, were considered by providers to be more beneficial than burdensome. Quality assessment and rating visits and quality improvement plans were considered by a slim majority of the subset of providers to be more burdensome than beneficial.¹¹

Both of these requirements are integral parts of the quality rating process and, by their nature, place noticeable administrative burden on providers. They are also requirements that are the subject of persistent misconceptions. For example, some providers overestimate what is expected in terms of

¹¹ For more information see ACECQA (2017), [National Partnership Annual Performance Report](#).

preparation for an assessment and rating visit, as well as what content is expected in a quality improvement plan.

The time required to prepare for quality assessment and rating visits was the primary concern identified by the subset of providers, with the time required to identify and prioritise areas for improvement being the primary factor in the perception of burden associated with quality improvement plans.

Governments and ACECQA have responded to these sector concerns through the Review of the *National Partnership on the National Quality Agenda for Early Childhood Education and Care (NQA)* and other efficiency and cost effectiveness initiatives which are described below.

Increasing the efficiency and cost effectiveness of the regulation of education and care services

Governments and ACECQA regularly collaborate to review and analyse the performance of the NQF, and continue to undertake activities to promote efficiency and cost effectiveness.

NQA Review (2014)

A major review of the NQA commenced in 2014, with recommendations for changes agreed by the COAG Education Council for implementation from October 2017.

The Review's NQF changes maintain quality outcomes for children, while balancing the need to reduce red tape and unnecessary administrative burden for approved providers and educators. The final Decision Regulatory Impact Statement¹² agreed by Ministers explored 52 substantive proposals in detail.

The Office of Best Practice Regulation (OBPR) determined that many of the adopted proposals involved a saving to education and care service providers and/or reduced the costs of regulation.

Changes introduced following the review include:

- a revised and streamlined National Quality Standard that provides greater clarity and removes conceptual overlap between elements and standards, and reduces the number of standards and elements from 18 standards to 15, and 58 to 40 elements
- the removal of supervisor certificate requirements so service providers have more autonomy and less paperwork involved in deciding who can be the responsible person in each service
- clarified reporting and notification obligations, e.g. notification of serious incidents and removal of duplicative requirements for providers and regulatory authorities.

Each of these changes reduce unnecessary costs of regulation and contribute efficiency gains for the regulated sector.

¹² Council of Australian Governments (2017), Decision Regulatory Impact Statement for changes to the National Quality Framework.

Other efficiency and cost effectiveness initiatives

Other related and ongoing, collaborative initiatives between governments and ACECQA include:

- ACECQA's monitoring of specific aspects of the NQF as part of its legislated national audit function. ACECQA has undertaken 14 audits on topics such as scheduling and undertaking quality assessment and rating visits, remote and very remote services' experience of the NQF, quality rating reassessments, and serious incident reporting. The audits have strengthened cross-jurisdictional collaboration, and informed detailed national regulatory guidance and sector communications,
- publication of a single, overarching *Guide to the National Quality Framework* as a common source of information and compliance guidance for both providers and regulators. Ongoing audience engagement with the *Guide to the National Quality Framework* is promoted via information sheets, social media activities, e-learning modules, professional development opportunities, and a national 1800 phone line for sector enquiries.
- regular enhancements to the National Quality Agenda IT System (NQA ITS), such as online application and notification forms replacing almost all paper-based forms. The NQA ITS is the national database used by all state and territory regulatory authorities to record their regulatory activity, including service quality rating, and enforcement activity. Service providers use the NQA ITS to communicate with the regulatory authorities through a secure online portal.
- promoting a community of practice forum among regulatory authorities to develop and implement efficiency improvements, such as more risk based approaches to regulation.

Conclusion

ACECQA's research¹³ shows that families expect that education and care services will meet reasonable standards for the safety, health and wellbeing of their children.

Families also expect that these services will be controlled by reputable and capable people who employ qualified staff. Families expect governments to ensure these attributes are experienced consistently and predictably in each service. Children who attend education and care services are uniquely vulnerable, especially in the years prior to school. Unlike other consumers they generally cannot advocate for themselves.

The market for education and care is highly fragmented and diversified. As we note earlier in this submission, some 7,500 mostly small businesses and non-government organisations operate more than 15,000 services. The character of this market, its consumers, the level of government investment through subsidies and the fact that high quality services generate broader economic and societal benefits present unique challenges for governments and regulators.

¹³ See, for examples, reports on ACECQA's research with families on the [Families Research](#) page of the website.

In the six years since the NQF replaced the former nine regulatory schemes it has gained strong support from the regulated sector. Reducing unnecessary regulatory burden is an explicit objective, and ACECQA is required to report to governments, and more recently publically¹⁴ on the performance of the regulatory system. These reports, and related policy reviews have adjusted the regulatory scheme in response to sector feedback, through legislative reform, improved systems for doing business with the regulators and through guidance and support services to the sector.

Yours sincerely

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¹⁴ ACECQA (2017), National Partnership Annual Performance Report.