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SUBMISSION TO
HOUSE OF REPRESENTATIVES STANDING COMMITTEE
ON EDUCATION AND EMPLOYMENT
INQUIRY INTO EARLY YEARS QUALITY FUND SPECIAL ACCOUNT BILL 2013

About CCSA:

CCSA's vision is for best practice management in early childhood education and care (ECEC). We have been operating for over 43 years partnering with, and advocating for, ECEC services and have a sound understanding of the issues faced by remote, rural and regional services. CCSA is the leader in the provision of governance, management, compliance, business and workplace relations support to ECEC services.

Currently CCSA has 600 members across NSW and the ACT. Its members are drawn from all facets of the ECEC sector including preschools, long day care, mobile, early intervention and family day care services.

CCSA has played a lead role in supporting NSW ECEC services in their transitions to the Fair Work and National Quality Framework regimes by promoting understanding and compliance with the new structures. CCSA also plays a leadership and advocacy role at a state and national level in order to:

- advocate for high quality and affordable ECEC services
- encourage governments to be responsive to this sector's needs
- increase community awareness of the value of qualified early childhood professionals
- increase the understanding and importance of community managed services
- promote effective workplaces and excellence in service delivery to achieve better outcomes for children.

In preparing this submission, CCSA has incorporated input from its members, and has drawn on its experience in providing management support to ECEC services with employees working under the *Children's Services* Award 2010, Education *Services (Teachers) Award 2010* and Enterprise Agreements derived from those Modern Awards.

Yours Sincerely

Samantha Edmonds
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7 June 2013

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CCSA strongly supports the introduction of the National Quality Framework (NQF), with its focus on a qualified and professional workforce. This national alignment of standards will greatly increase the quality of education and care provided to all Australian children in the critical formative years prior to commencement of school. It needs to be recognised, however, that the delivery of improved outcomes in Early Childhood Education and Care (ECEC) will ultimately be the result, not of government intervention, but of the hard work, in an increasingly complex regulatory environment, of Early Childhood Educators and Carers and their support staff.

Improved remuneration that recognises the increasing professionalism of this critical workforce and supports its recruitment and retention is an essential element of any successful long-term plan. CCSA, therefore, welcomes the focus on addressing the remuneration of Early Childhood Educators in long day care services. This is central to the creation of the Early Years Quality Fund (EYQF) and associated initiatives such as the establishment of a Pay Equity Unit to assist the Fair Work Commission.

It is CCSA's position, however, that the creation of the EYQF suffers from a rushed approach and a lack of consultation with the sector. We, therefore, welcome the opportunity to make comment through the House Standing Committee on Education and Employment's Inquiry into the *Early Years Quality Fund Special Account Bill 2013*.

The Government, in its rush to announce the EYQF, did so without consultation with the sector. Despite the imminent start date, the EYQF was announced without any details of eligibility criteria, funding distribution, application and assessment processes, payment processes and reporting and monitoring requirements. Consideration of these issues has been devolved to an Advisory Board whose composition was only recently announced by the Government on 24 May 2013.

With only three weeks remaining before commencement of the EYQF, no call for sector consultation or input has been made by the Advisory Board. Consultation is, therefore, effectively limited to those hand-picked members of the Advisory Board despite the sector-wide implications of the EYQF. CCSA respects the quality and integrity of all members of the Advisory Board but believes that the board should have sufficient time to consult with their constituents. The push to get things done in too tight a timeframe results in a marginalisation of the remainder of the sector that is not acceptable and is counter to the principle of open and transparent government and public administration.

CCSA's concerns with the establishment of the EYQF are focussed on the following issues:

- Commencement Date (Clause 2 of the Bill)
- Restrictions on access to the EYQF created by the definition of an ***approved centre based long day care service*** (Clause 4)
- Cap and time limit on funding (Clause 6)
- The mandatory requirement for Enterprise Agreements to be the vehicle for delivering increased wage outcomes

- Restrictions on the staff eligible to receive wage supplementation through the EYQF
- Deficiencies in the funding arrangements for preschools and long day care services

The last three points are not explicitly addressed in the *Early Years Fund Special Account Bill 2013*. However, they are central to understanding the context in which the EYQF will operate. It is important that Committee Members have that background knowledge in order to make an appropriate recommendation back to the House of Representatives.

<u>Commencement Date (Clause 2)</u>

The commencement date of 1 July 2013 for the EYQF means that the vast majority of the sector will not be ready to immediately avail themselves of the benefits of the fund. Given the timeline for negotiating enterprise agreements (a minimum of six weeks [three weeks from the issue of the notice of employee representational rights plus one week employee consideration plus two weeks submission time] before consideration of any time spent in actual negotiation or delays imposed by FWC scheduling constraints), it is impossible for an early childhood service that does not currently have an enterprise agreement to negotiate one prior to the commencement date. This is exacerbated by the fact that the Advisory Board has only just been appointed, meaning that guidelines and comprehensive eligibility criteria have not yet been released. This situation will be even further exacerbated by delays caused by union inability to support the enterprise negotiation process (see more below).

The commencement date, therefore, benefits services that already have in place complying Enterprise Agreements because their financial strength and greater resources have allowed them to previously complete enterprise negotiations. These are generally larger services. Therefore, the EYQF could effectively represent a windfall payment to those services that least need the Government's support, while increasing the risk that smaller services will commit to increased wages through a binding Enterprise Agreement, only to find that they will not be funded due to the cap on funds contained in the current Bill (see more below). This is likely to occur if, by the time the smaller services complete their own Enterprise Agreements, the funding has already been fully committed to larger or more financially viable services.

In that case, the only option available to services with a legal obligation to pay increased wages but not in receipt of any EYQF funding will be to increase parent fees (which, ironically, would also increase government outlays through increased CCB and CCR payments, as well as being contrary to the stated aim of the Government that the EYQF will not increase parent fees). If the capacity of the local parent community to meet higher fees is limited or non-existent, the end result is conceivably closure of the service. Faced with such a risk due to unreasonable timelines for implementation, many services will mitigate it by not pursuing EYQF funding at all. It is possible they will then lose qualified staff to more highly paid roles at nearby services, with a consequent risk of lower standards that reduce parent confidence and increase the likelihood of service failure.

The rushed commencement date, therefore, risks a disproportionate benefit to larger services that do not have as great a need for that support, with increased fees, lower standards or closure of smaller services the concomitant outcomes. These latter outcomes can be expected to have a disproportionate negative effect on disadvantaged groups and lower socio-economic areas.

<u>Restrictive Definition (Clause 4)</u>

CCSA is concerned that the definition of an ***approved centre based long day care service*** will exclude 'Non-Mainstream' service that provide child care in communities where mainstream services are not available or viable, or where there is a need for Indigenous-focused or culturally competent services, and that consequently are funded through the Budget Based Funding mechanism. Without wage supplementation equivalent to that to be received by 'approved centre based long day care services', these 'Non-Mainstream' services, such as Multifunctional Aboriginal Children's Services (MACS) or Mobile Childcare Services, risk losing staff to higher paid roles at nearby services which do receive the advantage of EYQF funding. This will only serve to exacerbate the disadvantage already suffered by many of the children supported by 'Non-Mainstream' services.

<u>Cap and Time Limit on Funding (Clause 6)</u>

Clause 6 effectively limits EYQF funding to $135M in 2013-14 and $165M in 2014-15. In the absence of program guidelines, covering such issues as the exact amounts that will be payable for employees with qualifications greater than a Certificate III, or whether EYQF funding can be allocated to other payments such as casual loadings, higher duties allowances or transitional pay rates required under the *Fair Work Act 2009*, it is not possible to accurately estimate the full cost of the proposed wage increases to be delivered through EYQF. The ECEC Sector is firmly of the opinion, though, that the amounts to be credited to the EYQF Special Fund will be insufficient to provide wage supplementation for 100% of the sector.

It should also be noted that both the *Educational Services (Teachers) Award 2010* and the *Children's Services Award 2010* are due for review in early 2014 by the Fair Work Commission. If those reviews result in increases to the amounts payable to Early Childhood Educators and Carers, the amount allocated by this Bill for deposit into the Fund in 2014-15 will be even less sufficient to meet demand, including demand from services previously approved to receive funding in 2013-24.

Beyond 30 June 2015, no EYQF funding is available. The Government has announced the establishment of a Pay Equity Unit to assist the Fair Work Commission but there is no commitment to either an Equal Remuneration Case or any other mechanism for supporting improved wages outcomes beyond 30 June 2015. That will leave early childhood services at 1 July 2015 either needing to find 100% of the wages supplementation themselves through a combination of increased parent fees, reductions in workforce size, or pay rate reductions for existing staff depending on how enterprise agreements are written. At the least, this will lead to a reduction in the quality of service delivered to families or an increase in cost. Both outcomes are contrary to the stated aims of the EYQF, to assist with maintaining the affordability of early childhood education, while ensuring the high quality of education and care for children. At worst, it may result in closure of services for the reasons previously advanced in the discussion of Clause 2.

In the absence of a firm commitment to wage supplementation beyond 2015, there should at least be a 'run-off' amendment made to Clause 6 providing for funding in 2015-16 and beyond. The level of deposits into the Fund should be sufficient to support early childhood services pay at least the pay rates established under the EYQF Advisory Board's guidelines for 2014-15 until such time as these are exceeded by the relevant Modern Award pay rates (e.g. through the process of Annual Wage Reviews).

Enterprise Agreements

The requirement to use Enterprise Agreements as the mechanism for ensuring payment is made is unnecessary. Smaller services will be placed at a disadvantage as the relevant unions have already indicated to employers that their focus, understandably, will be on participating in enterprise negotiations in those workplaces with larger union memberships. The risks to smaller services of being at the back of the queue for EYQF funding have already been discussed above.

Instead of an Enterprise Agreement, a contractual requirement to pay above award rates, with an audited acquittal process would be sufficient. This would permit all eligible services to access the funding immediately, thereby achieving the stated policy aim of maintaining the affordability of early childhood education, while ensuring the high quality of education and care for children. Such an approach has already been successfully applied in NSW to facilitate the payment of supplementation payments as a result of the Equal Remuneration Case covering the Social and Community Services sector. In the case of services being targeted by the EYQF for wage supplementation, adding a schedule (with separate audited acquittal requirements as per the NSW approach) to Community Support Program grants would achieve the same outcome as using Enterprise Agreements.

The acquittal process could be as simple as the following table, signed off by the approved provider and the service's auditor as part of their annual financial statements:

Employee (could use a number to protect privacy)	**Modern Award**	**Amount payable under Modern Award**	**Amount Paid**	**EYQF Wage Supplementation Requirements Met?**
A	CSA 2010	$35,000	$45,000	Yes
B	ES(T)A 2010	$57,000	$59,000	No

It is inappropriate to link one government objective – an uptake in the number of Enterprise Agreements – to access to funding intended for a quite different purpose. An enterprise agreement should also not be about a single issue. The rush to complete Enterprise Agreements in order to access EYQF funding may have the perverse impact of undermining the Government's stated intention for Enterprise Agreements: to promote productivity and fairness through enterprise agreements that are tailored to suit the needs of businesses and the needs of employees (Explanatory Memorandum to Fair Work Bill 2009). Enterprise agreements that are rushed through, simply to lock in a single over-award pay rate without a full negotiation between employers and employees of the workplace arrangements appropriate to their workplaces are not in the expressed spirit of the direction of workplace reform in recent years.

Restrictions on Staff Eligibility

Treatment of employees other than educators within an early childhood service that are employed under the same Enterprise Agreement, with reference to a common Modern Award (the Children's Services Award 2010) needs to be considered in the establishment of the EYQF. This includes staff at Modern Award Level 2 who are studying but have not yet completed their relevant Certificate III, trainees undertaking a Certificate III traineeship and Children's Service Support Workers such as administration staff and centre cooks who provide a critical support role. The pay relativity that is established by the current Modern Award for those staff is undermined by a fund that does not recognise their role. This in turn has the potential to contribute to workplace disharmony. That can only be detrimental to the overall quality of care provided in those services.

Funding arrangements for Preschools and Long Day Care Centres

The EYQF's focus on employees in long day care centres reflects a significant structural defect in the funding of Early Childhood Education and Care in Australia. Long Day Care is predominantly funded by the Federal Government through CCB, CCR and DEEWR Grants, while Preschools are predominantly funded by State Governments. In NSW, the State and Federal Governments have simultaneously announced initiatives that will see Preschools receive State funds to decrease parent fees but with no funding to improve Early Childhood workforce pay rates, while Long Day Care centres will receive EYQF funding to improve pay rates but parents will not benefit from reduced fees.

The Early Childhood Education and Care sector, and the families it supports, deserve to be treated as a single sector with varying delivery modes, rather than the current disaggregated and ad hoc approach to funding, parent fee support and wage supplementation. With specific reference to ECEC workforce pay rates, a timeline for an Equal Remuneration Case to be placed before the FWC needs to be declared, with an accompanying commitment from both the Federal and State/Territory levels of government to providing wage supplementation that mirrors the commitments given to the Social and Community Services sector.

Conclusion

The objective of the EYQF, to support quality outcomes for children by assisting early childhood services to attract and retain qualified hard working professionals, is strongly supported by CCSA. However, the path to achieving that objective can be simplified by the following changes:

- Removing the cap on the amount of funding to be deposited to the EYQF Special Account.
- Providing a mechanism for supporting wage supplementation in 2015-16 and beyond, pending Fair Work Commission consideration (supported by the Pay Equity Unit) of an Equal Remuneration pay case covering all Early Childhood Educators and Carers
- Including in the eligibility guidelines, all staff employed in a qualifying early childhood service under either the *Children's Services Award 2010* or the *Educational Services (Teachers) Award 2010*, or an Enterprise Agreement that has been approved by the Fair Work Commission that passes the Better Off Overall Test by reference to those Modern Awards.
- Creating a contractual obligation on qualifying early childhood services to make over award payments to staff with supplementary funding provided through DEEWR's Community Support Program from 1 July 2013, supported by an appropriate acquittal mechanism.
- Include early childhood services funded under Budget Based Funding in the eligibility criteria for receipt of EYQF funding.