



Australian Education Union

Submission

to the

Australian Industrial Relations Commission

Workplace Relations Act 1996

In the Matters of:

AM2008/70 – Educational Services – Preschool Teachers

AM2008/77 – Health and Welfare Services (remainder) – Children’s Services

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CONTENTS

PAGE NO.

A. SUMMARY 5

B. AWARD MODERNISATION HISTORY 5

C. LOCATING EARLY CHILDHOOD TEACHERS 6

D. FEDERAL AND STATE GOVERNMENT DIRECTIONS FOR EARLY CHILDHOOD
EDUCATION AND CARE 7

E. STATUS OF THE PROFESSION 10

F. PROPOSED SCOPE OF THE TEACHERS AWARD..... 13

G. GENERAL STAFF IN EARLY CHILDHOOD EDUCATION AND CARE SETTINGS..... 14

A. SUMMARY

1. Early Childhood Education and Care is a policy priority for the Federal and State governments as evidenced by recent Council of Australian Government (COAG) proposals. These proposals stress the learning and development outcomes for children in different care settings in the years prior to formal schooling.
2. The AEU submits that the role of professional teachers is central to the COAG proposals and that this commitment should be reflected in the industrial arrangements which underpin their employment. Thus there should not be an inferior set of arrangements adopted for Early Childhood Teachers employed in settings not operated by schools compared with those which are operated by schools.
3. To differentiate and lower standards in relation to Early Childhood Teachers only in centres not operated by schools would tend to undermine the objectives of COAG and would establish anomalous and discriminatory arrangements compared to the bulk of the teaching profession, particularly those working in centres operated by schools. The settings other than schools in which Early Childhood Teachers work include community kindergartens and preschools, child and long day care centres and other specialist hospital or community-based early intervention centres. The latter includes centres for hearing and/or vision-impaired children and those with other intellectual or physical disabilities.
4. **Thus the AEU submits that the Educational Services (Teachers) Award should be amended at Clause 3 “Definitions” and Clause 4 “Coverage” to include teachers of pre-school age children, wherever their teaching role is performed.**

B. AWARD MODERNISATION HISTORY

5. The Teachers’ Award made in Stage 3 of the Modern Award process includes preschool teachers but only where they are employed in services operated by schools, public or private.

6. In the majority of public education systems operated by state and territory governments, public preschools are co-located with primary schools. It is clear that these centres come within the Teachers Award definition:

“school education industry means the provision of education, including preschool or early childhood education in a school...”

7. However, the Commission deferred to Stage 4 any further consideration of those working in preschools, kindergartens and childcare centres not operated by schools. The Commission made it clear that no conclusion should be drawn from the deferral to Stage 4 by stating that this, “...should not be taken as indicating that we have formed a final view.”

C. LOCATING EARLY CHILDHOOD TEACHERS

8. Consistent with our previous submissions, the AEU submits that comparably qualified teachers with comparable roles should be included in the Teachers Award. That is, Early Childhood Teachers in centres not operated by schools should be included within the scope of the Teachers Award.
9. Teachers in kindergartens, preschools, child care and long day care centres not operated by a school who are comparably qualified with those working in schools, undertake and supervise educational programs and have the same degree of accountability as those working in centres operated by schools.
10. Teachers may move from employment as a teacher in a child care centre to employment in a kindergarten operated by a school with the same qualifications and position description requirements.
11. It would be anomalous and discriminatory to exclude professional teachers from the Occupational Teachers Award on the basis of a distinction between a centre operated by a school and a centre operated by a community committee for example. Similarly it would be anomalous and discriminatory to situate such employment in the Children’s Services industry when the role clearly belongs in Educational Services.

12. AEU kindergarten teacher members employed in Victoria by community and local government centres are substantially funded and largely controlled by the Victorian Government Department of Education and Early Childhood Development. Teachers in these centres undertake the same roles and responsibilities with the same qualifications requirements as their counterparts in non-government schools.
13. Teachers are also employed in other settings employing early childhood qualifications including specialist hospital or other institutional facilities and community-based early intervention centres. In Victoria AEU members are employed in these settings either pursuant to the *Early Childhood Teachers Interim Award* or the *Disability Services (Victoria) Award (Part 3)*.
14. The AEU submits that these teachers' employment should be covered by the *Teachers' Award* in the same way as *prima facie* it will cover teachers in schools in other sectors, states and territories. To achieve this will require the deletion of the last clause in the definition of "employee" and elsewhere to widen the definition of "school education industry" and "teacher" to include employment of a teacher of preschool age children in whatever setting this work is performed.

D. FEDERAL AND STATE GOVERNMENT DIRECTIONS FOR EARLY CHILDHOOD EDUCATION AND CARE

15. On 3 July 2009 the federal government released a number of documents endorsed by the Council of Australian Governments (COAG) building on proposals in federal government discussion papers released in 2008 and 2009.
16. The *Regulation Impact Statement for Early Childhood Education and Care Quality Reforms* released by COAG on 3 July included a proposal to reduce the duplication, overlap and inconsistencies arising from the operation of the national accreditation system QIAS and state and territory regulation by creating one streamlined system of regulation (at p 24). The key objectives of the proposed system are stated as:

- a. *to build a high- quality, integrated national quality system, including a quality assurance system, for early learning and care that takes account of setting, diversity of service delivery, and the age and stage development of children, while supporting the workforce participation of families*
 - b. *to enhance learning and development outcomes for children in different care settings, with an initial focus on early learning in the years prior to formal schooling.*

- 17. The *Regulation Impact Statement* specifically aims to reduce the regulatory distinctions between preschools and long day care centres. By 2013 it is proposed that both preschools and long day care centres with 25 children would have to have at least one university qualified teacher and services with less than 25 children would be required to have access to a qualified teacher for educational leadership (at p26). Increases in qualifications required for Family Day Care staff are also proposed.

- 18. In August 2008 the Commonwealth government released the *National Quality Framework for Early Education and Care: a discussion paper*. At p34 the *Framework* states:
 - a. *The optimal development of children requires quality early learning experiences from birth in all early childhood education and care environments. As a critical first step the Commonwealth has committed to ensuring that by 2013 all children have access to an affordable, quality early childhood education program for 15 hours a week, 40 weeks a year in the year before formal schooling. This commitment emphasises a structured play-based preschool program with specific quality elements, including delivery by a four year degree-qualified early childhood teacher, and accessible through a range of settings. The commitment is in keeping with international best practice and is important for facilitating a smooth transition to formal schooling.*

- 19. At p 38 the *Framework* continues:
 - i. *It is proposed that the national Early Years Learning Framework will describe what we want children to know, understand and be able to do and set out the*

most effective ways for educators to optimise children's learning and development.

- ii. *It is proposed that the framework adopt an approach to learning, teaching, assessing, documenting and planning that is based on individual children's strengths. It will be an overarching document that provides the basis for national consistency across the years from birth to the age of five and during transition to school. It will promote early childhood education and care programs that are relevant locally, socially and culturally.*

It will be informed by current research and encourage ongoing reflection by the sector, and research about early learning. The framework will include an emphasis on the birth to three years of age as well as a preschool component that will prepare children for a successful transition to school.

- iii. *Across the world, learning frameworks have been developed with an emphasis on children aged three to five. In line with a review of existing early years learning and curriculum frameworks across Australia and a number of other countries, the national Early Years Learning Framework should emphasise learning for children from birth to the age of five (see Chapter 10).*

- iv. *The Early Years Learning Framework will underpin this commitment and will be linked to the National Quality Standards to ensure delivery of nationally-consistent quality early childhood education across a range of settings, including formal preschool and long day care, whether in the government, non-government, private or community sectors.*

- 20. The commitments contained in the various policy documents released in 2008 and 2009 will have a significant impact on the early childhood education and care and require significant change to the existing licensing and accreditation systems for both child care centres and pre-schools. These commitments, including the commitment to provide a program of 15 hours of early childhood teaching to each child in the year before formal schooling, will provide a much higher level of national consistency between preschools and long day care centres and emphasise that early childhood education will be provided in a range of settings not just preschools.

21. A curriculum, entitled *Belonging, Being and Becoming, an Early Years Learning Framework for Australia*, was also released for the guidance of early childhood educators to facilitate learning in early childhood settings from birth to five years. This sets out in more details the outcomes in the discussion paper and the actions to be taken by early childhood educators to facilitate achievement of the outcomes.
22. The commitment to provide each child in the year before formal school with a program of 15 hours of tuition is likely to exacerbate an existing shortage of early childhood teachers.
23. In order to deal with this anticipated shortage, the Australian Government has initiated a program, the “National Early Years Workplace Strategy”, to support the training of early childhood teachers. The strategy includes the creation of additional university places in early childhood education and paying half the HECS fees of approximately 10,000 early childhood teachers who work in defined areas (see http://www.deewr.gov.au/EarlyChildhood/Policy_Agenda/EarlyChildhoodWorkforce)
The commitment is also likely to increase the number of early childhood trained teachers employed in long day care centres where they are not currently required under state regulations.

E. STATUS OF THE PROFESSION

24. The AEU considers that it is important for the status of early childhood teachers that they are accorded distinct professional status within the profession of teaching. Thus they would be accorded status akin to that of specialist roles of many descriptions within the scope of the profession.
25. A number of studies have shown that shortages of trained staff in early childhood are in part caused by the lack of recognition of the role and status of qualified teachers. A report prepared in 2004 for the NSW government Early Childhood Teachers and Qualified Staff found that 87% of respondents gave as a reason for the shortage of trained staff “worse wages and conditions in child care” and 75% of respondents cited the fact that child care was seen as a “low value job with poor public perception” (at p68). Individual respondents cited the lack of recognition for early childhood teachers compared with school teachers (at pp 14-15).

26. A national report into workforce issues in all children's services found that the highest percentage of unfilled vacant positions in children's services was for qualified teacher positions (21% of positions unfilled, particularly in long day care services) at p 48 of the *National Children's Services Workforce Study* conducted in 2004 and released in 2007
http://www.education.vic.gov.au/ocecd/docs/5_australia_exec_summary_nwp.pdf .
The study also found that 86% of respondents considered that raising the profile and status of workers would help with retention of staff (at p 68).
27. The AEU also considers that it assists with enterprise bargaining and the achievement of bargaining rates closer to those in schools if teachers rates are regulated separately from child care workers whose rates of pay are not seen as having any relativity to rates applying in schools.
28. In our view all early childhood services currently under consideration should be seen as part of the industry of educational services. Preschools have always been understood to provide an educational program. However, in recent years the perception of the role of child care centres has changed and long day care is now also clearly seen to provide an education program. This is because of the changes arising from QIAS, because of changed understanding of the significance of learning of children in aged 0-5 years, because of the increased provision of preschool programs in long day care centres and most recently because of the change in government policy outlined above, which has tried to eliminate artificial distinctions between preschools which have always been seen as educational and other forms of children's services.
29. This changed role of children's services has also been recognised by industrial tribunals. For example, the Full Bench of the Commission in its decision in *Australian Liquor, Hospitality and Miscellaneous Workers Union re Child Care Industry (Australian Capital Territory) Award 1998 and Children's Services (Victoria) Award 1998 - re Wage rates - PR954938 [2005] AIRC 28 (13 January 2005)* stated at para 264:

The conceptualisation of children's services has changed over time from the notion of child minding or child care to one of early child development, learning, care and education.

- i Recent neuroscience research into brain development supports the fundamental influence of the early years of children's development. The available research supports the proposition that there are clear links between the provision of early childhood programs and children's subsequent achievement. This has implications not just for individual opportunities but also for broad social outcomes such as mental health and crime.*
- ii The available research supports the proposition that the provision of quality child care is directly related to better intellectual/cognitive and social/behavioural outcomes in children. The quality of care, and hence outcomes for children, is positively related to the level of the qualifications of the staff working with children.*
- iii The available research suggests that money directed to the early years of children's development results in positive long term outcomes and is cost effective.*

30. The Full Bench of the NSW Industrial Relations Commission took a similar approach in *Miscellaneous Workers Kindergartens And Child Care Centres &C (State) Award* in its statement of 6 March 2006 where it stated at para 22:

The evidence also demonstrated the effect of changed work requirements upon child care workers since 1989, with the impact of innovations such as the way in which children attending these centres are taught, having regard to developments in research into how the human brain develops and how children learn.

31. It is noted that this award applies to both preschools and child care centres.
32. The AIRC practice has been to in allocate awards applying to teachers in child care services and staff in early childhood education to the Educational Services Industry.

Examples of this practice include the Child Care Industry (Teachers) (Australian Capital Territory) Award 1999 and the Educational Services – Early Childhood Assistants – Victoria – Award 1999. The unions support the continuation of this classification by Fair Work Australia.

F. PROPOSED SCOPE OF THE TEACHERS AWARD

33. The AEU is seeking that teaching and non-teaching roles be recognized in separate Educational Services awards for teachers and other staff in early childhood services by inclusion in the Teachers Award and the General Staff Award respectively. The principal reason for this is that teachers form a distinct occupational group whose pay and conditions have been considered on numerous occasions by state and federal tribunals and that this is the existing predominant pattern of industrial regulation. It is noted that the Commission took a similar approach in relation to higher education of making separate awards for academics and other employees and has followed a similar approach in relation to teachers and other education employees in schools.
34. There are a number of current awards applying to early childhood services which apply to teachers and other employees separately. For example this is the case in relation to awards applying in Victoria, the Early Childhood Teachers Interim Award 1999, in the ACT, the Child Care Industry Teachers (Australian Capital Territory) Award 1999 and South Australia, the Pre-School (Kindergarten) Teaching Staff Award.
35. Around 40% of teachers in early childhood services are employed in the state of NSW. In that state there are two common rule teachers' NAPSAs which apply respectively to preschools and long day care centres (the Teachers (Non-government Preschools) (State) Award 2006 and the Teachers (Non-government Early Childhood Service Centres other than Preschools) (State) Award 2006. Other NSW awards also apply separately to teachers – for example the Teachers (Catholic Early Childhood Service Centres and Pre-Schools) (State) Award. Of teachers in preschools, over 80% of non-government preschool teachers are in NSW and Victoria and of teachers in long day care, 66% are in NSW and Victoria. Therefore the model proposed is the one which most commonly applies.

36. This is not an issue of industrial demarcation, as there is no dispute or overlapping coverage of any significance between the AEU and any other union for coverage of teaching staff in government preschools and kindergartens.
37. Further, the AEU is not seeking to change the provisions of the *Teachers Award* with respect to salary rates or award conditions. These matters have been the subject of representations in Stage 3 and the AEU maintains these submissions.
38. Fundamentally, the AEU supports the inclusion of teachers of preschool age children within the Teachers Award (Other than Higher Education) and that such an award be made in the Educational Services Industry. In the alternative, the unions support the creation of a separate Early Childhood Teachers Award within the Educational Services Industry which is consistent with the terms of the Teachers Award. The AEU believes that such a position is entirely consistent with the current policy settings of the federal government with respect to early childhood education and learning.

G. GENERAL STAFF IN EARLY CHILDHOOD EDUCATION AND CARE SETTINGS

39. *Consistent with the arguments raised above, the AEU submits that General Staff in Early Childhood and Care settings should be covered by the Educational Services (Schools) General Staff Award 2010 suitably amended in nomenclature and definitions to include staff employed in centres other than those operated by schools.*
40. Little substantive change is required to the above award to achieve this because the classifications for general staff in preschool/childcare services are already included. As with the Teachers' Award, the removal of the definitional limitation of school education industry so as to include Early Childhood Education and Care settings other than those operated by a school is all that is required.
41. The AEU maintains its submissions made in Stage 3 about the content and standards of the General Staff Award in relation to this matter.