# Submission to the
# Family Assistance Legislation
# Amendment (Cheaper Child Care) Bill 2022

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# Australian Education Union

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### Introduction

The Australian Education Union (AEU) makes this submission on behalf of over 198,000 AEU members employed in the public primary, secondary, early childhood and TAFE sectors throughout Australia. AEU members in all education sectors – from early education, to schools, to post-secondary education in TAFE institutions – are experiencing the acute effects of Australia's intersecting work and care crises.

The AEU supports increased subsidies for access and childcare as an essential service and economic reform as outlined in the Bill "to support parents and carers, particularly women, in their choice to enter the workforce or increase their workforce participation"[1] and also supports the measures to increase transparency and eliminate fraud among private childcare providers and the measures to increase access to childcare for First Nations children – an important first step towards meeting the Closing the Gap targets, though more is needed to be done.

However, there are several improvements that could be made to the Bill, particularly at Schedules 2 and 4 dealing with financial transparency, non-compliance and fraud. This submission provides comment on Schedules 1-5 of the Bill.

The AEU also believes that in addition to increasing access to subsidised childcare, the Bill could be extended to consider the proven lifelong benefits of extending universal access to preschool for children two years before they start school.

### Schedule 1—Child care subsidy rates

Over the last half-century, Australian women's workforce participation has significantly increased, and continues to increase. Whereas in 1966 two-thirds of women in Australia were not in formal paid employment, and instead performed informal, unpaid labour at home in providing care, today the participation of women in the paid, formal workforce is currently at approximately 62%.[2]

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[1] Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022, Explanatory Memorandum, p. 1

[2] Parliamentary Library, *Budget Review 2018-19: Workforce Participation Index*, accessible here and Workplace Gender Equality Agency, *Gender equality workplace statistics at a glance 2022*, accessible here.

Despite the significant increase in women's participation in the formal workforce women still perform more informal caring and unpaid household labour than men.[3] This expectation on women to perform more caring and domestic labour than men despite participating in the workforce at an increasingly similar rate to men burdens women with dual obligations as workers and carers.

The AEU's membership is almost 80% women. Without access to affordable and reliable child care, workers must either fit their hours of remunerated work around their childcare responsibilities, change their working arrangements to alter or reduce their hours of work to account for their caring responsibilities; or, where neither option is possible, some workers are forced to leave paid employment to perform their caring role. These options all have profoundly negative consequences for those parents and carers, disproportionately women, who must choose between performing 'double shifts' of work then care, or reducing their hours of work, or leaving employment. Accordingly, women's disproportionate role as carers has the effect of reducing their earning capacity, leave accrual, and superannuation accrual.[4] The harm caused to women by unpaid caring responsibilities is well-documented, including in a recent Senate report:

> *Women are more likely to work in lower paid roles and lower paid fields, are more likely to work part-time or casually, and are more likely to take breaks from paid employment to provide unpaid care for others. Over their lifetimes, as a consequence, they will earn significantly less than men.*5

For these reasons the AEU supports the amendments detailed in Schedule 1 to the Bill as improvement on the current Child Care Subsidy (CCS) Rates for the beneficial impact that these amendments will have on women's workforce and economic participation.

**Schedule 2—Reporting of certain financial information by large child care providers**

The AEU supports increased transparency for large providers operating over twenty-five centres as proposed at Schedule 2 of the Bill and suggests that these requirements should be extended to all providers, regardless of size.

The AEU supports the empowerment of the Secretary to publish "specified information received from large childcare providers online, such as the name and Australian Business Number of the approved provider, the name of each child care service operated by the provider and information about fees charged by the provider across each of its services over a particular financial year"[6] and we agree that "this transparency regime will enable the department to better identify, monitor and mitigate risks posed to the viability of providers which have a significant sector presence, it will also be an important step for families,

[3] Australian Institute of Family Studies, 'Towards COVID normal: Sharing of housework in couple families', September 2020, accessible here; and, WGEA, 'Gender equality and caring' webpage, accessible here.
[4] Workplace Gender Equality Agency, 'Unpaid care work and the labour market', p 5, accessible here.
5 Senate report, 'A husband is not a retirement plan: Achieving economic security for women in retirement', April 2016, overview and list of recommendations, accessible here.

[6] Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022, Explanatory Memorandum, p. 3

providing them with the ability to compare services and use more information to decide where to send their children to care."[7]

However, we believe that this power should be extended to ensure that the Secretary to collates and make publicly available the financial information relating to the annual operating surplus recorded by providers as a proportion of fees and subsidies collected and the proportion of fees and subsidies spent on educator and teacher salaries, investment in quality and educator turnover. This material should always be published rather than publication being determined at the discretion of the Secretary.

Although some of this information is available through annual reports and company filings, it is not currently available in a way that the average parent or carer could access and consider it.

Two recent studies have shown that for-profit ECE providers spend a significantly lower proportion of total expenditure on educators than for not-for-profit providers. As most of the sector is run on a for profit basis and as wages are the largest cost component of ECEC services, an incentive is then created for private, for-profit centres to reduce expenditure on staff by "reducing hours, minimising the number of highly trained educators, and rostering on a high proportion of casual workers." As a 2020 study contended "while not all for-profit providers minimise costs to a degree that may compromise quality, the nature of this business model means that there is an inbuilt push in this direction. This is especially the case in markets where lower fees are a key factor in provider financial viability and/or family participation."[8] A 2022 study found that "many of these private companies also exhibit significant problems with standards compliance and quality of service provision" and that "the NQF [National Quality Framework] has consistently found that most private providers leave significant room for improvement."[9]

This contention is borne out by analysis of ACECQA NQF and Standards Data conducted by Price Waterhouse Coopers (PWC). As shown at Table 1, below, for-profit childcare services have lower quality service ratings than those run by not-for-profit providers. Private providers are less than half as likely (19% vs. 41%) to be rated as exceeding or excellent than community managed providers and much less likely than other not for profit providers to be rated exceeding for excellent (19% vs. 33%). For profit, private providers are also much more likely to receive the lowest possible quality rating of "working towards National Quality Standards at 21% compared to 14% for community providers and 8% for other non-profit providers. PWC found that this totals 1,121 private for-profit childcare services that nationally that do not meet National Quality Standards.

[7] Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022, Explanatory Memorandum, p. 3

[8] Chifley Research Centre, *Investing in Australia's Early Childhood* Infrastructure, 2020, p.ii

[9] Dean, M. *Educating for Care: Meeting Skills Shortages in an Expanding ECEC Industry*, The Carmichael Centre at the Centre for Future Work, 2022, p.15

**Table 1: ECEC service by quality ratings, provider type and market share**[10]

| | Centre-based care services | | | Pre-school / Kindergarten | | |
|---|---|---|---|---|---|---|
| | Exceeding or Excellent | Working Towards NQS | *Share of national services (%)* | Exceeding or Excellent | Working Towards NQS | *Share of national services (%)* |
| Private for profit | 19% | 21% | *66.70%* | | | |
| Private not for profit community managed | 41% | 14% | *12.34%* | 57% | 7% | *49.58%* |
| Private not for profit other organisations | 33% | 8% | *13.99%* | 59% | 3% | *10.30%* |
| State/territory and local Government managed | | | | 70% | 3% | *21.19%* |
| State/territory government schools | | | | 44% | 11% | *10.89%* |
| Independent schools | | | | 62% | 5% | *5.70%* |
| Catholic schools | | | | | | |

Analysis of the PWC NQS data by the Chifley Research Centre found three primary barriers to achieving a high quality publicly funded Early Education and Care sector as a key part of Australia's economic and social infrastructure. The main barriers are that:

1. Quality varies by provider type with fewer for-profit centre-based care providers exceeding national quality standards, and more for-profit services not meeting quality expectations.
2. We need to better understand the impact educator expenditure levels have on service quality, as higher spending on educators and teachers appears to be linked to higher service quality
3. There is a lack of information about key aspects of providing ECEC services which means we have limited capacity to address issues, such as provider viability and workforce longevity, that are essential for the long-term system sustainability[11]

The quality of private ECE providers fell even further through 2021, with the latest analysis of NQF, as summarised by Mark Dean of the Carmichael Centre at the Centre for Future Work, showing that:

> *The NQF report for the fourth quarter of 2021 found that just 16 per cent of private for-profit providers exceeded national quality standards (68 per cent met minimum standards), whereas 51 per cent of government services exceeded national quality standards (ACECQA 2021). The United Workers Union (2021b, p. 4) analysed NQF data and found that nearly three quarters of over 12,000 enforcement actions for quality and safety breaches since 2015 were incurred by PFP providers. This is evidence that the current market-based system of ECEC has produced damaging*

[10] Chifley Research Centre, *Investing in Australia's Early Childhood* Infrastructure, 2020, p.ii
[11] *Ibid.* p.1

*outcomes for ECEC workers and participants alike, commodifying an important economic and public service.*[12]

As shown in Table 2, for profit ECE providers of all sizes spend significantly less on educators and teachers than not for profit providers, leading to the finding that although not conclusive "there seems to be a correlation between the provider types achieving poor quality outcomes, and those spending less on educators."[13]

**Table 2: Analysis of expenditure on educator and teacher wages by provider type[14]**

| | Not for Profit ECEC providers | | | For profit ECEC providers | | | Primary school |
|---|---|---|---|---|---|---|---|
| 2019 annual reporting | Large NfP provider 664 services 70,700 children | Medium NfP provider 131 services 12,369 children | Small NfP provider 60 services 10,000 children | Large for-profit provider 379 services 54,000 children | Medium for-profit provider (May 2019) 86 services 7,405 children | Small for-profit provider 21 services No. of children not reported | *Australian government primary schools (2017-18)*[13] |
| Wages as a % of expenses | 70% | 76% | 66% | 59% | 63% | 61% | 79.5% |

*Source:* PwC analysis of provider and ACARA data. Note that ECEC expenditure excludes user costs of capital.

The analysis led to numerous recommendations on provider funding and spending transparency, including those listed below:

- Providers should be required to disclose their expenditure on key areas that affect service quality, including educator and teacher spending, use of funding from the Inclusion Support Program, retention and turnover rates, and operating surpluses
- Better data about current provision costs, including the level and nature of expenditure on educators, would underpin more targeted investment in educators' time and careers.
- Investing in educators' time requires a funding model that does not encourage providers to manage costs by cutting over-ratio time and undervaluing planning, preparation, and supervision effort.
- Investing in educators' careers requires employment approaches and professional structures that support stable careers with opportunities to develop, progress and lead.
- All providers – but especially those who consistently fail to meet national standards and are known to spend less than expected on educators – should be encouraged to avoid reducing educator spending to manage costs.

Whilst improving access to childcare through increased subsidies is a beneficial and welcome change, this additional investment must also be levered to improve quality through increased investment in Early Childhood Teachers and Educators. The increased subsidies proposed by

[12] Dean, M. *Educating for Care: Meeting Skills Shortages in an Expanding ECEC Industry*, The Carmichael Centre at the Centre for Future Work, 2022, p.15
[13] *Ibid.* p.7
[14] *Ibid* p.7

this Bill cannot be used by for profit providers as an opportunity to simply increase scale at their current levels of staff investment – there must be a commensurate increase in investment in staff and in the quality of service provided. The scale of the current issue is again highlighted by Dean:

> *The dominance of the ECEC industry by for-profit providers receiving an increasing share of public subsidies is not translating into maximised public benefit from this essential service. The United Workers Union has reported on the diversion of public money from direct care of children and staffing resources because of the industry's corporatisation, focusing particularly on how five large for-profit private providers account for $1.7 billion (12%) of total sector revenue.*[15]

We note that the Explanatory Memorandum for Schedule 2 states that "It is envisioned that the kinds of financial information that may be required to be included in a report would include matters such as the provider's net revenue for the period, net profit for the period and the amount of expenditure that is attributable to rental costs."[16]

In addition, in order to achieve and maintain quality of care, and to achieve the greatest public benefit from the CCS, the AEU recommends that the powers of the Secretary to publish specified information online as detailed in Schedule 2 of the Bill are extended to include spending on educators and teachers, retention and turnover rates as well as operating surpluses at the provider and individual centre level. We recommend that this information is published on [www.startingblocks.gov.au](www.startingblocks.gov.au) along with the information already specified at Schedule 2.

The AEU also recommends that these reporting requirements are extended to all ECE providers (rather than only those operating 25 or more centres) to provide the department has an oversight of provider quality of care in addition to the financial health and viability of providers.

**Schedule 3—Activity test for Aboriginal or Torres Strait Islander children**

The AEU supports the introduction of a base level of 36 subsidised hours of childcare per fortnight for First Nations children, regardless of activity levels, as an important first step. As detailed in the annual Closing the Gap report and outlined in the Bill's Explanatory Memorandum, Aboriginal or Torres Strait Islander children are underrepresented by almost 50% among CCS claimants and are twice as likely to be developmentally vulnerable in one or more domains when they start school compared to non-Indigenous children.[17]

In addition to improving affordability the provision of 36 subsidised hours per fortnight without a minimum activity level is also welcome for its contribution to offsetting the additional cultural labour and responsibility experienced by many Aboriginal and Torres Strait Islander parents and carers, whether this occurs in the workplace where they are often

[15] Dean, M. *Educating for Care: Meeting Skills Shortages in an Expanding ECEC Industry*, The Carmichael Centre at the Centre for Future Work, 2022, p.16

[16] Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022, Explanatory Memorandum, p. 23

[17] Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022, Explanatory Memorandum, p.9

expected to undertake additional work requiring a cultural responsibility or in the broader community.

**Schedule 4 —Dealing with serious non-compliance**

The AEU supports the measures proposed to strengthen the payment integrity of the CCS scheme and to ensure that all gap fees or waived gap fees are accounted for electronically. It is essential that all possible measures are taken to eradicate fraud and misuse of the CCS by unscrupulous providers. We believe that the increased public reporting requirements included at Schedule 2 of the Bill, alongside the additional reporting requirements suggested by the AEU above, will contribute to reducing fraud and serious non-compliance.

**Schedule 5—Child care discount for early childhood workforce**

Workforce shortages in ECE are at record levels and in 2022 job vacancies are more than double 2019 levels.

**Figure 1: Job Vacancies (000s) in Australia's ECEC Industry (2012-2022)[18]**


The AEU supports the Bill permitting providers to give educators discounts on the cost of fees for their own children without reducing the amount of CCS they receive. We note that the objective of this measure is "to reduce staff shortages in the ECEC sector by attracting and retaining existing educators, particularly those with young children."[19]

The AEU suggests, whilst discounted fees will be welcomed by early childhood educators and teachers, the single most important and effective way to attract and retain educators would be to improve pay and conditions so that staff are properly paid according to the

[18] Chart sourced from Dean, M. *Educating for Care: Meeting Skills Shortages in an Expanding ECEC Industry*, The Carmichael Centre at the Centre for Future Work, 2022, p.22

[19] Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022, Explanatory Memorandum, p. 36

difficulty and skill that their job requires with manageable workloads and resourced support structures for children with additional needs.

A very high proportion of educators, despite performing substantively permanent roles, are engaged in casual and fixed term employment, and deprived of the benefits of permanent employment. Moreover, the COVID-19 pandemic has demonstrated the public health-related effects of insecure work. Early childhood educators in casual employment are financially disadvantaged when staying home sick without paid personal leave and are more likely to be compelled to attend the workplace, and more likely to spread the virus.[20]

The AEU recommends that governments take urgent action to address the ECE workforce shortage by addressing the very low pay, high workloads and high levels of casualisation that are endemic in ECE.

- Impose stronger obligations on employers to offer conversion to employees inappropriately engaged in casual and fixed-term employment,
- Amend the definition of 'casual employee' in the Fair Work Act to better take into account the substance of employment relationships, not just how the relationship is labelled by the employer,
- Oblige employers to regularly review the use of casual and fixed-term employment in their education workforces, and to consult with the relevant unions when doing so.

**The AEU recommends that the Commonwealth extend its increase in CCS funding to meet international standards and guarantee two years of universal access to preschool**

Quality early childhood education is one of the most important contributors to a child's school readiness. It provides the knowledge and skills that enable children to succeed at school, and throughout their lives. It develops the whole child – their social and emotional skills, their ability to communicate, get along with others and manage their behaviour and emotions. These critical physical, emotional and cognitive skills enable children to thrive during their transition to school and help them become lifelong learners. Preschool is an opportunity to build strong foundations for optimal early development and school readiness.

The AEU welcomes the proposed increases to CCS and the focus on child care that was a highlight of the recent Jobs and Skills Summit, however preschool was a striking omission from this discussion and greater investment is needed to ensure that Australia's children have adequate access to preschool education.

Two years of preschool before starting school is the most transformational policy intervention the Commonwealth can make to give children the best start to school education.

The evidence is clear and has been confirmed time and time again by multiple Australian and international studies. The OECD (2014) found that students who had attended pre-primary education perform better in PISA at age 15, after accounting for the students' socio-economic status. They found that a longer period of preschool has the largest impact on a child's

[20] Stanford J., *Shock Troops of the Pandemic: Casual and Insecure Work in COVID and Beyond*, Centre for Future Work at the Australia Institute, October 2021, p 5, accessible here.

literacy at age five apart from parental education and income.[21] This means that two years of ECE is the best policy change to immediately improve children's literacy. The positive impact of at least two years of ECE on teen literacy is approximately 60% higher than less than two years of preschool and is equivalent to more than an entire year of schooling. Despite this, currently nearly one quarter of Australian children arrive at school without the skills they need to thrive.[22]

The OECD's *Education at a Glance 2021* report shows that from 2005-2019 Australia's enrolment rate, measured according to OECD standards, improved from 77% to 83% of 3–5-year-olds, but still lags behind the OECD average of 87% and the European Union average of 91%.[23]

Only 65% of three-year-olds are enrolled in ECE in Australia, far behind the OECD average of 78.[24] This places Australia squarely in the bottom third of the OECD rankings for both 3- and 4-year-old enrolment, behind the top half of OECD countries, all of which have enrolment rates above 90%.[25]

Australia is similarly behind when it comes to investing in ECE. Australia's expenditure on pre-primary education is 0.3% of GDP, half of the OECD average of 0.6% of GDP for 3–5-year-olds - equal third lowest in the OECD. Australia's preschool expenditure per child aged 3-5 years is $7,399 US, 20% less than the OECD average of $9,260 US and 23% less than the EU average of $9,564 US per child.

This low level of expenditure is also disproportionately private. Australia has the fourth highest level of reliance on private funding of ECE behind only Japan, the UK and Portugal. 31% of 3–5-year-old pre-primary expenditure in Australia is private, almost double the OECD average of 17% and more than double the EU average of 13%.

***Two years of preschool is best practice around the world***

The AEU had long called on the Commonwealth Government to guarantee ongoing permanent funding for four-year-olds and welcomed the announcement of ongoing funding for preschool in the year before school in the 2021-22 Budget. But despite this significant improvement, Australia is still behind much of the world when it comes to funding early childhood education. World Bank data[26] shows that in 2015, the vast majority of countries provide two or three years of pre-primary education.

While most countries around the world offer their children two years of preschool as standard. Australia is one of 11 countries which only provide one funded year by default and

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[21] OECD, *Indicator C2: How do early childhood education systems differ around the world?,* in Education at a Glance 2014: OECD Indicators, OECD Publishing.
[22] Fox, S and Geddes, M. (2016). Preschool - Two Years are Better Than One: Developing a Preschool Program for Australian 3 Year Olds – Evidence, Policy and Implementation, Mitchell Institute Policy Paper No. 03/2016. Mitchell Institute, Melbourne. Available from: www.mitchellinstitute.org.au
[23] OECD, *Education at a Glance,* 2021, Figure B.2.1, p.170.
[24] *Ibid.*
[25] *Ibid.*
[26] The World Bank, *Early Childhood Development*, retrieved from https://www.worldbank.org/en/topic/earlychildhooddevelopment

Australia is in the lowest quartile for 3-year-old preschool participation compared with other OECD countries, and thirteen other OECD member states have 3-year-old enrolment rates exceeding 90 per cent.[27]

Research strongly suggests that two years of preschool are more beneficial than one, with benefits including stronger cognitive skills on school commencement, particularly in relation to communication and literacy skills.[28] The Mitchell Institute has described funding for three year old preschool as "a clear opportunity" and found that "moving to universal access to two years of preschool can be an affordable, achievable and effective way for us to achieve greater and more equitable outcomes for Australian children."[29] It is resoundingly clear that Australia should be expanding early childhood education and introducing universal three year old access.

The Commonwealth Government must drive this important reform to ensure that all Australian children, regardless of where they live, have access to two years of high quality preschool, delivered by university qualified teachers, in the two years before they start school.

As an economic reform, there is mounting evidence that early childhood education is an area where a small investment can have a huge long-term impact. A 2019 report by Price Waterhouse Coopers (PWC)[30] has shown that for every dollar invested in early childhood education Australia could receive two dollars back through higher tax revenues, higher wages and productivity and lower spending on welfare and criminal justice. The report concludes that annual investment for Universal Access to early childhood education generates double the invested amount in flow-on benefits to the economy.

In addition to the increase in CCS proposed by this Bill, the AEU calls for the Commonwealth to deliver certainty for the preschool sector, by implementing two actions as a matter of urgency:

1. Promote, fund and support full participation by three-year-olds in quality early childhood education programs, in particular to maximise participation by vulnerable or disadvantaged children.

2. Act to implement the new national early childhood education and care workforce strategy to support the recruitment of the 16,000 educators and 8,000 teachers in that the strategy identifies as being required to November 2025 in order to improve the retention, sustainability, enhanced professionalisation of the workforce, service quality and children's outcomes.

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[27] Pilcher, S., Noble, K and Hurley, P., *Stepping up: Securing the future of quality preschool in Australia*, 2021, retrieved from https://www.vu.edu.au/sites/default/files/stepping-up-securing-the-long-term-future-of-preschool-mitchell-institute-policy-briefing.pdf

[28] Fox et al, 2016 & Taggart et al, 2015) (AIFS, 2015; Sylva et al, 2010; US Department of Health and Human Services, 2010).

[29] Fox et al, 2016

[30] The Front Project, *A Smart Investment for a Smarter Australia: Economic analysis of universal early childhood education in the year before school in Australia*, June 2019, retrieved from https://www.thefrontproject.org.au/images/downloads/ECO_ANALYSIS_Full_Report.pdf