

**Submission to the Senate
Education and Employment
Legislation Committee's Inquiry
into the provisions of the Wage
Justice for Early Childhood
Education and Care Workers
(Special Account) Bill 2024**

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percapita
FIGHTING INEQUALITY IN AUSTRALIA

Submission to the Senate Education and Employment Legislation Committee's Inquiry into the provisions of the Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024

Per Capita

October 2024

Per Capita is an independent think tank, dedicated to fighting inequality in Australia. We work to build a new vision for Australia, based on fairness, shared prosperity, and social justice. We welcome the opportunity to provide this submission to the Senate Education and Employment Legislation Committee for their inquiry into the provisions of the Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024.

Introduction: wage justice for early childhood education and care workers

In 1972, the Australian Conciliation and Arbitration Commission granted women the right to equal pay for work of equal value.¹ Yet, more than fifty years later, the gender pay gap persists. The historical undervaluation of work primarily done by women remains a key driver of this gap and the entrenched inequalities in the labour market today. Female-dominated industries and occupations, particularly in care, such as childcare, disability care and support, aged care and education, continue to be undervalued and underpaid. This enduring injustice stems from the incorrect perception of these roles as being low-skilled and thus less deserving of fair remuneration.

The value of Early Childhood Education and Care (ECEC) work, performed by a predominantly female workforce (93.3%), has been unappreciated for decades. But numerous research studies show us that value quality and accessible ECEC brings to our entire community is colossal.² Children benefit greatly from quality ECEC, and its value is carried on throughout their lives.

The first five years of a child's life are a vital period. Over this period the development of emotional, social, cognitive, and language skills occurs at a faster rate than during any other time of life.³ Research conducted over the past three decades has consistently shown that these early years are crucial to laying the foundations for future academic achievement and social success.⁴ Children who have attended early childhood education experience benefits later in life. For

¹ *Equal Pay Case 1972* (1972) 147 CAR 172.

² Australian Institute of Health and Welfare 'Literature Review of the Impact of Early Childhood Education and Care on Learning and Development', (Working Paper, 2015); The Front Project, *A Smart Investment for a Smarter Australia: Economic Analysis of Universal Early Childhood Education in the Year Before School in Australia* (Report, 2022).

³ Australian Productivity Commission, *A Path to Universal Early Childhood Education and Care* (Inquiry Report No 106, Volume 2, 28 June 2024) 7.

⁴ Australian Institute of Health and Welfare 'Literature Review of the Impact of Early Childhood Education and Care on Learning and Development', (Working Paper, 2015).

example, a longer duration in preschool is linked to enhanced intellectual development, as well as improved independence, concentration, and sociability;⁵ and improved literacy and numeracy from receiving quality early years education directly leads to improved educational achievement later in life, resulting in higher lifetime earnings.⁶

The benefits of early childhood education are not confined to children. Every Australian is a recipient of the value created by workers in the ECEC sector. We benefit from a stronger economy, driven by higher tax revenue from parents who can work more, and from children who earn more over their lifetimes. ECEC also reduces social public expenditure, by decreasing the rates of school repetition, the demand for special education, and the strain on our health and criminal justice systems.⁷

This is why it is important that this publicly funded wage increase is acknowledged as one rooted in justice (as it is in the title of this Bill). A wage increase for ECEC workers is a step closer towards fair compensation for the value of the work they perform. Wage justice and gender equality are intrinsically linked, and as the Government has previously acknowledged: '[e]quality cannot be achieved while there is still a high gender pay gap and women experience higher levels of poverty'.⁸

Since its election in 2022, the Albanese Government has made strides in addressing gender-based wage injustices that have been baked into our industrial relations system. Pursuant to the *Fair Work Legislation Amendment (Secure Jobs and Better Pay) Act 2022*, the Fair Work Commission (FWC) must now make its considerations free of gender-based assumptions and cognizant of historical gender undervaluation when determining if the variation of modern awards or minimum wages is justified by *work value reasons*.⁹ Additionally, the 2022 Act introduced the promotion of gender equality and women's full economic participation, and the elimination of gender-based work undervaluation, as objectives of modern awards and the minimum wage.¹⁰ The promotion of gender equality is now also an object of the Act.¹¹ The FWC is currently undertaking a priority review of award classifications and minimum wage rates for five priority awards, including the *Children's Services Award 2010*, on *work value* grounds to remedy gender-based undervaluation. It will take into consideration the new object of the Act, of modern awards and the minimum wage, and the new equal remuneration principle.¹²

⁵ Ibid.

⁶ The Front Project, *A Smart Investment for a Smarter Australia: Economic Analysis of Universal Early Childhood Education in the Year Before School in Australia* (Report, 2022).

⁷ Ibid.

⁸ Australian Government, *Working for Women: A Strategy for Gender Equality* (Report, 2024) 54.

⁹ *Fair Work Act 2009* (Cth) s157(2B).

¹⁰ Ibid 3(a).

¹¹ Ibid ss 134(1)(ab), 284(1)(aa).

¹² 'Gender Undervaluation – Priority Awards Review', *Fair Work Commission*, (Web Page, 2024) <https://www.fwc.gov.au/hearings-decisions/major-cases/gender-undervaluation-priority-awards-review>.

While the FWC has noted its intention to have the priority review 'dealt with to completion in a time-critical manner',¹³ the ECEC sector remains in crisis. The sector is experiencing unacceptably high staff burnout and turnover. There is currently a shortfall of 21,000 qualified ECEC professionals just to meet existing demand and improve working conditions.¹⁴ The policy of government-supported remuneration for ECEC workers provided for in this Bill is an interim measure. It is necessary and appropriate for a measure to be in place while the FWC undertakes the priority review of awards.

Purpose and eligibility

The purpose of this Bill is to support remuneration increases for workers in the early childhood education and care sector (ECEC) in order to:

- address current workforce shortages by helping to attract and retain early childhood education and care workers;
- contribute to the ongoing professionalisation of the early childhood education and care workforce;
- ensure that early childhood education and care remains accessible and affordable to families; and
- encourage good faith bargaining and the making of enterprise agreements in the early childhood education and care sector.

Workers will only be eligible for the wage increase if they work in a Child Care Subsidy (CCS) approved center-based day care (CBDC) or outside school hours care (OSHC) and are covered by and undertake duties in the *Children's Services Award 2010* and the *Educational Services (Teachers) Award 2020*. Providers will only be eligible for a worker retention grant from the special account if they limit fee growth from 8 August 2024, engage staff through a workplace instrument, and pass on all funding to eligible workers.

We understand that this Bill is part of a larger set of policies to ensure Australia has an accessible, affordable and quality early education system and that workers are supported and properly valued when performing the essential work to achieve this. A government funded wage increase is an important acknowledgement of the value ECEC workers provide not only to children and families but to our entire community, as well as a necessary measure to address dire workforce shortages. This Bill alone won't fix issues in the ECEC sector but without taking steps towards ensuring we have a strong workforce, nothing will.

Our submission provides comments on the policy objectives, and the extent to which a government funded wage increase could achieve them.

¹³ *Annual Wage Review 2023–24* [2024] FWCFB 3500, 65 [171]

¹⁴ Jobs and Skills Australia, *The Future of the Early Childhood Education Profession – Early Childhood Education and Care Workforce Capacity Study* (Report, 2024) 129.

Objective: supporting a wage increase to attract and retain workers and contribute to professionalism

Wages in the ECEC sector are extremely low. Low wages, along with other pressures experienced by ECEC workers, are a disincentive to entry into the sector and a major cause of worker turnover.

Modelling undertaken for the *Early Childhood Education and Care Workforce Capacity Study* shows that Australia currently needs 21,000 more qualified ECEC professionals just to meet existing demand and improve working conditions.¹⁵ The study also found an additional 18,000 qualified ECEC professionals are needed for future services, and over 18,000 more to implement existing government policies: changes to the CCS and expanded preschool policies.¹⁶

The ACCC's *Child Care Inquiry* heard that many educators entered the sector because of their 'passion for educating and caring for young people', but that low wages and poor conditions were the predominant reasons that workers were leaving the sector.¹⁷ ECEC workers are leaving due to high levels of burnout, low wages, excessive workloads, and lack of professional recognition.¹⁸

The workforce needs to grow, but it is already under significant stress. Job vacancies in the early childhood education and care sector have reached record levels, and now far exceed those in the broader workforce.¹⁹ In 2021 the United Workers Union (UWU) conducted a survey of over 3800 early educators and found unsustainably high turnover rates in the sector. 37% of respondents said they did not intend to stay in the sector long-term, and of those, 74% intended to leave within three years.²⁰ The three main reasons these educators wanted to leave the sector were because of excessive workloads (73%), low pay (63%), and feeling undervalued (47%).²¹ Two years later, UWU's *Crisis Tracker* shows us the consequences of high attrition in the sector. Data collected from almost 1000 centres paints a picture of extremely high turnover, unfillable job vacancies, and long wait lists for parents. Almost every centre had staff depart in the last 12 months. Nine in ten centres had at least one job vacancy, and half of those had three or more vacancies.²²

In addition to being a driver of workforce attrition, low wages are a barrier to entry into the sector. The *Early Childhood Education and Care Workforce Capacity Study* noted that '[a] fundamental barrier for many people looking to build a successful career in ECEC is the low levels of

¹⁵ Ibid ch 4.

¹⁶ Ibid.

¹⁷ Australian Competition and Consumer Commission, *Child Care Inquiry* (Interim report, September 2023) 45.

¹⁸ Ibid.

¹⁹ Australian Productivity Commission, *A Path to Universal Early Childhood Education and Care* (Inquiry Report No 106, Volume 1, 28 June 2024) 23.

²⁰ United Works Union, *Exhausted, Undervalued and Leaving: The Crisis in Early Education* (Report, 2021).

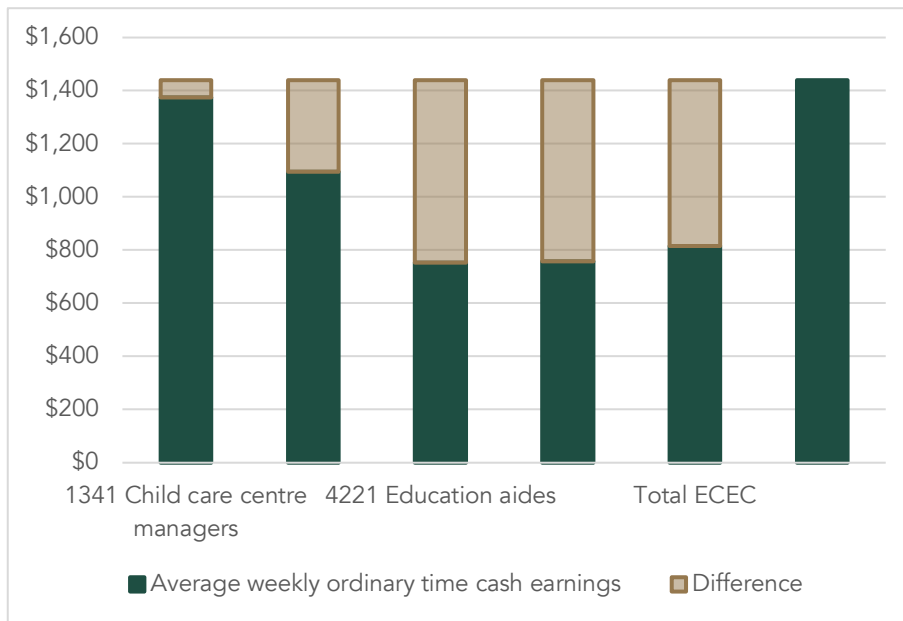
²¹ Ibid.

²² United Works Union, *Centres Reveal Crisis in Early Learning* (National Report, 2023).

remuneration’, and that ‘[a]venues to improve remuneration levels would improve the attractiveness of ECEC, improve retention and promote more career progression’.²³

Average ordinary time earnings for workers in the ECEC sector are \$622.70 less per week and \$12 less per hour than the average wage across all occupations. For *child carers* (ANZSCO 4221), wages are \$680.40 less per week and \$15.60 less per hour than the average earnings across all occupations (Figure 1 and 2).²⁴

Figure 1
Wage gap for ECEC occupations (weekly ordinary time cash earnings)

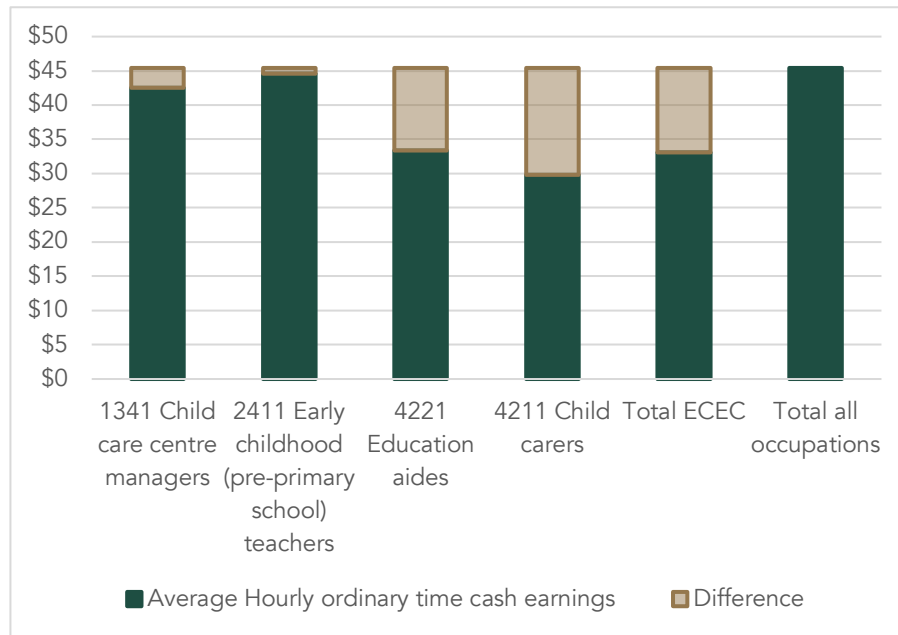


Source: ABS, *Employee Earnings and Hours, Australia, May 2023*, Tablebuilder

²³ Jobs and Skills Australia, *The Future of the Early Childhood Education Profession – Early Childhood Education and Care Workforce Capacity Study* (Report, 2024) 15.

²⁴ Australian Bureau of Statistics, *Employee Earnings and Hours, Australia, May 2023* (Catalogue No 6306.0) Tablebuilder

Figure 2
Wage gap for ECEC occupations (hourly ordinary time cash earnings)



Source: ABS, *Employee Earnings and Hours, Australia, May 2023, Tablebuilder*

The ECEC workforce is both highly educated and skilled. The share of workers in the ECEC sector with non-school qualifications has increased from 67.6% in 2011 to 82.5% in 2021, and 78.7% of workers across all ECEC occupations had a certificate III and above, compared to only 66.1% across all Australian occupations.²⁵ This is largely because of the introduction of the National Quality Framework (NQF) in 2012, introduced ‘to raise quality and drive continuous improvement and consistency in children’s education and care services’.²⁶ The NQF includes qualification and staff ratio requirements. The education requirements for ECEC roles and the costs these requirements incur, combined with low wages that fail to fairly remunerate the required skills, act as a disincentive to entry and are a cause of workforce attrition.

The *Early Childhood Education and Care Workforce Capacity Study* found that nearly a quarter of departing Early Childhood (Pre-Primary School) Teachers leave to become Primary School Teachers.²⁷ UWU also noted in its 2021 survey of educators that ‘[m]any educators with a degree leave for the primary-school sector, where the same degree qualifications allow them a career with more manageable workloads and better pay’.²⁸ This is understandable: the average earnings for *primary school teachers* (ANZSCO 2412) is \$340 more per week than average weekly earnings for *early childhood (pre-primary school) teachers* (ANZSCO 2411), and over 95% of primary school

²⁵ Jobs and Skills Australia, *The Future of the Early Childhood Education Profession – Early Childhood Education and Care Workforce Capacity Study* (Report, 2024) 61, 93, citing Australian Bureau of Statistics, *ABS Census 2021*.

²⁶ Australian Children’s Education and Care Quality Authority, *Guide to the National Quality Framework* (Report, updated February 2024) 8.

²⁷ Jobs and Skills Australia, *The Future of the Early Childhood Education Profession – Early Childhood Education and Care Workforce Capacity Study* (Report, 2024) 88.

²⁸ United Works Union, *Exhausted, Undervalued and Leaving: The Crisis in Early Education* (Report, 2021) 9.

teachers have wages and conditions set by a collective agreement compared to just 55% of early childhood teachers.²⁹

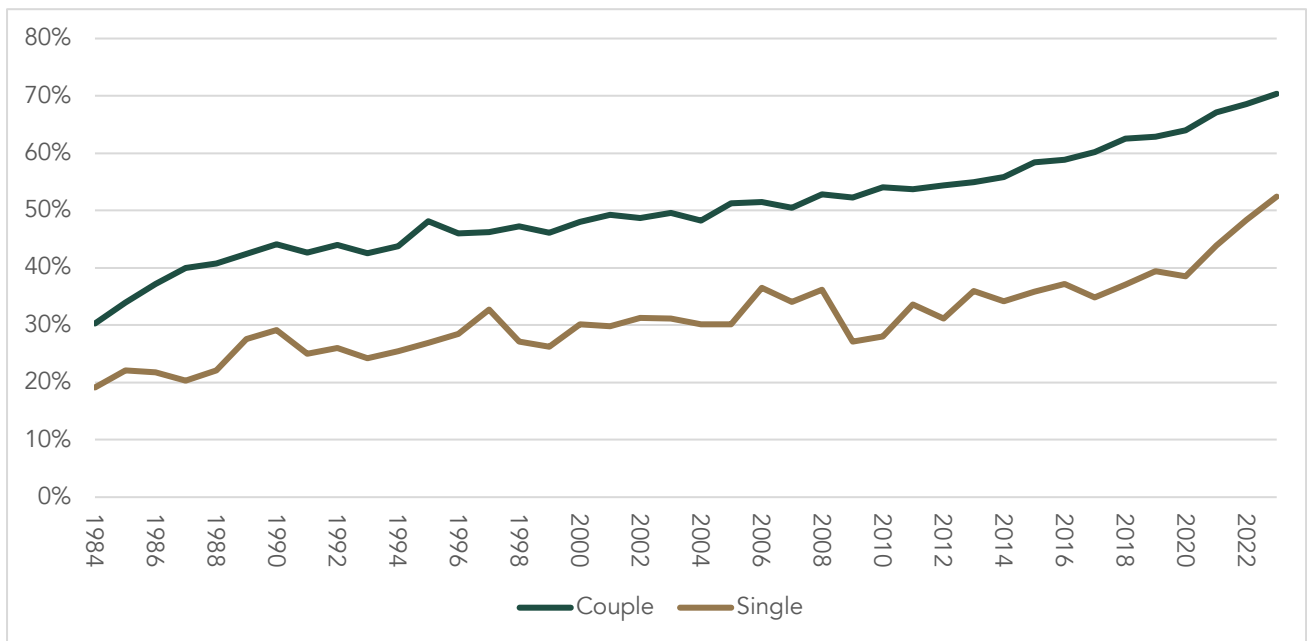
A wage increase for workers in this sector will support workers to both enter and stay in ECEC occupations, as well as contribute to the ongoing professionalism of the sector.

Objective: supporting a wage increase to ensure ECEC remains accessible and affordable to families

As noted above, the benefits of early childhood education are society-wide. The availability of ECEC has a positive impact on parents' (particularly mothers') career progression and economic security. Over the past four decades, the increased availability of ECEC has contributed significantly to the increase in workforce participation of women with young children in both coupled and single parent families. The employment rate of women in coupled families with children under five increased from 30% in July 1984 to 70% in June 2023, and for single parent families from under 20% to over 52%.³⁰

Figure 3

Percentage employed, couple and single mothers with children under 5 years, 1984–2023



Source: ABS Labour Force Status of Families, June 2023, table 7

However, child caring responsibilities remain a significant barrier to participation in the workforce for women with young children. This has negative effects on their financial security, career progression, lifetime earnings and overall wellbeing. Caring for children was the most common reason women were unavailable to start a job or work more hours in a part time job when they

²⁹ Australian Bureau of Statistics, *Employee Earnings and Hours, Australia, May 2023* (Catalogue No 6306.0) Tablebuilder

³⁰ Australian Bureau of Statistics, *Labour Force Status of Families, June 2023* (Catalogue No 6224.0.55.001, 24 October 2023) Table 7.

wanted to in 2022-23.³¹ For the last ten years, caring for children has consistently been the *main reason* women with young children have been unable to participate in the workforce.³²

Affordability of childcare is a major factor affecting how much mothers can participate in the workforce. In 2022-23, 64,600 mothers with young children (aged 0-5) who either wanted a paid job or wanted more hours in a part time role said they were unable to because of child caring responsibilities, and of those over one in ten said it was due to the cost of childcare.³³

The provisions in this Bill that require providers to cap fee increases to be eligible for a grant is an important condition, particularly as families struggle with the rising cost of living. Workers in low paid ECEC jobs are predominantly female; a wage increase acts as a measure to increase women's economic equality. But to ensure this wage increase acts as a measure for enhancing the financial security of a wider cohort of Australian women, guaranteeing that the cost of the wage increase is not passed onto families, or will not force mothers who want to be in the workforce out of it, is especially important.

Anti-inflation measures

Some observers have argued that wage increases for ECEC workers will fuel inflation.³⁴ However, with public funding for the wage increase, and eligibility requirements in place to prevent providers from raising costs for families, this claim doesn't hold up.³⁵

ECEC contributes to productivity improvements which drive better living standards in the long term. This occurs through a range of channels including for children, for ECEC workers and for parents in the workforce. Improvements to ECEC enhance multifactor productivity.³⁶ Labor productivity improvements also occur through the reduced inequality arising from increased workforce participation and better wages and conditions for ECEC workers.

While the market sector of the economy remains stagnant, wage increases that encourage workers to both enter and stay in the ECEC sector will ensure that Australia's largest employing industry (Health Care and Social Assistance) keeps driving job creation.

³¹ Australian Bureau of Statistics, *Barriers and Incentives to Labour Force Participation, Australia, 2022-23 FY* (Catalogue No 6239.0, 27 November 2023).

³² Ibid, table 4.

³³ Ibid.

³⁴ Tom Crowley, 'Former Assistant Governor Says Childcare Pay Rise Will Worry Rba, as Rhetorical Gap Grows with Government', *ABC News* (Online, 8 August 2024) <https://www.abc.net.au/news/2024-08-08/reserve-bank-unlikely-to-cheer-on-childcare-wage-rise/104201714>.

³⁵ John Buchanan and Frances Flanagan, 'Giving Early Childhood Educators an Extra 15% is Good Policy and Even Better Politics', *The Conversation* (Online, 7 August 2024) <https://theconversation.com/giving-early-childhood-educators-an-extra-15-is-good-policy-and-even-better-politics-236336>.

³⁶ 'Quantifying the Link Between Educational Policies and Macroeconomic Productivity' (OECD Blog, 6 September 2024) <https://oecdscope.blog/2024/02/06/quantifying-the-link-between-educational-policies-and-macroeconomic-productivity/>.

Objective: supporting a wage increase to encourage good faith bargaining and the making of enterprise agreements in the early childhood education and care sector.

A key objective of this policy is to provide a wage increase to encourage the uptake of enterprise agreements in the ECEC sector.

The ECEC workforce largely depends on the relevant modern award for setting pay and conditions, with fewer workers covered by collective agreements in the ECEC sector compared to other education sectors.³⁷ Across ECEC occupations 40% have wages set by an award, compared to 23% across the entire Australian workforce. For those in the *child carer* occupation, 70% are award dependent and only 12% have wages and conditions set by a collective agreement.³⁸

Research from the Workplace Gender Equality Agency (WEGA) found that '[i]ndustries that have higher instances of negotiation for wage setting tend to be more highly remunerated in general', although they also note that in general 'men are benefitting more than women from negotiation'.³⁹

Historically, small businesses, workers in temporary or part-time work, and women in feminised service sectors have had limited access to bargaining.⁴⁰ The ECEC sector ticks all these boxes: it is dominated by small providers, with 79% of providers being small single services;⁴¹ workers predominantly work part time hours; and the majority of the work in the sector is performed by women.

This is exactly the type of workforce the 2022 *Fair Work Act* amendments, to provide better pathways to multi-employer bargaining in low paid sectors, were targeted at. Multi-employer bargaining in this sector is already underway, but more can be done to increase agreement making in the sector. The conditions requiring grant recipients to engage staff under a workplace instrument such as an enterprise agreement will encourage agreement making in the ECEC sector.

Requirement to have workplace instrument in place.

In 2021 the ECEC sector employed about 221,000 workers in a typical week.⁴² In the Minister's second reading speech of the Bill, he stated that the policy will provide a 'pay rise for up to 200,000 childcare workers'.⁴³ Those working in family day care and in home day care are not

³⁷ Jobs and Skills Australia, *The Future of the Early Childhood Education Profession – Early Childhood Education and Care Workforce Capacity Study* (Report, 2024) 155.

³⁸ Australian Bureau of Statistics, *Employee Earnings and Hours, Australia, May 2023* (Catalogue No 6306.0) *Tablebuilder*

³⁹ Workplace Gender Equality Agency, *Gender and Negotiation in the Workplace* (Report, July 2018) 3.

⁴⁰ Department of Employment and Workplace Relations, 'Enterprise Bargaining outcomes from the Australian Jobs and Skills Summit' (Regulation Impact Statement, PBPR ID 22-03169)

https://oia.pmc.gov.au/sites/default/files/posts/2022/10/Regulation%20Impact%20Statement_0.pdf

⁴¹ Australian Children's Education and Care Quality Authority, 'NGF Snapshot – State of the Sector', ACECQA (Web Page, 1 July 2024) <https://snapshots.acecqa.gov.au/Snapshot/stateofthesector.html>

⁴² Australian Productivity Commission, *A Path to Universal Early Childhood Education and Care* (Inquiry Report No 106, Volume 2, 28 June 2024) 121.

⁴³ Commonwealth, *Parliamentary Debates*, House of Representatives, 12 September 2024, 5 (Jason Clare, Minister for Education).

eligible, although this captures less than 7% of the workforce and the Government has stated it will 'consult with the Family Day Care and In Home Care sectors to understand how support can be extended to their workforce'.⁴⁴

It is important that governments ensure that the investment of public money, in this case around \$3.6 billion, generates mutually beneficial outcomes and value for the public. This is achieved by attaching conditions which maximise public benefit to all taxpayer funded support.⁴⁵ The objectives of this Bill do just that. The policy contains conditionalities to maximize public benefit: providing a government funded wage with specific purposes of addressing workforce shortages, helping to attract and retain ECEC workers, contributing to ongoing professionalism in the sector, supporting accessibility and affordability of ECEC, and encouraging the making of enterprise agreements.⁴⁶

The condition requiring providers to have a workplace instrument in place will allow the Government to ensure that funding is being passed onto workers. Considering the limited number those in the *child carers* occupation currently covered by a workplace instrument, providers will need to negotiate quickly with workers and their representatives to strike new agreements so they can be eligible for grants. For many employers and employees in the ECEC sector, this will be the first time they undergo a workplace negotiation and make an agreement pursuant to the *Fair Work Act*. The *Grant Opportunity Guidelines* are not yet published but the explanatory memorandum notes that they will 'require providers to ensure a compliant workplace instrument is in place before funding is provided'.⁴⁷

There must be at least 21 clear days after employees are provided with the Notice of Employee Representational Rights (NERR), and seven days after the access period before they can vote. Majority of employees then need to vote on the agreement before it can be *made*.⁴⁸ This may take a period of days.

It is therefore critical that this Bill be passed swiftly, so that the necessary negotiation processes can commence with certainty about the provision of the wage subsidy to eligible services.

Outside of the provisions in the Bill, there will need to be additional support given to providers and the FWC to ensure agreements are made correctly and in a timely way.

⁴⁴ 'Questions and answers about the ECEC wage increase,' *Department of Education* (Web Page, September 2024) <https://www.education.gov.au/early-childhood/workforce/wages/questions-and-answers>.

⁴⁵ See, Mariana Mazzucato, 'Rethinking the Social Contract between State and Business: A New Approach to Industrial Strategy with Conditionality' (Working Paper No 2022/18, Institute for Innovation and Public Purpose, November 2022).

⁴⁶ Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024 (Cth) s 3.

⁴⁷ Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024 (Cth) Explanatory Memorandum, 7 (emphasis added).

⁴⁸ *Fair Work Act 2009* (Cth) s180-1.

What happens after the interim period?

It is unclear what funding arrangements will be available following the interim period. Without a better understanding of how wages will be funded following the closure of the special account, providers may be discouraged from opting in. We appreciate that the two-year period is intended to give time for the Fair Work Commission to finalise its gender undervaluation review of priority awards, allow the Government to consider ACCC and Productivity Commission reports and consider longer-term funding arrangements, but uncertainty for providers could reduce the number of providers opting in, and thus the number of workers receiving a much needed wage increase during the interim period.

Considering that a merits review is not available for any refusal to make a grant of funding, the criteria for grant eligibility should be provided either in the Bill or in another legislative instrument both for clarity and to improve transparency and accountability via parliamentary oversight.

While grants could be funded through existing legislative powers, absent the special account provided for in this Bill, the provisions of the Bill are an important safeguard against any disruption to the independent process of the FWC's priority awards review and to ensure that providers can engage in the necessary negotiations with certainty as to their funding support in the event of a change of government at the Federal Election due in 2025.

Using legislation as the mechanism for implementing a wage justice policy has two important advantages. Firstly, it allows for conditionalities that maximise the benefit to the public to be legislated by our Federal Parliament, although these are not actually included on the face of the Bill. Secondly, it shines a spotlight on the entrenched undervaluation of work in the ECEC sector as well as on undervalued and underpaid care, education and support occupations.

Conclusion

This Bill represents just one of the steps the Government is taking towards a fairer and stronger ECEC sector, but that step is critical to ensuring that quality early childhood education and care is available and accessible to all families in Australia.

Including the criteria for eligibility of the worker retention grants in the Bill or in another legislative instrument will better ensure fairness and clarity for providers and is an important transparency and accountability measure for spending of public funds. Consideration should also be given to the addition of a review provision in the Bill, for a compulsory review within six months on program funding commencing in December 2024.

We thank the members of the Senate Education and Employment Committee for their consideration of this submission.

We would also like to acknowledge the decades of campaigning by Australian working people in their workplaces, communities and unions. In particular, early childhood educators as part of the Big Steps Campaign. They have fought hard to put this on the agenda. They do one of the most important jobs in Australia and they deserve better remuneration that recognises their essential skills and significant contribution to our country's economic and social wellbeing.