



**Australian Federation of Employers and Industries (AFEI)
Submission to the Productivity Commission Inquiry
into Childcare and Early Learning
4 February 2014**

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1. The Australian Federation of Employers and Industries (AFEI), formed in 1903, is one of the oldest and most respected independent business advisory organisations in Australia. AFEI has been a peak council for employers in NSW and has consistently represented employers in matters of industrial regulation since its inception.
2. With members of all sizes and across most industries and affiliated industry associations, our main role is to represent, advise and assist employers in all areas of workplace and industrial relations and human resources.
3. We are a leading employer party in the formulation of employer policy at the state and national level and in the conduct of major test cases. We have been a major employer representative in the award modernisation process under the Fair Work Act.
4. AFEI makes this submission from two perspectives. One is as a representative organisation of employers widely dispersed by industry and size and reflects the issues and concerns of these employers in relation to childcare issues.
5. AFEI also represents childcare employers with issues and concerns unique to the childcare sector and in particular the impact of the National Quality Framework (NQF), modern awards and current union pay equity claims.

Women in employment

6. In terms of employment share in the labour market, the proportion of employed women has risen relative to that of males. Between 2001-02 and 2010-11, the growth in the employment to population ratio for 20-74 year old females (up five percent), outpaced that of their male counterparts (up three percent).¹ As a result, childcare demand and usage has been growing rapidly over the past two decades, with around 66% of households with children aged 0-5 using some form of childcare and around 51% of these using centre based care.² To accommodate their childcare needs households frequently use a diversity of arrangements which may include a combination of formal and informal care.³ In 2012-13 45.7% of children aged 0-5 attended government funded childcare services.⁴
7. The labour force participation rate for males has remained steady between 2001-02 and 2010-11, while it has increased by five percent for females during this period. In 2010-11, the labour force participation rate for females in the 20-24 year age group was 76%, and 73% for the 25-34 year age group. The participation rate for females in the 35-44 year age group was 75 per cent increasing to 78 per cent for the 45-54 year age group.⁵
8. While participation rates have increased over the past decade the proportion of women working full and part time has remained steady. The proportion of employed women who were working part time has remained relatively stable at 42 per cent – 43 per cent between 2001-02 and 2010-11.⁶
9. At the same time that overall numbers of women in the workforce have increased, the numbers employed in the early childcare sector have risen accordingly. ABS Labour Force Survey data shows that over the five years to November 2012, employment in childcare occupations has risen at a rate well above the all occupations average (7.8 per cent). Employment of child care centre managers increased by 29.0 per cent with employment of child carers (which includes childcare workers) increased by 16.8 per cent.
10. While it has been established that women with younger children are more likely to prefer part time work, the decision to work or not to work is complex and extends beyond the availability and affordability of acceptable quality

¹ ABS 4125.0 - Gender Indicators, Australia, Jan 2012

² Breunig R and Gong X Childcare and Women's Labour Supply in Australia Australian Treasury August 2013

³ Baxter, J. (2013). Child care participation and maternal employment trends in Australia (Research Report No. 26). Melbourne: Australian Institute of Family Studies.

⁴ SCRGSP (Steering Committee for the Review of Government Service Provision) 2014, *Report on Government Services 2013*, Productivity Commission, Canberra (ROGS) 3.27.

⁵ ABS Gender Indicators op cit

⁶ ABS Op cit

childcare. However, the labour market data above, combined with the significant growth in provision of formal childcare, as documented by the Productivity Commission, indicates the importance of these factors in supporting women who wish to work.

11. Growth in formal care for children of all ages largely reflects increased proportions of children in long day care and outside-school-hours care. This is consistent with the growth of these services over the past decade.⁷ However, there are, and should be, a range of available service types for parents to access provided by both for profit and not for profit services.

The role of government in childcare

12. The Productivity Commission has described the extensive role of government in policy, early childhood learning funding and regulation.⁸ Most funding for early childcare comes from governments, through a mix of subsidies paid to parents and payments to services. The past decade has seen a number of significant initiatives to improve the affordability, supply and quality of childcare including the Child Care Benefit and the Child Care Rebate and other support programs. Clearly the Federal Government plays an important role in offsetting child care costs for working families with the object of lifting workforce participation, principally amongst women workers.
13. The Productivity Commission has recognised that government assistance to access high-quality and affordable childcare is important to the workforce participation of parents, providing them with the means to support and provide opportunities for their children. The increased participation rate of women and the proportions of children in care for work related reasons are a reflection of additional government childcare support measures which have enhanced both the availability and affordability of childcare.
14. There has been much more use of formal childcare for children of employed mothers (especially long day care for younger children and outside-school-hours care for school-aged children) over the period from the early 1980s to 2011. While not displacing informal care, at preschool age (3–5 years) the proportion of children in *only* informal care has become relatively smaller, because of the more widespread use of long day care or preschool at this age.⁹

⁷ Baxter, J. (2013). Child care participation and maternal employment trends in Australia (Research Report No. 26). Melbourne: Australian Institute of Family Studies

⁸ Productivity Commission Issues Paper December 2013; Productivity Commission Report Productivity Commission 2011, *Early Childhood Development Workforce*, Research Report, Melbourne Chapters 2 and 3.

⁹ *ibid*

15. The issue of forms of employment and hours worked by employed mothers with children of pre school age is discussed further below, however, it appears that where a parent increases their hours of work there is a greater demand for formal (and funded) childcare.
16. There has been debate about the price sensitivity of employed mothers to childcare costs.¹⁰ This contrasts with the views of our childcare members who have very high levels of concern about the effect of price increases on demand for their services. Recent research has shown that the cost of childcare does have a statistically significant and negative effect on the labour supply of married mothers. This finding supports policy that reduces the costs of childcare to encourage maternal labour supply.¹¹ Formal childcare is also more sensitive to price and wage effects than informal care. These findings support the anecdotal information provided by our members that increased childcare costs act as a deterrent to increased formal childcare use; formal care is more sensitive to price and wage effects than informal care. In short, without government assistance formal childcare would be unaffordable and beyond the reach of most wage earners. After subsidies the out of pocket expenses for families with one child in care in 2013 was between 8.4 per cent and 9.7 per cent of weekly disposable income (13.9 per cent - 17.3 per cent for two children).¹²
17. The role of government funding in the viability of the sector and affordability of childcare is crucial. **The Council of Australian Governments' reforms** reflected in the National Quality Framework (NQF) introduced a new approach to quality, regulatory consistency and service delivery and have presented the sector with significant and ongoing challenges. These changes are not sustainable without government funding and assistance and, in some instances, significant review of current features of the scheme.
18. Nationally the average annual growth rate of government real expenditure on childcare was 7.9 per cent between 2008-09 and 2012-13.¹³ The Government has asked this Inquiry in making any recommendations to consider options within current funding parameters.¹⁴ The sustainability and affordability of funding must be assessed in the context of current cost pressures and those which lie ahead within the sector.

¹⁰ The Treasury Economic Roundup Issue 1, 2010
New estimates of the relationship between female labour supply and the cost, availability, and quality of child care
http://archive.treasury.gov.au/documents/1783/HTML/docshell.asp?URL=04_New_Estimates_of_Child_Care.htm

¹¹ *ibid*

¹² ROGS Table 3A.57

¹³ ROGS Table 3A.3

¹⁴ Terms of Reference

Additional costs ahead for the sector

19. In its Report "*The Early Childhood Development Workforce*" the Productivity Commission concluded:

Overall, the ECEC fee increases may lead to a decline in labour market participation. Children in parental care and informal care will be more likely to remain within their current arrangements and this will further entrench low levels of labour supply among mothers of young children. Working mothers earning relatively low wages may also prefer to work fewer hours and care for children at home. Research found that a 1 per cent increase in the price of ECEC will result in a 0.1 per cent reduction in the hours worked by women whose wages are below the median, and a 0.08 per cent decline for women on higher wages (Gong and Breunig 2011).

These trends have been observed in the past, as female labour market participation declined in response to lower ECEC affordability. In 1998, the Senate considered the implications of the decision to withdraw operational assistance to community-managed LDC centres, which resulted in higher fees. The inquiry suggested that as fees rise, lower labour market participation may lower tax revenue while increasing the need for family payments (Senate Community Affairs References Committee 1998).

The anticipated increase in ECEC fees borne by parents (under existing funding arrangements) is likely to reduce demand for some ECEC services. Some parents may choose not to return to the workforce or to work shorter hours in order to care for children at home, thus reducing workforce participation.¹⁵

20. The effect of the NQF changes are still working through the sector. In addition, over the past four years the sector has had to accommodate the requirements of modern awards, with complex transitional provisions. Despite the terms of the Award Modernisation Request stating that modern awards were not intended to result in increased employment costs¹⁶ and an objective of the modern awards to be "simple, easy to understand" and take into account the regulatory burden on business¹⁷, this has not been the experience for many of our childcare members. AFEI provides significant ongoing services to members in this sector to help them interpret and apply modern award provisions which are inconsistent with the needs of employers trying to provide effective and efficient services. Many services across the country have faced wage rate increases throughout the award transitioning period which will end this year.

¹⁵ Productivity Commission Issues Paper December 2013; Productivity Commission Report Productivity Commission 2011, *The Early Childhood Development Workforce*, Research Report, Melbourne Chapter 3 page 56

¹⁶ Consolidated Ministerial Request The Minister for Employment and Workplace Relations Julia Gillard 29 May 2009

¹⁷ Fair Work Act S 134

21. ABS data reports the following increases in the childcare component for domestic and household services in the Consumer Price Index:

% Change From Same Quarter in Previous Year

December Qtr	Childcare %	All Groups %
2011	8.5	2.6
2012	8.5	2.4
2013	8.6	2.6

Source: ABS 6401.0 Consumer Price Index Table 12

22. Further cost increases emanating from the sector's modern awards may well arise later this year from the current union claims before the Fair Work Commission for pay equity increases within the sector.

Early childhood sector pay equity claim

23. On 15 July 2013, United Voice and the Australian Education Union (Victorian Branch) lodged an application for an Equal Remuneration Order. The Independent Education Union of Australia lodged an additional application for an Equal Remuneration Order on 8 October 2013. These applications are to be dealt with by a Full Bench of the Fair Work Commission. Proceedings concerning Part 2-7 of the Act are currently before the Fair Work Commission in the Equal Remuneration Case (C2013/5139 and C2013/6333).
24. This case has clear parallels with the Equal Remuneration Order made by the Fair Work Commission in the social and community services sector. In that decision the Fair Work Commission awarded very significant wage increases, varying from 23% to 45%, for employees in the social and community services sector.¹⁸
25. This arbitrated decision introduced wage increases based on 'market based' public sector salaries which included bargained outcomes as minimum wages for private sector social and community services.
26. Childcare sector members already report considerable levels of financial stress arising from the changed staffing ratios and other requirements of the NQF, in addition to their operating costs arising from modern award provisions and attendant on-costs (in particular, workers compensation claims). It is difficult to envisage how further increases in labour costs within the sector will be managed, absent commensurate increases in funding and childcare subsidies.

¹⁸ Equal Remuneration Case [2012] FWA 1000 (1 February 2012)

The role of employers and childcare

27. The extent of employer funded or provided childcare is minimal and confined to a small number of large organisations, in comparison to the large proportion of the welfare budget already allocated to parental, family and childcare purposes. Employer provided or payments for childcare have not been and should not be seen as a workplace entitlement but funded by parents and the taxpayer as a community responsibility. There are very few employers whose business case supports the provision of employer provided childcare, in any form.
28. There is a high degree of risk for employers in propositions for employer funding or provision of childcare, even on a voluntary basis. The nature of our industrial relations system and culture would ensure that any employer contributions are rapidly enshrined as entitlements and subject to escalating costs for employers once introduced.
29. Employers are taxpayers and already make a substantial contribution to government revenue, some of which is used for the provision of childcare. Further, the mandated provision of family friendly and flexible arrangements already imposes significant obligations on employers, in addition to other legislative requirements.
30. Employers have to provide a diversity of arrangements to encourage work/family balance and support parental childcare needs. The Fair Work Act, National Employment Standards and modern awards, in addition to anti discrimination legislation and the Workplace Gender Equality Agency requirements (for employers of more than 100 workers), have produced a high level of workplace regulation which mandates the provision of assistance to employees to balance work and family responsibilities. This includes:
 - Unpaid parental leave and right to request extensions
 - Personal and other forms of leave
 - Right to request changes in work arrangements
 - Consultation on changes to hours of work.
31. A request for flexible or changed working arrangements can only be refused on reasonable business grounds. They now extend, in addition to those with children, to employees with any caring responsibilities, a disability, who are older than 55 or who are experiencing family violence (or whose immediate family or household member is experiencing family violence), any of whom may request changed work arrangements.

32. Flexible working arrangements were widespread even prior to the legislative changes to the Fair Work Act extending their availability in 2013:

Among the 1.8 million families with at least one employed parent, 65% parents used some form of work arrangement to allow them to care for their children. The most commonly used arrangements were flexible working hours (43%), part-time work (32%) and working from home (19%). In one parent families, 59% of employed fathers used flexible working hours, compared with 29% in couple families. Among working mothers, similar proportions in couple families and one parent families used flexible working hours (42% compared with 45%) and part-time work (41% compared with 46%) to care for their children.¹⁹

33. Employers make adjustments to accommodate worker needs and fit these with operational needs. While the legislated requirements assume organisations can viably absorb the costs of worker family/carer responsibilities, in many instances such adjustments are costly and difficult to manage. This is particularly the case for small employers who employ around half the workforce.²⁰ Organisations report difficulty in managing staff costs and coverage to get the job done, plus additional administrative work. This can be particularly pronounced in workforces which are predominantly female. Such workplaces report difficulties in accommodating requests for changes to work hours and shifts and in having sufficient staff available to cover staff absent on various forms of leave for caring purposes. Recruiting additional staff can be extremely difficult in markets where there is a shortage of appropriately skilled and qualified staff and, across the board, hiring additional staff incurs additional wages, on-costs and administration for the organisation.
34. Larger well resourced employers may provide benefits and programs to assist parents with childcare responsibilities where it is in their interest and suits their business objectives. However, such measures are not feasible within the cost and operational constraints of most employers.

¹⁹ ABS 4402 Childhood Education and Care Survey Australia June 2011

²⁰ Department of Innovation, Industry, Science and Research Australian Small Business Key Statistics

The childcare sector and extended hours

35. The provisions of the Fair Work Act²¹ and modern awards in the childcare sector have been structured around the notion of “standard” hours employment as the preferred model for regulation, with heavy penalties imposed for work outside “standard” hours. This has been done in response to the continuing union campaign against non standard work, instead of responding to the changed demands of the community and the operational needs of industry.
36. Employers are urged to provide greater flexibility, at the same time as this flexibility is constrained by provisions in modern awards and the Fair Work Act. Childcare employers will incur greater costs by increasing the span of hours during which services may be provided, with penalties for shift work, weekend work and work outside of usual rostered hours, as well as additional staffing needs. By way of example, the *Children’s Services Award 2010* treats all hours outside the span of 6.00am to 6.30pm as either shift work or overtime at double time and a half. Day work on Saturday is to be paid as overtime, Sundays as double time and public holidays as double time and a half. As noted above, the price of services does matter to both parents and government funding those costs and must be affordable.
37. There are areas of unmet demand for childcare services which require further investigation and redress, particularly for shiftworkers (14.4 per cent of working women are shift workers) and those with variable rosters.²² However, while numerous commentators refer to widespread 24/7 working patterns and an increased spread of working hours, most work is still performed within the usual spread of hours, Monday to Friday²³ with 73% of women working

²¹ In addition to pre-existing provisions in the Fair Work Act and modern awards, the Fair Work Act was varied in 2013 to effect a promise made by the then Prime Minister to the trade union movement on 14 March 2013 that:

“We will make it clear in law that there needs to be additional remuneration for employees who work shift work, unsociable, irregular, unpredictable hours or on weekends and public holidays”.

[Prime Minister Gillard Keynote Address to ACTU National Community Summit]

²² AIFS op cit; ABS 4402 op cit; ROGS op cit table 3A.54. ROGS cautions that data provided on children requiring additional formal care is not an indicator of unmet demand and not comparable over time. While not providing information on the demand for non standard hours of care, it appears a significant number of in home care services offer non standard hours - ROGS table 3.40 and table 3A.29.

²³ Data does not support the proposition that Australian workers are increasingly working overtime, on weekends or public holidays, shifts or “unsocial” or irregular/ unpredictable hours. Average hours worked data shows a consistent downward trend, there has a decline in full time employment growth compared with part time and over 1.5 million workers report insufficient hours of work.

The proportion of all workers reporting they work only Monday to Friday increased from 63% in 1993 to 70 % in 2012. The number of casual workers has grown at a rate lower than that of all employed persons.

[ABS 6342.0 Working Time Arrangements 2012; ABS 6202.0 Labour Force Australia February 2013; ABS 6265.0 Underemployed Workers in Australia September 2012; Shomos, A., Turner, E. and Will, L. 2013, *Forms of Work in Australia*, Productivity Commission Staff Working Paper, Canberra.]

within these hours.²⁴ This is unsurprising given the very high costs of penalty rates for weekend work.

Issues arising from the NQF

38. Within the childcare sector the NQF objectives have been welcomed and its goals endorsed. However, its implementation has presented numerous and considerable challenges for many services.
39. In assessing the viability of providing changes in childcare service provision within current funding parameters, a key starting point is to address the difficulties and stumbling blocks services currently face in meeting the requirements of the NQF.
40. Our members have identified the following issues and sources of cost increases which remain of concern to many in the sector:
 - Qualifications and staff ratios.
 - Plethora of regulations and regulatory authorities involved and diversity of arrangements depending on state regulations.
 - Increased administrative burden (which has increased fees) and excessive documentation requirements.
 - Management and additional time required in staff planning, meetings and training.
 - Complexity and lack of clarity with assessment ratings. Complexity and procedures involved in challenging assessments. Inconsistency of rating applications is a recurrent issue, as is the level of concern with the “working toward” and “not met” assessments.
 - The use and cost of waivers.
 - Level of compliance penalties.
 - Policies required for the Education and Care Services National Regulations and the National Quality Standards; their implementation, assessment and compliance.

²⁴ ABS 6342.0 Working Time Arrangements 2012