

V14/97

Childcare and Early Childhood Learning
Productivity Commission
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Submission to the Productivity Commission Inquiry into Child Care and Early Childhood Learning

Thank you for giving the Office of the NSW Small Business Commissioner the opportunity to comment on the *Inquiry into Child Care and Early Childhood Learning*.

The Office of the NSW Small Business Commissioner (OSBC) was established in 2011 to advocate on behalf of small businesses in NSW and support small businesses by:

- providing dispute resolution services,
- delivering quality business advice through Small Biz Connect, and
- speaking up for small business within government.

I have reviewed the draft report and acknowledge the benefits that will flow to the sector following the implementation of changes to increase productivity by reducing regulatory and administrative burdens where appropriate.

Should you wish to discuss any of the issues raised in this submission further please contact Melanie O'Brien, Assistant Advisor, Advocacy

Yours sincerely

Robyn Hobbs OAM
Small Business Commissioner
4 September 2014

Office of the NSW Small Business Commissioner Response to the Productivity Commission's Report into Early Childhood Education and Care

	Recommendations from the Productivity Commission's (PC) Report into Early Childhood Education and Care (ECEC)	Office of the NSW Small Business Commissioner (OSBC) Response
1.	<p>The Productivity Commission's report is recommending the removal of fringe benefit tax concessions to not-for-profit Early Childhood Education and Care (ECEC) services, as they afford these services an often substantial competitive advantage over commercial services, do not always translate to clear benefits to communities and are a less transparent means of supporting not-for-profits than providing direct subsidies or grants.</p> <p>The Australian Government proposes to remove section 47(2) from the Fringe Benefits Tax Act 1986, that is, the eligibility for Fringe Benefit Tax concessions for employer provided ECEC services. It should retain section 47(8), which enables businesses to purchase access rights for children of their employees without this being considered an expenditure subject to the Fringe Benefits Tax.</p>	<p>The OSBC acknowledges that the removal of tax concessions for not-for-profit child care may create a more transparent funding system with traceable community benefits. However, the OSBC notes that the removal of these concessions in line with changes to the viability assistance program may have negative consequences for disadvantaged centres in rural and regional areas.</p> <p>Removing the concessions has the capacity to increase government funding for the sector which could be more evenly spread across child care centres. According to the report's findings, there is little evidence that not-for-profit providers systematically address socioeconomic disadvantage or set lower fees as a result of being provided with these tax concessions. The distribution of this funding needs to be an equitable and transparent process.</p> <p>The OSBC notes the recommendation to remove these concessions to reduce any competitive advantage not-for-profit providers may have over for-profit providers and increase the transparency in government spending in the ECEC industry. The OSBC recommends that the Government consider the implications that any changes to the tax concessions for not-for-profit services could have on employer funded services/employee subsidies which benefit full time working employees.</p>

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2.	<p>The Australian Government should abolish operational requirements that specify minimum or maximum operating weeks or hours for services approved to receive child-based subsidies.</p>	<p>Stakeholder feedback provided at the Productivity Commission's hearing in Sydney found that if amendments were made to current ECEC services to increase the flexibility of services, it would reduce the strain on overcrowded CBD centres enabling suburban centres to adapt to changing work arrangements. The OSBC suggests developing a uniform development application process for extending trading and operation hours for ECEC centres. This may mean developing state specific development application forms.</p> <p>Currently ECEC providers are required to engage a range of agencies in state and local government areas and duplicate administrative tasks. Duplicated application processes present an unnecessary regulatory burden on these centres. In some cases this prevents centres from changing their operating hours and adapting to market demand as a result of procedural limitations at state and local government levels.</p> <p>Any changes to operational requirements should consider the industrial relations implications of the recommendations. The two most common awards in the ECEC sector (the Children's Services Award 2010 and Educational Services (Teachers) Award 2010) stipulate the maximum number of hours a staff member can work per day. Despite easing the regulatory operational requirements, industrial relations constraints may prevent the removal of certain operational requirements in particular areas due to costs and the availability of staff.</p>
3.	<p>The Australian Government should establish a capped 'viability assistance' program to assist ECEC providers in rural, regional and remote areas to continue to operate under child-based funding arrangements (the Early Care and Learning Subsidy and the Special Early Care and Learning Subsidy), should demand temporarily fall below that needed to be financially viable. This funding would be:</p> <ul style="list-style-type: none"> - accessed for a maximum of 3 in every 7 years, with services assessed for viability 	<p>The OSBC is concerned that changes to the viability assistance program will increase the disparity between services provided in metropolitan and regional areas. These changes may lead to further reductions in financial incentives for service providers in disadvantaged areas, whilst further contributing to overcrowding in popular urban centres.</p> <p>Any changes to funding assistance and restricting funding accessibility to three out of seven years may increase the administrative burden for disadvantaged services and affect the ability to retain staff and attract investors.</p> <p>The report should consider the contributing factors behind periods of short and long</p>

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	<p>once they have received 2 years of support</p> <ul style="list-style-type: none"> - prioritised to centre-based and mobile services. 	<p>term poor economic performance of ECEC centres.</p> <p>The OSBC and the NSW Department of Education and Communities (DEC) are currently working together on delivering a preschool operational support program. The Preschool Operational Support Program will help 269 out of 774 government funded preschools meet the objectives of the new funding model. These preschools have been identified as centres that require more support and assistance in order to adjust to the NSW funding model and become sustainable centres into the future.</p> <p>The program will provide operational support to preschools by increasing enrolment of the target cohorts, aligning their fee structures with the new funding model, and increasing their viability. General business assistance will also be available to all other preschools.</p> <p>This program is designed to deliver direct consultancy services to preschools through two channels:</p> <ul style="list-style-type: none"> - <i>Small Biz Connect</i>, a NSW Government program delivered by the Office of the NSW Small Business Commissioner that provides quality face-to-face support and advice to small businesses across the State, and - Customised preschool sector professional services, delivered by experts with a track record of supporting preschools in their operations and financial sustainability.
4.	<p>Recognise the impact of local government planning requirements and operation restrictions on the capacity of ECEC providers to respond to demand for places and a recommendation that local government adopt leading regulatory practices in planning, including outcomes-based regulations.</p> <p>Findings from the report: Planning regulations for ECEC services should not:</p> <ul style="list-style-type: none"> - unnecessarily duplicate or extend on 	<p>The OSBC supports the report's recommendation to streamline local government practices for regulating and enhancing child care services. The OSBC supports the report's recommendation to involve local government and the community in effective planning of ECEC services. This includes developing uniform land zoning practices and a streamlined development application process for changes to the operating environment of these centres.</p> <p>The OSBC supports a reduction in duplicated compliance requirements for ECEC providers and the education of local governments regarding State and Federal government requirements for ECEC services. The OSBC recommends local governments update their compliance and communication material in accordance with</p>

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<p>requirements of the National Regulations, which cover some aspects of the design and features of indoor and outdoor areas (for example, furniture and equipment and minimum space requirements) and operational requirements (such as staffing levels)</p> <ul style="list-style-type: none"> - exceed or duplicate other accepted standards, such as the Building Code of Australia - affect the operation of the local market for ECEC services — for example, by trying to take into account the effect of a new development on existing ECEC services or requiring services to meet a demonstrated need. <p>Currently, a number of local governments appear to impose requirements that extend beyond (often far beyond) what the Commission considers should be within the Council's responsibilities.</p>	<p>changes to the relevant NSW Government regulatory agencies and/or national reforms. The report highlights the need for local authorities and state planning departments to be meaningfully engaged in discussions surrounding early childhood education and care.</p> <p>Child Care NSW is currently working with the OSBC to highlight areas of continued administrative and regulatory burden which hamper the efficiency and growth of ECEC centres. The OSBC will work with Child Care NSW and relevant NSW Government agencies and local government to determine what solutions and/or improvements can be made.</p> <p>The OSBC acknowledges the report's findings regarding additional local council requirements on top of national regulations. Child Care NSW members have reported a circuitous process involved in the development approval process whereby the NSW Department of Education and Communities will not issue a service approval until such time as an occupancy permit has been provided by council. Despite this some councils will not issue an occupancy permit until a service approval has been provided. This illustrates that government regulations and poor communication between agencies can inhibit the productivity, flexibility and development of ECEC centres.</p>
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