

# **DEPARTMENT OF EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS (DEEWR)**

## **Combined comments on Productivity Commission's Annual Review of Regulatory Burdens on Business: Social and Economic Infrastructure Services Draft Report dated June 2009**

### **PART 1 – CHILD CARE (CHAPTER 3)**

DEEWR is working with State and Territory Governments through the Council of Australian Governments (COAG) to pursue reform to deliver a nationally consistent quality early childhood education and care system.

The costs and benefits of the proposed changes are explored in a consultation Regulation Impact Statement (RIS) which was endorsed by COAG and released for public comment on 2 July 2009. This represents a major step towards a genuinely national quality system.

At its 2 July 2009 meeting, COAG agreed to a wide-ranging package of reforms for early childhood, building on initial investment in universal access to early childhood education. In particular, COAG has agreed to a jointly governed unified national system to replace current licensing and quality assurance processes. Under this approach:

- individual services will need to deal with only one organisation for quality assessment;
- a single set of improved national quality standards will integrate education and care and promote good developmental outcomes; and
- a new ratings system will provide better information about service quality.

The consultation RIS has been developed to ensure that the community, particularly parents and the sector, have the opportunity to provide feedback on proposed changes under the National Quality Agenda and their potential impact.

Consistent with Office of Best Practice Regulation Guidelines, the consultation RIS has been drafted in a transparent way. It proposes a National Quality Standard and Ratings Framework, initially to cover Long Day Care, Preschool, Family Day Care and Outside School Hours Care, contains options for improving staff-to-child ratios and staff qualifications, and seeks national consistency for these important elements of the National Quality Agenda.

The consultation RIS also outlines the options for reducing the regulatory burden on services. The RIS acknowledges the need for reform in the area of early childhood education and care and in particular, the need for reduced regulatory overlap and duplication between Commonwealth and state and territory governments in this sector. Based on feedback from stakeholders, COAG will undertake further cost-benefit modelling to inform development of new regulatory arrangements, including quantifying savings and costs to, and the impacts on, services, parents and governments, in moving from the existing regulatory arrangements to a new set of arrangements.

DEEWR is also aware of the issues associated with the administration and delivery of current Child Care Quality Assurance systems and is working to address these issues in the development of the National Quality Agenda.

#### Points of clarification

All references in the draft report to the National Quality Framework for Early Childhood Education and Care should be replaced with National Quality Agenda for Early Childhood Education and Care in the final version of the report.

In relation to timing for the introduction of the National Quality Agenda for Early Childhood Education and Care, the draft report (Page 80, paragraph 3) states that 'the final framework is expected to be introduced from 1 July 2010'. This should read 'from July 2009'.

Additionally, the report should note that recent changes by the Victorian Government to improve quality in the early childhood education and care sector. For example, recent changes to the Victorian children's services regulations now license outside school hours care and family day care.

#### Additional explanation

The Early Years Learning Framework was endorsed by COAG on the 2 July 2009. It describes the principles, practice and outcomes essential to support and enhance young children's learning from birth to five years of age, as well as their transition to school. The release of the Early Years Learning Framework is the first phase in the implementation of the Australian Government's National Quality Agenda for early childhood education and care. The Early Years Learning Framework will be incorporated into the National Quality Standard and early childhood settings will need to provide evidence of their use of the Early Years Learning Framework in designing and delivering their early learning programs. The Early Years Learning Framework has been developed collaboratively by the Australian and State and Territory Governments with substantial input from the early childhood sector and early childhood academics. Implementation of the Framework will commence from July 2009.

#### Recommendations

##### **Draft Recommendation 3.1**

*The Australian Government should amend the Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Determination 2000 so that it is clear that a service can have its Child Care Benefit approval removed if it is not accredited by the National Childcare Accreditation Council.*

The Family Assistance legislation under which the Child Care Benefit (CCB) is administered sets out the requirements concerning services responsibilities in meeting quality accreditation. Services are made aware of these requirements as part of the CCB approval process. The Child Care Services Handbook also sets out in detail these requirements for services including how to ask for a review of an accreditation decision and how to ask for an appeal against a decision to withdraw CCB approval. The way in which CCB is linked to the quality assurance process will be given consideration as part of the implementation of the National Quality Agenda.

Legislation should make it clear that a possible consequence of failing to become accredited may lead to the removal off CCB approval. However, the Government would not want to remove CCB approval in every case.

### **Draft Recommendation 3.2**

*The Department of Education, Employment and Workplace Relations should improve both the quality of child care service information provided to parents, and the way it is delivered by:*

- *making it mandatory for the National Childcare Accreditation Council to publish on its website information on child care services' accreditation status (and the reasons for any 'not accredited' decision) and the Quality Profile Certificate (or quality rating) of specific child care services*
- *publishing on its website information on those child care services that are non-compliant with Child Care Quality Assurance, including the reasons for their non-compliance, and the consequences/outcomes that have resulted from their non-compliance*
- *providing direct links to this information on the mychild.gov.au website.*

DEEWR is aware of the issues raised by the Productivity Commission regarding parents accessing information about child care quality when looking for a child care service. The implementation of a quality ratings system as part of the National Quality Agenda will provide greater information to parents on the quality of services.

The mychild.gov.au website is the main portal for all Australian Government early childhood information for parents and carers. A number of enhancements are planned for mychild.gov.au, including vacancy information for services, a mapping function and a child care estimator.

### **Draft Recommendation 3.3**

*The Australian Government should remove the requirement under section 21 of the Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Determination 2000, for child care services to report anticipated vacancy information.*

The Productivity Commission has taken the position that while the costs of vacancy reporting to child care providers are small, the benefits to child care providers and the community are even smaller.

The Productivity Commission has attempted to assess the value of vacancy information by calculating the percentage of parents who require vacancy information actually accessing it via the Child Care Access Hotline. In making this calculation, the Commission has overestimated the population of parents seeking childcare. It appears the Commission is assuming that all childcare places are available on a daily basis. This assumption is inappropriate as children are generally in childcare on a longer term basis, consequently

their place is not 'available' on a daily basis. As a consequence of the Commission's assumptions, they have calculated a figure of 173,712,240 places per year, while the actual number of CCB-approved places identified in the September quarter 2008 was 730,957.<sup>1</sup>

It should also be noted that not all parents using childcare will be seeking new arrangements in a given year – while some parents currently using care may be seeking additional and alternative care, the majority of parents seeking new care arrangements (and therefore information regarding vacancies) would be those entering the market. CCB data indicates that the number of 'new' CCB recipients in 2007-08 compared to the previous year was 189,165<sup>2</sup> and this would be an appropriate number to use in a calculation.

DEEWR has previously informed the Productivity Commission that as at 28 April 2009, the mychild.gov.au searchable data base (which enables parents to search for child care providers and where vacancy information will be incorporated) has had 77,633 visits since its launch on 22 October 2008. As at 13 July 2009, the website has had 105,691 visits since October 2008.

The Productivity Commission may not be aware:

- That as part of its election commitments, the Government signalled on a number of occasions that it would increase the delivery of child care related information for parents – this included the publishing of reported vacancy information on the mychild.gov.au website, thereby increasing the accessibility and potential audience for this information.
- That Centrelink and Job Network provider staff have access to the Child Care Availability System (CCA) which stores vacancy information and use reported vacancy information to assist their clients.
- That reliable vacancy information can be a useful data source on child care supply.

The Government is aware that there are shortcomings with the current vacancy reporting system. While the vacancy information available through the Child Care Access Hotline is somewhat useful to parents at an individual service level, the information collected under the current system is neither valid nor reliable at any aggregated level.

On 6 August 2009, the Government announced the introduction of a new standard definition of a vacancy and instructed child care services to begin reporting against this definition on a weekly basis from 14 August 2009. Vacancy availability information using this definition is expected to be made available on the mychild.gov.au website in the coming months. The Government will also release aggregated vacancy information once data verification has been conducted to ensure the data are meaningful. The Productivity Commission's suggestion to include links to the National Childcare Accreditation Council's (NCAC) website from mychild.gov.au has merit and will be considered.

The Government is committed to providing families with access to better information about child care, so that they can readily identify the services that best meet their needs. The mychild.gov.au website will become a source of comprehensive information for parents including fees, mapping and online tools to help parents estimate their out-of-pocket costs

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<sup>1</sup> Source: Centrelink administrative data and DEEWR's database of child care services

<sup>2</sup> Source: Centrelink administrative data and DEEWR's database of child care services

for child care. By removing vacancies information this will lessen the value of the site. Providing parents with access to the best possible information is a starting point for increased competition and improved transparency in the sector.

#### **Draft Recommendation 3.4**

*The Department of Education, Employment and Workplace Relations should remove the requirement on the National Childcare Accreditation Council to conduct 'unannounced' validation visits of child care services, but continue with (unannounced) spot checks.*

The former Parliamentary Secretary for the Office of Early Childhood, Education and Child Care, the Hon Maxine McKew, requested a review of the current policy for unannounced validation visits. This proposal was also raised by the NCAC in its paper "Strategies to meet Labor Party election commitments in relation to child care that can be implemented by 1 July 2009".

Currently, validation visits are unannounced and services are only advised of a six-week timeframe in which the visit will occur but not the actual date(s) of the visit. Under the new proposal, the services will receive notification in writing of the date of the scheduled validation visit. Spot checks will continue to be unannounced.

#### **Draft Recommendation 3.5**

*The National Childcare Accreditation Council should replace paper validation surveys given to parents with telephone validation surveys so that child care services are no longer required to act as a survey dispensing/collection service.*

This proposal was also raised by the NCAC in its paper "Strategies to meet Labor Party election commitments in relation to child care that can be implemented by 1 July 2009".

The family validation surveys will be replaced by a Family Satisfaction Survey which will better assess families' satisfaction with the care their child is being provided.

The design and mechanics of the delivery will be developed by the NCAC in consultation with DEEWR as part of the transition to the National Quality Agenda.

#### **Draft Recommendation 3.6**

*The Department of Education, Employment and Workplace Relations should complete the integration of the three existing Child Care Quality Assurance systems as soon as possible.*

The National Quality Agenda for Early Childhood Education and Care will provide a single framework for quality early childhood education and care regardless of setting and will bring together current licensing and regulation systems with the quality assurance system.

**Draft Recommendation 3.7**

*The National Childcare Accreditation Council and state/territory regulators should coordinate their visits to child care services as far as possible, to reduce the risk of compliance activity spiking within a specific timeframe during the year.*

This recommendation is consistent with the principles in the consultation Regulation Impact Statement and will be addressed through the implementation of the National Quality Agenda. Specifically, COAG has agreed to a jointly governed unified national system to replace current licensing and quality assurance processes under which:

- individual services will need to deal with only one organisation for quality assessment;
- a single set of improved national quality standards will integrate education and care and promote good developmental outcomes; and
- a new ratings system will provide better information about service quality.

## **PART 2 – EDUCATION AND TRAINING (CHAPTER 7)**

### **Part 2.1 – International Education Related Comments**

On 26 May 2009, the Deputy Prime Minister announced that the Education Services for Overseas Students Act 2000 (ESOS Act) would be reviewed in 2010–11 to further enhance quality and protect students. Education Ministers agreed to bring this review forward to this financial year at their meeting on 12 June 2009 and tasked the members of the Joint Committee on International Education to progress the matters it agreed to.

The review is expected to be a broad, wide-ranging review – recognising that the international education sector has undergone significant change, both in terms of growth and form, since the last review in 2004–05. It is also expected to take into account other key changes impacting Australia’s education and training systems and relevant policy spheres, including the revised National Protocols, AQTF 2007 and skilled migration policy.

## **Part 2.2 – Vocational Education and Training (VET)**

### **Related Comments**

Refer: 'VET/Industry Skills' p.236/37; and 'Recent reviews and current reform activity' p.247.

- There were a number of drivers for the recently concluded *Review of the Currency and Effectiveness of the National Standards for Group Training Organisations 2006*. These included the outcomes of an audit moderation workshop, and other key changes in the regulatory policy environment such as the Banks Report *Rethinking Regulation* and the COAG skills and regulatory reform agenda. It was generally held that the National Standards for Group Training Organisations (GTOs) needed to be brought into line with the current focus on outcomes-based quality frameworks. Concerns were also raised by GTOs that also operated as a Registered Training Organisation (RTO) who reported that some auditing requirements were duplicated because of the need for a quality audit to meet both the National Standards for GTOs and Australian Quality Training Framework (AQTF) standards, thus creating an additional financial burden on the organisation.
- The Review recommendations were presented to the National Senior Officials Committee (NSOC) on 8 May 2009. The NSOC resolution was that the Review Report and recommendations be considered as part of the consultancy on national regulatory arrangements arising from the COAG decision of 30 April 2009.

Refer: draft recommendation 7.2.

*"The Department of Education, Employment and Workplace Relations, in consultation with the states and territories, should ensure that reforms to streamline reporting obligations in the education sector, including for schools and in response to recommendations from the Bradley Report, are undertaken consistent with the methodology and principles of the Standard Business Reporting initiative. Electronic reporting and secure on-line sign-on to the agencies involved should be introduced."*

- The 'AQTF Essential Standards for Registration' contain Quality Indicators for Registered Training Organisations. The Quality Indicators are comprised of competency completion, learner engagement and employer satisfaction components and utilise an electronic reporting system. The reports provide RTOs with valuable data to identify areas for improvement in training and assessment services and to gauge how well clients' needs are being met. The data collected also generates an annual report used by registering bodies in their monitoring of the quality of training provider operations.
- With respect to DEEWR's VET programs, recommendation 7.2 will mean, as required, the ongoing adoption and implementation of common data definitions and standards in DEEWR systems that comply with the Standard Business Reporting initiative and the



Australian Vocational Education and Training Management Information Statistical Standard (AVETMISS).

- Rationalising the training information collected from business organisations may reduce duplication, and the number of forms and interfaces to DEEWR's VET systems that VET providers and business partners are required manage.
- Payments to contracted providers vary across programs and rely on multiple factors that include registrations, commencements, claims, milestone payments, quarterly estimates and reconciliation processes. Consistent claims and payment processing across DEEWR's VET programs may reduce the administrative burden on those businesses engaged in multiple contracted arrangements.
- A number of DEEWR's VET programs process and verify the documentation provided from providers as part the provider approval and review process. Increased use of data standards in the collection and processing of this information may facilitate online verification of these documents by the issuing authorities (eg banks, local governments and insurance companies).

Refer: Chapter 7 – Education & Training p.247
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- DEEWR suggests that the last paragraph on page 247 be amended to read as follows:

*"The Department of Education, Employment and Workplace Relations (DEEWR) is currently undertaking a project (Future Directions for Quality Oversight of Tertiary Education Services in Australia) to consider the impact on quality assurance arrangements of proposed reforms in VET directed to student and business centred funding and to develop models for national regulation of VET providers and national accreditation of VET qualifications and courses. Other reviews currently being undertaken include a review of existing VET provider approval processes and a review of Group Training National Standards."*

- With respect to the second suggested sentence immediately above, the words in the Productivity Commission's draft report ("...review of existing VET provider approval processes...") suggest that a review is taking place across the VET sector, whilst it is in fact only with respect to providers applying for VET FEE-HELP.

Note: On 2 April 2009, DEEWR sent its revised response to information sought by the Productivity Commission. DEEWR's Higher Education Group commented as follows (see page 12 of the response):

*"While VET FEE-HELP has only recently been implemented, a review of existing VET provider approval processes is being undertaken in response to some concerns raised by the sector."*

## **Part 2.3 – Additional Schooling Related Comments (relating to curriculum, assessment and reporting)**

*\* DEEWR's primary comments on the schooling aspects of the Productivity Commission's draft report were forwarded separately to the Commission on 27 July 2009*

### **7.2 & 7.3 Independent Schools**

A focus of sections 7.2 and 7.3 is the opportunity presented by the new National Education Agreement and *Schools Assistance Act 2008* to reduce the regulatory burden on schools.

It is also worth noting other schooling reforms that are underway, which have the potential to make an impact in this area.

In particular, the development of national curriculum, assessment and reporting arrangements has the potential to streamline regulatory arrangements and reduce duplication between the Australian Government, state and territory governments and the Catholic and independent schooling sectors.

As the Productivity Commission's draft report notes, the education landscape across Australia is varied and complex. Each state and territory has its own curriculum, assessment and reporting arrangements in place that have been built over time and in response to local considerations.

There are currently 34 separate organisations contributing to the development of curricula, assessment and reporting practices in Australia. These complex arrangements result in duplication of effort and affect Australia's ability to measure student achievement against national standards (and to use the resulting data to improve school performance and student outcomes). The current arrangements are also a significant barrier to both teacher and student mobility, with curriculum inconsistency a major disincentive to the approximately 340,000 Australians (including approximately 80,000 school-aged students) who move interstate each year.

The recent establishment of the Australian Curriculum, Assessment and Reporting Authority (ACARA) brings together - for the first time in Australia - the functions of curriculum, assessment and reporting at the national level. The rationalisation of these functions is central to achieving streamlined and simplified national education governance. This in turn will deliver greater effectiveness and reduce duplication of both resources and costs, and provide a central mechanism through which all Australian governments can drive national priorities in education.

National curriculum, assessment and reporting will work in tandem with other reforms in relation to teacher quality (such as national professional standards for teachers and school leaders, national accreditation of pre-service teacher education courses and nationally consistent teacher registration) to help streamline regulatory arrangements in the education sector.

## **PART 3 – CONSTRUCTION (CHAPTER 8)**

### **Background**

The Australian Government is committed to improving occupational health and safety on all building and construction sites.

The Federal Safety Commissioner was established under the *Building and Construction Industry Improvement Act 2005* (the BCII Act) to improve OHS in the building and construction industry, and administer the Australian Government Building and Construction OHS Accreditation Scheme (the Scheme).

The Scheme has been in operation since 2006 and, from 2007, has also applied to building work indirectly funded by the Commonwealth. The Scheme enables the Australian Government to use its influence as a major construction client and provider of capital to improve OHS performance in the building and construction industry.

The OHS performance of the industry continues to be poor. Accredited builders have generally better OHS performance than the industry averages.

### **General comments (Scheme)**

The comments from the Northern Territory Government's submission to the Productivity Commission's review are not supported by the Office of the Federal Safety Commissioner (OFSC).

Improving OHS in the Northern Territory is just as important as it is every other state and territory in Australia.

The OFSC has maintained a high level of activity in the Northern Territory, reflecting the large amount of Australian Government funded building work in the Territory. Working closely with Territory stakeholders, including the Territory Construction Association and the Civil Contractors Federation, the OFSC has delivered a number of information sessions and one-on-one consultations with stakeholders on implementing the Scheme.

### **Specific comments**

<p>1. <i>That the Scheme disadvantages NT contractors</i></p>
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The Scheme is having a positive effect in the Northern Territory by ensuring only head contractors who have high OHS standards can access work funded by the Australian Government, subject to financial thresholds. The Scheme currently applies to a number of projects in the Territory worth \$1.25 billion, creating a flow on effect for employment opportunities for local builders.

It should also be noted that the Scheme does not apply to subcontractors and is subject to certain financial thresholds.

From 1 October 2007, the Scheme applied to new projects that are directly funded by the Australian Government with a value of \$3 million or more. The Scheme also applies to projects that are indirectly funded by the Australian Government where:

- the value of the Australian Government contribution to the project is at least \$5 million and represents at least 50 per cent of the total construction project value; or
- the Australian Government contribution to a project is \$10 million or more, irrespective of the proportion of Australian Government funding.

If a project meets the above thresholds, the requirement that accredited builders carry out the building work only applies to head contracts for building work valued at \$3 million or more.

The OFSC is not aware of any contracts for building work being packaged into substantial bundles to attract only larger companies. As the Productivity Commission's draft report confirmed, the OFSC has no control over procurement methodology. The OFSC is responsible for disseminating information on the agency's legislative requirements under the BCII Act – that agencies can only fund building work carried out by accredited builders, subject to the financial thresholds.

*2. To ensure the generally smaller contracting businesses operating in the Northern Territory are able to tender for Australian Government funded projects, the Northern Territory Government suggests adjustments to the thresholds or a delay in their implementation in the Northern Territory.*

There has been no suggestion that Northern Territory-based builders are unable to compete for tenders for building work due to difficulty in applying for, and attaining, accreditation in the Territory. To be clear, the BCII Act does not require the builder to be accredited when lodging a tender. Builders must be accredited at the time of funding (usually when the contract/deed is signed) and when they undertake the work.

There are a total of 29 accredited construction companies with offices in the Northern Territory, including nine accredited local builders. There are also a number of Territory-based companies in the process of seeking accreditation.

The OFSC will continue to work closely with Australian Government agencies, builders and funding recipients involved in construction activities in the Northern Territory.

### **General comments (Code and Guidelines)**

The National Code of Practice for the Construction Industry and the Australian Government Implementation Guidelines for the National Code provide opportunity and flexibility for funding agencies to determine how to obtain the highest level of ethical tendering and to lift behavioural standards of the industry and to secure compliance with all legal obligations.