

**SUBMISSION ON THE PRODUCTIVITY COMMISSION'S DRAFT REPORT ON THE  
CHILDCARE AND EARLY CHILDHOOD LEARNING SECTOR.**

The following submission is made by Guardian Early Learning Group Pty Ltd (**Guardian**).

Guardian is one of Australia's largest for-profit private operators in the sector with nearly 90 centres under ownership or management. We have a 10 year history and our founder and key management team have as much as 25 year's experience in the sector individually, and more than 100 between them.

In preparing this submission, we have responded to the draft findings, recommendations and information requests contained in pages 45-62 of the Productivity Commission's Draft Report on childcare and early childhood learning dated July 2014. Where we have not made comment on a particular recommendation, finding or information request, it is because we either agree with the Commission's position or the issue is not critical to us.

We note that the one material omission from the PC Report is that of professional wages for the educators who work in the sector. Although Fair Work is currently hearing an application for improved wages for the sector, there is no discussion in the Draft Report addressing the need for professional wages to attract and retain staff within the sector nor how any resultant increase in wages will be funded.

As a major participant in the sector and a founding member of the Early Learning and Care Council of Australia, we would welcome the opportunity to meet further with the Commission to discuss these issues in further detail.

<b>PC Reference</b>	<b>Guardian Response</b>
<b>DR12.2</b>	Agreed – a fantastic improvement for the sector and its customers.
<b>DR12.4</b>	<p><b>Deemed Cost Proposal</b></p> <p>We are opposed to using a “deemed cost model” as basis for ECLS for following reasons:</p> <ul style="list-style-type: none"> <li>• Too many variations in operating cost models between centres make it extremely difficult to derive a common deemed cost of providing education and care. Consider differences in: <ul style="list-style-type: none"> <li>○ The operating structure of the centre. Small centres have a higher cost per approved place than larger centres because the fixed costs of operating a centre (e.g. centre manager salary, compliance costs, technology costs etc.) are spread over a smaller number of places. Further, the age profile within a centre can vary significantly, which due to ratio requirements, has a material impact on operating costs. Consider for example a 90-place centre that has been open for two years and has an age profile of 70% of children under 3, with 30% over</li> </ul> </li> </ul>

3. Whereas a centre that has been open for ten years is more likely to have an age mix closer to 50% under 3 and 50% over 3. The wages variation between these two centres is significant.

- Wage rates - while the majority of staff are paid award rates, there are many who are paid over-award rates to attract and retain more experienced educators, or to attract and retain any educator in prime inner-urban and remote locations. We estimate that at least 30% of our staff are paid above-award rates.
- The rate of payroll tax varies between states, along with different thresholds before it is payable, and then approximately one-third of the sector is exempt from payroll tax altogether due to its not-for-profit status. Large operators are paying 2-3% of their revenue toward payroll tax, yet many small operators and most non-profit operators are paying none or minimal payroll tax.
- For operators with more than one centre, to what extent will be group overhead be factored into centre operating costs? Alternatively, for all the single centre, private owners in the sector, how do you factor in the cost of all the unpaid hours they and their families put in, whether that be doing bookwork at night, cleaning and maintenance over the weekends or management planning over multiple conversations outside of hours?
- In certain states operators are exempt from reimbursing landlords for land tax, but in others, land tax is allowed to be passed on to the operator by the landlord.
- Rents, which comprise 12-20% of revenue, vary enormously between and within states. Rents at inner-urban Sydney locations can be well in excess of \$5000 per approved place, but as low as \$1000 a place in other locations.
- Some centres provide food and nappies within their daily fee structure and others require parents to bring their own.
- Where would the Commission and/or Government access reliable cost data?
- Using a 25<sup>th</sup> percentile median cost is a very low common denominator – this will adversely impact 75% of families who attend centres with cost structures above the 25<sup>th</sup> percentile.

We would prefer that the “deemed cost” be based on current average fees rather than an implied centre operating cost, with the output being a benchmark fee against which a family’s ECLS % is applied. This benchmark fee would need to have the following characteristics:

- Calculate the current average fee for a given geography (excluding the outliers) using Mychild or some other Government resource. Maybe this could be based on the average fees for centres that are meeting the NQS?
- In calculating the average fee, variations need to be factored in for:
  - Different geographies
    - state based average fees (i.e. fees in Victoria and NSW are much higher than Tasmania or South Australia) or

- location based fees such inner urban vs. outer urban vs. regional vs. remote (ie fees in inner Sydney and Melbourne locations are higher than outer-suburban locations in these cities and higher than regional cities in these states. Remote centres located in these states might be comparable to the inner-urban locations given high delivery costs.
- Perhaps a matrix model might look like this:

	<b>NSW</b>	<b>VIC/ACT</b>	<b>QLD/SA/WA</b>	<b>NT/TAS</b>
Inner-urban	\$110	\$100	\$90	\$80
Outer-urban	\$95	\$80	\$80	\$80
Regional	\$80	\$75	\$75	\$70

- Different age groups and the costs inherent in providing education and care to these children.
  - While most centres now operate a differential fee model based on the child's age, the extent of the differential is limited, such that the fees for children over 3 cross-subsidise the fees for children aged under 3.
  - the only way to remove this cross subsidisation is for the ECLS to truly reflect the cost of providing care and early learning services to the different age groups.
- Different service types: e.g. the cost of providing care in a home environment is far lower than an approved facility and the benchmark fee should reflect this.
- Escalate the benchmark fee each year by a simple, pre-agreed factor. This could, for example, be calculated by a weighted average increase in the following expenses categories:

<b>Factor</b>	<b>Weighting</b>	<b>Measure</b>
Wages	60%	% change in Fair Work's Annual Wage Review.
Rents	15%	A fixed 3.5% escalation given the mix of CPI and fixed % annual rent escalations in typical centre leases
Operating Costs	25%	% change in CPI for that geography

Note that any external cost impacts on the sector out of the ordinary course (e.g. Fair Work wage equity case determinations, ratio or qualification changes) would need to be included in calculating the escalation factor. Our experience in the past has been that Governments and other bodies have grossly understated the true cost impacts of these major changes.

**100 Hours of Care per Fortnight**

Funding for 110 hours per fortnight would be more effective than 100 hours, as 100 hours is not enough to fund full time families given that most centres would be open more than 10 hours per day.

Under the current system, a full time enrolment at a centre that is open 12 hours a day (eg 6.30am to 6.30pm – a common occurrence in the outer-suburbs where parents have a long commute to the city) will not receive any CCB for the fifth day of care, and only limited CCB on the fourth day of care. Under a more common scenario of an 11 hour opening duration (e.g. 7am to 6pm), full time enrolments are still only receiving partial CCB on the fifth day.

If the Productivity Commission is seeking to incentivise full-time employment and to encourage centres to open longer to accommodate non-mainstream working parents, it may wish to lift the fortnightly limit to 110 hours.

**Activity Test**

Our key concern with the Activity Test as proposed is that children from families with just one income earner will be excluded from a Government funded experience in an early learning centre. Is this discriminating against parents who choose to stay at home to care for their children, but who still want their children to spend some time in quality early learning environments to enhance their social and cognitive development? We know that developmental outcomes for children are enhanced through quality early learning environments, so access to these experiences should be equitable and available for all children.

In addition, what does it say about the rights of a child to access some early year’s education? This sector is far more than just providing care for children while their parents go to work – it is about early years education, the rights of children to access this and the enormous benefits that early years education will deliver to our future economy.

Our proposition is that all children should have the right to 20 hours (i.e. 2 days) attendance at a quality early learning program irrespective of the employment/study status of their parents?

Hence, the model might be as simple as:

- Families who satisfy the Activity test are eligible for 110 hours of ECLS per fortnight; and
- Families who do not satisfy the Activity test are eligible for 50 hours of ECLS per fortnight.

And while it is not our area of specialty, vulnerable children from poor home environments must be able to access appropriate care that is fully funded. The research in support of this proposition is compelling.

	<p><b>Payment Direct to Services</b></p> <p>This is to be welcomed as apart from helping some centres with fee collection, it will also help promote the Government’s incredible support for this sector, which in many ways goes unnoticed within the complexity of the current system. If parents just see the gap fee (i.e. centre fee less total Government support) on their weekly invoice that will definitely promote the Government’s role in supporting affordable, high quality early education and care for the country.</p> <p>For families who did not receive CCB in 2004, the “out-of-pocket” cost today is 25% cheaper than it was 10 years ago – very few people realise how good they have it today, and any measure that promotes the Government’s support for the sector is to be welcomed.</p> <p><b>Other General Comments on the ECLS Proposal</b></p> <ul style="list-style-type: none"> <li>• We believe a lineal scaling methodology from 90% support @ \$60,000 to 30% support @ \$350,000 will be the methodology easiest to understand for sector participants. Whether the scaling was in 1% or 5% increments would probably not matter.</li> <li>• We believe that all families, irrespective of total family income, should receive ECLS to assist with the cost of care and early learning. The country’s prosperity will continue to be dependent on a diverse, talented workforce, and women of all income levels should be supported (and encouraged) in returning to work after the birth of their children.</li> <li>• The proposed structure of the ECLS will mean that families above \$200,000 in family income are likely to suffer a material reduction in Government support relative to what they receive under the current system, while lower income families are going to receive additional support.</li> <li>• While we support this repositioning, we also believe that the country will be far better off with an expanded funding envelope for childcare and early learning rather than the proposed parental leave scheme. Enhanced support for childcare and early learning so as to make it easier for working parents to juggle work and family responsibilities in the early years will have a much greater positive impact on the economy than a payment for six months after the birth of a child.</li> <li>• While we are supportive of a paid parental leave scheme that enables women to remain at home with their young children, we feel that the country will gain far greater economic benefits from enhanced childcare and early learning funding relative to paid parental leave.</li> </ul>
<p><b>IR13.1</b></p>	<p><b>Costs of transitioning to new ECLS System</b></p> <ul style="list-style-type: none"> <li>• Software changes</li> <li>• Training staff</li> <li>• It would be ideal if the system could be designed so that it is simple enough to avoid specialist software providers. While these software providers will always have a role in providing simple, low cost solutions for small operators,</li> </ul>

	it would be good if the larger operators could build their own invoicing/CCMS system within their accounting software systems.
<b>IR12.1</b>	<p><b>Should families with multiple children in care and education services receive additional ECLS?</b></p> <p>If this country wants women with multiple children to return to work, then they should be incentivised given:</p> <ul style="list-style-type: none"> <li>• the greater share of salary going to childcare fees and the lower marginal benefits of returning to work; and</li> <li>• that the degree of difficulty in balancing work and family increases when multiple children are in care.</li> </ul> <p>A loading on ECMS of say 10% per child would be some small help.</p>
<b>IR12.3</b>	<p><b>Should some subsidised care be available without the activity test?</b></p> <p>Refer to the sub-heading “Activity test” in DR12.4 above.</p>
<b>IR12.4</b>	<p><b>Updating Deemed Cost</b></p> <ul style="list-style-type: none"> <li>• Refer to our suggestions in DR12.4 above.</li> </ul>
<b>DR8.5</b>	<p><b>Extension of ECLS to Nannies</b></p> <ul style="list-style-type: none"> <li>– Our primary opposition to the proposed extension of the ECLS to nannies is the risk of Government funds being used to finance “home help” for high income earners. Most nannies today, operating in an unregulated environment, provide a blend of care and home help, and it is ridiculous to suggest that there could be any form of policing to ensure ECLS funded nannies were only providing care to children and not home help. How does the Government draw the line between care and education for the child vs. cooking, cleaning, ironing, running errands etc.? This proposition serves to erode what we know about the importance of education and care in the very early years, and of how the two are critically interrelated. It flies in the face of research and developments in the sector over a substantial period of time.</li> <li>• Given that less than 50% of services have been assessed in the two and half years that the NQF has been in existence, what chance will there be that a home nanny will ever be assessed/checked as to compliance with NQF and to ensure that home duties are not undertaken?</li> <li>• Where will the Cert III qualified nannies come from? Most likely the early childhood sector that has funded their development over recent years. Our sector already has a huge challenge recruiting and retaining staff, and this challenge will become even greater if the extension of ECLS to nannies leads to poaching of our staff. This will have a material adverse impact on the quality of existing early learning centres – something that our families do not want.</li> <li>• It is very inefficient use of limited Government funding. <ul style="list-style-type: none"> <li>○ Most nannies are used to care for one or two children, but this is:</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>▪ approximately half the number of under 3 year old children that one educator can care for and educate in an early learning centre, and</li> <li>▪ only 20% of the number of 3-5 year old children that one educator can care for and educate in an early learning centre.</li> <li>○ The child attending an early learning centre will receive a far greater educational experience as compared with an in-home nanny, so the return to the economy for the same dollar is far greater.</li> <li>• How will payment of minimum wages be regulated? Will nanny employment come within our Fair Work system?</li> </ul>
<p><b>DR8.7</b></p>	<p><b>Au Pair Visa Relief</b></p> <ul style="list-style-type: none"> <li>• It is hard to believe that the Commission is prepared to recommend that Visa rules be varied so as to allow au pairs to remain and work in Australia for up to 12 months, given that au pairs are typically paid cash in an unregulated environment and at rates well below minimum wage rates, let alone the minimum salary threshold for s457 visas.</li> <li>• It would be far more productive for our sector if the Commission were to recommend that Diploma qualified educators be added to the permitted list of s457 occupations, if only for an interim period, so as to allow us to address the key skills shortage in our sector. And if the Commission really wanted to make an impact, it might suggest that the s457 salary threshold be reduced by 15% for Diplomas so as to allow us to be able to pay overseas Diplomas comparable rates to local Diplomas.</li> </ul>
<p><b>IR8.3</b></p>	<p><b>Reserving Places for Extended Absences</b></p> <ul style="list-style-type: none"> <li>• The Commission is seeking information as to whether parents should be able to take an extended break from their centre, while their place is reserved for their future return, but sold in the short term for casual vacancies. It seems to be an attempt to allow families to take “parental leave” from their early learning centre.</li> <li>• Our experience is that parents enjoying the arrival of their second child either take their first child out of the centre (either because they cannot afford the cost of care without the second salary or because they want to be a full time parent to both children while on maternity/paternity leave) or leave them in the centre because they believe in the social and cognitive development benefits that children gain in a centre and perhaps also to allow them a break from the demands of looking after two young children.</li> <li>• To suggest that there is a widespread issue that causes families to reluctantly leave their children in care and education services so as to preserve their place or to gain favourable enrolment status for a future sibling is not correct.</li> <li>• The administrative impact for operators having to hold places open for families on extended absences and hopefully resell those places as casual vacancies is enormous. Further, it would be extremely difficult to sell all of the days that we would have to reserve for the absentee family (as typically our customers want permanent and stable arrangements for their children and our</li> </ul>

	<p>centres want stable environments for the members who reside within), such that it would lead to sub-optimal occupancies at a time when many are concerned with insufficient supply in the sector. Furthermore, the NQS calls for educators to create a sense of belonging through the building of relationships with children and families, and this notion of selling places for casual vacancies seriously undermines this intent.</p> <ul style="list-style-type: none"> <li>• There may be a few isolated incidences of this, but this there are much bigger issues in our sector for the Commission to focus on.</li> </ul>
<b>IR12.7</b>	<p><b>Funding for vulnerable children and children with special needs</b></p> <ul style="list-style-type: none"> <li>• This is a complex area that we believe requires further consideration, especially in light of the relationship with a range of other funding services, at both state and federal levels.</li> <li>• Vulnerable children must be able to access appropriate early education and care irrespective of the work/study status of their parents, and the assessment process must be streamlined.</li> <li>• Children with special needs must be assessed quickly so that appropriate support needs are identified and fully funded. The current system is inadequate – only 5 hours of additional support is provided per day, funding is less than 65% of the base hourly rate of an entry level educator with no training in special needs (let alone on costs, training etc.) and a very slow assessment process.</li> <li>• A fixed funding bucket is too limited – what happens to the children in need once the bucket is empty?</li> <li>• But the key issue is getting appropriately qualified staff to work with these children on an early intervention basis as opposed to adding untrained staff to simply care for them.</li> </ul>
<b>DR12.10</b>	<p><b>Preschool funding (DR 12.9, 12.10)</b></p> <ul style="list-style-type: none"> <li>• While this is an area that others will be more qualified to comment on than ourselves, our basic proposition is that operators of early learning centres providing kindergarten/preschool programs should receive the same funding support irrespective of which state they operate in. The Victorian model works well.</li> <li>• If some States are not passing on federally provided funding for this purpose (e.g. NSW), then maybe the federal Government should provide the money direct to operators rather than via the states.</li> </ul>
<b>DR7.9</b>	<p>We are opposed to the suggestion that state run preschools be removed from the scope of the NQF and be regulated by the state education systems. The intention of the NQF is to provide a nationally consistent system of early education and care, and removing state run preschools from the scope of the NQF does not support this policy intent.</p>

<p><b>DR10.1</b></p>	<p><b>Proposal to eliminate payroll tax exemptions for non-profit operators.</b></p> <ul style="list-style-type: none"> <li>• Our position is that the entire sector should compete on a level playing field, and either we all pay payroll tax or none of us pay payroll tax.</li> <li>• Our recommended position is that the entire sector be exempt from payroll tax.</li> <li>• At present, the one third of the sector that is non-profit is exempt and the vast majority of private operators would pay little or no payroll tax given the average centre wage bill relative to state payroll tax thresholds.</li> <li>• The large, for-profit providers are the only ones paying significant payroll tax.</li> <li>• Given that payroll costs are in excess of 50% of revenue in this sector, the payroll tax burden is huge for those paying it.</li> <li>• There should be an even playing field in the sector, but the best way to achieve this is to exempt the whole sector (which would have a minimal financial impact given the total payroll tax currently being paid) rather than to introduce payroll tax and have a materially adverse impact on the non-profit sector.</li> </ul>
<p><b>DR12.1</b></p>	<p><b>Proposal to abolish FBT exemptions on employer sponsored LDC, but not fees paid to reserve places.</b></p> <p>We disagree with this recommendation for the following reasons:</p> <ul style="list-style-type: none"> <li>• Australian employers should be encouraged to provide more support for the development of onsite early learning centres. For those employers that currently do so, it can be an expensive process establishing and operating an employer sponsored facility.</li> <li>• Further, the fees at such facilities are typically much higher than suburban centres due to land and development costs, e.g. Sydney CBD centres are charging \$150 a day.</li> <li>• Employers should be able to provide these benefits with exemption from FBT if society wants to encourage them to take on some of the responsibility for the expansion of this sector given the enormous benefits their businesses receive from facilitating the return to work of their female staff after maternity leave.</li> <li>• Employees should be provided with some assistance to help with the burden of these higher fees, whether that be employer fee subsidies or salary sacrificed fees. If these benefits are subject to FBT, they become uneconomical.</li> <li>• Employees should have the choice of salary sacrifice or ECLS, but not both. This is the current system that works well.</li> <li>• The vast majority of employees will be better off relying on the ECLS, such that the reliance on the FBT exemption is (and will continue to be) minimal, but we nonetheless believe that it remains as an important incentive to encourage employers to provide on or near site facilities for their employees, and hence support family friendly workplace practice.</li> </ul>

<p><b>DR7.2</b></p>	<p><b>Changes to NQF qualification requirements for ECTs and Diplomas</b></p> <ul style="list-style-type: none"> <li>• We are absolutely opposed to the recommendation that children aged under 3 only require Cert III qualified educators “caring” for them, for the following reasons: <ul style="list-style-type: none"> <li>– It sets our sector back more than 30 years and will make us the laughing stock of the developed world;</li> <li>– It ignores the fundamental principles that underpin the NQF and EYLF, frameworks that Australia’s leading early childhood education specialists developed over several years, based on extensive research, including brain development research. One of the key drivers of the NQF was that higher qualifications contribute to enhanced developmental outcomes for children in early childhood education and care services. The Commission’s position seems to suggest that it believes that learning really only begins at school, and that the role of early learning centres is to start some school readiness from the age of three. But has it considered the possibilities that we as a country might achieve if we started the education process from the earliest of ages?</li> <li>– Even if we are wrong on early learning (which I know we are not), what about a child’s safety? Does the Commission really believe that large groups of children aged under 3 could be ‘cared” for safely by a group of staff who had either received a Cert III after 6 months of on and off the job training, with a number of other staff not yet qualified as they work through the 3 month probationary hiring period referred to in DR7.5?</li> <li>– Given that the Commission professes to be supportive of the NQF, this is a very unusual recommendation.</li> </ul> </li> <li>• In the public hearings following the release of the draft report, there appeared to be few, if any operators who agreed with this recommendation, even though operators stand to gain financially from this recommendation.</li> <li>• As responsible operators with legislative, ethical and social obligations to children and families, we would not feel comfortable operating without Diploma qualified staff for our 0-3 year old children, nor would our families want us to do so. We urge the Commission to rethink and revoke this recommendation.</li> <li>• Further, we also disagree with the Commission’s recommendation that bachelor trained teachers should be confined to children aged 3+, as this reinforces the notion that education only begins at the age of three, ignoring the first three years of a child’s life when rapid brain development is occurring.</li> </ul>

<b>DR7.6</b>	<p><b>Abolition of the Excellent rating</b></p> <ul style="list-style-type: none"> <li>• We do not believe that the Excellent rating should be abolished.</li> <li>• However, rather than establishing a bureaucratic process to apply for an Excellent rating, centres that achieve exceeding on all 7 quality areas in their assessment and rating report should be rated excellent automatically.</li> </ul>
<b>DR7.7</b>	<p><b>Paperwork Concessions</b></p> <ul style="list-style-type: none"> <li>• The Commission does not identify what paperwork requirements it wants exceeding Centres to be exempt from so it is difficult to make comment on this, but as a general principle, we do not believe that once you reach a certain standard, you should start to receive concessions from adhering to that standard.</li> <li>• The key concession received for a high rating is that the time period to the next rating is longer than those with a lower rating. That is sufficient.</li> </ul>
<b>DR7.12</b>	<p><b>Local government planning reforms</b></p> <ul style="list-style-type: none"> <li>• The commentary in the draft report and the draft recommendations does not go far enough. Local Council planning departments are a huge barrier to the development of more centres, and unless the federal government intervenes to facilitate an improved planning process for new centres, nothing will change.</li> <li>• State departments can also be unhelpful in the process of establishing new centres, and any process of reform should incorporate all three levels of government in a coordinated campaign.</li> </ul>
<b>DR11.1</b>	<p><b>Quality of Training Providers</b></p> <p>Perhaps an industry body comprising operators and providers should be established to set minimum standards for the delivery of training to the educators in our sector. It is too easy at present to attain qualifications from some operators that are practically worthless in the rooms of our services. We understand that the Australian Skills Quality Authority is undertaking a review of training provision in the sector and it may be beneficial to partner with this organisation.</p>