

CCIQ Submission: Productivity Commission Public Inquiry into Child Care and Early Childhood Learning

CHAMBER OF COMMERCE AND INDUSTRY QUEENSLAND

3 FEBRUARY 2014

Introduction

1. CCIQ is Queensland's peak industry organisation for small and medium business. We welcome the opportunity to make a submission to the Productivity Commission's review into child care arrangements in Australia. The operation, accessibility and affordability of child care have become increasingly important to productivity, both at the workplace level and in the broader economy.
2. We note from the Terms of Reference that the Productivity Commission's review will be wide-ranging. CCIQ's submission will be limited to a discussion of child care arrangements with respect to issues affecting small and medium businesses, including workforce participation and the employment relationship between employers and employees.
3. CCIQ considers that child care is an important mechanism for contributing to increased workforce participation and enhancing productivity in the Australian economy. Its accessibility and affordability clearly have significant implications for female workforce participation and the professional progression of women. However, the increased demand for and pressure on child care services also highlights room for change in other areas of government policy.
4. CCIQ believes placing additional costs on businesses does not represent the solution to current problems facing child care. Rather, we consider that flexibility is at the core of ensuring that increased demand for child care services is met. Specifically, this flexibility is required with respect to:
 - a. The operation of child care centres and the working arrangements of their employees;
 - b. The ability of employers to provide employees with flexibility to meet carer obligations; and
 - c. The child care services that attract the Child Care Rebate and the Federal Government's funding priorities in this area.

The role and potential for employer provided child care

Recommendation: Employer provided child care should remain optional, and policy-makers should look to non-financial changes that could be made to allow employers to offer greater flexibility to employees with parenting responsibilities.

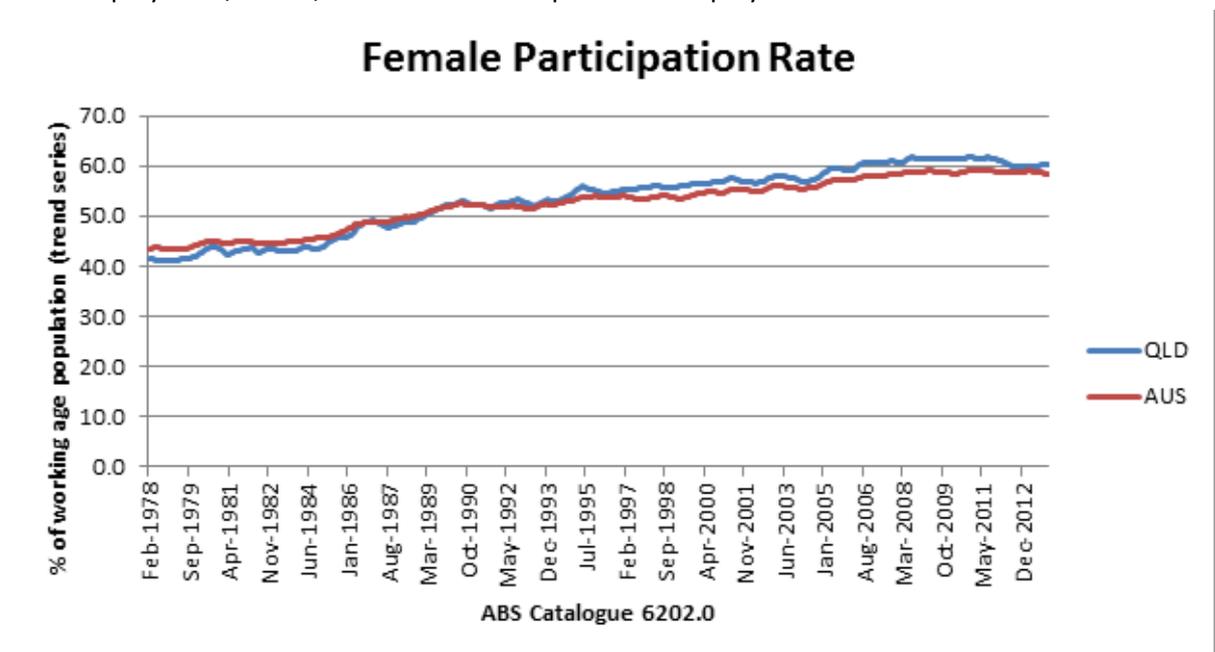
5. At the outset, CCIQ strongly urges the Federal Government to rule out policy options that involve levying businesses. The levy that will be placed on certain businesses to partially fund the Government's proposed paid parental leave (PPL) scheme is deeply unpopular with business, particularly where those businesses already have arrangements in place for employee child care.
6. In acting as the representative of small and medium businesses, CCIQ must point out that the capacity of these employers to provide child care for employees is severely limited. While some larger employers provide either in-house child care, or subsidise the cost of

child care for employees as part of employment packages, this is at the discretion of that employer and forms part of their particular employment strategy.

7. If small and medium businesses do choose to offer in-house child care or subsidise the cost of child care for employees as part of individual employment arrangements or to attract particular staff, that should be their prerogative to do so where they believe it is in the interests and financial capacity of their business. However, CCIQ does not consider that it is reasonable to foster an expectation that small and medium businesses can provide or fund employee child care more broadly.
8. CCIQ believes that there are a suite of non-financial measures in the workplace relations system that would allow small and medium businesses the capacity to offer employees greater flexibility in this area, which are discussed in paragraphs 18 to 23.

Increased participation in the workforce

9. As noted above, CCIQ views child care as an important workforce participation measure that should be driven by government in conjunction with the child care industry, the business community and other individuals. There are clear economic benefits, at both the firm and the broader economic level, to ensuring that carer obligations do not prevent parents, and women in particular, to not only enter the workforce but to progress professionally.
10. As the graph below shows, female workforce participation has increased significantly over the past three decades, both nationwide and at the state level. The figures below reflect total employment, that is, both full-time and part-time employment and indicates



Source: ABS Catalogue 6202.0 – Labour Force

11. In parallel with these changes, there has also been change in the way businesses trade and operate, moving from a '9 to 5, Monday to Friday' model to one that increasingly includes earlier morning, later nights and weekends as part of its ordinary hours of operation. It is apparent that child care services must adapt accordingly to meet these changes.

Interactions with relevant Australian Government policies and programmes

12. The fact that child care is an important contributor to increasing workforce participation does not mean that the funding behind it should not be sustainable. CCIQ takes the view that child care is first and foremost the responsibility of parents or primary carers. It cannot pose an unsustainable burden on either government or on employers, and it should be considered within the context of other policies and programmes.

Child Care Rebate

Recommendations:

- *The Child Care Rebate must remain sustainable. If it is determined that an increase to the Child Care Rebate is necessary, it must be offset by reductions in other Federal Government programmes (with specific consideration given to changing the funding parameters of the Government's proposed PPL scheme); and*
 - *The Child Care Rebate should be administered flexibly with respect to the eligibility of child care services.*
13. The Child Care Rebate covers 50 per cent of out of pocket child care expenses, up to a maximum amount of \$7,500 per child per year, in addition to some other benefits that parents may be eligible for. The Child Care Rebate is available where parents meet a 'work, training, study test' and where child care services are provided by an 'approved service' in an approved form of child care, which includes long day care, family day care, outside school-hours care, vacation care, in home care, and occasional care.
 14. CCIQ respectfully submits that if the Federal Government considers the accessibility and affordability of child care services to be an important means of facilitating greater workforce participation, and it wishes for the Child Care Rebate to remain viable, then at least some of the funding that is allocated for the Federal Government's proposed PPL scheme should be redirected to funding for the Child Care Rebate. If the costs of child care continue to rise, this is likely to place significant pressure on the Federal Government to increase the Child Care Rebate accordingly. This is not a sustainable long term option in light of efforts to exercise greater structural fiscal constraints and restore the Federal Budget to surplus.
 15. CCIQ considers that the Child Care Rebate is, of itself, an appropriate means of subsidising the ongoing cost of providing child care as long as appropriate constraints are placed on its growth, and is considered in conjunction with other funding priorities. Further, given that greater flexibility is an important means of ensuring that individual parents can meet their respective child care needs, we consider that it should be extended to a broader range care

of child care providers to include nannies and au pairs. This may assist in alleviating the impact of lengthy waiting lists for child care and family day care services, as well as providing greater flexibility to parents in regional and rural areas where there is often a limited choice of services.

Paid parental leave

16. As noted, it is relevant to discuss PPL schemes in the context of a discussion about child care arrangements, both with respect to how funding is prioritised but also in respect to the outcomes that they achieve. There has been significant public discussion of the need for and merits of various PPL schemes, perhaps to the detriment of appropriately addressing the role and capacity of government in facilitating affordable child care. The current PPL scheme, established by the previous Federal Government, provided for parental leave to be paid at the level of the federal minimum wage for a maximum period of eighteen weeks.
 - a. That scheme initially required employers to administer the payment of PPL instalments to eligible employees and comply with associated record keeping and notification obligations. CCIQ strongly opposed the outsourcing of these paymaster obligations to employers, and welcomed the removal of these obligations by the current Federal Government. Following the removal of those paymaster obligations, CCIQ considers that the existing scheme is an appropriate one to be provided and funded by government while potentially allowing the Federal Government to take necessary steps with respect to child care funding.

17. The current Federal Government has committed to introduce its own PPL scheme, under which women will be paid at their current wage, up to a maximum of \$150,000, for a period of six months. The cost of this scheme is to be partly funded by a 1.5 per cent levy on businesses earning an annual turnover of \$5 million or over. While understanding that PPL provides parents the opportunity to take time off in the months immediately following the birth of a child, it does not provide ongoing financial support to address caring obligations following this period. CCIQ argues that the current PPL scheme should be maintained as is, and that additional savings could be channelled to support the Child Care Rebate if necessary.

Flexibility under the Fair Work system

Recommendations:

- *Make common sense changes to the Fair Work system, including:*
 - o *Relaxing the 'better off overall test' with respect to trade-offs between financial and non-financial benefits; and*
 - o *Allow for Individual Flexibility Arrangements to be offered as a condition of employment.*

- 18. Outside of funding flows, there is significant potential within the workplace relations system for greater flexibility for parents with caring responsibilities for children. Indeed, current pressures on child care services are symptomatic of a lack of flexibility in the legislation that

govern the employment relationship. Currently, the Fair Work system provides only for employee flexibility – that is, giving parents a right to request flexible working hours from their employers, with minimal consideration of whether employers have, at that point in time, the operational capacity to provide those flexible working hours.

19. The Fair Work system does not give employers and employees real opportunities to negotiate a sensible solution that provides flexibility for both employers and employees. While Individual Flexibility Arrangements (IFAs) technically allow employers to negotiate individual arrangements with employees with respect to a number of issues, including hours of work, penalty rates and overtime, IFAs have several important restrictions on them that render them of little use in providing meaningful flexibility. These restrictions include:

- IFAs must satisfy the ‘better off overall test’ (BOOT) – that is, any arrangements contained within an IFA must leave employees ‘better off overall’ than they would be under the relevant industrial instrument (such as a modern award or enterprise agreement). This importantly limits trade-offs between financial and non-financial benefits. This means, for example, that a mother who wishes to work from 6.00am until 2.00pm, instead of 8.00am until 4.00pm, cannot trade the financial benefit of the penalty rate she would receive for working from 6.00am until 7.00am for the non-financial benefit they receive in being able to collect her children from school. This is because such an arrangement would not leave the employee ‘better off overall’ when judged against a relevant award under which she would be entitled to receive a penalty rate for the first hour of work; and
- IFAs cannot be offered as a condition of employment: this means that employers cannot hire employees on the basis that they adhere to terms under an IFA, which would allow employers to fit those arrangements within their operational requirements. This is important for small and medium businesses, where changes in staff working hours or to their wage bill can have a greater impact.

20. CCIQ considers that:

- There must be capacity for employers to offer IFAs as a condition of employment. This provides both employers and employees with a level of certainty. This would allow, for example, parents to inform their employer of the child care days/hours that they have been able to secure, and negotiate working hours accordingly as the basis of their employment arrangement; and
- There must be flexibility in the application of the BOOT, namely, capacity for trade-offs between financial and non-financial benefits. This has the potential to take pressure off parents to necessarily rely on child care services during before or after school hours and would allow for recognition of the importance to parents of being able to meet their caring responsibilities.

Usual hours of operation for each type of care

Recommendation: The consequences of the current and future equal remunerations applications under the Fair Work Act 2009 should be reviewed with respect to their potential impact on the child care industry.

21. The hours of operation of child care centres is clearly linked to the employment conditions of child care workers, which in turn reflect an out-dated, '9 to 5, Monday to Friday' conception of the working week. Increasingly, businesses are trading for extended hours for up to seven days a week, and require staff to work accordingly. This is both impractical and expensive, and means that often parents cannot take opportunities to work certain hours, or to have the flexibility that they may wish for in their work lives. It is clearly impractical for child care centres to close by 5pm or 6pm, or charge significant penalties where they provide services outside of these hours. Moreover, this necessarily drives up the cost of child care services and parents' out of pocket expenses, and in turn places pressure on the Child Care Rebate.
22. It is therefore deeply concerning that there is a strong effort underway from the union movement to increase the wages of child care workers under the equal remuneration provisions of the *Fair Work Act 2009*. Currently, there are applications before the Fair Work Commission for Equal Remuneration Orders to be made with respect to key child care industry awards, including the Social, Community, Home Care and Disability Services Industry Award 2010, and the Child Services Award 2010. These orders seek large increases of more than 35 per cent to existing wage classifications under their respective awards and would necessarily be passed on by child care centres to their clients.
23. These applications pose a very real and significant threat to the ongoing capacity of parents to affordable child care, and to the ongoing sustainability of the Child Care Rebate. CCIQ cannot conceive that such large wage increases are in active contemplation given the clear evidence that increasing costs are at the heart of concerns around child care services, and that the Federal Government has such a major role in funding child care.

Conclusion

24. CCIQ recognises that there are many issues that affect the accessibility and affordability of child care. This submission does not seek to canvas all of these issues, but rather focusses on addressing those that relate to the workplace and the employment relationship. CCIQ's view is that problems around accessibility and affordability are symptomatic of rigidity across a number of areas, including in the operation of child care centres, the difficulty employers have in providing employees with flexibility to meet carer obligations, and the Federal Government's approach to funding with respect to PPL and carer obligations.
25. The recommendations contained within this submission are directed at making common-sense changes that are consistent with CCIQ's view that child care is primarily the responsibility of parents. However, they also recognise that there are aspects of our existing policy and regulatory system that are not appropriately geared to allow parents to

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reasonably meet their carer obligations and to meet goals of enhancing female workforce participation.

26. CCIQ looks forward to the Productivity Commission's report and recommendations being released.