NSW FAMILY DAY CARE ASSOCIATION INC.

NSW Family Day Care Association

Productivity Commission

Submission May 2023

NSW IN-HOME CHILDCARE SERVICES

PEAK TRAINING RTO No: 90869

Preamble

NSW Family Day Care Association wishes to make the following submission to the Productivity Commission's Inquiry into Early Childhood Education and Care.

Our members provide high quality education and care to children in their early years via Family Day Care - a home-based model. Some of our members have been providing home-based education and care for over 50 years.

Through this rich history, we have learnt that the early years truly are a unique period in a child's life. What opportunities children receive in their early years can positively impact every other part of their lives. Learning that occurs in the early years is irreplaceable. It helps create the very architecture of a child's brain.

It is, therefore, logical for our nation to seize the advantages of children's learning opportunities. By offering comprehensive education during the crucial first five years of life, we can ensure that our future adult population is thoroughly equipped and prepared for what lies ahead.

As a peak organisation, we have observed the detrimental effects of the fragmented approach taken by all Australian governments towards addressing children's needs. We firmly believe that the Commonwealth Government has the potential to improve the situation by adopting a more comprehensive approach to meeting the educational and care requirements of children. Instead of having certain needs addressed solely by state and territory governments while others rely on subsidies from the Commonwealth Government, we advocate for a holistic approach. This is particularly crucial for children who face additional challenges, whether they are socio-economic, cultural, or structural in nature.

We are also strongly of the belief that although education and care has a side effect of enabling families, in particular women, to engage in employment, all education and care must be examined and supported in the context of children's rights to a high-quality early education, regardless of their family's needs. The benefits of high-quality early education have been proven repeatedly.

We applaud the Australian Government for initiating this Inquiry, and we remain hopeful that it will lead to the development of a more rational and effective education and care system. It is our sincere desire that the outcome of this Inquiry will bring about positive changes that align with the needs of children and their families, ultimately creating a more cohesive and well-designed system.

NSWFDCA wishes to inform the Productivity Inquiry about the following issues:

1. **The Family Day Care sector has contracted in the last few years, mostly because of faulty public policy.**

In the last decade, we have had a 26% reduction in the number of Family Day Care services nationally and in NSW, as shown in Table 1 below.

In the last 5 years, we have had a 53% reduction in the *number of children in Family Day Care* nationally and a 60% reduction in NSW, as shown in Tables 2 and 3 below.

For many years the size of the Family Day Care sector was stable, both in terms of the number of services and in terms of the number of educators engaged by those services. The Family Day Care services that existed before 2000 were more or less the ones that had been going since the program's inception in the mid-1970s.

But now the sector is contracting. At a time of widespread education and care shortages, the Family Day Care sector is contracting, and fewer children are receiving their education and care through the Family Day Care sector.

The reasons for this are multifactorial, but one of the reasons is because of the impact of public policy decisions which have impacted on the ability of Family Day Care services to remain viable and to attract educators.

Prior to 2001, funding for Family Day Care services and fee subsidies for parents were only available to non-profit services. From 2001, new places for family day care were open to for-profit operators.

As ACEQCA describes it:

> *"Before the introduction of the NQF, the Family Day Care sector was relatively small and well established, with many services being operated by local government providers. Since 2012, the sector has changed dramatically, significantly increasing in size and altering in composition. Before the introduction of the NQF, there were around 300 Family Day Care services, with roughly a quarter of these being operated by private for-profit providers. Over the period of the NQF's implementation, around 800 new Family Day Care services have been approved, with more than 90% of these being operated by private for-profit providers.*
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> *While many high-quality Family Day Care services and providers remain, there has been a proliferation of lower quality services and providers, some of whom are ill equipped or disinclined to comply with the requirements of the NQF. This in turn has resulted in a disproportionate amount of resources being directed towards the Family Day Care sector…"*[1]

[1] https://www.acecqa.gov.au/sites/default/files/acecqa/files/Reports/OccasionalPaper3-PromotingConsistencyandEfficiencyUndertheNQF_2.pdf

Table 1 Number of Family Day Care services between 2013 and 2023

Year[2]	FDC services nationally	FDC services in NSW	Public Policy Measure
2013 (Quarter 3)	616	174	
2014 (Quarter 3)	829	248	
2015 (Quarter 3)	1027	367	Removal of Community Support Program Funding
2016 (Quarter 3)	1056	403	
2017 (Quarter 3)	855	277	Fraud prevention measures instituted
2018 (Quarter 3)	716	244	
2021 (Quarter 3)	485	150	COVID-19 funding measures
2023 (Quarter 3)	452	128	

The Productivity Commission itself [3] estimated that in 2011/12, 30% of Family Day Care services were community based NFP, governments ran 31%, and 39% of Family Day Care services were for profit.

- In the 12 months to July 2014, there was a sudden increase in the number of Family Day Care services by just over 40 per cent.
- In 2013, there were only 616 Family Day Care services nationally. By 2016 this had grown to 1,056.
- Because of this sharp growth, we suddenly had a Family Day Care sector where 80 per cent of family day care services had been operating for less than 3 years again, according to Productivity Commission figures.
- In 2014, Community Support Program funding was changed. It was from this point only granted to new Family Day Care services where they were the only provider of Family Day Care in the surrounding areas and could demonstrate a local need for ECEC.
- As part of the 2014–2015 budget, these arrangements were extended to apply to all services. This led, in NSW, to many long-standing sponsors of Family Day Care, such as local government, exiting service provision.
- During the COVID years, chaotic relief funding for Family Day Care services saw more educators departing from the sector.

Australia's Family Day Care service sector had enjoyed a period of stability for numerous years, with a predominant presence of not-for-profit and council-run providers. However, significant changes occurred when for-profit services were granted access to subsidies. This resulted in a rapid expansion of the sector, including the emergence of services established with fraudulent intentions to exploit Commonwealth funds. Eventually, operational subsidies were phased out, and subsequent anti-fraud measures were implemented, leading to a contraction in the sector. This sequence of events highlights the shifting dynamics within Australia's Family Day Care sector.

[2] Data from ACECA NQF Snapshots Time Series.
[3] 2015 Childcare and Early Childhood Learning Inquiry

Table 2 – Number of children in Family Day Care 2017 and 2022

Year	Number of children in FDC Nationally	Number of children in FDC in NSW	% of children in education and care services that were in FDC services nationally	% of children in education and care services that were in FDC services in NSW
2017[4]	185,450	68,376	14.7%	16.1%
2022[5]	85,622	27,196	6.4%	6.4%

Table 3 – Reduction of children in Family Day Care between 2017 and 2022

% reduction in the number of children in FDC between 2017 and 2022	Nationally	NSW
	53%	60%

2. **The removal of Community Support Programme funding made Family Day Care provision unviable and impacted on quality.**

During the initial four decades of Family Day Care provision in Australia, it was widely recognised that if women were to offer education and care for children in their personal residences, it was practical, or even essential, to establish a "co-ordination unit." This unit provided crucial support, guidance, and training to these women while conducting regular checks to ensure compliance with regulations, guarantee child safety, and assist educators who worked independently in their own homes.

The role of these units or services in undertaking regulatory and quality monitoring responsibilities is unique in home-based models of care worldwide. The units (now known as services) act as intermediaries between regulators and educators. As many educators are self-employed, these units also help to sustain a sector of small, female-dominated, home-based small businesses. In recognition of this role's essential nature, these services were always funded by the Commonwealth.

This funding was via a funding program known as the Community Support Program (CSP). In 2015 this was removed for all services that were not the sole providers of Family Day Care in a regional remote or disadvantaged area and capped for those that were. This policy was implemented because of concerns that Family Day Care were the primary recipients of CSP compared to other service types, despite providing education and care for fewer children than other service types.

[4] https://www.pc.gov.au/ongoing/report-on-government-services/2018/child-care-education-and-training/early-childhood-education-and-care
[5] https://www.pc.gov.au/ongoing/report-on-government-services/2023/child-care-education-and-training/early-childhood-education-and-care

What happened? In order to continue providing the necessary support to educators as mandated by the National Regulations (which stipulate a specific ratio of Family Day Care co-ordinators per number of educators), Family Day Care services had to find alternative sources of funding. As a result, the financial resources required to sustain this support had to be sourced from other channels.

Family Day Care services had few options other than to levy both families and Family Day Care educators, to cover the funding they needed to provide coordination and support to the educators in their service.

The impact of this? With educators striving to sustain their income, Family Day Care fees witnessed a surge, placing an additional burden on families who were already paying regular fees. Moreover, families were confronted with levies on top of their usual charges. Simultaneously, educators became increasingly discontented as they were expected to finance the entities that supported them while assuming a quasi-policing role. Consequently, many educators began switching between services in search of the lowest levy rates, while others chose to leave the sector altogether.

However, the most significant impact was on the services themselves. Despite facing reduced income, they endeavoured to maintain the same level of service while striving to minimise levies for families and educators. They were well aware of the repercussions of their fees, which translated into higher costs for families and decreased incomes for educators. Unfortunately, the consequences were even more profound as a considerable number of providers deemed the provision of Family Day Care no longer financially viable. In NSW, numerous local governments reached the decision that they could no longer sustain subsidising Family Day Care services, leading them to withdraw entirely as providers.

As spoken about above, there was a massive contraction of the number of Family Day Care services – including the loss of many services that had been in operation for decades.

Consequently, the repercussions were twofold: the loss of invaluable decades of experience and a decline in the availability of spaces for children in this distinctive home-based care setting. Other services found themselves scrambling to accommodate educators who were left without a provider to work under. The disruption caused a significant upheaval to the entire Family Day Care system, and there are concerns that it may never fully recover from the aftermath of these developments.

3. Family Day Care Services have long waiting lists.

Although service sizes have contracted and there are now fewer Family Day Care educators, demand for Family Day Care from families has not contracted. There is no national or NSW data to prove this, but NSW Family Day Care members report extensive waiting lists. They are unable to recruit enough educators to meet demand.

4. **COVID-19 exacerbated Family Day Care educator departure.**

The arrangements put into place to assist education and care services to continue to operate through COVID-19 by the then Commonwealth Government were widely seen as impacting more negatively on Family Day Care educators than any other part of the education and care sector.

The interim subsidies provided to education and care services were predicated on those services also being able to access JobKeeper payments. Because most Family Day Care educators are not employed by their services but are subcontracted, they were not eligible for JobKeeper, so the real incomes of Family Day Care educators contracted during shutdown periods, despite the fact that many were still operating with the same number of children as previously.

NSWFDCA members reported that many educators left the sector during or after this period.

5. **Family Day Care services have also shrunk because of measures like the imposition of a co-ordinator to educator ratio.**

Historically, Family Day Care services were able to determine how many co-ordinators they needed to engage to support and monitor the educators in their service.

In recent years, a regulatory change was implemented, specifically the enforcement of stringent ratios between coordinators and educators. The primary objective behind this change was to ensure compliance and accountability, particularly among the newly established Family Day Care services, including those operating for profit. The aim was to ensure that these services adhered to the necessary standards and fulfilled their obligations appropriately.

In NSW, this change was implemented through the imposition of a licence condition. Initially, the requirement stipulated that there should be one co-ordinator for every 15 educators. However, this condition presented significant challenges for services looking to expand. The financial impracticality arose from the fact that hiring even one additional educator necessitated employing an additional co-ordinator, rendering the expansion unfeasible from a financial standpoint.

This has now been adjusted, but this new requirement, imposed without widespread sector consultation and with negative side effects, has also led to a shrinking Family Day Care sector.

6. **The focus on Family Day Care services "rorting" public funding has impacted negatively on long established, not-for-profit providers.**

Due to extensive media coverage highlighting instances of Family Day Care services abusing childcare subsidies, there has been a decline in trust towards Family Day Care as a service option among families. This erosion of trust has been further amplified by increased scrutiny from state and territory regulatory bodies, the Commonwealth Government, and other service types within the education and care sector. The negative publicity has engendered a more cautious approach towards Family Day Care by other education and care sector service types.

This has meant some sponsors of Family Day Care services, such as local governments and large charities, have exited the sector lest their provision of a Family Day Care service impact their reputation. It has also meant that the many not-for-profit Family Day Care service providers that have provided Family Day Care for decades have been impacted by accountability measures designed to discourage rorting by for-profit providers and the general increased distrust around Family Day Care as an education and care service type.

A notable consequence of this situation is that Family Day Care educators are currently the only families in Australia who cannot select Family Day Care as an education and care option for their own children when another Family Day Care educator is involved. This limitation arises from the implementation of "child swapping" measures introduced to combat fraud within the system. These measures prohibit Family Day Care educators from claiming Child Care Benefit (CCB) for their own children if they are providing Family Day Care during the same hours. As a result, Family Day Care educators are compelled to seek alternative care arrangements for their own children, depriving them of the choice to utilise Family Day Care for their own families.

7. **Disproportionate Impact: Increasing Compliance Focus and Complexity on the Family Day Care Sector**

Although there have been (relatively) few changes to the National Law and Regulations since their inception in 2012, there has been a sophistication in how the Regulatory Bodies have interpreted these.

NSWFDCA members report that increasingly Family Day Care educators are having to meet regulatory requirements in the same way as centre-based education and care services, despite their different contexts.

This has happened at the **same time** as services have had to cut the support they give to educators because of the removal of CSP funding. This has meant that educators are constantly scrambling to meet regulatory requirements, sometimes with less support than previously.

Often this occurs when there is a clear regulatory breach in a centre-based service, sometimes one that leads to a child's injury or death. Two such examples in recent times are the death of a child in a bus in Queensland at a centre-based service and the death of a baby while sleeping at a NSW centre-based service.

These tragedies naturally bought changes to the regulations for sleeping and transporting children. The compliance for Family Day Care services in these areas, the changing of long-standing practices, the negotiating of new practices, the change of policies etc., has been monumental.

While tighter control and the lessons learned from tragedies are acknowledged as necessary in the Family Day Care sector, it is important to recognise the unique characteristics and inherent differences within Family Day Care compared to centre-based services. For instance, transporting a small number of children in a private car as a Family Day Care educator is vastly different from a centre-based service transporting multiple children in a bus. Similarly, the dynamics of having one sleeping baby in an educator's home differ greatly from managing a room full of sleeping babies in a centre.

Despite the regulatory changes, it is not the changes themselves that necessitate process modification, but rather the interpretations of best practices by regulatory bodies following these changes. Family Day Care services are increasingly challenged with the task of designing processes that fail to consider these inherent differences. Therefore, there is a need to encourage regulatory bodies to recognise and address these distinctions, allowing Family Day Care services to implement compliance measures that align with the unique nature of their operations.

For educators and service providers in Family Day Care, staying updated with new requirements is a constant challenge. This task is already difficult for centre-based education and care services, particularly those lacking a dedicated compliance team or section in their head office. However, for individual Family Day Care educators, it becomes nearly impossible.

This has also happened at a time when funded professional development and resourcing were removed from the sector. When this was in place, requirements could be interpreted by state-wide or national peak bodies such as ours, and practice changes recommended for services and educators. Now, this impost is often falling on services and educators themselves – another reason why their numbers are shrinking.

8. The complexity of CCS confuses families and increases the administrative burden on Family Day Care services.

Child Care Subsidies and the inherent complexity in the CCS system, including its frequent changes, confuse families using Family Day Care, increasing the burden on Family Day Care services. NSWFDCA members point to things such as the lack of education to families about fee caps and the impact on their subsidies if educators charge over the fee cap as causing friction between educators and families.

Educators also find it puzzling why the CCS rate for Family Day Care is lower compared to centre-based services. This further contributes to their perception that Family Day Care is a service type that is merely tolerated by governments or, at best, considered slightly less valid than centre-based services.

9. Constant changes impact educator's wellbeing.

The education and care landscape is becoming one of constant and increasing change:

- Changes to the National Quality Framework, including regulatory changes
- Changes to the Curriculum Framework
- Changes to Child Care Subsidies

- Changes to funding available to services
- Changes in processes for things such as inclusion support
- Changes in health requirements, especially through the COVID years

Although the majority of these changes result, ultimately, in higher quality education and care, or more accessible education and care, Family Day Care educators are uniquely impacted as stand-alone educators by change fatigue.

Many educators frequently express ongoing worries about whether their practices comply with regulations and align with best practices. This constant concern adversely affects their well-being and contributes to attrition in the field of education as they actively seek roles without this underlying sense of unease.

10. The removal of borders for Family Day Care services has negatively impacted services.

Prior to 2006, Family Day Care services had to operate in geographical boundaries, often equating to local government areas. Almost two decades later, the removal of this requirement is still an issue of concern to many NSWFDCA members.

The reasons for this are multiple such as:

1. Services can now compete for educators across geographical boundaries, meaning that services that charge lower educator levies (possibly by reducing the level of services they provide) can “poach” other service’s educators. New entrant services can also compete for educators with existing services by reducing the stringency of checks – many established services refuse to do this but subsequently lose educators because of this.
2. It has reduced the advantages of being a geographically recognised Family Day Care. When there was a Family Day Care per LGA, the local community had a greater recognition of that service and a sense of ownership over that service.
3. Educators that have been “let go” by a service because the level of education and care they provided were not up to standard are now able to find another service to take them on. This is not in children’s best interests.

NSWFDCA wishes to suggest the following specific solutions to the problems we have highlighted:

1. Implementation of policies designed to expand the Family Day Care sector such as:

- Providing direct funding to Family Day Care services again, similar to that provided under the old CSP funding, would enable the expansion of Family Day Care.
- Providing Start-up grants for Family Day Care educators would enable us to recruit more educators.

- Requiring all public policy changes to be assessed on the potential impact for this small but significant part of the education and care sector.
- Government acknowledgement of the value of Family Day Care as part of the education and care sector and acknowledgement that many families prefer small home based education and care rather than larger centre based provision for their children.

2. **Implementation of policies designed to stem the contraction of the Family Day Care sector such as:**

    - Delaying the requirement that educators have their Certificate III prior to commencing as educators. This will severely hamper the service's ability to attract new people to become Family Day Care educators and is not sensible policy given widespread workforce shortages. Services fear that this one policy measure will herald the end of Family Day Care in Australia.
    - Providing funded professional development and resources for educators and services. This will both increase the quality of provision and reduce educator exit.
    - Providing Family Day Care educators with more assistance to take on children with additional needs.

3. **Funding Family Day Care services directly rather than providing subsidies to families to use Family Day Care would be more economical and simpler for all.**

    - Supply side funding rather than demand side funding would give the Commonwealth Government leverage over where new Family Day Care services were established, as well as quality and pricing.