



CHILDREN & YOUNG PEOPLE COMMISSIONER

ACT Human Rights Commission

Submission to Productivity Commission *Inquiry into Childcare and Early Learning* 5 September 2014

ACT Children & Young People Commissioner

The ACT Children & Young People Commissioner (CYPC) is one of three Commissioners within the ACT Human Rights Commission.

The roles and functions of the CYPC are established under Sections 6, 14 and 19B of the *Human Rights Commission Act 2005* (ACT), and include:

- Investigate complaints and concerns about the provision of services for children and young people.
- Consult with and listen to children and young people, and encourage government and nongovernment agencies to do the same.
- Make recommendations to government and non-government organisations on legislation, policies, practices and services that affect children and young people.
- Promote the rights of children and young people.
- Encourage and assist providers of services for children and young people to contribute to review and improve service delivery.
- Promote community discussion about the CYPC and services for children and young people.
- Conduct enquiries and reviews.

Comments in response to the Productivity Commission *Draft Report*

Thank you for the opportunity to comment in response to the Productivity Commission (PC) Draft Report on Childcare and Early Childhood Learning. I welcome the detailed analysis in the draft report, and the careful attention to how the proposed changes would affect all participants in the early childhood education and care system (children, families, workers and employers/operators).

The draft report observes that 'there are bound to be differing views on the magnitude of benefits and costs from particular reforms' (page 27).

In this discussion, my priority is the protection and participation of children. In my view, the following principles should inform any consideration of legislative or policy change to early childhood education and care in Australia:

1. *Commit to improvement in quality of early childhood education and care services, in order to promote child development outcomes* – In recent years Australia has made significant progress towards the professionalisation of the early childhood education and care sector, and it is important to retain our focus on child development outcomes.
2. *Meet the needs of vulnerable children and children with a disability* – Certain groups of children face challenges to healthy development, and they can benefit greatly from early childhood education and care. The system must be designed to facilitate their access.

3. *Respect the views of children* – Children should be provided the opportunity to participate in decision making which affects them.¹ The early childhood education and care sector should ‘recognise the importance of children’s views and encourage a participatory approach in the delivery of services’.²
4. *Build the capacity of child safe organisations* – It is important for all organisations that work with children to view child safety as an ongoing process of improvement, and to be willing to review and strengthen their capacity to provide a child safe environment.³

Commitment to quality improvement

I welcome the proposal in the draft report to retain the National Quality Framework (NQF), and the acknowledgment of the importance of *quality* of early childhood education and care services.

However I am concerned that the proposed recommendations to ‘modify’ the NQF may result in a reduction in the quality of early childhood education and care across the industry. Draft recommendation 7.1 is:

To simplify the National Quality Standard, governments and ACECQA should identify elements and standards of the National Quality Standard that can be removed or altered while maintaining quality outcomes for children.

The draft report comments further: ‘*some changes in what [the National Quality Framework] requires and the way it is implemented could reduce costs without compromising quality*’ (page 12).

If the NQF is to be modified in any way, proper safeguards must be put in place to ensure evidence based assessment of the likely outcomes for children of ‘removing’ or ‘altering’ particular standards.

It is concerning that the PC itself proposes changes to the NQF which may result in reduced quality of care across the industry. For example, draft recommendation 7.2 proposes that ‘all educators working with children aged birth to 36 months are only required to hold at least a certificate III or equivalent’. Currently the NQF goes beyond this, to require that half of all educators who are required to meet the relevant educator to child ratios have (or are actively working towards) a diploma-level qualification.

The proposed recommendations to ‘increase the pace of assessments’ (7.6) and ‘provide more detailed and targeted guidance to providers’ (7.7) seem sensible and helpful for all stakeholders. I also welcome draft recommendation 11.1, relating to oversight and audits of early childhood education and care training programs.

Focus on vulnerable children

I welcome the serious attention in the draft report to the needs of vulnerable children, including children at risk of abuse and neglect, children with a disability, Aboriginal and Torres Strait Islander children, children from culturally and linguistically diverse (CALD) backgrounds with limited English spoken at home, children whose parents are long-term unemployed, children whose mother has not completed high school, and children with a parent or sibling that has a disability.

These children must receive priority attention in early childhood education and care policy, as interventions to protect their health and development will benefit the community as a whole. I welcome the proposal to continue assistance for children with ‘additional needs’:

¹ United Nations Convention on the Rights of the Child, Article 12.

² Submission by the Australian Human Rights Commission to the Productivity Commission Inquiry into Childcare and Early Childhood Learning, 5 May 2014, page 14.

³ For more information see the submission by the Australian Children’s Commissioner and Guardians to the Royal Commission into Institutional Responses to Child Sexual Abuse, Issues Paper 3.

enabling ECEC participation by children with additional needs could provide both immediate developmental benefits to these children and potentially longer term benefits for the community through early identification and intervention to address developmental concerns (page 23).

The draft report proposes that a supplement would meet the full deemed cost of care for children at risk of abuse or neglect, and children with a disability, 'in order to promote equality of ECEC access for these children' (page 23). However there are several notes of warning which give rise to concern that insufficient funding may mean that some vulnerable children will not have access to early childhood education:

if funding is constrained then there will need to be a way of prioritising its allocation amongst additional needs groups (page 23).

It is also expected that assistance for additional needs children and for preschool access would likely generate improved child development outcomes with some community-wide benefits. Should the Government consider these benefits to outweigh those achievable through alternative uses of taxpayer money, then more funding should be directed to ECEC (page 41).

I welcome the PC's statement that the proposed Early Care and Learning Subsidy will continue to be available to parents who do not meet the activity test, if they have a disability, receive carers' payment, or are a foster carer and kinship carer (page 21).

However, I have concerns about the observation that 'the level of care and early education that families want or are willing to pay for varies considerably' (page 13), and the PC's view that:

For the benefit of children, appropriate national quality standards for ECEC services must be upheld, but there must also be scope within these standards for providers to offer a range of care-only and care-education combinations that meet the needs and budgets of families (page 20).

I am concerned that the proposal to 'support family choice of care options' (page 15) may entrench social and economic disadvantage. I understand the PC intends that the proposed supplement for children with 'additional needs' will prevent such outcomes. However, as mentioned above, the draft report acknowledges there is no certainty that such a supplement will be funded or designed effectively.

Community integration

I welcome the proposal to integrate early childhood education and care with schools, and family, health and social services in the local community:

Integrated services provide a single point of access to support and a means of identifying, diagnosing and addressing developmental issues early in a child's life, to reduce their vulnerability and improve their transition to preschool and school (page 23).

Transparency, data collection and evaluation

I welcome the PC's emphasis on program evaluation and evidence based policy, the draft recommendation for improved data collection and analysis (13.2), and identification of areas for further research (5.4).

I welcome the PC's attempts to achieve greater transparency and understanding of the structure of operating costs for early childhood education and care services (page 22). Such information will support an evidence based approach to design of government policy.

Family friendly workplaces

I welcome the call for wider cultural change to support families in caring for children:

Improving the flexibility of ECEC arrangements should be complemented by improvements in the flexibility of workplaces for parents and others with caring responsibilities (page 29).

And your recommendation that the Fair Work Ombudsman, and employer and employee associations trial innovative approaches to 'promote positive attitudes among employers, employees and the wider community towards parents, particularly fathers, taking up flexible work and other family-friendly arrangements' (draft recommendation 6.2).

Working with children checks

I am concerned about draft recommendation 7.10, relating to background checks. The current problems caused by the cross-border inconsistency in 'working with children checks' cannot be resolved without first considering complex safety issues (because the design of a model which is acceptable to all jurisdictions may result in reduced protections for children in some States and Territories).

The Royal Commission into Institutional Responses to Child Sexual Abuse is currently examining pre-employment screening and child safe organisations in significant detail, and I suggest they are better placed to form recommendations on these matters.

Should you wish to discuss this matter, I may be contacted on (02) 62052222.

Yours sincerely

Alasdair Roy
Children & Young People Commissioner
ACT Human Rights Commission

5 September 2014