

Australian Industry Group

Gender Undervaluation
– *Children's Services Award 2010*

Reply Submission
(AM2024/23)

27 November 2024

Ai
GROUP

GENDER UNDERVALUATION – *CHILDREN’S SERVICES AWARD*
2010

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1. INTRODUCTION

1. This submission of the Australian Industry Group (**Ai Group**) responds to the following submissions in the proceeding commenced on the Fair Work Commission's (**Commission**) own motion concerning the issue of potential gender-based undervaluation of work under the *Children's Services Award 2010* (**CS Award** or **Award**):
 - (a) Outline of Submissions of the Australian Council of Trade Unions (**ACTU**) dated 11 October 2024 (**ACTU Submission**);
 - (b) Submissions of the United Workers Union (**UWU**) (undated) (**UWU Submission**);
 - (c) Submissions of the Commonwealth dated 27 September 2024 (**Commonwealth Submission**);
 - (d) Submission of the Victorian Government dated 3 October 2024 (**Victorian Government Submission**);
 - (e) Submission of Australian Childcare Alliance (**ACA**) dated 10 October 2024 (**ACA Submission**) (read with the General Submission of ACA, Australian Business Industrial, Aged & Community Care Providers Association, NSW Business Chamber Ltd and National Disability Services dated 27 September 2024);
 - (f) Submission of Early Learning Association Australia (**ELAA**) dated 25 September 2024 (**ELAA Submission**);
 - (g) Submission of Divergent Education dated 3 September 2024 (**Divergent Education Submission**); and
 - (h) Submission of myOSHC dated 12 July 2024 (**myOSHC Submission**).
2. In accordance with the Statement issued by the Full Bench on 28 October 2024¹, we also address the data published by the Commission in *Information note* -

¹ *Gender undervaluation – priority awards* [2024] FWCFB 409.

Gender undervaluation: ACTU data request - Part 1 on 28 October 2024
(**Information Note – Part 1**).

3. In summary, it is Ai Group's position that:
 - (a) This proceeding is limited to 'child carers' covered by the 'Children's Services Employees' (**CSE**) classification stream in the CS Award. Any proposal to increase minimum wages for 'Support Workers' should not be entertained.
 - (b) The claim advanced by the UWU (and supported by the ACTU) in this proceeding for increases to the minimum rates of pay contained in the CS Award is substantial in scope and nature.
 - (c) In order to award the increases proposed, the Commission must be satisfied, *inter alia*, that they are justified on work value grounds. In addition, the Commission must also have regard to the matters contained in the modern awards objective (**MAO**) and minimum wages objective (**MWO**), including the impact on employers and the economy more generally. These matters are relevant to whether the Commission should award any increases and if so, their extent and timing.
 - (d) The introduction of immediate and large increases as contended for by the UWU and ACTU, in circumstances where there is currently an absence of any commitment by the Commonwealth to fund the increases in full, on an ongoing and unconditional basis, would risk impairing the financial viability of early childhood education and care (**ECEC**) providers, be detrimental to the workforce participation of parents (and in particular, women), cause labour market distortion and be harmful to the broader economy.
4. On 26 November 2024, Parliament passed the *Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024* (**Bill**). The Bill operates alongside the Early Childhood Education and Care Worker Retention Payment Grant Opportunity Guidelines, which are appended to this submission at **Attachment A**.

5. In broad terms, the Bill establishes the Wage Justice for Early Childhood Education and Care Workers Special Account, which is to be used to administer the Early Childhood Education and Care Worker Retention Payment Program (**Program**). The Program will fund a 15 per cent wage increase for ECEC workers over two years, tied to a condition that providers do not increase their fees beyond certain specified amounts (**Fee Cap**) and a requirement to implement an enforceable workplace instrument.
6. As at the time of finalising this submission, a copy of the Bill as passed by Parliament is not available. Accordingly, we are not in a position to make detailed submissions regarding the implications that it has for this proceeding or the interrelationship between the operation of the Program and any increases afforded as a consequence of this matter.
7. We anticipate that further details will become available over the coming days and weeks, prior to closing submissions in this matter being made on 19 – 20 December 2024. Ai Group may seek to either file a further written submission prior to the aforementioned dates or make oral submissions at that time regarding these matters, noting their significance to the Commission's assessment of the unions' claims.
8. Nonetheless, for the purposes of this submission, based on the information we have to hand at this stage about the manner in which the Program is intended to operate; we do not accept the unions' simplistic proposition that the wage increases sought will necessarily be '*offset*' (in whole or in part) by the additional funding that will be made available through the Program. Indeed, the implementation of the Fee Cap is likely to result in the imposition of a significant obstacle for employers if they are saddled with increases that are not funded by the Program or otherwise funded by government.
9. These matters weight strongly against the grant of the unions' proposals.

2. THE COMMISSION'S QUESTIONS

Question 1

10. Question 1 posed by the Panel is as follows:

- (1) Having regard to the findings contained in the Stage 1 and Stage 2 gender pay equity research reports, has the work to which the classifications apply been historically undervalued because of assumptions based on gender?

The Work to Which the Classifications Apply

11. In the submission of Ai Group filed in this proceeding on 11 October 2024 (**Ai Group October Submission**), we stated that the Full Bench should determine the answer to Question 1 with reference only to the classifications contained in the CSE stream.²
12. The ACTU Submission appears to accept that the only employees within the scope of this proceeding are '*child carers*' who are '*CSE employees*';³ that is, employees who fall within the CSE stream in Schedule B of the Award.⁴ However, it nonetheless supports the UWU's contention that increases for the '*Support Worker*' classification stream are appropriate. For the reasons set out later in this submission, Ai Group contends that increases to the wages of the Support Worker classifications are not appropriate in the context of this proceeding.

Whether the Work has been Historically Undervalued because of Assumptions Based on Gender

13. Both the ACTU and UWU contend that the work of child carers engaged under the CS Award has been subject to gender-based undervaluation.⁵

² Ai Group October Submission at [14](a) and [15] – [37] inclusive.

³ ACTU Submission at [1].

⁴ ACTU Submission at fn 1.

⁵ ACTU Submission at [1], [19] – [45]; UWU Submission at [19] – [43].

ACTU Submission

14. We disagree with the ACTU's contention that the comments of the Expert Panel in the *Annual Wage Review 2023-2024* decision⁶ (**2024 AWR Decision**) regarding the application of the C10 Metals Alignment Approach to the work of child carer's in *Application by Australian Liquor, Hospitality and Miscellaneous Workers Union*⁷ (**ACT Child Care Decision**)⁸ 'identified ... key aspects of how Child Carer's work has been historically undervalued because of assumptions based on gender'⁹ (emphasis added).
15. As we set out in the Ai Group October Submission, the *ACT Child Care Decision* does not make clear 'how' the C10 Metals Framework Alignment Approach constrained the Full Bench, including whether the constraint was to a significant or even material degree.¹⁰ Nor is there anything in the *ACT Child Care Decision* that reveals what higher value the Full Bench may have placed on the work (including whether it was even of a material extent) if they were not so constrained. There is certainly nothing to support a conclusion that the Full Bench would have granted increases to wage rates for child carers of the magnitude claimed by the UWU and ACTU in this proceeding.
16. In response to paragraphs [35] – [40] of the ACTU Submission, we reiterate our earlier submission that the Stage 1 Report does not provide a basis for a conclusive determination that the work of child carer's has been historically undervalued *because of assumptions based on gender*. At its highest, the Stage 1 Report may be taken as concluding that there are high levels of feminisation within the occupation of 'child carer' under the CS Award.¹¹ With reference to the statement in the Stage 1 Report that '*Child Care is well recognised as feminised*

⁶ [2024] FWCFB 3500.

⁷ [2005] AIRC 28.

⁸ The ACTU Submission cites the *2024 AWR Decision* at [113], citing *Aged Care Award 2010; Nurses Award 2020; Social, Community, Home Care and Disability Services Industry Award 2010* [2024] FWCFB 150 (**Stage 3 Aged Care Decision**) at [156].

⁹ ACTU Submission at [7].

¹⁰ Ai Group October Submission at [57].

¹¹ Stage 1 Report at page 25.

and undervalued work,¹² the authors provide no reference in support of this statement. In any event, to the extent that it is the authors' opinion that the work is '*well recognised as ... undervalued*', the authors do not express any opinion that there has been undervaluation *because of assumptions based on gender* (being the focal point of this proceeding).

UWU Submission

17. In a similar vein, we disagree with the UWU's assertion that '*[t]he findings of the Stage 1 and Stage 2 reports demonstrate that the work of employees within the ECEC sector have been historically undervalued because of assumptions based on gender*'¹³ (emphasis added). For the reasons set out in the paragraph immediately above, the Stage 1 Report at its highest may be taken as concluding there are high levels of feminisation within the occupation of '*child carer*' under the CS Award.¹⁴
18. The UWU Submission contends that the Stage 2 Report '*provides a clear insight into how the wages set within the CS Award have been affected by historical undervaluation on the basis of gender*'¹⁵ (emphasis added). The Stage 2 Report, at its highest, goes to the issue of whether a comprehensive work value assessment of the occupational groups examined (including but not limited to '*child carers*') has ever been undertaken¹⁶ - which cannot be said to equate to a finding that the work has been historically undervalued.¹⁷
19. It also cannot be said that the analysis of the Expert Panel in *Re. Aged Care Award 2010, Nurses Award 2020, Social, Community, Home Care and Disability Services Industry Award 2010*¹⁸ (**Stage 3 Aged Care Decision**) '*highlighted how discriminatory assumptions based on gender have carried through the historical*

¹² Stage 1 Report at page 70, cited in the ACTU Submission at [40].

¹³ UWU Submission at [19].

¹⁴ Ai Group October Submission at [39]; Stage 1 Report at page 25.

¹⁵ UWU Submission at [25].

¹⁶ Stage 2 Report at page 10.

¹⁷ See also Ai Group October Submission at [42].

¹⁸ [2024] FWCFB 150.

wage setting resulting in current award wages being affected by historical gender discrimination¹⁹ (emphasis added). The *Stage 3 Aged Care Decision* does not provide a basis for concluding that the wages rates prescribed by the *CS Award* are definitively impacted by gender undervaluation or alternatively, the extent to which they may be so impacted (including as to whether this is even to a material extent).

¹⁹ UWU Submission at [22], citing the *Stage 3 Aged Care Decision* at [25] – [53], [54] – [75] and [76] – [92].

Question 2

20. Question 2 is as follows:

- (2) Would variations to the minimum wage rates prescribed for the classifications:
- (a) be justified by work value reasons within the meaning of s.157(2A) of the Act?
 - (b) be necessary to achieve the modern awards objective in s.134(1) of the Act?
 - (c) be necessary to achieve the minimum wages objective in s.284(1) of the Act?

Question 2(a)

21. The UWU proposes increases to the minimum rates of pay in the CS Award of 23 per cent for one-third of the classification pay points, between 15 to 21 per cent for a further one-third of pay points, and between 4 to 6 per cent for the remaining third of pay points.²⁰
22. Central to the UWU's proposal is the assertion that the CS Award has not been subject to a prior '*proper evaluation*' of the nature of the work, the level of skill or responsibility involved in performing the work or the conditions under which the work is performed, that is free from gender-based undervaluation.²¹
23. In Ai Group's submission, it is important that the conclusions reached in the Stage 2 Report, particularly having regard to the Expert Panel's summation as to the presence of indicia of potential gender undervaluation in the *2024 AWR Decision*, are not overstated. Relevantly, in respect of child carers under the CS Award, the Expert Panel surmised that:
- (a) To the extent that the absence of any prior work value assessment is a potential indicia of gender undervaluation: a work value assessment had been undertaken, albeit constrained by the C10 Metals Framework Alignment Approach;

²⁰ UWU Submission at Annexure A.

²¹ UWU Submission at [51] citing the Stage 2 Report at page 123 (although which we assume is intended to refer to paragraph [123]); and also [53].

- (b) To the extent that an absence of alignment to the C10 rate is a potential indicia of undervaluation: an alignment had been undertaken; and
 - (c) To the extent that an absence of alignment to the C1 rate is a potential indicia of undervaluation: this indicia is not applicable.²²
24. Accordingly, the key focal point with respect to any past potential undervaluation of the work of child carers ought to be on the extent to which the Full Bench in the *ACT Child Care Decision* was constrained – including as to whether this was to a material extent.
25. The ACTU supports the UWU’s proposal²³ and submits that variations to the minimum wage rates prescribed by the CS Award are warranted, having regard to child care work being caring work,²⁴ and the nature, level of responsibility and conditions of the work.²⁵
26. We respond to each of these contentions in turn, as follows:
- (a) **Child care work is caring work:** Ai Group does not oppose the proposition that the work performed by ‘*child carers*’ includes work that is of a caring nature.²⁶ However, this is not synonymous with the skills involved in that caring work being ‘*invisible*’. Skills are only invisible to the extent they are ‘*hidden*’, ‘*under-defined*’, ‘*under-specified*’ or ‘*under-codified*’.²⁷ As we set out in the Ai Group October Submission,²⁸ many skills which we understand the Expert Panel conceptualised in the 2024 AWR Decision to be aspects of the child carer role that may involve ‘*invisible*’ caring skills,²⁹ are expressly contemplated by the existing classification descriptors contained

²² 2024 AWR Decision at [99], Table 19.

²³ ACTU Submission at [2].

²⁴ ACTU Submission at [48](a).

²⁵ ACTU Submission at [48](c).

²⁶ See also Ai Group October Submission at [142].

²⁷ *Stage 1 Aged Care Decision* at [410].

²⁸ Ai Group October Submission at [61] – [62] and [152] – [153].

²⁹ 2024 AWR Decision at [115].

in Clause B.1 of Schedule B to the CS Award (and it therefore follows, are compensated for by the minimum rate prescribed for that level).

(b) **Nature, level of responsibility, and conditions of the work:** Insofar as the ACTU supports the UWU's submissions addressing the nature, level of responsibility and conditions of work in the ECEC sector by reference to (amongst other things) the '*Spotlight*' report prepared by Associate Professor Nikola Balnave and Dr Delia Briar (**Balnave and Briar Report**), we make the following observations:

(i) The Balnave and Briar Report was prepared using the Spotlight methodology, which: (footnotes omitted)

...involved participants completing a detailed workbook and participating in a 90-minute interview to identify and verify less visible work skills, with the data then coded iteratively to generate skill profiles. These profiles were then averaged to create a classification profile or "heatmap" for each job classification. The report relies on primary data consisting of fieldwork interviews conducted in August–September 2024 and secondary data including policy, regulatory, and academic sources.

As we set out in the Ai Group October Submission, the Spotlight tool has various significant limitations, including the following:

(A) Intrinsic to the methodology underpinning it is a degree of subjective self-assessment by employees. The methodology does not involve an objective analysis of the work performed by the relevant group of employees or the skills they use, nor does it take into account any other (including any countervailing) perspectives, such as those of their employers. As a result, at its highest, the evidence goes to employee perceptions. Further, it does not appear to be confined to the skills that employees are *required* to exercise by their employers.

(B) This necessarily undermines the weight that can be attributed to any analysis undertaken using the Spotlight methodology. It reflects an inherently biased perspective on the skills that are utilised by the relevant employees in the course of their

employment. Its usefulness to the Commission's task, which must be based on an objective evaluation of the relevant content and level of skills, is undermined by these factors.³⁰

- (ii) The Balnave and Briar Report appears to have potentially been prepared on the basis of an extremely limited number of participants. Notable in its absence from the '*Methodology*' section of the report,³¹ is any mention of the number of participants in the Spotlight analysis. On its face, it describes the work experiences of only 8 workers, namely *Matilda, Amy, Rubal, Maya, Merci, Louise, Gail and Nancy*.³²

The small sample size underpinning the primary data relied on in the Balnave and Briar Report, together with the fact that the sample of employees was not selected at random nor any explanation provided as to how the employees may be verified as representative of work performed in the occupation of '*child carer*', undermines the extent to which it may be considered '*cogent*' and '*probative*'.

- (iii) The Balnave and Briar Report describes the work of '*Cooks*'. For the reasons set out in the Ai Group October Submission, Ai Group submits that the occupation of '*cook*' is not within the scope of this proceeding.³³ Specifically, the work involved in '*[a]ssisting a qualified cook and/or basic food preparation and/or duties of a kitchenhand*' is covered by the 'Support Worker' classification stream³⁴ which – on the ACTU's own admission – is not the classification stream to which this proceeding relates.

³⁰ Ai Group October Submission at [149] – [150].

³¹ Balnave and Briar Report, Annexure 3.

³² Balnave and Briar Report, Annexure 5.

³³ Ai Group October Submission at [33] – [35] inclusive.

³⁴ Clauses B.2.1(a) and B.2.2 of Schedule B to the CS Award.

27. On this basis, Ai Group submits the Commission should:
- (a) Disregard in full the parts of the Balnave and Briar Report which go to the work of Cooks,³⁵ and
 - (b) Having regard to the limitations outlined above in relation to the balance of the Balnave and Briar Report, assign very little, if any, weight to the evidence contained therein.
28. As to the specific contentions made in the UWU Submission regarding the nature of the work,³⁶ the level of skill or responsibility involved in doing the work³⁷ and the conditions under which the work is done³⁸, we respond in broad terms as follows:
- (a) Whereas the UWU describes '*the work of ECEC sector employees*' as being performed with respect to '*children aged 0-6 years old*', in the context of this proceeding, the UWU, ACA and Ai Group have agreed that ECEC services include (amongst other things) out of school hours care (**OSHC**),³⁹ which is provided to children of school age (i.e. 5 to 12 years) but may also be attended by children below school age.⁴⁰ In a similar vein, ECEC educators must deliver programs against not only the Early Years Learning Framework (**EYLF**) as contended by the UWU, but in the case of OSHC services, against the '*My Time, Our Place*' (**MTOP**) framework (or potentially both, depending on the span of ages of children at the OSHC service).⁴¹

³⁵ See in particular Annexure 5 at pages 35 to 41, and Balnave and Briar Report at Table M-4 and paragraph [41].

³⁶ UWU Submission at [54] – [62] inclusive.

³⁷ UWU Submission at [63] – [69] inclusive.

³⁸ UWU Submission at [70] – [73] inclusive.

³⁹ Agreed Statement of Facts dated 10 October 2024 (**ASOF**) at [1]

⁴⁰ See ASOF at [60] – [61].

⁴¹ ASOF at [60] – [61].

- (b) The UWU relies on Annexure 8 to the Balnave and Briar Report, which is an earlier report titled '*Investigating the Less Visible Demands of Early Childhood Education and Care Work*' (**2016 Report**), in support of various contentions including:
- (i) '*The nature of the work involves a high degree of reactivity to changing circumstances*';⁴²
 - (ii) '*There is a growing reliance on technology in the delivery of ECEC services which has resulted in an increase in work and the complexity of work*';⁴³ and
 - (iii) '*While violent behaviours can often be managed through the exercise of skills including communication and emotion management strategies, the risk cannot be entirely alleviated*' (and which appears to be referable to an anecdote of one worker that appears on the referenced page).⁴⁴

We make the following observations regarding the 2016 Report:

- (i) The 2016 Report was annexed to the Balnave and Briar Report at the request of the UWU.⁴⁵ Although it appears in the authors' list of references, the 2016 Report does not appear to be referenced in the Balnave and Briar Report and nor are the contents of the 2016 Report a matter about which Balnave and Briar were asked to provide an opinion.⁴⁶
- (ii) The report was prepared on the basis of research undertaken using the Spotlight methodology, in respect of participants who were self-selected.⁴⁷ We refer to our comments set out above regarding

⁴² UWU Submission at [56]; citing the 2016 Report at pages vi – vii.

⁴³ UWU Submission at [62]; citing the 2016 Report at page 101.

⁴⁴ UWU Submission at [71.2], citing the 2016 Report at page 121.

⁴⁵ Balnave and Briar Report, Annexure 1 – Letter of Instructions at Part D – '*Form of your Report*'.

⁴⁶ Balnave and Briar Report, Annexure 1 – Letter of Instructions at Part C – '*Your Opinion*'.

⁴⁷ 2016 Report at pages iii and iv.

limitations of the Balnave and Briar Report, which also undermine the weight which may properly be attributed to the 2016 Report and in particular, to any suggestion it may be considered a balanced or representative assessment of the work of child carers; and

(iii) The data on which the report is based was collected between October 2015 and May 2016,⁴⁸ and accordingly is some 8 – 9 years' old. The report should therefore be treated with some caution, given its dated nature compared to many other far more recent sources being relied upon by the parties in the proceeding.

(c) The UWU's contention that *'[t]here are increasing qualification requirements for educators within ECEC services'*⁴⁹ refers only to educators in Family Day Care (**FDC**).⁵⁰ Since centre-based day care (**CBDC**) and OSHC account for approximately 97% of child care services,⁵¹ this contention is not relevant to the vast majority of workers relevant to this proceeding and accordingly, should carry little weight.

(d) The UWU makes broad assertions as to the work of child carers generally, in circumstances where the assertion is supported by the statement of only one lay witness, and no basis or explanation is provided as to how or why such lay evidence may be taken as representative or typical of the work of child carers more broadly within the ECEC sector. This includes, for example, assertions that:

(i) *'Additional skills are required in the exercise of the roles of ECEC employees, including ... skills associated with dealing with technology'*;⁵²

⁴⁸ 2016 Report at page iii.

⁴⁹ UWU Submission at [64].

⁵⁰ UWU Submission at fn 72; ASOF at [44].

⁵¹ ASOF at [6].

⁵² UWU Submission at [67] – [67.1].

- (ii) *'Workers in the ECEC sector are exposed to a risk of violence and aggression from children'*,⁵³
- (iii) *'ECEC workers must continue to provide supervision and care to children, even when those children are displaying signs of violence and aggression'*,⁵⁴
- (iv) *'Dealing with violent and aggressive behaviours involves the exercise of specific skills including de-escalation and distraction strategies'*,⁵⁵
- (v) *'Workers in the ECEC sector perform work in conditions including: ... Noisy environments; and ... Exposure to smells and bodily fluids'*,⁵⁶
and
- (vi) *'Work in the ECEC sector can be physically demanding and involves the use of hand-eye coordination, dexterity and physical strength'*.⁵⁷

In light of this, Ai Group submits that at its highest, the above assertions are based on the evidence of single employees and cannot properly be accepted as representative or typical of the work of child carers within the sector as a whole.

29. The ELAA Submission also contends that increases to the minimum rates of pay for the CSE stream in the CS Award are *'imperative'* to recognising *'the 'invisible' work value'* of the relevant employees.⁵⁸ The ELAA goes on to make various contentions with respect to the nature of the work,⁵⁹ the level of skill or responsibility involved in doing the work⁶⁰ and the conditions under which the work is done⁶¹, which are wholly unsupported by evidence and most of which are

⁵³ UWU Submission at [71].

⁵⁴ UWU Submission at [71.1].

⁵⁵ UWU Submission at [71.3].

⁵⁶ UWU Submission at [72].

⁵⁷ UWU Submission at [73].

⁵⁸ ELAA Submission at [12].

⁵⁹ ELAA Submission at [14] – [17].

⁶⁰ ELAA Submission at [18] – [21].

⁶¹ ELAA Submission at [22] – [26].

not even referenced to secondary reference material. Ai Group submits that, to the extent many of these contentions amount to little more than bare assertions, they should be afforded little weight by the Commission.

Questions 2(b) & (c)

The relative living standards and the needs of the low paid (ss.134(1)(a) and 284(1)(c) of the Act)

30. Ai Group disagrees with the ACA Submission that employees covered by the CS Award are ‘*mainly within the category of “low paid” employees*’.⁶² In relying on *Application by United Workers’ Union, Australian Education Union and Independent Education Union of Australia*^{63,64} the submission appears to conflate the terms ‘*low paid*’ and ‘*low rates of pay*’. Ai Group submits that the concepts are separate and distinct, and that workers under the CS Award do not meet the requisite definition of ‘*low paid*’.
31. Neither the ACTU or UWU contend that child carers are ‘*low paid*’ within the requisite sense for the purpose of enlivening ss.134(1)(a) and 284(1)(c) of the Act.⁶⁵
32. Accordingly, it is not apparent that s.134(1)(a) of the Act supports the grant of the increases sought by the UWU and ACTU.

The need to improve access to secure work across the economy (s.134(1)(aa) of the Act)

33. Ai Group disagrees with the contentions of the ACTU and UWU that s.134(1)(aa) of the Act is a neutral consideration in this proceeding.⁶⁶

⁶² ACA Submission at [4.4].

⁶³ [2023] FWCFB 176.

⁶⁴ ACA relies on paragraphs [31] – [33] of the decision; see ACA Submission at fn 17.

⁶⁵ See ACTU Submission at [55] (first bullet point); and UWU Submission at [79], [83] and [84].

⁶⁶ ACTU Submission at [55] (second bullet point) and [85] (second bullet point); UWU Submission at [88].

34. Insofar as the ACTU and UWU point to [30] of the *Annual Wage Review 2022 – 2023*⁶⁷ (**2023 AWR Decision**) in support of their positions, Ai Group submits that *‘the capacity of employees to enter into work which may be characterised as secure’*⁶⁸ is a relevant consideration, in circumstances where the proposed increases to wages would threaten the potential viability of ECEC services and / or their ability to continue to offer and maintain employment (including permanent employment). We refer to and continue to rely upon the Ai Group October Submission in this respect.⁶⁹

The need to achieve gender equality in the workplace by ensuring equal remuneration for work of equal or comparable value, eliminating gender-based undervaluation of work, addressing gender pay gaps and providing workplace conditions that facilitate women’s full economic participation (ss.134(1)(ab) and 284(1)(aa) of the Act)

35. In response to the UWU’s contention that increases in the rates of pay under the CS Award are necessary because they *‘have been historically undervalued’*,⁷⁰ and the similar contention of the ELAA,⁷¹ we refer to and rely upon paragraphs [17] – [19] above.
36. The ACTU makes a broad, sweeping assertion that s.134(1)(ab) *‘weighs heavily in favour of making the variations’* because the ERO benchmarks identified in the *Stage 3 Aged Care Decision* *‘do not apply to workers covered by the Children’s Award despite the fact child carers performed comparable caring work to employees covered by the SACS stream in the SCHCDS Award’*.⁷²
37. This contention is made in circumstances where the ACTU has not led any evidence to establish that the work of child carers is *‘comparable caring work’* to that performed under the SACS stream in the SCHCDS Award; and nor is this

⁶⁷ [2023] FWCFB 2500.

⁶⁸ *2023 AWR Decision* at [30].

⁶⁹ Ai Group October Submission at [117] – [119].

⁷⁰ UWU Submission at [91] – [92].

⁷¹ ELAA Submission at [29] – [31] and [40] – [41].

⁷² ACTU Submission at [51].

proposition supported by the evidence of any other parties or the ASOF in this proceeding.

38. The ACTU further contends that increasing the wages of the predominantly female cohort of child carers employed under the CS Award may contribute to narrowing the aggregate gender pay gap across the entire employee workforce,⁷³ and create higher workforce participation in the ECEC sector.⁷⁴ The UWU also contends that *'[t]he proposed variations will thereby provide workplace conditions, through increased remuneration, that facilitate women's full economic participation and contribute towards achieving gender equality'*.⁷⁵
39. The ACTU and UWU submissions in this regard are limited to a consideration of s.134(1)(ab) in the context of child carers and the ECEC sector only. The Commission should, however, adopt a broader, macro view, having regard to the potential impacts on the aggregate gender pay gap and workforce participation across the Australian workforce more fully. In so doing, it becomes evident that the potential for significantly higher childcare service fees and/or reduced availability of childcare services which may potentially flow from any unfunded increases to rates of pay for child carers⁷⁶ could ultimately *reduce* women's workforce participation (and thereby, exacerbate the aggregate gender pay gap). Indeed, the adverse effects flowing from this outcome might outweigh any benefits.
40. We note the myOSHC Submission articulates concerns of the same nature:

The children services industry was created by the federal government to increase GDP by encouraging women to increase their participation in the workforce. The children services industry will collapse without government subsidies, reducing women's participation and GDP...⁷⁷

⁷³ ACTU Submission at [52], citing 2023 AWR Decision at [9], [114] – [115], [117]

⁷⁴ ACTU Submission at [53].

⁷⁵ UWU Submission at [93].

⁷⁶ Ai Group October Submission at [97] – [109] and [120].

⁷⁷ myOSHC Submission at Parts 3 and 4.

41. As to the ACTU's contentions that the considerations in s.134(ab) of the Act necessitate increases to the Director (Level 6) rate of pay in the CSE classification stream, we refer to and rely upon our submission at paragraphs [89] and [90] below.

The need to encourage collective bargaining (s.134(1)(b) of the Act)

42. We disagree with the ACTU and UWU's contentions that s.134(1)(b) of the Act is a neutral consideration in this proceeding,⁷⁸ and in doing so, refer to and rely upon the Ai Group October Submission at [122] – [123].

The need to promote social inclusion through increased workforce participation (ss.134(1)(c) and 284(1)(b) of the Act)

43. Similar to their contentions in relation to s.134(1)(aa) of the Act, the ACTU and UWU submissions in response to s.134(1)(c) of the Act⁷⁹ are affected by a myopic view of workforce participation impacts, concerning participation in the ECEC sector only. Consistent with the position outlined in the Ai Group October Submission⁸⁰ and above, the Commission should take into account the potential adverse impacts of unfunded wage increases on the participation of workers who rely on ECEC services more broadly. These adverse effects may be in the form of increased service costs (which would impact affordability for households) and/or reduced availability of services (where the service closes or reduces places, and/or a provider withdraws from a particular market).⁸¹
44. Further and in any event, s.134(1)(c) requires the Commission to take into account the need to promote social inclusion through increased workforce participation *generally*. It does not concern, or require the Commission to have regard to, the need to attract labour to a particular sector – which is the matter to which the ACTU and UWU's submissions are focussed. Indeed, it would not be appropriate for the Commission to be guided by a desire to attract employees to

⁷⁸ ACTU Submission at [55] (third bullet point) and [85] (fourth bullet point); UWU Submission at [95].

⁷⁹ ACTU Submission at [55] (fourth bullet point) and [85] (fifth bullet point); UWU Submission at [98] – [99].

⁸⁰ Ai Group October Submission at [124].

⁸¹ Ai Group October Submission at [124].

a particular part of the economy over another. This is likely to create various distortions in the labour market, which are undesirable of themselves and likely to create various perverse outcomes.

45. The Outside School Hours Council of Australia (**OSHCA**) has now commissioned a second report by dandolopartners, by way of update to the Dandolo Report at Attachment B to the Ai Group October Submission (**Second Dandolo Report**). The Second Dandolo Report, which appears as **Attachment B** to this submission, provides support for the conclusion that increased service costs as a consequence of higher employment costs, may have a detrimental impact on workforce participation.
46. Relevantly, the Second Dandolo Report concludes that if a service increases its fees, families will see increases in their out-of-pocket costs for use of OSHC services, or families will reduce their use of OSHC services. The latter will impact families, for example '*for some families the only viable choice may be reducing their own work hours in order to look after the children*'.⁸²

The need to promote flexible modern work practices and the efficient and productive performance of work (s.134(1)(d) of the Act)

47. We agree with the ACTU Submission and UUU Submission that this consideration is not relevant (and therefore, neutral) in this proceeding.⁸³

The need to provide additional remuneration for: (i) employees working overtime; or (ii) employees working unsocial, irregular or unpredictable hours; or (iii) employees working on weekends or public holidays; or (iv) employees working shifts (s.134(da) of the Act)

48. We agree with the ACTU Submission and UUU Submission that this consideration is not relevant in this proceeding.⁸⁴

⁸² Second Dandolo Report at page 12.

⁸³ ACTU Submission at [55] (fifth bullet point) and [85] (sixth bullet point); UUU Submission at [100].

⁸⁴ ACTU Submission at [55] (sixth bullet point) and [85] (seventh bullet point); UUU Submission at [101].

The likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden (s.134(1)(f) of the Act)

49. The UWU Submission regarding the financial position of employers in the ECEC sector places an emphasis on ‘*average margins*’ and annual turnover of incorporated childcare businesses.⁸⁵
50. We refer to the information contained in the Ai Group October Submission regarding the significant extant cost burdens for OSHC sector employers, as well as formal and informal constraints on their ability to recover any increased employment costs that may flow from this proceeding.⁸⁶ Those submissions should be preferred.
51. Further, while the UWU Submission points to Australian government funding per child having increased by 23% in real terms since 2017-2018,⁸⁷ it is also relevant that over the period of 2018 – 2022, costs for childcare providers increased significantly, primarily due to labour costs.⁸⁸
52. Noting the submission made in section 1 above and our intention to advance a more detailed submission about the recently-introduced Program; for present purposes we note that the ACTU Submission and UWU Submission are incorrect and misleading with respect to the availability and extent of Commonwealth funding in respect of any increases to rates of pay for child carers that may flow from this proceeding, in a number of respects.
 - (a) *Firstly*, whilst the ACTU Submission describes the funding as ‘*additional ... over two-year staggered increases*’,⁸⁹ both the ACTU Submission and UWU Submission fail to state that a funding commitment has *only* been provided (in the form of the Program) for two years.⁹⁰ No commitment has

⁸⁵ UWU Submission at [105].

⁸⁶ Ai Group October Submission at [71] – [93].

⁸⁷ UWU Submission at [104].

⁸⁸ [ACCC Childcare Inquiry - Final Report \(December 2023\)](#) at page 16.

⁸⁹ ACTU Submission at [55] (seventh bullet point); see also [85] (eight bullet point).

⁹⁰ See Commonwealth Submission at [34]; See discussion of the ECEC Worker Retention Payment Grant in UWU Submission at [106] – [109].

been made by the Commonwealth to provide *ongoing* funding beyond that date.

Indeed, the Commonwealth Submission in this proceeding is that '*the Commission's decision in the Priority Review should be made on the basis that the Commonwealth is yet to decide whether it will fund (including at all, and if so, to what extent) any wage increases in areas where the Commonwealth has a funding role*'⁹¹ (emphasis added).

(b) *Secondly*, it is an oversimplification to state that the Commonwealth simply, '*will provide*', additional funding⁹² or that '*any increases to minimum award rates will be able to be offset against the Commonwealth's proposed funding changes*'⁹³ (emphasis added). The submission ignores various limitations on the operation of the Program. For example:

- (i) The Program is not available to all employers to whom the CS Award applies. Funding is available to some categories of employers, if they apply for it and agree to meet various conditions (see below).
- (ii) Those conditions include the Fee Cap, of a maximum of 4.4% increase in the first year, and a 4.2% maximum increase in the second year.⁹⁴ This will necessarily constrain employers from recovering additional increased costs.
- (iii) Employers must implement an enforceable workplace instrument, that gives employees a right to receive certain levels of remuneration. This can include an individual flexibility arrangement⁹⁵, a single enterprise agreement or a multi-enterprise agreement. An obligation to pay higher amounts pursuant to the Award, as a consequence of

⁹¹ Commonwealth Submission at [38].

⁹² ACTU Submission at [55] (seventh bullet point).

⁹³ UWU Submission at [109].

⁹⁴ See: [Early childhood wages - Department of Education, Australian Government](#), accessed on 22 November 2024.

⁹⁵ We note that it appears that there may be a requirement that 95% of an employer's workforce be covered by an individual flexibility arrangement if this is the form of instrument used by the employer in order to secure eligibility for funding.

variations made to it by the Commission in the context of this proceeding, would not of itself give rise to an ability to claim funding from the Program to cover those increases.

- (iv) The coverage of the CS Award is expressed as extending to *'employers throughout Australia in the children's services and early childhood education industry'*,⁹⁶ which is defined as meaning *'the industry of long day care, occasional care (including those occasional care services not licensed), nurseries, childcare centres, day care facilities, family based childcare, out-of-school hours care, vacation care, adjunct care, in-home care, kindergartens and preschools, mobile centres and early childhood intervention programs'*.⁹⁷ However, the ECEC Worker Retention Payment Grant is only available to be claimed by employers in respect of ECEC workers employed in a CBDC or OSHC care setting.⁹⁸ It would therefore appear that the Program is not accessible by employers who provide a range of services covered by the Award.

- (c) *Thirdly*, self-evidently, in any event, the UWU proposes increases to the minimum rates of pay prescribed by the Award for at least some classification levels that are of a greater quantum than the funding to be made available through the Program.⁹⁹

53. The Second Dandolo Report updates the cost modelling in the Dandolo Report¹⁰⁰ to:

- (a) Reflect current policy settings, including changes to rates of pay in the CS Award, the introduction of the Program and the claims for increases to Award rates of pay in this proceeding; and

⁹⁶ Clause 4.1 of the CS Award.

⁹⁷ Clause 3.1 of the CS Award.

⁹⁸ Commonwealth Submission at [37].

⁹⁹ UWU Submission at Annexure A.

¹⁰⁰ Attachment B to the Ai Group October Submission.

- (b) Analyse the potential impact of a future unfunded wage increase, combined with the Fee Cap, for different service types.¹⁰¹
54. The Second Dandolo Report estimates that, if the outcome of this proceeding is to increase the minimum rates of pay in the CS Award by an amount that exceeds the funding from the Program, OSHC employers' total costs for one year¹⁰² (in addition to the cost of the wage increase funded by the Program) would increase by:
- (a) For an additional 3% increase: \$27 million;
 - (b) For an additional 10% increase: \$91 million; and
 - (c) For an additional 20% increase: \$200 million.¹⁰³
55. When combined with the impact of the fee constraint requirement under the ECEC Worker Retention Payment Grant (and on the assumption that both the funding available and Fee Cap remain in place beyond the currently provisioned two years) the Second Dandolo Report produces models which show:
- (a) Services with low occupancy are especially vulnerable. A service with low occupancy operating at a loss at the time the additional increases are implemented, will suffer ongoing and increasing losses over the full 10-year period of projection;¹⁰⁴
 - (b) A large OSHC service maintains an operating surplus but experiences a significant drop, which is not recovered in the 10-year period where increases are between an additional 10 to 20 per cent.¹⁰⁵

¹⁰¹ Second Dandolo Report at page 1.

¹⁰² The estimate of the total cost of the wage increase is stated as including all educators currently employed in OSHC, and including the total employment cost (wages, superannuation, workers' compensation, payroll tax where relevant, and long service leave loadings) (Second Dandolo Report at page 4).

¹⁰³ Second Dandolo Report at page 4.

¹⁰⁴ Second Dandolo Report at pages 7,9.

¹⁰⁵ Second Dandolo Report at page 7.

- (c) A small OSHC service would remain viable, but would take 6 years for the operating surplus to recover where the increase is an additional 10%;¹⁰⁶
 - (d) A service with regulated school-based costs that starts with an operating loss at the time the additional increases are implemented, continues to see their net position erode over time and does not return to surplus at any point;¹⁰⁷ and
 - (e) A service with unregulated school-based costs that starts with an operating surplus of \$50,000 takes at least 7 years to return to their starting position under the medium (10% additional increase to wages) scenario.¹⁰⁸
56. The Second Dandolo Report highlights that some OSHC services may face obstructions to increasing fees in response to increased costs – for example, due to contractual and licensing constraints, or practical challenges in light of the existing service offerings and fees charged.¹⁰⁹ Where a service absorbs the cost of a wage increase, the Second Dandolo Report concludes that services will need to offset this cost by reducing spending in other areas of the service,¹¹⁰ or where this is not possible, face the prospect of threats to their ongoing operation, including potential service closures.¹¹¹
57. In all the circumstances, the introduction of the Program does not weigh in favour of making the variations sought. The Commission should not be satisfied that it ought to grant the large increases sought by the unions in the absence of *full, ongoing and unconditional funding*.¹¹²

¹⁰⁶ Second Dandolo Report at page 7.

¹⁰⁷ Second Dandolo Report at page 8.

¹⁰⁸ Second Dandolo Report at page 8.

¹⁰⁹ Second Dandolo Report at page 11.

¹¹⁰ This may include trying to save costs by lowering spending on areas to improve service quality, lowering spending on areas which focus on supporting children with extra needs, and/or needing to increase reliance on staff waivers.

¹¹¹ Second Dandolo Report at page 13.

¹¹² See Ai Group October Submission at [94] – [105] and [127] – [131].

58. The ELAA Submission places emphasis on the consideration in s.134(1)(f) being met through increased wages for ECEC workers, which it contends will assist to alleviate business challenges associated with workforce shortages in the sector.¹¹³
59. Similarly, the Divergent Education Submission proposes that minimum rates in the CS Award be increased by ‘*at least 20%*’, ostensibly on the basis of ‘*cost of living*’ considerations and that the long-term benefits of increased wages ‘*outweigh the cost of the initial investment by reducing turnover*’.¹¹⁴
60. Any such considerations need to be balanced against the significant impacts on employers should the Commission proceed to grant increases to the minimum rates of pay in the CS Award in the absence of full, ongoing and unconditional funding from the Commonwealth.

The need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards (s.134(1)(g) of the Act)

61. In response to the ACTU’s contention that increases to the Director rate of pay are necessary to ‘*maintain internal cogency in the classification minimum rates of pay*’¹¹⁵ we refer to and rely upon our earlier response at paragraph [0] above.

The likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy (including productivity and business competitiveness and viability) (ss.134(1)(h) and 284(1)(a) of the Act)

62. Ai Group strongly disagrees with the ACTU’s assessment that ‘*there is no evidence ... to indicate that the variations will have any material effect upon the*

¹¹³ ELAA Submission at [32] – [39].

¹¹⁴ Divergent Education Submission at Parts 5 and 6.

¹¹⁵ ACTU Submission at [85] (ninth bullet point).

economy.¹¹⁶ We also strongly disagree with the UWU's contention that s.134(1)(h) is a neutral consideration in this proceeding.¹¹⁷

63. For the reasons set out in the Ai Group October Submission, the outcome of this proceeding could impact the performance of the national economy due to both budget impacts for the Commonwealth and/or state governments, and impairment of workforce participation.¹¹⁸

64. The potential impact is reinforced by the Commonwealth Submission, in which it states:

42. The Commonwealth is identifying and assessing the potential impacts on any program that may be affected from decisions made as part of the Priority Review. This is anticipated to take considerable time given the breadth of programs that could be in scope. This is a complex task as there is no uniform approach to assessing impacts, since programs range from being directly Commonwealth funded, indirectly funded, having shared funding with states and territories, and having shared funding with the private or philanthropic sector. Considerations of impacts to consumers on costs of services across impacted sectors are also yet to be determined, as is a process to consider the ability of providers to absorb a wage increase.

...

45. Commonwealth entities are required to adhere to Budget Process Operational Rules, which support the implementation of the Budget in a manner consistent with the Commonwealth's Fiscal Strategy. In accordance with these requirements, once the quantum of any pay increase is determined, the Commonwealth will need to reconsider the fiscal impact on the Commonwealth budget on the basis of that information and provide information on its funding position and the appropriate approach to timing and phasing-in of additional funding to support any further increases to award wages.¹¹⁹

¹¹⁶ ACTU Submission at [55] (ninth bullet point) and [85] (tenth bullet point).

¹¹⁷ UWU Submission at [112].

¹¹⁸ Ai Group October Submission at [133] – [138].

¹¹⁹ Commonwealth Submission at [42] and [45].

Question 3

65. Question 3 is as follows:

(3) Does the work of employees under any of the classifications involve the exercise of 'invisible' skills (including gender-related indigenous cultural skills) and/or caring work of the nature described in paragraphs [156(1)] and [172]–[173] and elsewhere in the *Stage 3 Aged Care decision*?

66. The ACTU Submission points to the statement of the Expert Panel in the *2024 AWR Decision* that it is 'probable' that the work of child carers involves the exercise of 'invisible skills'; and goes on to contend that '[t]he "invisible skills" utilised in performing child carer's work have not been subject to comprehensive work value assessment'.¹²⁰

67. For the reasons explained more fulsomely in the Ai Group October Submission, many of the skills which we understand to have been conceptualised by the Expert Panel in the *2024 AWR Decision* as aspects of the role of child carer's that may involve 'invisible' caring skills, are not in fact invisible insofar as they are expressly contemplated in the existing classification descriptors contained in clause B.1 of Schedule B to the CS Award.¹²¹

68. The ACTU relies upon the Balnave and Briar Report in support of the proposition that Educators (or 'child carers'), Assistant Directors, Directors, and Cooks covered by the CS Award apply 'a wide range and significant volume of complex use of 'invisible' skills'.¹²²

69. The UWU relies on the Balnave and Briar Report extensively in response to Question 3, in support of what it contends are aspects of the work of child carers that require interpersonal and contextual awareness,¹²³ verbal and non-verbal

¹²⁰ ACTU Submission at [4] – [5].

¹²¹ Ai Group October Submission at [152] – [153].

¹²² ACTU Submission at [16], citing the Balnave and Briar Report at [7], and also [59].

¹²³ UWU Submission at [123], [124].

communication and emotion management¹²⁴ and dynamic workflow co-ordination.¹²⁵

70. We refer to any rely upon what we contend to be significant limitations and shortfalls of the Balnave and Briar Report, as set out at earlier in this submission.

71. The UWU Submission contends that *'[i]nvisible skills are inherent to the work performed by employees providing education and care to children within the ECEC sector'*.¹²⁶ Ai Group acknowledges that the work of child carers includes some work that involves skills of a caring nature. However, it cannot be said that the skills are *'invisible'* for this reason alone.

72. We also comment further in relation to the UWU Submission, as follows:

(a) Many assertions as to the work of child carers made in response to Question 3 are based on aspects of the Balnave and Briar Report that refer to the anecdotal account of a single employee who has not been called as a witness in this proceeding and which accordingly, rises no higher than hearsay from an unidentified source. This includes the UWU's contentions regarding:

(i) The *'skill of maintaining situational awareness'*;¹²⁷

(ii) *'... skills needed in 'monitoring and guiding reactions''*;¹²⁸

(iii) *'...the importance of predicting and judging impacts'*;¹²⁹

(iv) *'... judging impacts in 'building strong, affirming relationships with children and families, translating abstract performance criteria into human terms, including in terms of the personal growth of staff''*;¹³⁰

¹²⁴ The UWU Submission cites the Balnave and Briar Report at [138.1] and [138.3], and [139].

¹²⁵ The UWU Submission cites the Balnave and Briar Report at [143] – [145] and [146.4].

¹²⁶ UWU Submission at [121].

¹²⁷ UWU Submission at [124].

¹²⁸ UWU Submission at [125].

¹²⁹ UWU Submission at [126].

¹³⁰ UWU Submission at [127].

- (v) *‘... boundary management in ‘seeking to accommodate parental wishes without breaching regulatory requirements or organisational realities’;*¹³¹
- (vi) *‘... the skill of giving and receiving feedback in unequal power situations’;*¹³²
- (vii) *“endorsing, promoting and enacting First Nations and multicultural values”;*¹³³
- (viii) *‘... using a variety of means to work with families who do not speak English’;*¹³⁴
- (ix) *‘... using skills to promote inclusion is proactively ‘celebrating everyone’s special days throughout the calendar’;*¹³⁵
- (x) Sequencing and combining work activities, and task prioritisation (including as it links to risk management);¹³⁶
- (xi) *‘... skills needed to restore stable workflows following critical incidents’;*¹³⁷
- (xii) *‘... the importance of smoothly interweaving activities’;*¹³⁸
- (xiii) *‘... the importance of being able to ‘stand in for others’;*¹³⁹ and

¹³¹ UWU Submission at [138.1].

¹³² UWU Submission at [138.2].

¹³³ UWU Submission at [138.3].

¹³⁴ UWU Submission at [139.1].

¹³⁵ UWU Submission at [139.2].

¹³⁶ UWU Submission at [143.1] and [143.2].

¹³⁷ UWU Submission at [144.1].

¹³⁸ UWU Submission at [145].

¹³⁹ UWU Submission at [145.1].

(xiv) *'... the importance of being able to deal with rapidly changing situations while ensuring that legal and safe procedures are followed'*.¹⁴⁰

For this reason, Ai Group submits the evidence should be given minimal weight. We also refer to and repeat our earlier comments to similar effect, earlier in this submission.

(b) The UWU makes broad assertions as to the skills involved in the work of child carer's generally, in circumstances where the assertion is supported by the statement of only one lay witness, and no basis or explanation is provided as to how or why such lay evidence may be taken as representative or typical of the work of child carer's more broadly within the ECEC sector. This includes, for example, assertions as to the following skills:

(i) *'Anticipating the emotional reactions of children and adapting their work programming accordingly'*;¹⁴¹

(ii) *'Using information gathered from parents and caregivers to better understand and predict the behaviour of children throughout the day'*;¹⁴²

(iii) *'Maintaining and consistently reviewing knowledge of each child's idiosyncrasies and preferences to support their behaviour and learning'*;¹⁴³

(iv) *'Monitoring children during mealtimes for safety while simultaneously modelling social behaviour and providing education on health eating and food'*;¹⁴⁴

¹⁴⁰ UWU Submission at [145.2].

¹⁴¹ UWU Submission at [128.1].

¹⁴² UWU Submission at [129].

¹⁴³ UWU Submission at [130].

¹⁴⁴ UWU Submission at [131].

- (v) *'Observing children to evaluate their progress in developmental areas such as social skills, verbal communication, literacy and numeracy and updating educational activities in response to these observations';*¹⁴⁵
- (vi) *'Greeting children and parents and adjusting communication style based on perceptions of the children's moods';*¹⁴⁶
- (vii) *'Debriefing with parents at the end of the day, including discussion of children's behaviour and development';*¹⁴⁷
- (viii) *'Anticipating the emotional reactions of children and adapting their work programming accordingly';*¹⁴⁸
- (ix) *'Using technology programs to communicate with parents and provide regular updates throughout the day';*¹⁴⁹
- (x) *'Engaging in inclusive practices to provide support, assistance and engagement of children with disabilities';*¹⁵⁰
- (xi) *'Managing "big emotions" and other behavioural issues';*¹⁵¹
- (xii) *'Responding calmly to injuries and other incidents with children';*¹⁵²
- (xiii) *'Coordinating and communicating with colleagues to ensure educator to child ratios are maintained';*¹⁵³

¹⁴⁵ UWU Submission at [132].

¹⁴⁶ UWU Submission at [140.1].

¹⁴⁷ UWU Submission at [140.2].

¹⁴⁸ UWU Submission at [140.3].

¹⁴⁹ UWU Submission at [140.4].

¹⁵⁰ UWU Submission at [140.5].

¹⁵¹ UWU Submission at [140.6].

¹⁵² UWU Submission at [146.2].

¹⁵³ UWU Submission at [146.3].

(xiv) ‘*Setting up the educational space in accordance with the educational and behavioural needs of children*’;¹⁵⁴ and

(xv) ‘*Multi-tasking and dealing with interruptions*’.¹⁵⁵

We also refer to and repeat our earlier comments to similar effect, at paragraph [28(d)] above.

(c) Submissions and evidence as to the work of ‘*cooks*’¹⁵⁶ employed pursuant to the ‘*Support Worker*’ classification stream of the CS Award pertains to an occupation that is outside the scope of this proceeding.¹⁵⁷ The Commission should disregard this material in the determination of Question 3 (and more broadly) in this proceeding.

(d) As to the ‘*caring skills*’ described,¹⁵⁸ we refer to the Ai Group October Submission at [61] – [62].

73. Insofar as the ELAA Submission also makes various contentions as to the ‘*invisible skills*’ exercised by early childhood educators under the CS Award,¹⁵⁹ these are not supported by any evidence and accordingly, Ai Group submits should be afforded little weight by the Commission.

¹⁵⁴ UWU Submission at [146.5].

¹⁵⁵ UWU Submission at [146.6].

¹⁵⁶ UWU Submission at [133], [141] and [147].

¹⁵⁷ See earlier our response at Question 1; See also Ai Group October Submission at [14] – [37].

¹⁵⁸ UWU Submission at [153].

¹⁵⁹ ELAA Submission at [43] – [48].

Question 4

74. Question 4 is as follows:

- (4) Is the benchmark rate identified in paragraph [170] of the *Stage 3 Aged Care decision* appropriate to apply to any of the classifications for which a Certificate III qualification or equivalent is required?

ACTU Submission

75. The ACTU submits that there is '*compelling justification*' for the ERO benchmark rate applying to the CS Award as the work of child carers who hold a Certificate III is '*comparable carer work*' to that of other employees to whom the ERO benchmark rate has been applied.¹⁶⁰

76. We disagree that the evidence presented in this proceeding provides a basis upon which it may be determined conclusively that the work is in fact '*comparable*'.

77. The ACTU goes on to describe the UWU's approach to varying rates of pay for the CSE stream classifications in the CS Award as '*involv[ing] minimal intervention into the existing rates of pay*'.¹⁶¹ We strongly disagree with this characterisation of the proposed wage variations, in circumstances where:

- (a) An increase of 23 per cent is proposed for one-third (12 out of 36) of the pay points;
- (b) An increase of between 15 to 21 per cent is proposed for a further one-third of pay points; and
- (c) The remaining one-third of pay points are proposed to be varied by between 4 to 6 per cent.¹⁶²

¹⁶⁰ ACTU Submission at [63].

¹⁶¹ ACTU Submission at [70].

¹⁶² ACTU Submission at Annexure B.

78. The proposed increases are substantial in their nature and extent. We refer to and rely upon our earlier submissions above regarding the likely cost impacts on employers should the rates be increased as proposed by the ACTU and UWU.
79. We oppose the proposal for the ERO benchmark to be applied to the Support Worker classification stream in the CS Award.¹⁶³ For the reasons we set out in detail in the Ai Group October Submission,¹⁶⁴ the scope of classifications in the CS Award for the purpose of this proceeding are those that can be mapped to the occupation of ‘*child carer*’, namely the CSE classification stream at Part B.1 of Schedule B to the CS Award.
80. Further, the ACTU appears to propose that the ERO benchmark rate flow-on to Certificate III qualified roles in the Support Worker stream by virtue of them holding the same qualification as workers in the CSE stream, without there being any basis articulated with respect to the nature of their work – and in particular, whether the skills involved in the work (including any purported caring skills) are the same or closely comparable to the skills required by workers in the CSE stream.
81. Lastly, we also contest the ACTU’s characterisation of the ERO benchmark as a ‘*minima*’ applying to relevant levels for care work.¹⁶⁵ We refer to and continue to rely upon the concerns regarding the ERO Rate articulated in the Ai Group October Submission.¹⁶⁶ In any event, the question of whether it is appropriate to apply it to any classifications in the CS Award – let alone as a ‘minimum’ – must also be determined in the context of the considerations contained in the MAO and MWO more broadly.

¹⁶³ ACTU Submission at [71]; UWU Submission at [157].

¹⁶⁴ Ai Group October Submission at [15] – [36].

¹⁶⁵ ACTU Submission at [72].

¹⁶⁶ Ai Group October Submission at [162] – [167].

UWU Submission

82. For completeness, in response to the UWU's contentions regarding the appropriateness of the ERO benchmark generally,¹⁶⁷ we refer to and rely upon the Ai Group October Submission at [162] – [167].

ELAA Submission

83. The ELAA Submission in response to Question 4 relates to the proposed alignment between the CSE classifications in the CS Award and classifications in the *Aged Care Award 2010 (AC Award)* and the *Social, Community, Home Care and Disability Services Industry award 2010 (SCHCDS Award)*, in circumstances where it is not apparent that the ELAA is in a position to advance submissions about:

- (a) The work performed in each of the CSE stream classifications across all facets of the industry to which the CS Award applies (having regard to the ELAA Submission being framed in the context of centre-based day care services limited to LDC and/or kindergarten/preschools¹⁶⁸); nor
- (b) Work performed by employees within the coverage of the AC Award or SCHCDS Award.

84. Moreover, these contentions are not supported by any witness evidence.

85. Accordingly, Ai Group submits these submissions should be given little weight by the Commission.

¹⁶⁷ UWU Submission at [154], [158] – [159].

¹⁶⁸ ELAA Submission at [3].

Question 5

86. Question 5 is as follows:

- (5) Is the benchmark rate identified in paragraph [204] of the *Stage 3 Aged Care decision* appropriate to apply to any of the classifications for which an undergraduate degree qualification or equivalent is required?

ACTU Submission

87. We disagree with the ACTU's contention that a Level 6.1, Director '*is a 3 or 4-year degree qualified classification*'.¹⁶⁹ For the reasons we fulsomely set out in the Ai Group October Submission, there are no classifications – including but not limited to Level 6 of the CSE classification stream – that require a degree qualification.¹⁷⁰ For completeness, we note that the ELAA Submission also contends that '*the requirement for an undergraduate qualification does not have a direct comparator*' under the CS Award.¹⁷¹
88. It follows that it is not appropriate for the benchmark rate identified in paragraph [204] of the *Stage 3 Aged Care Decision* to apply to Level 6 of the CSE classification stream in the CS Award.
89. As to the contention that increases to the minimum rates for Directors and Assistant Directors are warranted due to it being '*likely*' they have been subject to historical gender undervaluation, including in the context of the *ACT Child Care Decision*, we refer to and rely upon our earlier submissions.
90. Lastly, to the extent the ACTU contends that increases are warranted to ensure the CS Award provides a '*cogent career pathway*',¹⁷² Ai Group submits that in the event the minimum rates for lower classifications in the CSE classification stream are not increased (or not increased by the quantum sought by the ACTU and UWU), any considerations of relatively must be adjusted accordingly.

¹⁶⁹ ACTU Submission at [76].

¹⁷⁰ Ai Group October Submission at [169] – [178].

¹⁷¹ ELAA Submission at [53] – [55].

¹⁷² ACTU Submission at [84].

91. We respond to the balance of the ACTU Submission going to the MAO in the context of Question 5, as part of our reply in relation to Questions 2(b) & (c) above.

UWU Submission

92. The UWU Submission contends that *‘[t]he value of the work performed by directors in the ECEC sector, taking into account their relevant skills, experience, the nature of the work and the context in which the work is performed, justify an alignment to the C1(a) rate’*.¹⁷³ The UWU has not provided any explanation or comparison as between the skills, experience and nature of work to which the C1(a) rate applies more broadly so as to justify or support this position.

93. In relation to the UWU’s contentions regarding *‘skewing’* the rates and classification structure for Directors, we refer to our comments at paragraph [90] above.

94. Further, Ai Group submits that the work of Level 6 employees under the CS Award – being the only level which contemplates an undergraduate degree being held (but as we set out above, not *required*) – is already aligned to the benchmark rate for services that are licensed for up to 40 or more children (excluding FDC, which has slightly different service size considerations).

95. Relevantly, under the CS Award, the following minimum weekly rates of pay currently apply for a full-time CSE Level 6 employee:

| | | |
|---|-----------|------------|
| Service licensed for up to 39 children | Level 6.1 | \$1,466.30 |
| Service licensed for between 40 and 59 children | Level 6.4 | \$1,558.90 |
| Service licensed for 60 or more children | Level 6.7 | \$1,611.00 |

¹⁷³ UWU Submission at [164.1] and [173]; and see also [164.5].

96. The 2021 ECEC Census identified that the average *maximum* number of places offered in centre-based day care, OSHC and vacation care was 70 (being 68, 72 and 72 places respectively), and the average number of places *typically* offered across the same centre types was 59 (being 61, 56 and 57 respectively).¹⁷⁴
97. Accordingly, it would appear that the majority of Level 6 employees would be eligible to be employed at either Level 6.4 or Level 6.7 of the CS Award.
98. Under the *Educational Services (Teachers) Award 2020 (EST Award)*, the current minimum weekly rate of pay for a full time Level 2 (proficient teacher) employee in long day care centres is \$1,525.90.¹⁷⁵
99. Under the SCHCDS Award, the current minimum weekly rate of pay for a 4-year degree qualified SACS employee (with the ERO rate applied) is \$1,521.83.¹⁷⁶
100. It follows that the Level 6.4 and 6.7 minimum rates under the CS Award are higher than the '*benchmark*' rate in SCHCDS Award and the minimum rate for a degree-qualified worker in long day care under the EST Award.
101. In its *2024 AWR Decision*, the Expert Panel concluded that:

Early Childhood (Pre-primary School) Teachers, Primary School Teachers (Primary Education) and Primary School Teachers (Combined Primary and Secondary Education) covered by the EST Award were recently the subject of a full assessment of work value in the 2021 *Teachers decision*. The rate for a four-year-degree-qualified and registered teacher now aligns with the C1 rate and also with the rate for a four-year-degree-qualified social and community services employee under the SCHADS award and the ERO. As a result, as the Stage 2 report shows, there are no indicia of gender undervaluation for the award rates of pay for these occupational categories.¹⁷⁷

¹⁷⁴ 2021 ECEC Census at page 26.

¹⁷⁵ Clause 17.1 of the EST Award.

¹⁷⁶ Table immediately below clause 15.8 in the SCHCDS Award.

¹⁷⁷ *AWR 2024 Decision* at [111](1).

102. In light of:

- (a) The finding of the Expert Panel that the minimum weekly rates of pay that apply to degree-qualified early childhood teachers in LDC environments have no indicia of underpayment; and
- (b) The existing alignment between the CSE Level 6 rates of pay and those rates,

no basis is disclosed to warrant any further alignment between the classifications in the CS Award and the benchmark rate, and accordingly, Ai Group urges the Full Bench to find the answer to Question 5 is 'No'.

ACA Submission

103. Ai Group disagrees with the ACA Submission that Question 5 should be answered in the affirmative. We refer to and rely upon the reasons for Ai Group's position set out above and in the Ai Group October Submission.¹⁷⁸

¹⁷⁸ Ai Group October Submission at [169] – [178].

Question 6

104. Question 6 is as follows:

- (6) To the extent that any adjustment to the existing classification structure in any of the awards is required, what are appropriate terms (including classification descriptors and minimum wage rates) for a new or modified classification structure?

105. We propose to file a separate supplementary submission concerning question 6.

Question 7

106. Question 7 is as follows:

- (7) To the extent that any increases to the minimum rates for any classifications are justified by work value reasons in order to remedy gender undervaluation, what is an appropriate implementation timetable for such increases having regard to funding and related issues?

107. The ACTU Submission and UWU Submission contend that the changes proposed by them should be implemented or made effective as soon as possible.¹⁷⁹

108. For the reasons outlined in detail at [186] – [198] of the Ai Group October Submission – and particularly now having regard to the quantum of increases sought by the UWU and ACTU to minimum rates of pay for employees covered by the CS Award – Ai Group submits that it will likely be necessary for any increases to be implemented in stages and/or delayed.¹⁸⁰

109. This is particularly so in light of the Commonwealth Submission, which states:

...that any wage increases arising from the gender-based undervaluation identified by the Commission should be implemented in a measured and responsible manner that manages workforce, fiscal and macro- economic risks.¹⁸¹

...

Phasing can help to manage these costs for sectors competing for the same pool of labour, particularly when employment shortages are prevalent across the economy.¹⁸²

...

If the Commission concludes that pay increases are warranted, the Commonwealth is likely to support a staged or phased process for implementation, particularly for any significant increases.¹⁸³

¹⁷⁹ ACTU Submission at [87]; UWU Submission at [193].

¹⁸⁰ See in particular [188] of the Ai Group October Submission.

¹⁸¹ Commonwealth Submission at [46].

¹⁸² Commonwealth Submission at [50].

¹⁸³ Commonwealth Submission at [52].

110. We also refer to and rely upon the findings of the Second Dandolo Report as set out in detail in response to Questions 2(b)&(c) earlier in this submission, regarding the significant impacts for the OSHC sector should increases to minimum rates of pay under the CS Award be implemented that are outside the funding envelope of the ECEC Worker Retention Payment Grant.
111. To the extent that the ACTU relies the assertion that *'[f]rom December 2024, 10 percent of any increases will already be covered by the Commonwealth funding changes'*, we refer to our earlier submissions regarding the erroneous and misleading nature of this assertion.

3. INFORMATION NOTE

112. The *Information Note – Part 1* was produced at the request of the ACTU.¹⁸⁴

113. Ai Group does not raise any objection with respect to the contents of *Information Note – Part 1*, and makes this submission in respect of the information concerning CS Award employees only that is contained therein.

114. To the extent that any of the data contained within the *Information Note – Part 1* provides a more recent data point for the workforce covered by the CS Award with respect to:

(a) the number of employees and owner manager of incorporated enterprise;¹⁸⁵

(b) the proportions of male and female employees at each age group;¹⁸⁶ and

(c) the proportion of male and female employees engage as full and part time

than may be relied upon or referenced in other submissions or materials in this proceeding, Ai Group submits that the Commission should have regard to the more recent data in the *Information Note – Part 1*.

115. Lastly, Ai Group notes that the occupation used for the research underpinning *Information Note – Part 1* pertaining to the CS Award, is ANZSCO occupation 4211 – *Child Carers*.¹⁸⁷ In so far as the UWU and ACTU contend for increases to rates of pay for employees in the ‘*Support Worker*’ classification stream in the CS Award, for the reasons set out in the Ai Group October Submission¹⁸⁸ the data contained in *Information Note – Part 1* for the CS Award is not relevant to those workers.

¹⁸⁴ *Statement* [2024] FWCFB 409 at [1].

¹⁸⁵ *Information Note – Part 1* at page 2, Table 1.

¹⁸⁶ *Information Note – Part 1* at pages 3 - 5, Table 2.

¹⁸⁷ *Information Note – Part 1* at Appendix A.

¹⁸⁸ Ai Group October Submission at [15] – [37].

Early Childhood Education and Care Worker Retention Payment Grant Opportunity Guidelines

| | |
|------------------------------------|--|
| Opening date: | 08/10/2024 |
| Closing date and time: | 5pm AEST on 30/09/2026 |
| Commonwealth policy entity: | Department of Education |
| Administering entity: | Department of Education |
| Enquiries: | If you have any questions, contact the department via email: ccshelpdesk@education.gov.au |
| Date guidelines released: | 01/10/2024 (updated 22/11/2024) |
| Type of grant opportunity: | Demand-driven (Eligibility-based) |

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1. Early Childhood Education and Care (ECEC) Worker Retention Payment grant opportunity processes

The ECEC Worker Retention Payment is designed to achieve Australian Government objectives.

This grant opportunity contributes to the Department of Education's Outcome 1. We plan and design the grant program according to the [Commonwealth Grants Rules and Principles 2024 \(CGRPs\)](#).



The grant opportunity opens.

We publish the grant guidelines on [GrantConnect](#).



You complete and submit a grant application.

You complete the Application Form and address all of the eligibility criteria to be considered for a grant.



We assess all grant applications.

We assess the applications against eligibility criteria.



Grant decisions are made.

We decide which applications are successful.



We notify you of the outcome.

We advise you of the outcome of your application.



We enter into a Grant Agreement.

We enter into a Grant Agreement with you if successful. The agreement will outline the terms and conditions for the grant.



Delivery of grant.

You undertake the grant activity as set out in your Grant Agreement. We manage the grant by monitoring grant activity and making payments.



Evaluation of the grant opportunity.

We evaluate your specific grant activity and the grant opportunity as a whole. We base this on information you provide to us and that we collect from various other sources.

1.1 Introduction

These guidelines contain information for the Early Childhood Education and Care (ECEC) Worker Retention Payment grant opportunity.

You must read this document before applying for a grant.

This document sets out:

- the purpose of the grant opportunity;
- the eligibility criteria;
- how grant applications are considered;
- how grantees are notified and receive grant payments;
- how grantees will be monitored and evaluated; and
- responsibilities and expectations in relation to the opportunity.

2. About the grant program

The purpose of this grant is to provide Australian Government funding to support a wage increase for all eligible ECEC workers from December 2024.

Eligible ECEC workers include:

- workers covered by the *Children's Services Award 2010* and working in a Child Care Subsidy (CCS) approved Centre-Based Day Care (CBDC) or Outside School Hours Care (OSHC) service;
- workers covered by the *Educational Services (Teachers) Award 2020* and working in a CCS approved CBDC or OSHC service; and
- workers who are undertaking duties covered by the *Children's Services Award 2010* or *Educational Services (Teachers) Award 2020* and working in a CCS approved CBDC or OSHC service but are not covered by these awards (including workers covered by a state industrial instrument,¹ or working in a setting covered by a different award), and these duties constitute the majority of that workers role.

Trainees who are undertaking duties covered by the *Children's Services Award 2010* or *Educational Services (Teachers) Award 2020* (or equivalent state award) are considered eligible ECEC workers.

The Australian Government is committed to providing funding towards a wage increase for eligible ECEC workers to recognise the value of the workforce and support the Government's ambition of universal access to affordable, quality ECEC.

Funding is calculated to support wages for workers who are either working in, or directly supporting, a CCS-approved setting. A CCS-approved setting is a setting in which CCS is claimable for the children who are receiving the ECEC.

The ECEC Worker Retention Payment (the program) will run over two years from 2 December 2024 to 30 November 2026.

¹ State industrial instrument means an award, an agreement (whether individual or collective), or another industrial instrument or order, that:

- (a) is made under, or recognised by, a law of a State that is a State or Territory industrial law; and
- (b) determines terms and conditions of employment.

The objectives of the program are to:

- support a meaningful wage increase for a historically undervalued, highly feminised sector that provides an essential service;
- contribute to the ongoing professionalisation of the ECEC sector;
- ensure ECEC remains accessible and affordable to families; and
- address workforce shortages as the Government considers a pathway to universal ECEC.

The intended outcomes of the program are:

- improved attraction and retention of educators and early childhood teachers in the ECEC sector;
- improved access to high quality ECEC; and
- improved workplace instrument coverage in the ECEC sector.

We administer the program according to the CGRPs.

3. Grant amount and grant period

The Australian Government has announced a total investment of \$3.6 billion towards the ECEC Worker Retention Payment, of this up to \$3.5 billion has been made available for this grant opportunity. The grant funding awarded under this grant opportunity will be available from the first business day in December 2024 to 30 November 2026.

Funding provided is not capped but is dependent on a formula based on the labour costs for the charged hours of care provided by a service on a monthly basis and the Commonwealth contribution rate to support a wage increase. Charged hours of care is determined by administrative data held in the CCS system.

Labour costs are inclusive of salary-based allowances.

The formula has variations to account for differences in costs between different service and operating types. The payment will also be adjusted to account for seasonality across the year. To reduce viability concerns for Providers and 'smooth' payments across the calendar year, the funding amount provided may be increased in months with fewer charged hours on average and then be reduced during months with more charged hours.

The hourly rate input for each formula will be calculated from administrative data (average data from across the sector) prior to release of grant funding. The hourly rate will be updated on a six-monthly basis.

Providers may seek a review of their funding level where they can show, with evidence, they are not receiving adequate funding. In these circumstances, Providers need to contact ccshelpdesk@education.gov.au.

There may also be opportunity for Providers to apply for one-off funding towards accrued historical leave liabilities. Further information is provided at Section 5.2 and in the application form.

The grant opportunity will be open for applications from 8 October 2024 to 30 September 2026.

4. Eligibility Criteria

We cannot consider your application if it does not satisfy all of the eligibility criteria outlined below.

4.1 Who is eligible to apply for a grant?

To be eligible you must:

- be a legal entity that provides CBDC or OSHC services (a Provider). One Provider may apply in relation to one or multiple service locations (Services) that the Provider owns and operates.

The Provider must be:

- an incorporated or unincorporated body or association; or
- a private or public company; or
- a registered co-operative; or
- a state/territory government body, or
- a local council; or
- an Indigenous corporation; or
- a sole trader; or
- a partnership.

The Provider must for each service on the application:

- have a valid ABN;
- have a valid account registered with a recognised Australian financial institution;
- be approved by the Department of Education to administer CCS payments as evidenced by a valid and current CCS approval number;
- meet and maintain all eligibility requirements of continued CCS approval for the duration of your Grant Agreement under this Grant Opportunity;
- have a legally enforceable workplace instrument in place, in line with Section 4.3; and
- not increase their Service fees by more than:
 - 4.4 per cent in the 12 months from 8 August 2024 to 7 August 2025, 4.2 per cent from 8 August 2025 to 7 August 2026, and for each subsequent period, by more than the amount equivalent to the specified growth rate based on the Childcare Services Cost Index developed by the Australian Bureau of Statistics (ABS); or
 - in relation to either time period specified above, such other fee growth percentage caps as may be determined by the Department (see Section 9.1 for further detail) (Fee Constraint Condition).

4.2 Who is not eligible to apply for a grant?

You are not eligible to apply if you:

- are an organisation included on the National Redress Scheme's website on the list of 'Institutions that have not joined or signified their intent to join the Scheme' (www.nationalredress.gov.au); or
- are a Commonwealth agency or body (including government business enterprises); or

- are an overseas resident; or
- are any organisation not included in Section 4.1.

4.3 Eligible workplace instruments

To be eligible for the grant, the Provider must have in place a legally enforceable workplace instrument(s) until at least the end of the grant period (see Section 2). Subject to the minimum threshold described below, the Provider must take all reasonable steps to engage all eligible ECEC workers at a Service under workplace instrument(s) that:

- include an obligation to pay workers at least 10 per cent above the applicable award rate for the relevant classification under the *Children's Services Award 2010* and/or the *Educational Services (Teachers) Award 2020* (as relevant); and
- provide for an additional 5 per cent above the applicable award rate for the relevant classification under the *Children's Services Award 2010* and/or the *Educational Services (Teachers) Award 2020* (as relevant) from 1 December 2025.

Providers must provide information to all eligible ECEC workers on the types of compliant workplace instrument. During the term of the Grant Agreement, the Provider must confirm that they provided this information in accordance with reporting requirements outlined at Section 11.1 and in the Grant Agreement.

Column 5 of Table 1 and Column 4 of Table 2 in Schedule A are the minimum dollar value amounts that all eligible ECEC workers are to be provided as a pay increase in order for a Provider to be eligible for funding.

Minimum threshold

The Department acknowledges that there may be some limited instances where despite taking all reasonable steps, a Provider is unable to demonstrate that all eligible ECEC workers at a Service are engaged under legally enforceable workplace instrument(s) that meets the requirements of this Section at all times, or in all circumstances.

Accordingly, the minimum percentage of all eligible ECEC workers at a Service that must be engaged by a Provider under a workplace instrument(s) that meets the requirements of this Section 4.3 at all times until at least the end of the grant period is 95 per cent.

In circumstances where a Provider is unable to confirm that they have met the threshold above, the Provider will be required to report on what reasonable steps were taken to try to achieve this.

Where a Provider is unable to meet or is found to have fallen below the applicable threshold percentage for a Service, and has not provided evidence as to why, the Provider will not be entitled to receive grant funding in relation to that Service.

In accordance with the general protections in the *Fair Work Act 2009*, a Provider must not coerce or exert undue influence or pressure on an eligible ECEC worker to agree to, or terminate, a workplace instrument.

Further, where a Provider has an existing legally enforceable workplace instrument in place which covers all eligible ECEC workers at a Service and that includes rates that are in

excess of the applicable award rates, and for which a variation to the instrument to meet the requirements of this Section 4.3 would be too onerous, the Department may exercise discretion in considering whether another form of instrument may be used to satisfy the criteria set out in Section 4.3 of these guidelines. This instrument must include the minimum rates specified in Section 4.3 of these guidelines and must be enforceable by employees or an employee-organisation.

Schedule A and impact of the Annual Wage Review or equivalent state processes

The amounts in Schedule A will increase in accordance with any increase in the award rates for each classification under the *Children's Services Award 2010* or the *Educational Services (Teachers) Award 2020* as a result of an Annual Wage Review of the Fair Work Commission (AWR) to maintain a differential of 10 per cent above the applicable award rates, as the award rates increase in accordance with the AWR. The totals in Column 5 (Table 1) and Column 4 (Table 2) will also be updated in December 2025, to reflect an additional 5 per cent above the applicable award rates (a total 15 per cent differential).

Without being prescriptive as to how they might do so, Providers must undertake to ensure that eligible ECEC workers covered by the *Children's Services Award 2010* or the *Educational Services (Teachers) Award 2020* continue to be paid at least 10 per cent above the applicable award rates and provide the additional 5 per cent increase as outlined above.

For those eligible ECEC workers not covered by the *Children's Services Award 2010* or the *Educational Services (Teachers) Award 2020* (for example, those workers covered by a state industrial instrument), there may be equivalent wage review processes that impact the award rate. Without being prescriptive as to how they might do so, these Providers must undertake to ensure that those eligible ECEC workers continue to be paid at least 10 per cent above the applicable award rates, and provide the additional 5 per cent increase from 1 December 2025 as outlined above. No updates to Schedule A will be made to reflect changes due to any equivalent wage review decision.

Impact of Gender Undervaluation Proceedings

The Fair Work Commission is undertaking a process to examine whether an adjustment to the *Children's Services Award 2010* is required on work value grounds. Should this process lift the minimum hourly rate payable for a classification under the *Children's Services Award 2010* above the minimum hourly rates stipulated for that classification at Schedule A, for workers to whom the *Children's Services Award 2010* applies, the minimum hourly rate payable for a classification in Schedule A will be replaced by the minimum hourly rates payable for that classification in accordance with the *Children's Services Award 2010*.

The ECEC Worker Retention Payment will absorb any increases to the *Children's Services Award 2010* resulting from the gender undervaluation proceedings determined by the Fair Work Commission. This means that the above award requirement (under Section 4.3), will be reduced by the quantum of any changes to the *Children's Services Award 2010* determined through this process.

Additionally, should gender-based work value increases to the *Children's Services Award 2010* match the ECEC Worker Retention Payment amount, the updated *Children's Services Award 2010* could function as a compliant workplace instrument for the purpose of funding eligibility.

Note: *The Educational Services (Teachers) Award 2020* is not being considered as part of the FWC proceedings. State industrial instruments are also not in scope of the FWC proceedings. Therefore, the minimum rate requirements for eligible ECEC workers to whom the *Educational Services (Teachers) Award 2020* or a state industrial instrument applies are unaffected by the FWC proceedings in relation to work value.

5. What the grant money can be used for

5.1 Eligible grant activities

The grant is to be used only for supplementing wages and eligible on-costs for eligible ECEC workers at your Service(s).

5.2 Eligible expenditure

You can only spend the grant on eligible expenditure.

The only eligible expenditure items are:

1. Supplementing wages for eligible ECEC workers at your Service(s).
2. Paying eligible on-costs for eligible ECEC workers at your Service(s) including superannuation contributions, employee entitlements, leave loading, workers' compensation insurance and payroll tax.
3. Further eligible on-costs, as may be approved by the Department in accordance with the Grant Agreement.

Any funds provided by this grant must first be expended on supplementing wages for eligible ECEC workers. Only once all eligible ECEC workers have been paid at least the amounts in accordance with Section 4.3 above and any Grant Agreement can any remaining funding be used for eligible on-costs.

Funds cannot be used for any other purpose, even if funds are provided in excess of the amount required to cover the payments in accordance with Section 4.3 and any Grant Agreement.

Providers who apply on or before 30 June 2025 have the opportunity to apply for funding towards accrued historical leave liabilities that will increase as a result of applying the ECEC Worker Retention Payment. Eligible historical leave liabilities include long service leave, annual leave plus any loadings applicable, and personal/carer's leave. Funding will be available in a one-off payment to eligible providers. The funding will cover a set percentage of the increase to eligible historical leave liabilities accrued before application.

More information about historical leave liabilities is available through the application process. Consideration will be given on a case-by-case basis.

5.3 What the grant money cannot be used for

You **cannot** use the grant funding:

- To subsidise the cost of your current wage expenditure. If you currently (at 8 October 2024) pay workers above the applicable award rates under *the Children's Services Award 2010*, *Educational Services (Teachers) Award 2020* or other award or state industrial instrument, grant funding may only be used to fund the costs of increases to rates by an amount equivalent to the 10 per cent and then an additional 5 per cent in

accordance with Section 4.3. You must not decrease your existing contribution towards wages for eligible ECEC workers and substitute this with the grant funding.

- For any purpose that is not supplementing wages and eligible on-costs for eligible ECEC workers at your Service(s).
- For costs incurred in the preparation of the grant application or related documentation.
- For costs associated with facilitating the increase such as administrative expenses, accounting, legal fees or financial advice.
- For costs associated with joining or developing a workplace instrument.

6. How to apply

Before applying, you must read and understand these guidelines. These guidelines do not constitute business, investment, legal or tax advice and you should seek independent professional advice in respect of all matters in connection with any application for grant funding.

These documents may be found on [GrantConnect](#). Any alterations and addenda² will be published on GrantConnect and by registering on this website you will be automatically notified of any changes. GrantConnect is the authoritative source for grants information.

To apply you must:

- meet all eligibility criteria;
- complete the online application form;
- provide all the information requested;
- include all necessary attachments; and
- submit your application/s to the Department of Education using the application form by 30 September 2026.

You are responsible for ensuring that your application is complete and accurate. Giving false or misleading information is a serious offence under the [Criminal Code 1995](#) and may also give rise to offences under the Family Assistance Law. We will also investigate any false or misleading information and may exclude your application from further consideration.

If you find an error in your application after submitting it, you should email us immediately at ccshelpdesk@education.gov.au.

If we find an error or information that is missing, we may ask for clarification or additional information from you that will not change the nature of your application but may delay the application process.

You should keep a copy of your application and any supporting documents.

We will acknowledge that we have received your application within five business days of receiving it.

6.1 Attachments to the application

The following document must be included with your application:

² Alterations and addenda include but are not limited to: corrections to currently published documents, changes to close times for applications, Questions and Answers (Q&A) documents and Frequently Asked Questions (FAQ) documents

- a copy of your current in-force workplace instrument(s) that meets the requirements of Section 4.3 above, or a link to the workplace instrument(s) (on the Fair Work Commission website) if registered with the Fair Work Commission. A copy of the current in-force workplace instrument(s) must be provided with your application if not registered with the Fair Work Commission).

You must attach supporting documentation to the application form in line with the instructions provided within the form. You should only attach requested documents. We will not consider information in attachments that we do not request.

6.2 Timing of grant opportunity

You can submit an application at any time while the grant opportunity is open. The grant opportunity will run from 8 October 2024 to 30 September 2026. Applications submitted after the opportunity end date cannot be accepted. Payments will be made from January 2025 to December 2026 covering the period from 2 December 2024 until 30 November 2026. Providers may be given an opportunity for a payment to support the costs of increases to or above the relevant rates over the December 2024 period. Please note that this payment will be reconciled when the regular payment cycle commences in January 2025 (it is not an additional payment).

6.3 Backdating provision

Any complete application received by 30 June 2025 that is awarded grant funding will receive funding in arrears backdated to 2 December 2024 where:

- the Provider has a workplace instrument(s) in place for the full grant period meeting the requirements for workplace instruments as outlined in Section 4.3; and
- the workplace instrument(s) stipulate that the eligible ECEC worker(s) will be paid at least 10 per cent above the applicable award rate for the relevant classification under the *Children's Services Award 2010* or the *Educational Services (Teachers) Award 2020* (as relevant) from 2 December 2024.

6.4 Questions during the application process

If you have any questions during the application period, please contact ccshelpdesk@education.gov.au.

A Frequently Asked Questions (FAQ) register will be maintained and updated on GrantConnect and the Department of Education's website.

7. The grant selection process

Your application will be considered through a demand driven grant process.

We will check your application to ensure it meets the eligibility criteria in order of application receipt. Application does not guarantee you will be awarded grant funding.

Your application will be assessed for eligibility within two months of receipt of your complete and accurate application.

If the selection process identifies unintentional errors or omissions in your application, you may be contacted to correct, complete or explain the information.

Your application may not be considered complete and accurate until this further information is received.

7.1 Who will approve grants?

The Secretary of the Department of Education (or their delegate) is the Program Delegate and decides which grant applications to approve for the purposes of the grant program.

The Program Delegate's decision is final in all matters, including:

- the approval of the grant;
- the grant amount to be awarded; and
- the terms and conditions of the grant.

There is no appeal mechanism for decisions to approve or not approve a grant.

8. Notification of application outcomes

We will advise you of the outcome of your application in writing. If you are successful, we will advise you of any specific conditions attached to the grant.

9. Successful grant applications

Providers must enter into a legally binding agreement with the Commonwealth as represented by the Department of Education. The Department of Education will use a Grant Agreement to formalise the grant with general terms and conditions that cannot be changed.

The Department of Education must execute a Grant Agreement with a Provider before it can make any payments to that Provider. The Department of Education is not responsible for any expenditure committed by a Provider for wages paid as required under their workplace instrument (or other voluntary reason) prior to the execution of a Grant Agreement with the Department of Education. If a Provider chooses to pay workers amounts nominally covered by this grant before they have an executed Grant Agreement, they do so at their own risk.

A Grant Agreement may have specific conditions determined by the assessment process or other considerations made by the Program Delegate.

The Grant Agreement will state the:

- Service(s) that have been deemed eligible;
- eligibility requirements of the grant;
- conditions of the grant;
- obligations in relation to the grant, including reporting requirements.

9.1 The Grant Agreement

Grantees (Providers who have been awarded a grant) will be required to agree to certain conditions in order to receive grant payments. These include:

- limiting Service fee growth in accordance with the Fee Constraint Condition (see further detail below);
- complying with the requirements to pay eligible ECEC workers in accordance with Section 4.3 (and for Providers already paying workers at this rate, a requirement to provide increases in pay equivalent to the amounts outlined in Section 4.3);
- passing on the full amount of grant funding by supplementing wages or eligible on-costs for eligible ECEC workers;

- complying with the terms of their workplace instrument(s);
- maintaining CCS approval; and
- complying with all applicable laws including the Family Assistance Law.

The Commonwealth may investigate or audit Providers to ensure compliance with the above conditions. Providers should be aware that provision of false, fraudulent or misleading information may be a criminal offence under the Criminal Code and Family Assistance Law and where the Commonwealth considers false or misleading information has been provided or fraudulent conduct has occurred, the Commonwealth may terminate the Grant Agreement and/or require repayment of grant funds to the Commonwealth.

Minimum threshold

In circumstances where a Provider is unable to confirm that they have met the minimum threshold as per Section 4.3 during the term of the Grant Agreement, the Provider will be required to report on what reasonable steps were taken to try to achieve the threshold, in accordance with the process outlined in the Grant Agreement.

Workplace instrument information

Providers must provide information to all eligible ECEC workers on the types of compliant workplace instrument. During the term of the Grant Agreement, the Provider must confirm to the Department that they provided this information in accordance with the process outlined in the Grant Agreement. The Department will monitor compliance with this requirement and may take grant management and compliance action in relation to any non-compliance.

Fee Constraint Condition

In addition to the eligibility criterion, all grantees must adhere to the Fee Constraint Condition, being annual fee growth percentage caps applicable from the date of announcement of the Grant Opportunity and for the duration of the term of the Grant Agreement.

Unless alternative fee growth percentage caps are determined by the Department of Education (see further details below), the fee growth percentage caps are as follows:

- a maximum 4.4 per cent increase to Service fees applies from 8 August 2024 to 7 August 2025 (12 months post announcement);
- a maximum 4.2 per cent increase to Service fees applies from 8 August 2025 to 7 August 2026; and
- for subsequent periods until the conclusion of the grant, a maximum increase equivalent to the specified growth rate based on the new annual Childcare Services Cost Index which has been developed by the ABS specifically for the ECEC sector.

Fee growth monitoring

The Department of Education will review all hourly Service fees of every Service receiving grant funding, according to submitted session reports from the last CCS reporting fortnight before 8 August in each year of the term. The Service fees for this reference period will be used to measure Service fee growth against the Fee Constraint Condition. Additional information may be required to be reported or submitted by grantees during the term of the

Grant Agreement to assist the Department to determine whether the relevant fee growth percentage cap has been complied with (see Section 11 below).

Service fees will be monitored by the Department for the length of the Grant Agreement. Where a Service is identified as having exceeded a growth percentage cap, the Department of Education will contact the relevant grantee and seek evidence to demonstrate they are not in breach of a fee growth cap.

New Services, and Services subject to change of ownership, face the same constraints on annual fee growth over the relevant period as existing Services participating in the grant. See Section 11 below for further detail regarding transfer of Services.

Alternative fee growth percentage caps

In limited circumstances where a restriction on Service fee growth can be shown to seriously impact the financial viability of the Provider/grantee or a Service, Providers/grantees may request Departmental consideration of the impact of the fee growth percentage caps for specific Services covered by the Grant Agreement. Providers/grantees can seek guidance on applying for alternative fee growth percentage caps by emailing ccshelpdesk@education.gov.au and can apply for an alternative fee growth cap by following the process specified in the Grant Application or Grant Agreement as applicable.

In such circumstances, the Department may determine that less restrictive fee growth percentage caps are to apply under the Fee Constraint Condition. Providers are required to comply with any alternative fee growth percentage caps under the Fee Constraint Condition and the Department will monitor compliance and may take grant management and compliance action in relation to any non-compliance with the applicable Fee Constraint Condition as set out in this Section 9.1.

The alternative fee growth percentage cap process will remain available throughout the grant period and may be streamlined should there be a sector-wide event impacting viability for a large number of Services.

Contravention of Fee Constraint Condition

Where a Service is found to have contravened the Fee Constraint Condition, the grantee will not be entitled to receive further grant funding in relation to that Service unless the Service reduces their Service fees to a level below the allowable fee growth percentage cap. The Department may also be entitled to exercise its contractual rights of repayment and other remedies under the Grant Agreement.

Funding must be passed on to eligible ECEC workers

All funds allocated to your Service(s) under the Grant Agreement must be passed on to eligible ECEC workers to supplement wages or must be applied to eligible on-costs (in accordance with Section 5.2 above). The Department may request evidence of compliance.

Funding cannot be used to subsidise the cost of your current wage expenditure. If you pay workers above the applicable award rates payable under the *Children's Services Award, Educational Services (Teachers) Award 2020* or other award or state industrial instrument, grant funding may only be used to fund increases to rates by an amount equivalent to the 10 per cent and then an additional 5 per cent in accordance with Section 4.3. You must not decrease your existing contribution towards wages for eligible ECEC workers and substitute this with the grant funding.

Where a grantee fails to meet the obligations of the Grant Agreement, the Department or other relevant Commonwealth entity may issue a breach of agreement notice which may result in the termination of the agreement and/or require repayment of funds to the Commonwealth.

Ongoing obligation to pay at least 10 per cent above the applicable award rates, and provide a further 5 per cent from 1 December 2025

Without being prescriptive as to how they might do so, Providers must ensure that during the term of the grant agreement, eligible ECEC workers covered by the *Children's Services Award 2010* or the *Educational Services (Teachers) Award 2020* continue to be paid at least 10 per cent above the applicable award rates, increased to 15 per cent above the relevant award rates from 1 December 2025. Schedule A will be updated to reflect the relevant amounts for these Providers.

For those eligible ECEC workers not covered by the *Children's Services Award 2010* or the *Educational Services (Teachers) Award 2020* (for example, those workers covered by a state industrial instrument), Providers must ensure that during the term of the Grant Agreement, those eligible ECEC workers continue to be paid at least 10 per cent above the applicable award rates under the relevant state or other award, and are provided the additional 5 per cent increase from 1 December 2025 as outlined in Section 4.3.

Providers who already pay workers above the applicable award rate

Providers who already pay workers above the applicable award rate must provide for a dollar value increase equivalent to 10 per cent above the applicable award rate for the relevant classification under the relevant award, increasing to 15 per cent from 1 December 2025.

9.2 How we pay the grant

Payments will be made through the Child Care Subsidy System (CCSS).

Grant funds will be paid into the bank account currently nominated for each Service in the CCSS, that has been used to pay the CCS. Grantees should ensure that their bank account details in the CCSS are up to date. It is the responsibility of the grantee to ensure that the payments are allocated correctly for each Service it manages. The Department will provide the Provider with a list of payments each month for their Service(s).

The grant will be paid in arrears every four weeks. The amount paid each month will be calculated based on the hours of care provided at the Service using CCS data.

9.3 Grant Payments and GST

There is no GST payable on the grant payments associated with this grant.

We recommend you seek independent professional advice on your taxation obligations or seek assistance from the [Australian Taxation Office](https://www.ato.gov.au/).³ We do not provide advice on your particular taxation circumstances.

10. Announcement of grants

If successful, your grant will be listed on the GrantConnect website within 21 days after the date of effect⁴ as required by Section [http://cgrgs/ 5.4](http://cgrgs/5.4) of the *CGRPs*.

³ <https://www.ato.gov.au/>

⁴ See glossary

11. How we monitor your grant activity

Activity will be monitored through existing CCS monitoring and compliance systems as well as grant specific monitoring. Monitoring methodologies will vary and may involve the analysis of data, document reviews, quality assurance checks and internal audits.

The grantee has the responsibility to maintain grant related documentation and the administrative capacity to meet the required compliance and reporting standards. The Department may request relevant documentation for monitoring and compliance activities such as random audits and spot checks.

Compliance with the grant conditions including but not limited to the Fee Constraint Condition, workplace instrument coverage, rates of pay, and requirement to maintain CCS approval will be monitored for the duration of the grant. Providers identified through monitoring will be contacted and asked to provide evidence to demonstrate they are not in breach of the relevant grant conditions. Providers may also be asked to report or provide information from time to time to confirm they continue to meet the grant conditions.

In accordance with the Family Assistance Law, non-compliance with the Grant conditions may be a matter the Secretary has regard to in assessing whether a Provider is a fit and proper person to be involved in the administration of Child Care Subsidy and Additional Child Care Subsidy.

11.1 Reporting Requirements

It is the responsibility of the grantee to ensure all relevant information is provided to the Department and is kept up to date.

Change of situation

If any of the following change, it is the Provider/grantee's responsibility to notify the Commonwealth via the CCS helpdesk (1300 667 276 or ccshelpdesk@education.gov.au) of:

- the addition of a new Service or the removal of an existing one from the Provider/grantee's management;
- a change in the director or owner of the Provider/grantee; and/or
- the transfer of one of your Services to or from another Provider, including the CRN of the new Provider and the date of transfer.

Changes of situation may necessitate submitting a Grant Variation or a new grant application. See also further detail below regarding transfer of Services.

Failing to keep information up to date may constitute non-compliance with the terms of your Grant Agreement and result in the Commonwealth recouping incorrect payments and/or terminating your Grant Agreement.

Transfer of Services

For Providers with multiple Services (receiving or losing a Service), a grant variation form will need to be submitted (available on [GrantConnect](#) alongside these Grant Opportunity Guidelines) to reflect any transfer of Services (receiving or losing Services). Additional information may be required to be reported or submitted by grantees in relation to a transfer as reasonably required by the Department. When a Provider loses a Service, the funding approval for that Service will be terminated (but the Provider can continue to be funded for retained Services provided they continue to meet eligibility criteria and the conditions of their Grant Agreement). If a Provider loses its only Service receiving grant funding, then the Grant Agreement as a whole will be terminated.

Providers already receiving grant funding who acquire a new Service will only be eligible to receive grant funding for the new Service provided they continue to meet the eligibility criteria and the conditions of their Grant Agreement (including regarding the Fee Constraint Condition). The Department reviews the hourly Service fees of each Service receiving grant funding, according to submitted session reports from the last CCS reporting fortnight before 8 August in each year of the term to measure Service fee growth against the Fee Constraint Condition (see Section 9.1 above).

If a Service is acquired by a Provider with no other Services receiving this grant, they will need to submit a new grant application and meet the eligibility criteria in order to be eligible for grant funding. If a Provider increased Service fees up to the fee growth cap prior to transferring that Service to the new Provider, the new Provider would not be able to increase Service fees any further for that Service.

Fraud

The Commonwealth defines fraud as dishonestly obtaining a benefit, or causing a loss, by deception or other means. You must ensure your personnel and subcontractors do not engage in any fraud in relation to the grant activity, including CCS-related fraud.

If you become aware of fraud in relation to the performance of the grant activity or any other fraud that has had or may have an effect on the performance of the activity, then **within 5 business days you must report it to the Commonwealth** and all appropriate law enforcement and regulatory agencies.

You can report fraud or suspected fraud using the department's anonymous fraud tip-off line at Whispli: [Whispli report](#)

Workplace instrument declaration

In accordance with Section 4.3, grantees will be required to submit a declaration confirming eligible ECEC workers were provided with information about the types of compliant workplace instrument. This must be submitted to the Department within 90 days of the date of execution on the Grant Agreement.

Annual declaration and financial statement

Grantees must submit an annual declaration confirming that all expenditure aligns with eligible grant activities and expenditure outlined at Section 5 of the Grant Opportunity Guidelines. The declaration must be signed and submitted on behalf of the grantee by its board, the chief executive officer, or an authorised officer.

Grantees must submit an annual financial statement on a standardised template including total expenditure on wages and eligible on-costs.

Giving false or misleading information is a serious criminal offence. Persons who do so, may be prosecuted under Section 137.1 of the *Commonwealth Criminal Code Act 1995*.

Further information regarding the compliance checks that will be used by the Department will be outlined in the Grant Agreement.

11.2 Evaluation

We will evaluate the ECEC Worker Retention Payment program to measure how well the outcomes and objectives have been achieved. We may use information from your application for this purpose. We may also interview you or ask you for more information to help us

understand how the grant impacted you and to evaluate how effective the program was in achieving its outcomes.

We may contact you up to one year after you finish your grant for more information to assist with this evaluation.

11.3 Acknowledgement

All materials related to grants under the program must acknowledge the Commonwealth as follows:

‘Early Childhood Education and Care Worker Retention Payment – an Australian Government initiative’.

If you make a public statement about the grant activity funded under the program, we require you to acknowledge the grant by using the following:

‘This [Service/Provider] received grant funding from the Australian Government under the Early Childhood Education and Care Worker Retention Payment grant program.’

12. Probity

The Australian Government will make sure that the grant opportunity process is fair, according to the published guidelines, incorporates appropriate safeguards against fraud, unlawful activities and other inappropriate conduct and is consistent with the CGRPs.

These guidelines may be changed by the Department of Education. When this happens, the revised guidelines will be published on GrantConnect.

12.1 Enquiries and feedback

The Department of Education’s [complaints procedures](#) apply to complaints about this grant opportunity. All complaints about a grant process must be provided in writing.

Any questions you have about grant decisions for this grant opportunity should be sent to ccshelpdesk@education.gov.au.

If you do not agree with the way the Department of Education has handled your complaint, you may complain to the [Commonwealth Ombudsman](#). The Ombudsman will not usually look into a complaint unless the matter has first been raised directly with the Department of Education.

The Commonwealth Ombudsman can be contacted on:

Phone (Toll free): 1300 362 072
Email: ombudsman@ombudsman.gov.au
Website: www.ombudsman.gov.au

12.2 Conflicts of interest

Any conflicts of interest could affect the performance of the grant opportunity or program. There may be a conflict of interest, or perceived conflict of interest, if the Department of Education’s staff, any member of a committee or advisor and/or you or any of your personnel:

- has a professional, commercial or personal relationship with a party who is able to influence the application selection process, such as an Australian Government officer or member of an external panel;

- has a relationship with or interest in, an organisation, which is likely to interfere with or restrict the applicants from carrying out the proposed activities fairly and independently; and/or
- has a relationship with, or interest in, an organisation from which they will receive personal gain because the organisation receives a grant under the grant program/grant opportunity.

You will be asked to declare, as part of your application, any perceived or existing conflicts of interests or that, to the best of your knowledge, there is no conflict of interest.

If you later identify an actual, apparent, or perceived conflict of interest, you must inform the Department of Education in writing immediately.

Conflicts of interest for Australian Government staff will be handled as set out in the [Australian Public Service Code of Conduct \(Section 13 \(7\)\)](#) of the [Public Service Act 1999](#). Committee members and other officials including the decision maker must also declare any conflicts of interest.

12.3 Privacy

We treat your personal information according to the [Privacy Act 1988](#) and the [Australian Privacy Principles](#). This includes letting you know:

- what personal information we collect
- why we collect your personal information
- who we give your personal information to.

Your personal information can only be disclosed to someone for the primary purpose for which it was collected unless an exemption applies.

The Australian Government may also use and disclose information about grant applicants and grant recipients under this grant opportunity in any other Australian Government business or function. This includes disclosing grant information on GrantConnect as required for reporting purposes and giving information to the Australian Taxation Office for compliance purposes.

We may share the information you give us with other Commonwealth entities for purposes including government administration, research or service delivery, according to Australian laws.

As part of your application, you declare your ability to comply with the [Privacy Act 1988](#) and the Australian Privacy Principles and impose the same privacy obligations on officers, employees, agents and subcontractors that you engage to assist with the activity, in respect of personal information you collect, use, store, or disclose in connection with the activity. Accordingly, you must not do anything which, if done by the Department of Education, would breach an Australian Privacy Principle as defined in the Act.

12.4 Confidential Information

Other than information available in the public domain, you agree not to disclose to any person, other than us, any confidential information relating to the grant application and/or agreement, without prior written approval. The obligation will not be breached where you are required by law, Parliament or a stock exchange to disclose the relevant information or where the relevant information is publicly available (other than through breach of a confidentiality or non-disclosure obligation).

We may at any time, require you to arrange for you; or your employees, agents or subcontractors to give a written undertaking relating to nondisclosure of our confidential information in a form we consider acceptable.

We will keep any information in connection with the Grant Agreement confidential to the extent that it meets all the three conditions below:

- you clearly identify the information as confidential and explain why we should treat it as confidential
- the information is commercially sensitive
- revealing the information would cause unreasonable harm to you or someone else.

We will not be in breach of any confidentiality agreement if the information is disclosed to:

- the program delegate and other Commonwealth employees and contractors to help us manage the program effectively
- employees and contractors of our department so we can research, assess, monitor and analyse our programs and activities
- employees and contractors of other Commonwealth agencies for any purposes, including government administration, research or service delivery
- other Commonwealth, State, Territory or local government agencies in program reports and consultations
- the Auditor-General, Ombudsman or Privacy Commissioner
- the responsible Minister or Parliamentary Secretary
- a House or a Committee of the Australian Parliament.

The Grant Agreement may also include any specific requirements about special categories of information collected, created or held under the Grant Agreement.

12.5 Freedom of information

All documents in the possession of the Australian Government, including those about this grant opportunity, are subject to the [*Freedom of Information Act 1982*](#) (FOI Act).

The purpose of the FOI Act is to give members of the public rights of access to information held by the Australian Government and its entities. Under the FOI Act, members of the public can seek access to documents held by the Australian Government. This right of access is limited only by the exceptions and exemptions necessary to protect essential public interests and private and business affairs of persons in respect of whom the information relates.

All Freedom of Information requests must be referred to the Freedom of Information Coordinator in writing.

By mail: Freedom of Information Coordinator
 50 Marcus Clarke Street
 Canberra ACT 2601

By email: FOI@education.gov.au

13. Glossary

| Term | Definition |
|---|---|
| accountable authority | see subsection 12(2) of the <i>Public Governance, Performance and Accountability Act 2013</i> (PGPA Act) |
| administering entity | when an entity that is not responsible for the policy, is responsible for the administration of part or all of the grant administration processes |
| date of effect | can be the date on which a Grant Agreement is signed or a specified starting date. Where there is no Grant Agreement, entities must publish information on individual grants as soon as practicable. |
| decision maker | the person who makes a decision to award a grant. |
| eligibility criteria | refer to the mandatory criteria which must be met to qualify for a grant. Assessment criteria may apply in addition to eligibility criteria. |
| Commonwealth entity | a Department of State, or a Parliamentary Department, or a listed entity or a body corporate established by a law of the Commonwealth. See subsections 10(1) and (2) of the PGPA Act. |
| <i>Commonwealth Grants Rules and Principles</i> | the overarching Commonwealth grants policy framework applicable from 1 October 2024. |
| <i>Family Assistance Law</i> | has the same meaning as it has in the <i>A New Tax System (Family Assistance) (Administration) Act 1999</i> (Cth) |
| grant | for the purposes of the CGRPs, a 'grant' is an arrangement for the provision of financial assistance by the Commonwealth or on behalf of the Commonwealth: <ul style="list-style-type: none"> a. under which relevant money⁵ or other <u>Consolidated Revenue Fund</u> (CRF) money⁶ is to be paid to a grantee other than the Commonwealth; and b. which is intended to help address one or more of the Australian Government's policy outcomes while assisting the grantee achieve its objectives. |
| grant activity/activities | refers to the project /tasks /services that the grantee is required to undertake |
| grant agreement | sets out the relationship between the parties to the agreement, and specifies the details of the grant |
| <u>GrantConnect</u> | is the Australian Government's whole-of-government grants information system, which centralises the publication and reporting of Commonwealth grants in accordance with the CGRPs |
| grant opportunity | refers to the specific grant round or process where a Commonwealth grant is made available to potential grantees. Grant opportunities may be open or targeted, and will reflect the relevant grant selection process |

⁵ Relevant money is defined in the PGPA Act. See section 8, Dictionary.

⁶ Other CRF money is defined in the PGPA Act. See section 105, Rules in relation to other CRF money.

| Term | Definition |
|-------------------|--|
| grant program | a 'program' carries its natural meaning and is intended to cover a potentially wide range of related activities aimed at achieving government policy outcomes. A grant program is a group of one or more grant opportunities under a single Department of Education PBS Program. |
| grantee | the individual/organisation which has been selected to receive a grant |
| PBS Program | described within the entity's Portfolio Budget Statement , PBS programs each link to a single outcome and provide transparency for funding decisions. These high level PBS programs often comprise a number of lower level, more publicly recognised programs, some of which will be Grant Programs. A PBS Program may have more than one Grant Program associated with it, and each of these may have one or more grant opportunities |
| relevant award | <i>Children's Services Award 2010, Educational Services (Teachers) Award 2020</i> , state industrial instrument and/or different award as applicable. |
| selection process | the method used to select potential grantees. This process may involve comparative assessment of applications or the assessment of applications against the eligibility criteria and/or the assessment criteria |
| Service fees | the hourly fees charged by the Service, by care type and sub-cohort (e.g. age groups). |

Schedule A – Minimum Rates

Table 1

For Eligible ECEC Workers covered by or undertaking duties covered by the *Children’s Services Award 2010*

| Classification | | Column 3 Current minimum hourly rate 2 Dec 2024 – 30 Nov 2025 | Column 4 New minimum hourly rate 2 Dec 2024 – 30 Nov 2025 | Column 5 Additional minimum hourly amount payable to staff 2 Dec 2024-30 Nov 2025 |
|---|-----------------|--|--|---|
| | | \$ | \$ | \$ |
| Support Worker | | | | |
| Level 1.1 | On commencement | 23.97 | 26.37 | 2.40 |
| Level 2.1 | On commencement | 24.84 | 27.32 | 2.48 |
| Level 2.2 | After 1 year* | 25.66 | 28.23 | 2.57 |
| Level 3.1 | On commencement | 27.17 | 29.89 | 2.72 |
| Children’s Services Employee | | | | |

| | | | | |
|---------------------|-----------------|-------|-------|------|
| Level 1.1 | On commencement | 23.97 | 26.37 | 2.40 |
| Level 2.1 | On commencement | 24.84 | 27.32 | 2.48 |
| Level 2.2 | After 1 year* | 25.66 | 28.23 | 2.57 |
| Level 3A.1** | On commencement | 26.75 | 29.43 | 2.68 |
| Level 3A.2** | After 1 year | 27.17 | 29.89 | 2.72 |
| Level 3.1 | On commencement | 27.17 | 29.89 | 2.72 |
| Level 3.2 | After 1 year* | 28.1 | 30.91 | 2.81 |
| Level 3.3 | After 2 years* | 28.99 | 31.89 | 2.90 |
| Level 3.4 (Diploma) | | 30.59 | 33.65 | 3.06 |
| Level 4A.1 | On commencement | 28.99 | 31.89 | 2.90 |
| Level 4A.2 | After 1 year* | 29.39 | 32.33 | 2.94 |
| Level 4A.3 | After 2 years* | 29.79 | 32.77 | 2.98 |
| Level 4A.4 | After 3 years* | 30.21 | 33.23 | 3.02 |
| Level 4A.5 | After 4 years* | 30.61 | 33.67 | 3.06 |
| Level 4.1 | On commencement | 32 | 35.20 | 3.20 |
| Level 4.2 | After 1 year* | 32.49 | 35.74 | 3.25 |
| Level 4.3 | After 2 years* | 32.97 | 36.27 | 3.30 |

| | | | | |
|--|-----------------|-------|-------|------|
| Level 5A.1 | On commencement | 33.46 | 36.81 | 3.35 |
| Level 5A.2 | After 1 year* | 33.95 | 37.35 | 3.40 |
| Level 5A.3 | After 2 years* | 34.43 | 37.87 | 3.44 |
| Level 5.1 | On commencement | 33.46 | 36.81 | 3.35 |
| Level 5.2 | After 1 year* | 33.95 | 37.35 | 3.40 |
| Level 5.3 | After 2 years* | 34.43 | 37.87 | 3.44 |
| Level 5.4*** | | 34.55 | 38.01 | 3.46 |
| Level 6A.1 | On commencement | 38.59 | 42.45 | 3.86 |
| Level 6A.2 | After 1 year* | 39.07 | 42.98 | 3.91 |
| Level 6A.3 | After 2 years* | 39.55 | 43.51 | 3.96 |
| Children's Services Employee—Director | | | | |
| Level 6.1 | On commencement | 38.59 | 42.45 | 3.86 |
| Level 6.2 | After 1 year* | 39.07 | 42.98 | 3.91 |
| Level 6.3 | After 2 years* | 39.55 | 43.51 | 3.96 |
| Level 6.4 | On commencement | 41.02 | 45.12 | 4.10 |
| Level 6.5 | After 1 year* | 41.4 | 45.54 | 4.14 |

| | | | | |
|-----------|-----------------|-------|-------|------|
| Level 6.6 | After 2 years* | 41.89 | 46.08 | 4.19 |
| Level 6.7 | On commencement | 42.39 | 46.63 | 4.24 |
| Level 6.8 | After 1 year * | 42.88 | 47.17 | 4.29 |
| Level 6.9 | After 2 years* | 43.36 | 47.70 | 4.34 |

*Reference to a year or years of service is to service in the industry

**Former Western Australian 'E' worker classification

***An Assistant Director who holds an Advanced Diploma (AQF 6/3 year qualified) must be paid no less than Level 5.4

Column 5 is the difference between the current minimum hourly rate (Column 3) and the new minimum hourly rate (Column 4) for a classification. This is the minimum dollar amount that all eligible ECEC workers are to be provided as a pay increase (even for those workers currently paid above award) in order for a Provider to be eligible for funding.

In accordance with Section 4.3 above, in order to be eligible for funding, a Provider's workplace instrument must provide for a 5 per cent increase from 1 December 2025, which is calculated as 5 per cent of the minimum award rate payable as at 1 December 2025.

These rates must be applied to leave and superannuation entitlements for eligible ECEC workers.

Junior employees

Junior employees employed as, or undertaking duties equivalent to Children's Services Employees Level 3, 4 and 5 must be paid at or above the applicable adult rate stipulated above. Junior employees employed as or undertaking duties equivalent to Children's Services Employee Level 1 or Children's Services Employee Level 2 must be paid at or above the applicable junior rate in accordance with the award, plus the amount specified in Column 5.

Casual employees

The increase for casual employees can either be provided at the relevant base hourly rate with the casual loading applied subsequently to the total, or as an additional amount on top of the base hourly rate, with the casual loading applied to the base hourly rate only.

Trainees

Trainees must be paid, at a minimum, the hourly rates applicable to their classification as set out under the relevant award, plus 10 per cent from 2 December 2024, increased by a further 5 per cent in December 2025.

Table 2

For Eligible ECEC Workers covered by or undertaking duties covered by the *Educational Services (Teachers) Award 2020*

| Classification | Column 2 Current minimum hourly rate 2 Dec 2024 – 30 Nov 2025 | Column 3 New minimum hourly rate 2 Dec 2024 – 30 Nov 2025 | Column 4 Additional minimum hourly amount payable to staff 2 Dec 2024-30 Nov 2025 |
|--|--|--|--|
| | | \$ | \$ |
| Teachers – Long day care centres | | | |
| Level 1 | 36.74 | 40.41 | 3.67 |
| Level 2 | 40.16 | 44.17 | 4.02 |
| Level 3 | 43.72 | 48.09 | 4.37 |
| Level 4 | 47.28 | 52.00 | 4.73 |
| Level 5 | 50.83 | 55.92 | 5.08 |
| Teachers – Preschools and Schools | | | |
| Level 1 | 35.33 | 38.86 | 3.53 |
| Level 2 | 38.61 | 42.47 | 3.86 |
| Level 3 | 42.03 | 46.24 | 4.20 |

| | | | |
|---------|-------|-------|------|
| Level 4 | 45.46 | 50.00 | 4.55 |
| Level 5 | 48.88 | 53.77 | 4.89 |

Column 4 is the difference between the current minimum hourly rate (Column 2) and the new minimum hourly rate (Column 3), for a classification. This is the minimum dollar amount that all eligible ECEC workers are to be provided as a pay increase (even for those workers currently paid above award) in order for a Provider to be eligible for funding.

In accordance with Section 4.3 above, in order to be eligible for funding, a Provider's workplace instrument must provide for a 5 per cent increase from 1 December 2025, which is calculated as 5 per cent of the minimum award rate payable as at 1 December 2025.

The minimum rates and additional minimum amounts specified in Table 2 are based on hourly rates. Accordingly, for eligible ECEC workers whose pay rates are specified as weekly rates, those weekly rates should be divided by 38 hours when comparing with the rates set out in Table 2.

These rates must be applied to leave and superannuation entitlements for eligible ECEC workers.

Casual employees

The increase for casual employees can either be provided at the relevant base hourly rate with the casual loading applied subsequently to the total, or as an additional amount on top of the base hourly rate, with the casual loading applied to the base hourly rate only.

Trainees

Trainees must be paid, at a minimum, the hourly rates applicable to their classification as set out under the relevant award, plus 10 per cent from 2 December 2024, increased by a further 5 per cent in December 2025.

The cost and impact of different funding approaches to increase OSHC sector wages

Report for the Out of School Hours Care Association

November 2024

Introduction

The Outside School Hours Council of Australia (OSHCA) is seeking to understand the overall cost of increasing wages for out of school hours care (OSHC) educators, and how this may impact on services

Background

In August 2023, dandolopartners was commissioned by Outside School Hours Council of Australia (OSHCA) to model the potential cost impacts of a wage increase for the educator workforce. A purpose-built model used a profile of the Outside School Hours Care (OSHC) workforce, an estimated proportion of the workforce paid at each award increment and the proportion paid above award, to model the cost of different levels of wage increase.

Since this time:

- The Children’s Services Award was updated by the Fair Work Commission (August 2024)
- The Australian Government announced a 2-year wage increase – above the modern award – for the ECEC workforce (to be funded via a worked retention payment) combined with a constraint on fee growth over the same period
- There is now the prospect of an additional increase to ECEC workforce wages over the same period through the Fair Work Commission’s *Gender Undervaluation Priority Awards Review*

This wage increase (if unfunded by government), combined with the current fee constraint, could significantly impact service viability.

This project

Outside School Hours Council of Australia (OSHCA) commissioned dandolopartners (dandolo) to:

- a) Update its original cost model to reflect current policy settings, including revised award wages, the impact of the wage subsidy, and potential gender undervaluation wage increase scenarios, plus
- b) Build an additional model of service-level revenues, to analyse the potential impact of a future unfunded wage increase, combined with a fee constraint, for different service types

This report

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| Service level modelling | 5 |
| Implications of a wage increase | 10 |
| Appendices | 15 |

The cost of a wage increase

Calculating the cost of a wage increase

We matched the Outside School Hours Care (OSHC workforce) with wages and costs to estimate the costs of an increase in minimum award rates.

To estimate the cost of minimum award rate increases, we:



1. Built a profile of the OSHC workforce

This included a breakdown by:

- Jurisdiction
- Qualification and experience levels
- Employment status (full-time, part-time, casual)
- Employees paid above award level.



2. Matched workforce profile with average wage rates and costs

This included the direct costs associated with a wage increase:

- Payroll tax (for relevant services)
- Superannuation
- Long service leave loadings
- Workers' compensation



3. Applied a proportionate wage increase

Lifted the award rates so that workers paid below the new award rates see an increase, but those who remain at or above award remain at their current wage.



Estimated the total cost of the wage increase

The government have already committed to increasing award rates by 10% in the first year, and 5% in the next year.

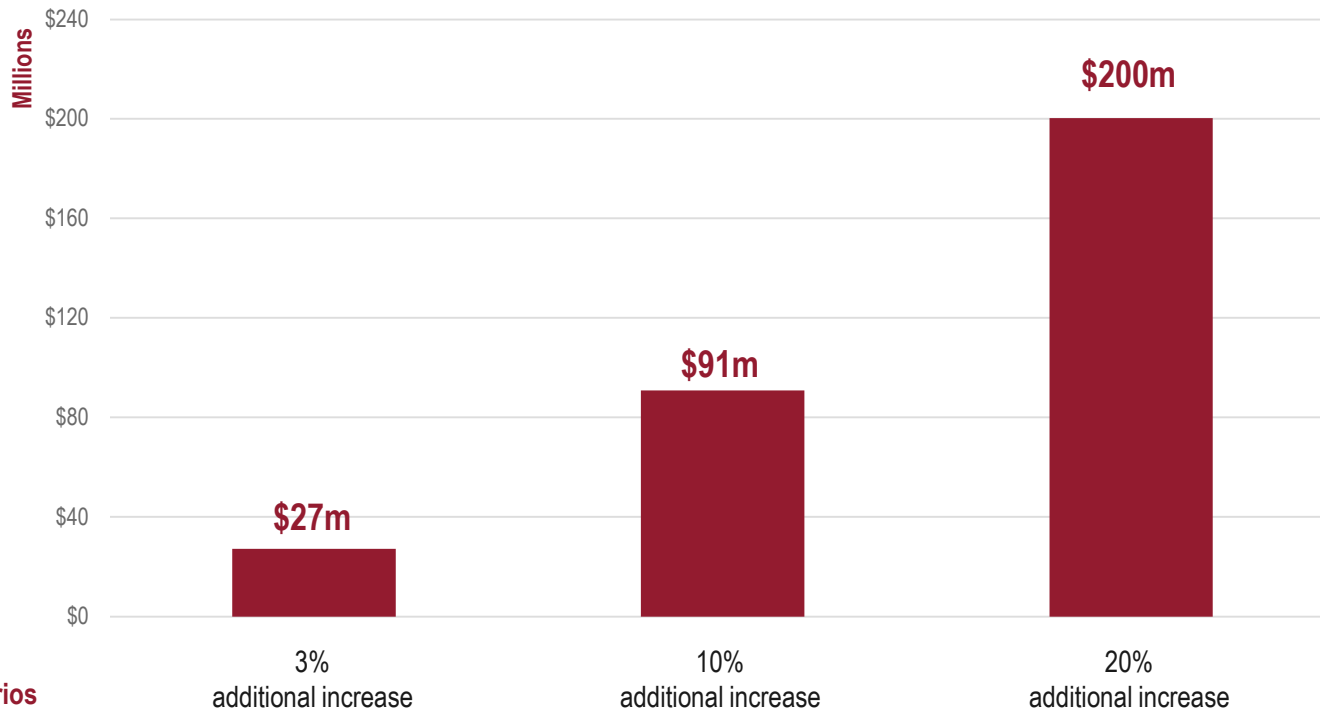
We modelled the cost of the government committed wage increase (10% in Year 1, 5% in Year 2) alongside the cost of *additional* increases from OSHC in Year 1 from 3% to 20%.

The cost of an additional wage increase

On top of the increase set by government, we modelled the cost of an additional increase to the minimum award rate for OSHC staff across 3 different scenarios – 3%, 10% and 20% increases – and found sector-wide costs of up to \$200m in Year 1

Our estimate of the total cost of a wage increase includes all educators currently employed in Outside School Hours Care (OSHC), and includes the total employment cost (wages, superannuation, workers compensation, payroll tax where relevant, and long service leave loadings).

Total Year 1 cost of *additional* increase in award rate
(adjusted for the Fair Work rates)



An additional increase to the award for the OSHC sector could cost up to \$200m in Year 1

- This is on top of the cost of the wage increase already funded via the Worker Retention Payment
- A smaller wage increase of 3% or 10% respectively would cost significantly less at \$27m or \$91m respectively.
- This difference is in part driven by the number of impacted educators (at smaller increases, some educators already above the award do not experience a wage increase)

Assumptions

- Increase is applied to the minimum award rate only
- If new award rate is greater than an individual's current rate, their wage will increase to the new award rate
- If the new award rate is less than an individual's current rate, their wage will remain the same.

Service level modelling

Calculating potential viability impacts of a wage increase

We used current service level 'cameo' data to model the potential impacts of an additional unfunded increase to wages, in the context where the ability of services to raise fees is constrained

To model the service level impacts, we:



1. Started with current service level revenue and cost 'cameo' data for different service types

We took 'cameo' data, provided by OSCHA, for the following service types

- A large service (160 children/day)
- A small service (16 children/day)
- A service with regulated school-based costs (i.e. in NSW)
- A service where school-based costs are unregulated (i.e. WA)
- A service with low occupancy (i.e. less than 15 children)



2. Applied an annual fee growth constraint in line with current policy settings

We constrained the level of fee (i.e. revenue) growth for each service, in line with the current policy conditions under the Worker Retention Payment:

- Year 1 - 4.4%
- Year 2 - 4.2%



3. Applied the impact of Gender Undervaluation wage increase scenarios

Three Gender Undervaluation wage increase outcomes* were modelled:

- Scenario 1 (Low) 3% above current award
- Scenario 2 (Medium) 10% above current award
- Scenario 3 (Medium) 20% above current award

The current wage increase was not modelled, noting this is assumed to be balanced out by Worker Retention payment funding and does not impact the bottom line for services.



4. Estimated the impact on viability over time

We estimated the balance of cost and revenue over time, under each of the wage increase scenarios. This provides a picture of viability risks for different OSHC service types and operating contexts.

The following assumptions were applied:

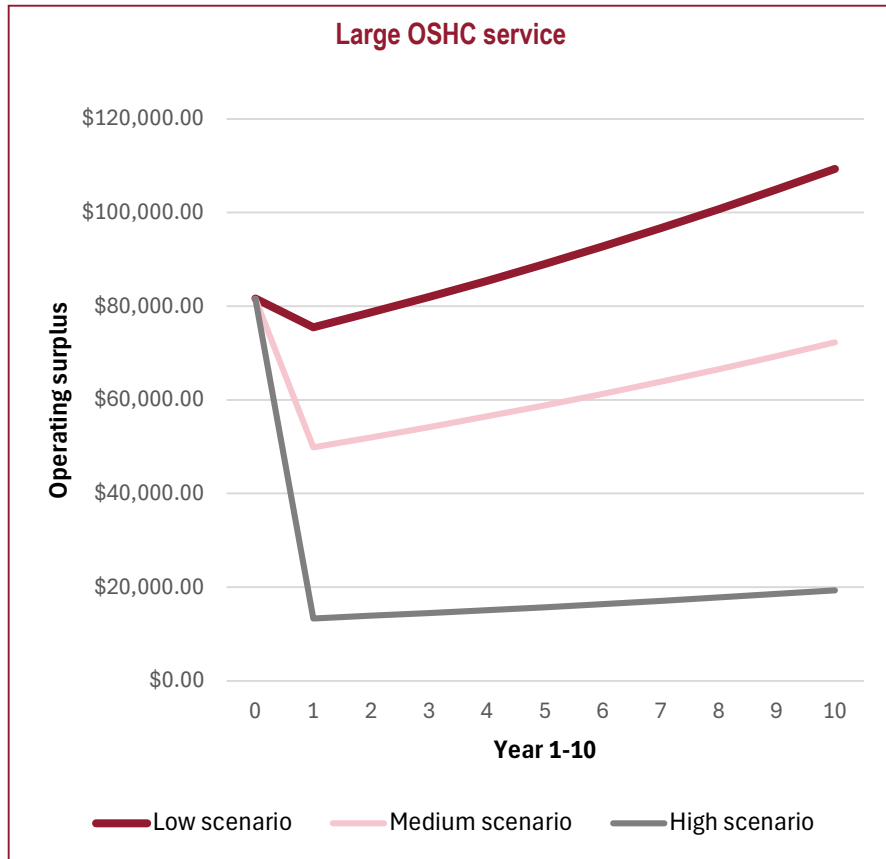
- Current policy settings were assumed to continue beyond Year 2**
- All costs (wages and operational costs) were indexed by Childcare Services Cost Index (CSCI)
- Enrolment/staffing levels were assumed to hold constant

* The percentage wage increase was applied to all employment costs. It is noted that this does not take account of scenarios where services may already be paying above award (in which case the cost increase would be reduced)

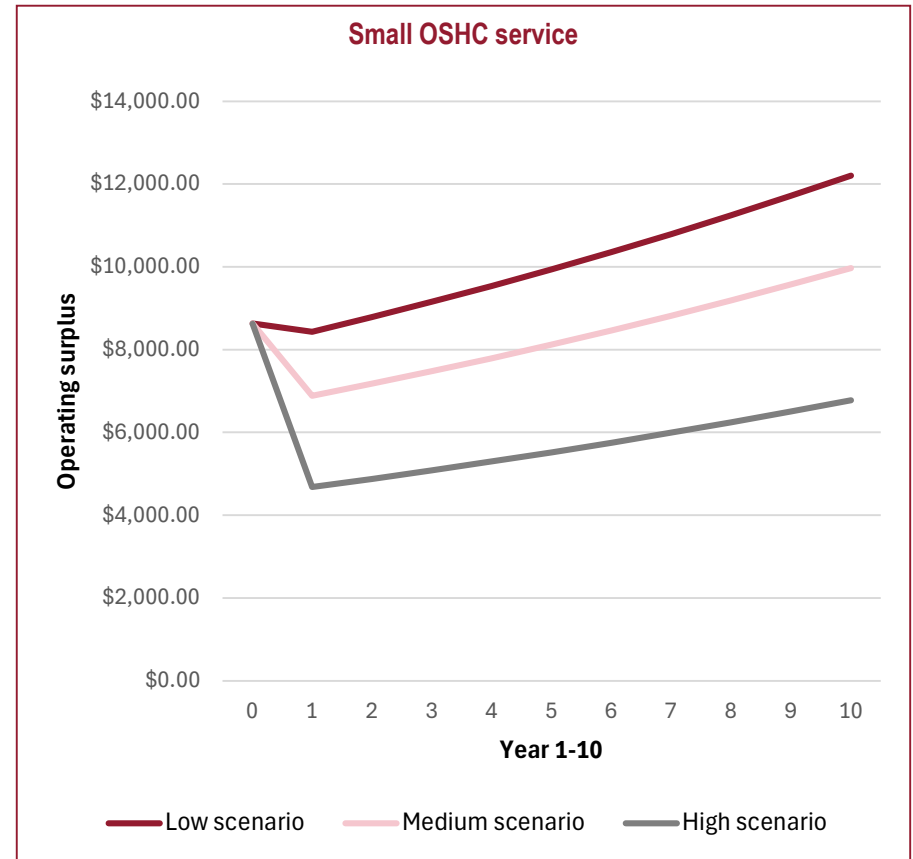
** i.e. current wage increase, Worker Retention Payment, ongoing fee constraint of 4.2% p.a.)** This is assumed in the absence of any certainty about future wholesale funding reform for the ECEC sector

Impacts on large and small services

Large services maintain an operating surplus but experience a significant drop which is not recovered in the 10-year period under medium and high wage scenarios. Small OSHC services recover under the medium scenario, but this takes 6 years.



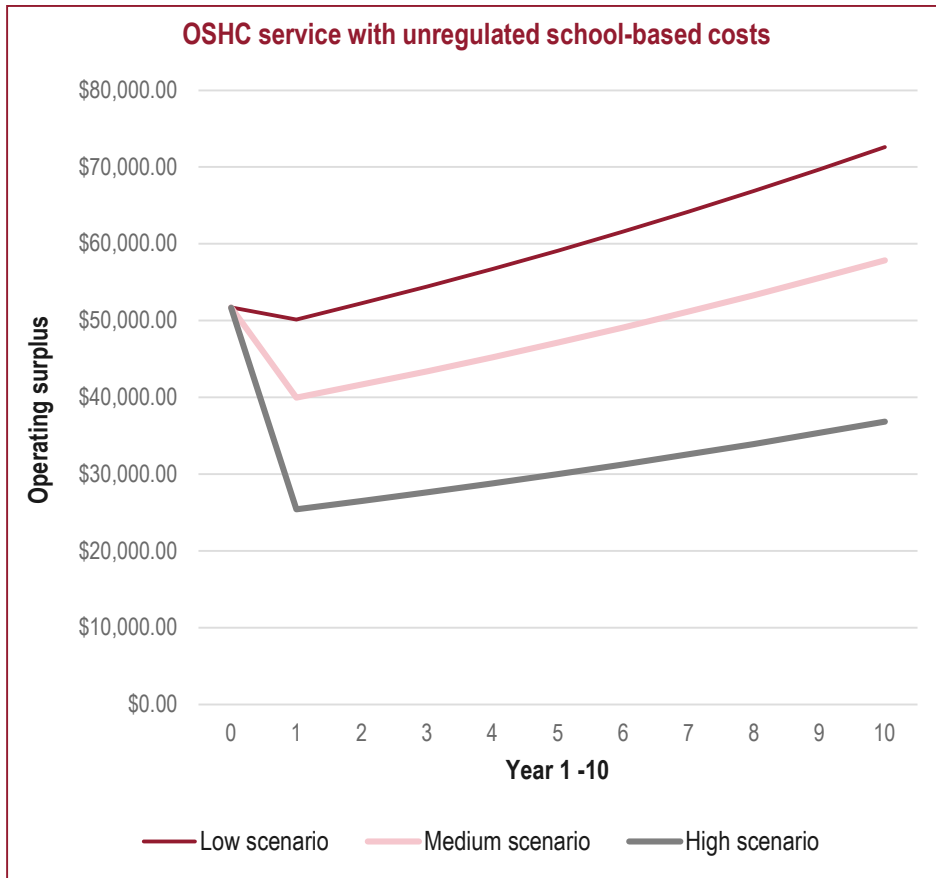
- This service maintains an operating surplus in all scenarios
- Their net position is significantly reduced under higher wage growth scenarios. Under a 20% wage increase scenario, the net position is less than a quarter of their starting position.



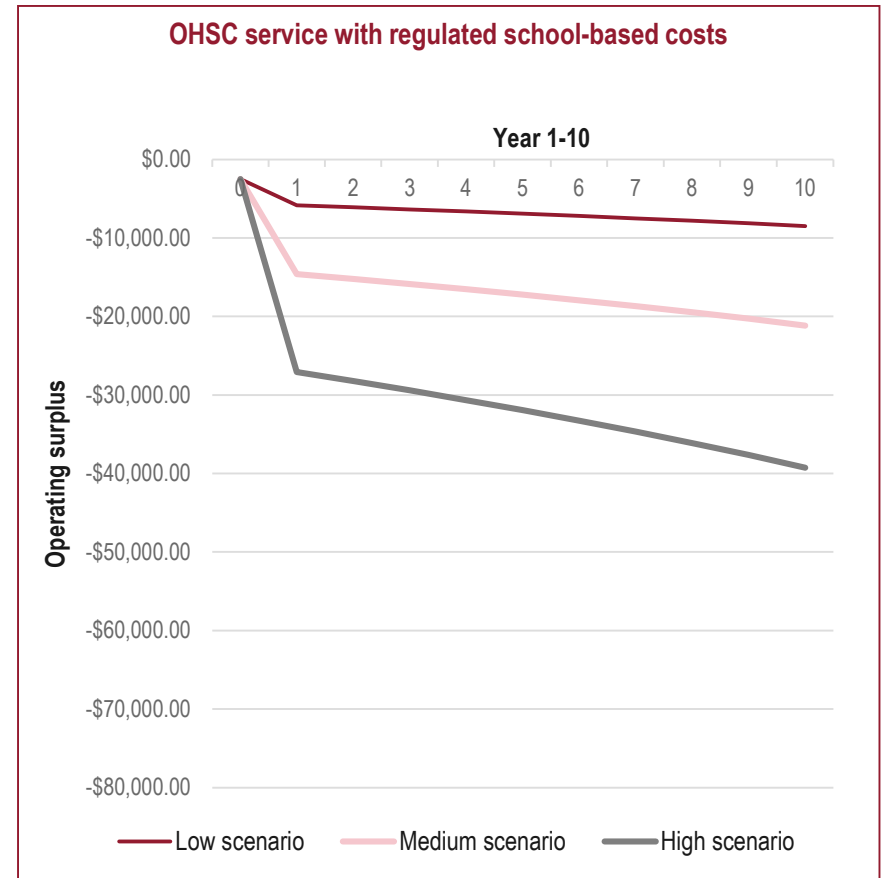
- This service maintains an operating surplus in all scenarios
- Their net position is significantly reduced under higher wage growth scenarios (with the high scenario resulting in a surplus 25% lower than the low scenario)

Regulated and unregulated OSHC services

Services that start with an operating loss continue to see their net position erode over time. For an unregulated school-based cost service that starts with an operating surplus, under the medium wage scenario it takes more than 7 years to return to their starting position.



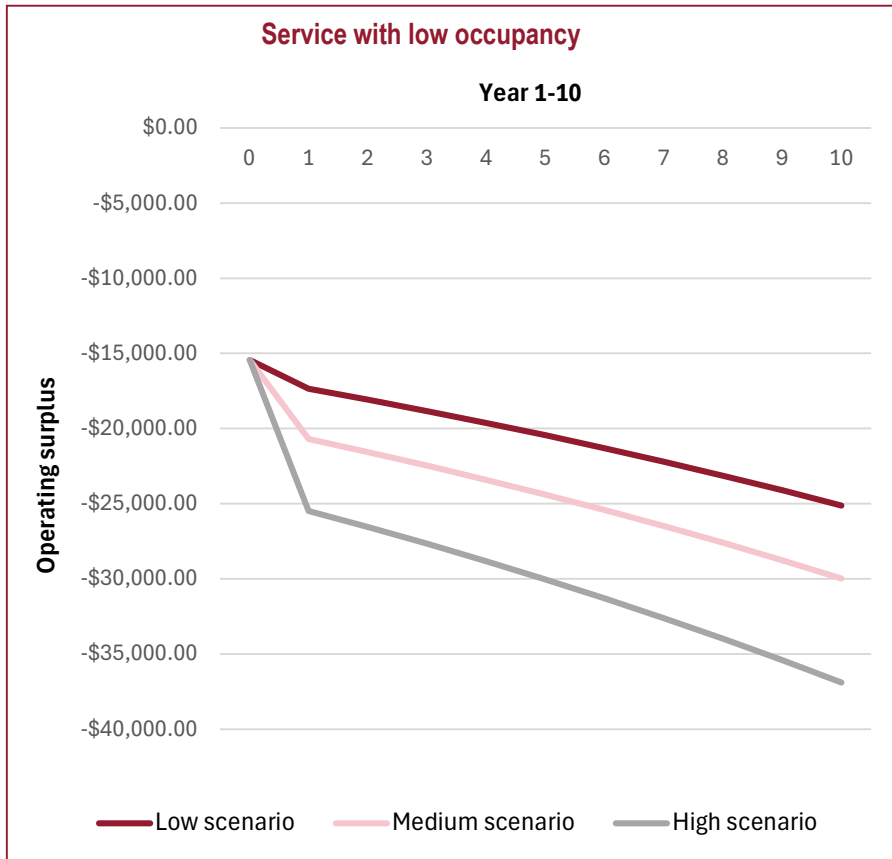
- This service maintains an operating surplus in all scenarios
- Their net position is significantly reduced under higher wage growth scenarios. There is an almost 30% reduction in operating surplus between the low and high scenarios in Year 10.



- This service starts making a small operating loss, which accelerates and entrenches over time.
- They do not return to surplus at any point, but the high scenario results in significant losses.

Low occupancy

Services with low occupancy – starting with an operating loss – continue to struggle over the decade and are unable to return to their starting position.



- The service has low occupancy and is operating at a loss from the start.
- This trend becomes dramatically worse in the year the large wage increase occurs, and continues negative for 10 years under all wage scenarios

Key insights across all scenarios

- An unfunded wage increase has a dramatic impact on service viability in the year the gender wage determination is implemented.
- In low and medium scenarios, it takes between one and ten years to return to their starting revenue position, however under the high scenario none of the modelled services recover to their starting point.
- Services with thin margins – including that are already experiencing viability challenges or are making a loss due to low occupancy – experience a prolonged period without returning to their starting level of revenue. Services with low occupancy are at the greatest risk.
- Some services do maintain a positive position over the decade. However, this is under generous assumption that they are able to lift fees by 4.2% each and every year. For some services, this will not be possible because their communities are too price sensitive and fee increases of this magnitude would result in a dramatic drop in demand.

Implications

Some service can't or won't increase their fees

The structure of the OSHC sector and the variation in service capacity to absorb cost increases mean that some services may not be viable following an increase in wages not funded by the government.

Following an increase in OSHC educator wages, some services may face obstructions to increasing fees:

The structure of the OSHC sector can create constraints on the ability of some services to adjust their fees. This situation may result in certain services becoming unviable. This is due to several interrelated factors of the OSHC sector:



1. **Contractual and licensing constraints:** Many OSHC services operate within agreements and licenses negotiated with schools. These contracts often impose limitations on fee adjustments or require lengthy negotiation processes for any changes. Such constraints can hinder the immediate implementation of fee increases in response to increases in services costs.

Further, schools are increasingly savvy in seeking to get the best deal for their communities, which could limit the ability to increase fees more flexibly.



2. **Difference in types of OSHC services:** OSHC services vary in terms of the times they are offered, the fees they charge, and the services they provide. Implementing fee increases might be more challenging for services that are already charging higher fees e.g., at or above the rate cap.

Following an increase in OSHC educator wages, some services may not be able to viably absorb increased costs:

Some services will find it more difficult to handle the extra expenses that come with paying higher wages. This is likely to be the services used by families who are very sensitive to changes in costs. For instance:



1. **Low-income Areas:** In neighbourhoods where people don't earn much money, it's hard for them to afford higher fees. If these families are asked to pay more, they might not be able to, which could lead them to cease their enrolment in the service. These services are more likely to operate in remote regions, where there is greater unmet demand.



2. **Multiple choices:** In places where there are many options for services, raising fees can be tricky. Families in these areas are careful about how much they pay, and if fees go up, they might choose to use a different service instead.

Implications following an increase in service fees

If a service increases their fees, families will either see an increase in their out-of-pocket costs or reduce service usage.



If a service increases their fees

Then

Families will see increases in their out-of-pocket costs for use of OSHC services

Following an increase in OSHC fees, if families can, or are still willing to, pay for these services they will see an increase in their out-of-pocket costs.

Some families may struggle more than others with an increase in their out-of-pocket costs. In particular, those with lower socio-economic status.

Or

Families will reduce their use of OSHC services

This will have negative impacts on:

1. Services. For example,

1. A reduction in service occupancy and revenue. Where lower number of children enrolled, or lower number of hours used of the service result in reduced fees paid by these families and less revenue gained by services.
2. An increase in the 'lumpiness' of staff costs. A reduction in use or enrolment in OSHC services may still result in a service having to pay for the same staff matrix – given the reliance on staffing ratios. For example, if the staff to child ratio was 1:15 and you originally had 30 children in class, you would need 2 educators. If the number of children enrolled decreased to 16, you would still be required to have 2 educators on staff.

2. Families. For example:

- Reduction in workforce participation. If families decide to take their children out of OSHC services, for some families the only viable choice may be reducing their own work hours in order to look after the children.

Implications following an absorption of increased wage costs by services

Some services may be able to offset the cost of an increase in wages, while others may not be able to, thus reducing service viability.



If a service absorbs the cost of a wage increase

Then

Services will need to offset this cost by reducing spending in other areas of the service

By trying to save costs services may:

- Lower spending on areas to improve service quality
- Lower spending on areas which focus on supporting children with extra needs
- Need to increase reliance on staff waivers

Or

This may be a threat to service viability

Some services may not be able to offset or absorb the costs of an increase in their staff wages. This poses a threat to service operation and may lead to service closures.

The services which are least likely to absorb costs are:

- Non-profit
- Services with low enrollment or demand
- Services in remote regions
- Services with high overhead costs
- Services where school-based costs are unregulated

Policy implications

OSHC services will require additional revenue to cover any additional wage increase resulting from the Fair Work *Gender Undervaluation Review* to ensure they remain viable. This could come in the form of additional Government funding, or removal of the fee constraint to enable services to raise additional revenue via fees.



Government has two key policy options to manage an additional wage increase

Provide additional funding to services to cover the cost of the wage increase (costed at up to \$200m)

- This may take the form of a further increase to the worker retention payment,

Remove the fee constraint and allowing services the flexibility to increase their fees to help cover the cost

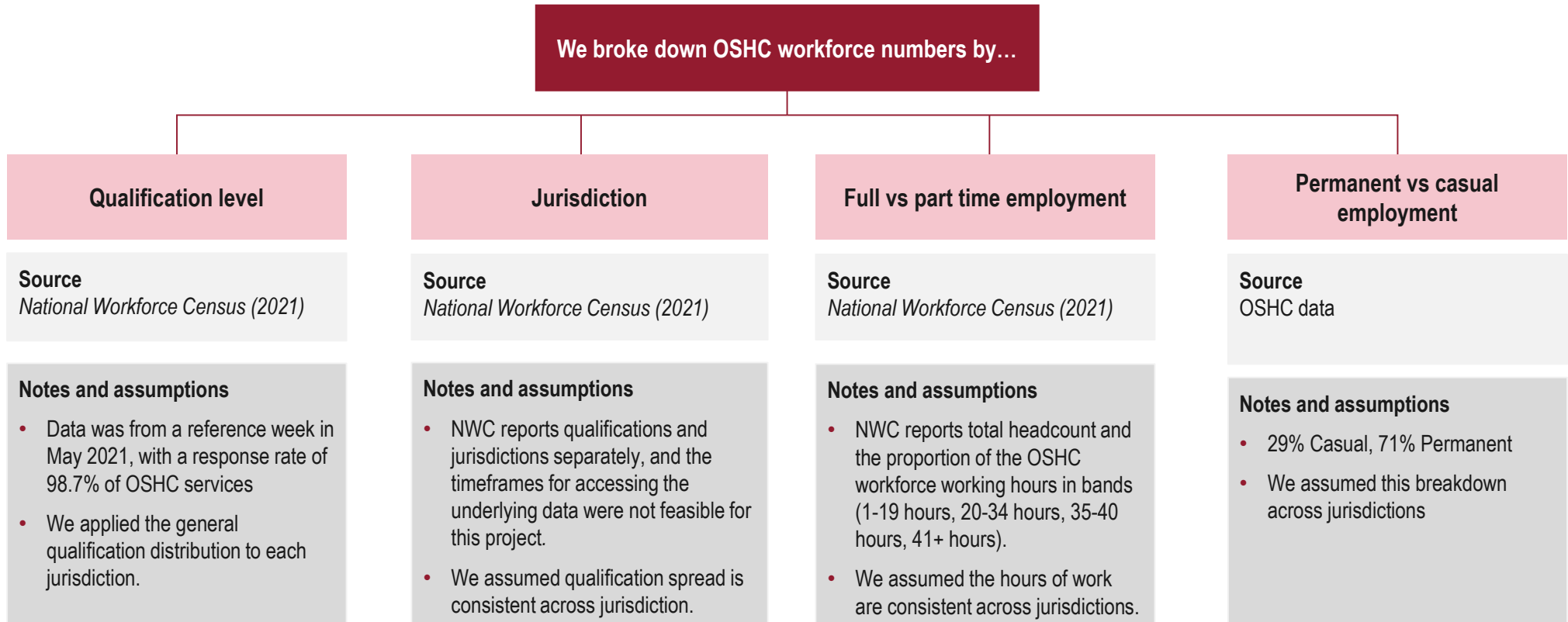
- Services will have varying ability to increase their fees to cover the cost of the wage rise, and may be constrained by contractual or licensing arrangements, or the price sensitivity of their families
- Any fee increase will result in increased out-of-pocket costs for families, or reduced use of OSHC services
- In addition to increasing fees, services may try to partially absorb the cost of a wage increase, but will have varying ability to do so

Appendix 1 – Modelling the cost of a wage increase

1. We built a profile of the OSHC workforce



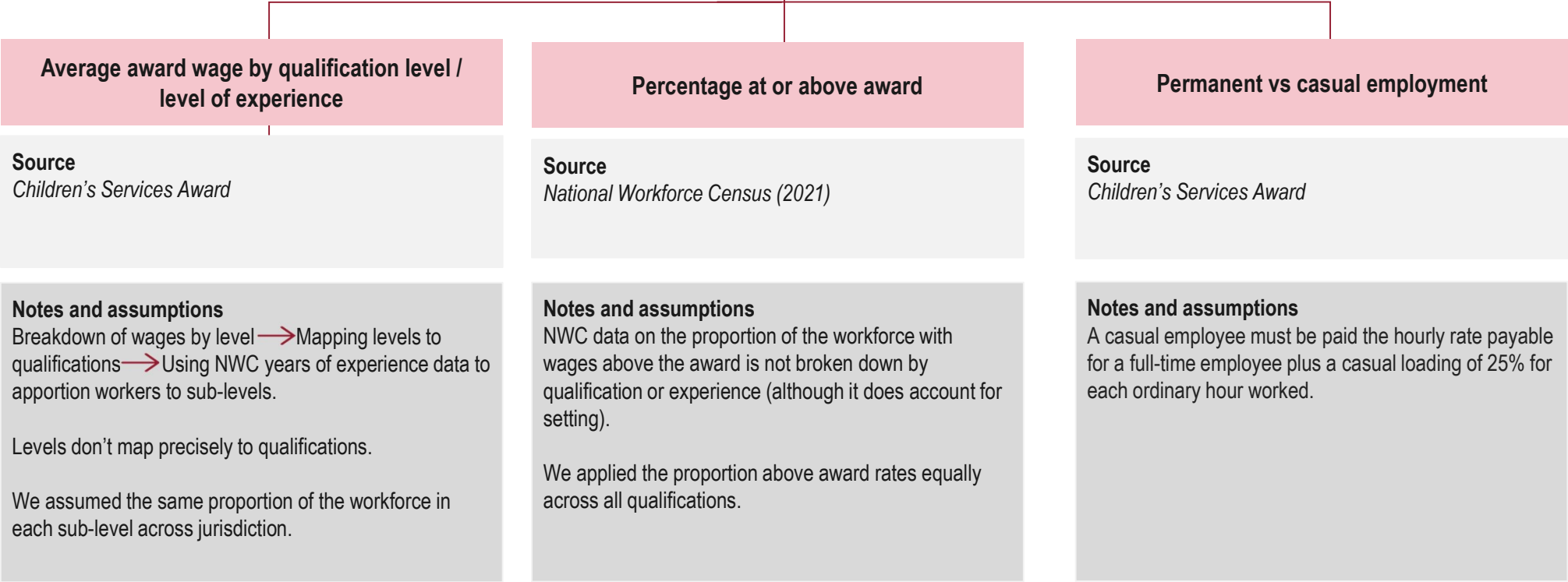
By getting a deeper understanding of the OSHC workforce profile we were able to more accurately measure the impact of wage increases.



2. We matched workforce profile with average wage rates and costs

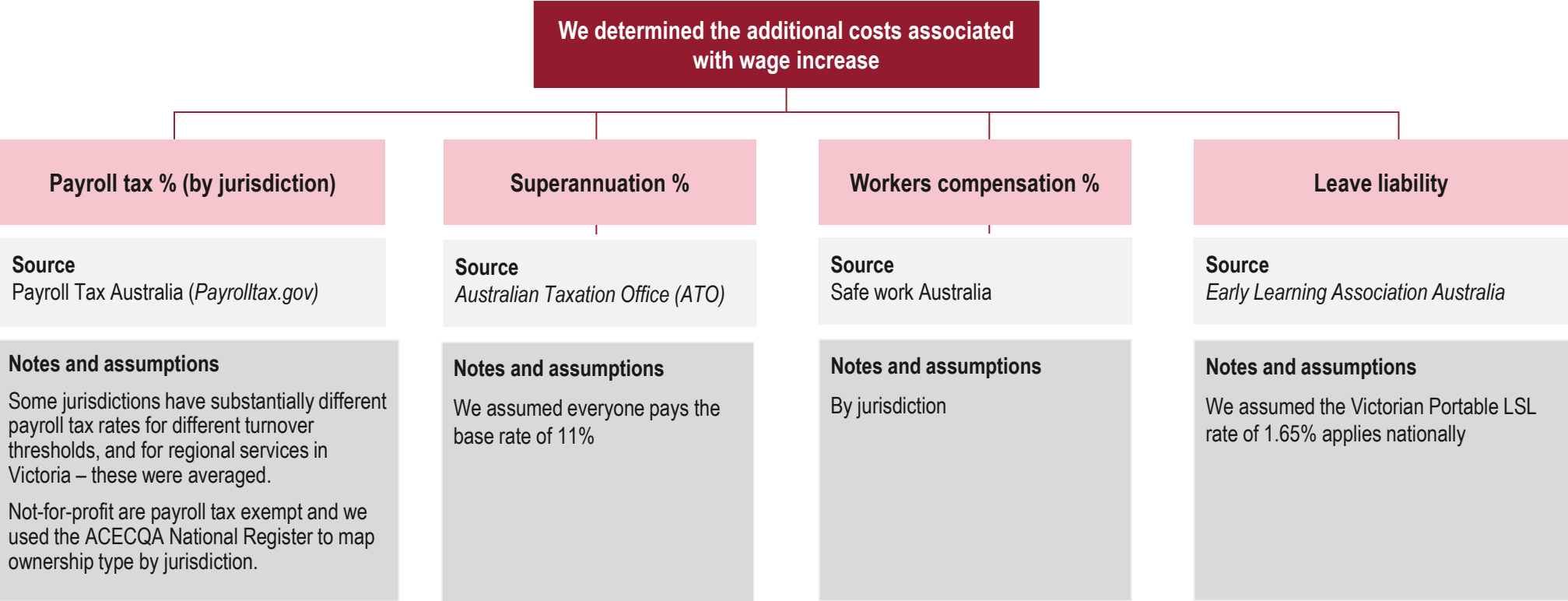
Using our profile of the OSHC workforce, we matched the workforce according to award rate, considering qualification, experience and employment type.

We determined current average wage rates



2. We matched workforce profile with average wage rates and costs

We also considered the cost to the employer of increasing employee wages.



*We also calculated leave loading in our final analysis

3. We applied a proportionate wage increase

We calculated the total cost of the wage increase by modelling an increase to base rates in the award.

We then calculated the total cost of a wage increase:

Lifting wages to a minimum threshold

Our modelling lifted the base rates across the board so that no employee would earn less than a certain amount. There's no guarantee that this would be passed onto any employee earning over the award, however.



Estimate of the total cost of a wage increase

Appendix 2 - About OSHC and its workforce

Overview of OSHC

OSHC services provides education and care for primary school-age children (generally 5 to 12 years) before and after school hours and during holidays.

OSHC programs are designed to support working parents and carers to balance work and parenting by providing a safe and engaging environment for primary school aged children outside of school hours.

Qualified educators, regulated programs and a shared learning framework

Trained staff or educators run OSHC programs, under the requirements of the National Quality Framework and guided by the My Time, Our Place learning framework.

Services operate in partnership and under contract to schools

Most OSHC services operate in partnership with schools, generally operating under a contract with either the schools or relevant Government department. States and territories have different approaches to OSHC, with some having much tighter central control and regulation over contract terms and fees.

Fees are subsidised by government to reduce out of pocket costs for families

The Child Care Subsidy (CCS) is a payment made by the Commonwealth's Department of Education to subsidise the costs of Long Day Care, Family Day Care, In-Home Care and OSHC services. The CCS is income tested and is usually paid directly to approved services (including OSHC) to reduce the out-of-pocket costs that eligible families pay. The average fee is \$8.05 an hour.

Families make a co-contribution to their child care fees and pay the OSHC service the difference between the fee charged and the subsidy amount. The subsidy amount for each child varies depending on the family's income and level of employment / study activities, and additional subsidies are available for families experiencing significant disadvantage

Supports children's play and learning and is a key enabler of parents' workforce participation

OSHC provides structured play-based programs which supports children's wellbeing, learning and development in important ways. It's also a critical enabler of families balancing work and parenting responsibilities

OSHC programs and services

OSHC is typically available in or near schools, community centres, or early learning facilities across Australia. OSHC programs provide a range of activities and opportunities for children to participate in, such as sports, arts and crafts, games, and social interactions which promote active citizenship. Healthy snacks or light meals are often provided to the children during the before and after-school care periods and during vacation care.

| Program type | Number of hours | Description |
|--------------------------|-------------------------------------|---|
| Before hours care | Up to 3 hours | Time before and after school care provides play and leisure opportunities that are meaningful to children and support their wellbeing, learning and development |
| After hours care | Up to 4 hours | |
| Vacation care | Half-day care and full-day programs | Vacation care provided during school holidays and other breaks from school. |

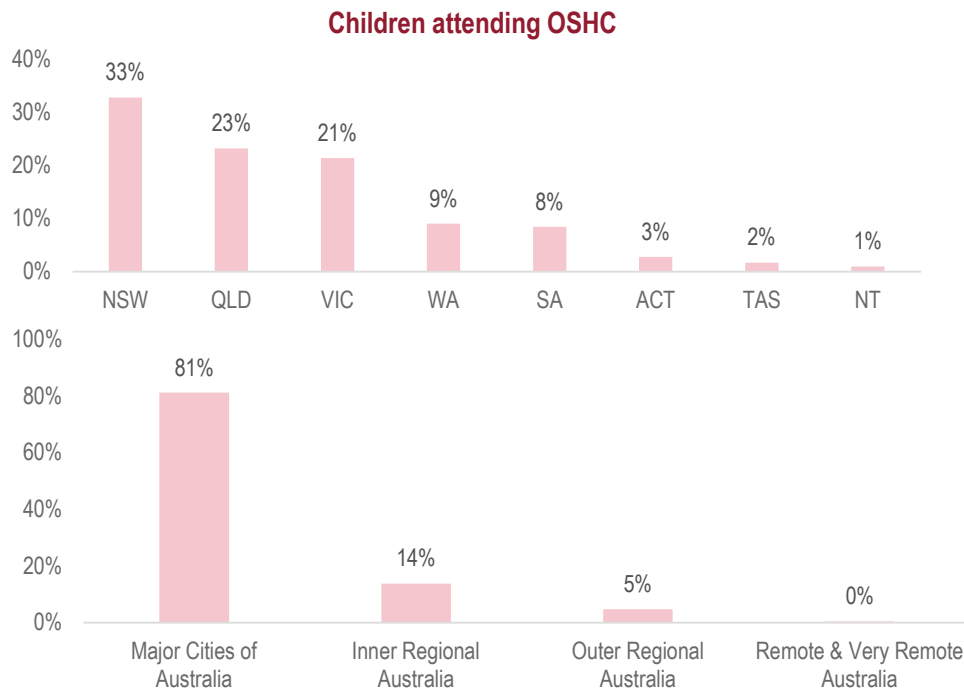
Note – the majority of data for the OSHC sector averages these three service types together. However, in practice, the operating model and staffing profile can be distinctly different.

Overview of OSHC

There are over 5,000 providers of OSHC and they support more than 500,000 children from nearly 400,000 families

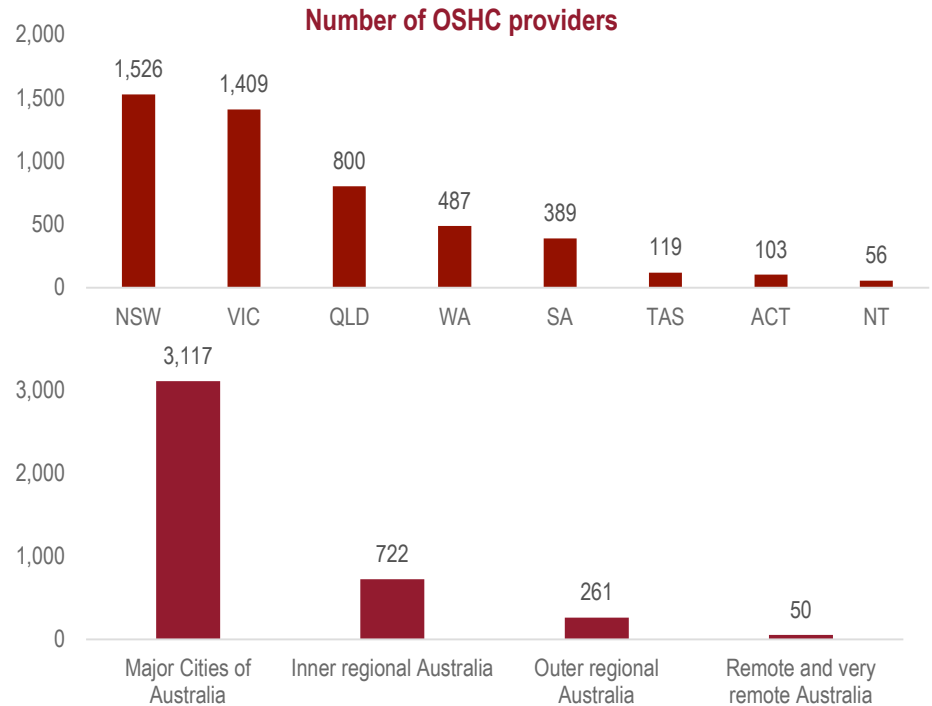
Who uses OSHC?

OSHC is used by more than 500,000 children from 390,000 families across Australia, with the vast majority located in major cities. The highest proportion of children attending OSHC are from NSW and Queensland.



Who provides OSHC?

There are nearly 5,000 approved providers of Outside School Hours Care (OSHC) in Australia as of 2022. The majority of services are in NSW and Victoria and the highest proportion of OSHC services are in major cities – with a comparatively low proportion in regional and remote Australia.



There are significant differences between jurisdictions in terms of the size of services, the qualification requirements for educators, ratio requirements, and the basis of contracts between schools and providers. This means that – for example – Queensland and Victoria have a similar number of children attending OSHC, but Victoria has nearly 600 more services.

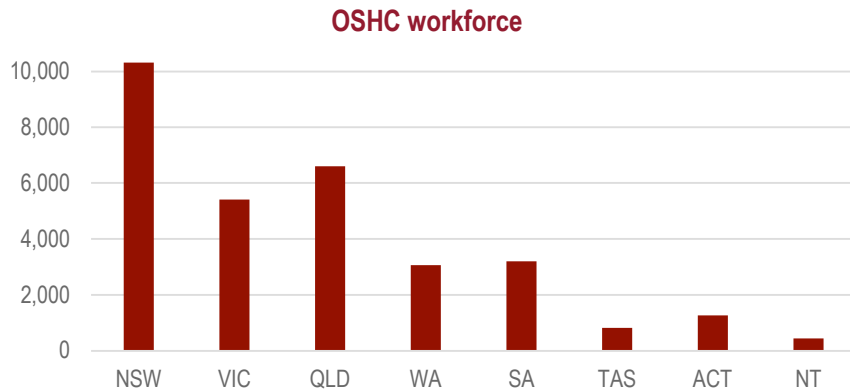
Sources:
 ACCC Childcare inquiry 2023 June 2023 interim report
 Australian Government, 2021 Early Childhood Education and Care National Workforce Census

The OSHC workforce

There are over 31,000 people in the OSHC workforce, and on average, they are a youthful workforce with high levels of turnover, relatively low wages and highly variable qualification requirements.

Workforce size

There are around 31,085 people in the OSHC workforce.



Average wages

The average wage for an OSHC educator in Australia is between \$55,000 – \$62,000 per year, with considerable variation between jurisdictions. Nearly 70% of the workforce is paid at Award rates and conditions.

Average hours worked

The majority of the workforce works part time or on a casual basis, with:

- Two thirds of educators working less than 19 hours per week
- Only 10% working full time hours – largely in coordinator and administrative roles.

Workforce demographics.

Around 40% of the workforce is aged under 25. While around 15% of the workforce has more than 10 years experience, more than half the workforce has less than 3 years of experience.

Qualification requirements

There is significant variation between jurisdictions for the qualifications required to be an OSHC educator – from no specific qualification requirements in NSW and Tasmania through to education or youth-specific qualifications in others. As a result, nearly half the workforce does not have a directly related qualification. In addition, nearly 40% do not access professional learning relevant to their work. Highest level of qualification completed by OSHC educators varies across jurisdictions - see page 34 for a breakdown of qualification level by state.

| State | Qualification requirements |
|-------------------------------------|--|
| New South Wales | There are no state specific qualification requirements. |
| Victoria | Accepts 40 different qualifications that are Certificate III-level and / or Diploma-level. |
| Queensland | Accepts a broad range of different qualifications including Certificate III and IV level qualification, Diplomas and Bachelor degrees. |
| Western Australia | Accepts 18 different qualifications including Cert III and IV level qualifications and Diplomas. |
| South Australia | Accepts 36 different qualifications including Certificate in Child Care, Graduate Diplomas and Bachelor degree. |
| Tasmania | There are no state specific qualification requirements. |
| Northern Territory | Accepts any 'over-preschool age' qualification approved for work with children over preschool age in any participating jurisdiction |
| Australian Capital Territory | Accepts 10 different qualifications including Certificate IV level and diploma level qualifications. |

The OSHC workforce

The OSHC sector needs to address a number of key challenges order to to ensure that children have access to high-quality care and education outside of school hours.

Shortage of qualified educators

The demand for OSHC educators is growing, but there is a shortage of qualified educators available to fill these positions. This is due to a number of factors, including low salaries, high turnover rates, and a lack of training opportunities. Expectations of the OSHC workforce have been increasing as the workforce has become increasingly professionalised – heightening the importance of skills and qualifications.

There is also high competition for workforce with a tight labour market. A key challenge is making the OSHC sector attractive when other industries can pay higher wages for less demanding work.

High turnover rates

The turnover rate in the OSHC workforce is high, which can make it difficult to provide consistent care and education for children. This is due to a number of factors, including low salaries, complex and challenging work that requires holding significant risk, a lack of career progression opportunities and significant competition for the workforce. It is important to note that the types of hours worked in the OSHC sector also contributes higher turnover – flexible morning / afternoon / holiday hours tend to appeal to people in particular life stages (such as university students) and those seeking flexible hours.

Strategies for the OSHC workforce often focus on creating more career pathways for OSHC educators to enable a more permanent, professionalised and skilled workforce. This would give them the opportunity to progress in their careers, and it would also help to attract and retain qualified staff. However, the economics and scale of the sector means that this is only achievable for a proportion of the workforce.

Lack of professional learning opportunities

Whilst larger providers are able to support professional and career development, the sector is very fragmented and there is a general lack of training opportunities available for OSHC educators, which can make it difficult for them to stay up-to-date on the latest best practices. This can also make it difficult for them to progress in their careers.

Professional status

The profile and status of the OSHC sector has traditionally been low – and unlike for the Long Day Care sector, the profile and recognition of the workforce has not been increasing. This lack of professional recognition contributes to attraction and retention challenges.

Competitive wages

The salaries for OSHC educators are relatively low, especially compared to other industries that compete for similar staff. This can make it difficult to attract and retain qualified staff. This is a particular challenge in areas where the cost of living is often higher.

Increasing salaries for OSHC educators would make it more attractive to work in this field. This would help to attract a quality workforce, and it would also help to reduce turnover rates and support retention.

Growth in the use of childcare

Since 2018 there has been an increase in the number of children enrolled in childcare throughout the year, both children ages 0-5 (53% in 2018 to 70% in 2022) and children ages 6-13 (21% in 2018 to 25% in 2022). If the sector continues to grow, more stress will be put on the workforce and further cost will be needed to implement a wage increase.

Sources:

- ACECQA, National Workforce Strategy for Children's Education and Care 2022-2031
- Cartmel and Hurst, More than Just Convenient Care, NSW Government, 2021
- Productivity Commission, Early Childhood Development Workforce, 2011
- DPMC Draft National Strategy for the Care and Support Economy May 2023
- ACCC Childcare inquiry 2023 June 2023 interim report