

Draft submission:

Childcare Inquiry 2023

**Australian Competition & Consumer Commission
(ACCC)**

Local Government NSW (LGNSW) and the Local Government Children's Services Managers Group welcomes the opportunity to provide feedback to the Australian Competition & Consumer Commission's "Childcare Inquiry" second interim report, dated September 2023.

LGNSW is the peak body for local government in NSW, representing all 128 general purpose councils and related entities across the state. By providing advocacy, representation and support, LGNSW helps member councils deliver improved services and better outcomes to their local communities.

The Local Government Children's Services Managers Group is an industry body of peers bringing together Children's Services Managers working in councils across NSW. The group meets regularly and provides a forum for colleagues to share ideas, ask questions, exchange observations and feedback and establish best practice in local government provision of early childhood education and care (ECEC).

Together, these bodies advocate on behalf of the thousands of staff, families and children for whom the local government provision of ECEC is of paramount importance, ensuring the role of local government in providing care is recognised, supported and appropriately funded and maintained.

BACKGROUND:

The Commonwealth Government has formally tasked the Australian Competition and Consumer Commission (ACCC) to conduct an inquiry in the market for the supply of childcare services.

The inquiry has been taking place over the course of 2023 and has examined matters including:

- costs and availability of labour
- the use of land and related costs
- finance and administrative costs
- regulatory compliance costs
- the costs of consumables
- the prices charged since 2018 and how these have changed following changes in childcare policy settings.

The ACCC is also examining how costs and prices differ by:

- type of provider and size
- type of childcare service
- age and characteristics of the child in care
- geographic location
- level of competition
- the quality rating of the childcare services provided.

How these factors impact childcare provider viability, quality and profits is also being examined.

The ACCC has now published its [second interim report](#) for comment and LGNSW and the Local Government Children's Services Managers Group welcome the opportunity to provide feedback.

Please note this submission remains in draft form until endorsed by the LGNSW Board.

THE ROLE OF LOCAL GOVERNMENT IN THE PROVISION OF ECEC:

With 128 councils in NSW, over 300 Early Childhood Care and Education (ECEC) services are operated or coordinated by local government, including pre-school, long day care, family day care (FDC), mobile care, occasional care, vacation care and outside of school hours care (OSHC).

Almost half of all NSW councils operate centre-based ECEC services. Council-run ECEC services tend to be very high quality, with a greater proportion of services exceeding the National Quality Standards than for-profit services. Local government is often recognised as providing higher quality care than other providers and this is documented in rating information comparing different service types (48% state/territory and local government managed services rated 'exceeding' compared to 13% of private for profit¹).

ESTABLISHED LGNSW POSITIONS:

A resolution from the 2020 LGNSW Annual Conference² called for the NSW Government to:

...recognise the essential role of local government in early childhood education and care, and fund it accordingly, particularly as council-run services often cater to vulnerable, low-income families, regional and rural communities and children with disability.

The [2023 LGNSW Advocacy Priorities](#) include a section on "Stronger Communities" which amongst other requests, includes:

#3. Commit to council-run early childhood education and care facilities being eligible for all new funding opportunities and grant programs for the early childhood education sector.

With councils as a key provider, particularly in rural and regional areas and particularly for more vulnerable cohorts, it is critical that council-run services be eligible for such funding.

¹ ACECQA NQF Snapshot Q2, 2023 - [NQF Snapshot Q2 2023 FINAL.PDF \(acecqa.gov.au\)](#) p16

² [Record-of-Decisions-LGNSW-2020-Annual-Conference-and-BOARD.pdf](#) page 29

The [LGNSW Policy Platform](#) sets out the policy positions of LGNSW and is established through motions voted on by councils at LGNSW Annual Conferences.

Position Statements

***#19 Strong and Inclusive Communities:** Local government is a significant provider and supporter of essential services to all members of the community including older people, people with disability, families, children, young people, Aboriginal people and people from all cultures and backgrounds. Councils fill the gaps in the provision of essential human services when there are no other providers, particularly in rural and remote areas, and advocate for equitable access to infrastructure and services.*

This is particularly relevant in respect of the provision of early childhood education and care.

In the current [Policy Platform](#), LGNSW specifically advocates for:

- High quality, universally accessible and affordable early childhood education and care. (#19.12)
- Adequate funding for council-run youth and children services and recognition that councils are an essential provider of services to children and young people. (#19.13)

Other position statements that support local government in their provision of child care services in rural and regional communities in particular are:

- Recognition of the higher costs of infrastructure and service delivery faced by rural communities due to inherent and unavoidable economies of scale (#4.3)
- Incentives and measures to increase domestic and international migration to inland rural and regional communities, including for experienced and qualified staff (#4.6); and
- Action to address difficulties meeting Continuing Professional Development requirements for professionals working in rural and remote NSW (#4.7).

FEEDBACK ON THE 7 DRAFT RECOMMENDATIONS OF THE INTERIM REPORT:

This submission provides feedback on the seven draft recommendations from the ACCC's [second interim report](#), which will inform the final report and its recommendations. It is also noted that the final report will discuss the implications of the findings in relation to profitability of the sector for disadvantaged households. This focus is welcome as local government services often deliver disproportionately for this vulnerable sector of our communities.

Draft ACCC recommendation 1 – The ACCC recommends that the Australian Government reconsider and restate the key objectives and priorities of its childcare policies and supporting measures, including the relevant price regulation mechanism.

Comment – The ACCC is right to highlight the need to update the purpose, objectives and priorities that underpin the Commonwealth Government's policies, legislation and regulation when it comes to the ECEC sector. For instance, the current Child Care Subsidy (CCS) system was created by a former Government with workforce participation objectives at its core. Five years have now passed since its implementation and questions about its appropriateness and relevance should be considered in light of significant changes in the economic, social and political climate over the course of the last five years.

Further consideration needs to be given to whether subsidies should be passed to families on the demand side of the sector or instead to providers on the supply side.

Under-resourced or inadequate funding schemes at both a Commonwealth and State level also create a significant barrier to improving inclusion across all types of service providers. Both the Commonwealth's Inclusion Support Program and the NSW Disability Inclusion Program do not cover the true cost of employing an additional worker above ratio requirements, building educator capacity to support children's specific developmental needs or engaging allied health professionals to help support the developmental needs of children with a disability. This in turn leads to a funding gap that families pay and less choice for families to enrol children from vulnerable backgrounds.

Local government ECEC service providers advocate that reforms to both programs need to take place to cover the wages of staff, support workforce increases to ensure there are sufficient educators to support children with additional needs, provide development opportunities for educators to support inclusion, and financially support the creation of additional services that specifically cater for children with diverse learning needs.

Draft ACCC recommendation 2 – The ACCC recommends further consideration and consultation on changes to the CCS and existing hourly rate cap mechanism, to simplify their operation and address unintended consequences, including on incentives and outcomes.

Comment – The underlying drivers to this recommendation are findings associated with negative affordability and accessibility consequences of the activity test and the failure of the CCS rate cap to act as an effective mechanism to disincentivise providers from raising fees too high and fast. A rethink of the role of the activity test and rate caps within the CCS would be welcome.

Removing the activity test is welcome, which has been identified as a barrier to more vulnerable children accessing ECEC and its benefits, and for people entering or returning to the workforce. Daily fee caps for centre based longer hours early learning would lessen the complexity of the fee structures some providers have put in place to support family affordability.

Draft recommendation 3 – The ACCC supports reconsideration of the information gathered for and reported on StartingBlocks.gov.au so that it is better focused on meeting parent and guardian information needs and is balanced against the costs of collecting and publishing information.

Comment – StartingBlocks has gained a degree of prominence in this report due to the belief that a functioning price comparator platform can support downward pressure on prices by promoting competition. In its current form StartingBlocks is likely to fall well short of that objective and there are questions around if it ever will meet that expectation without adequately incentivising providers to maintain up-to-date information on the site.

It would be beneficial for StartingBlocks to have the capacity to extract the fee information directly from the Child Care Management System software provider to enable currency and accuracy of fee information for families.

Draft ACCC recommendation 4 – The ACCC recommends that governments further consider how the existing regulatory frameworks support and influence the attraction and retention of educators and workforce in the early childhood education and care (ECEC) sector.

Comment – Given the workforce challenges currently being experienced by the ECEC sector and the implications they have on costs and fees, it is understandable that the ACCC would recommend as a starting point an examination as to whether the current regulatory setup might impact worker recruitment and retention. That being said, the possible conclusions drawn from any analysis are reasonably foreseeable. The CCS framework does not provide for workforce matters but highlighting this may herald a move to include such mechanisms in future frameworks.

As evidenced in the LGNSW submission to the IPART ECEC Review, workforce is the largest cost in the delivery of local government ECEC services and can make up more than 80% of service expenses³. Further, workforce shortages impact service continuity and quality. Councils report that staff turnover has reduced not only continuity of care but also consumer confidence in services. Consideration of revised regulatory frameworks that would support professional development and attraction of educators to the child care sector is welcome.

Further, pay disparity between ECEC educators and qualified school teachers have been suggested as influences on career choices when leaving university or upskilling from a Diploma or Certificate III. The salary and holiday periods are great enticers to many teachers who have commented that they would prefer to work in early childhood but the sector cannot compete with pay and conditions offered in other education settings.

It should also be noted that the regulatory expectations for “exceeding themes” in the National Quality Standard are particularly burdensome and exacerbated by the current workforce shortages.

³ [LGNSW Draft Submission on IPART ECEC review.pdf](#) page 6

Draft ACCC recommendation 5 – The Australian Government consider maintaining and expanding supply-side support options for Aboriginal Community Controlled Organisations (ACCOs) that provide childcare and additional support services for First Nations children, parents and guardians.

Comment – This recommendation is welcome and has historic precedent to support it, given that prior to the introduction of the CCS, many services in remote or very remote communities were funded by direct blocks of subsidies, also known as supply side subsidies, because they are paid to the supplier of the service provided and not the consumer of the service. The current CCS system does not lend itself to incentivising providers to operate services in these communities.

It is widely recognised within the ECEC sector that it is difficult to obtain accurate data on the needs of priority groups who may be more vulnerable such as Aboriginal and Torres Strait Islander peoples. Further work needs to be done to engage with Aboriginal Community Controlled Organisations to gather more meaningful data on supply and demand for ECEC services so that the outcome of maintaining and expanding supply-side options can be measured – and delivered – in the future.

Draft ACCC recommendation 6 – A market stewardship role should be considered for both Australian and state and territory governments, in identifying under-served areas and vulnerable cohorts, along with intervention whether through public or private provision. A competitive tender process is one tool that could be used by governments to facilitate delivery in these areas.

Comment – As noted above, given the high costs of providing services in remote areas, providers are less inclined to commit to opening services in these spaces. High prices and undersupply inevitably follow. Creating appropriate incentives and support for providers to deliver services in these underserved areas would be welcome by the local government sector. There is abundant precedent for tender-like mechanisms in the Outside School Hours Care (OSHC) sector and also outside of the early learning sector which could be used as templates to better ensure service provision in key target areas.

The ACCC's recommendation for the government to play a stronger role in system stewardship for early childhood education and care is welcomed.

Funding local government to adequately support underserved areas is an opportunity for increased equality and an overall better quality of service. Such a funding source would need to be sustainable to avoid any unforeseen cost shifting on to local councils.

Draft ACCC recommendation 7 – The ACCC supports further consideration of supply-side subsidies and direct price controls. Some changes to the policy settings are likely to reduce the impact of the hourly rate cap as an indirect price control and may warrant a shift to direct price controls supported by operating grants for regulated childcare providers.

Comment – Of all the seven recommendations this one is potentially the most far reaching for the early learning sector in Australia. The system is not currently set up to prevent ever increasing prices, and consequently financial pressure on families, providers and eventually the public purse, is inevitable. The increasing cost of living, combined with the housing crisis, particularly its effect on the ability of workers to move to work in regions where there are limited rental properties or housing, makes this recommendation a priority for action.

It should also be noted that inadequate inclusion support funding exacerbates inequity, and there is an increasing influx of children with additional inclusion needs transferring from private/corporate services to not-for-profit providers, including local government services. This has a disproportionate impact on these services due to the funding gap for children enrolling in a service based on the 'loss' of income to provide inclusion. This regularly results in these children being overrepresented in council, not-for-profit and community-based providers as catering for these children can impact profitability for corporate providers.

Affordability is a significant issue when considering the impact of enrolling children with inclusion needs. For providers that offer inclusive services, having a disproportionate number of children with unfunded needs enrolled in their services, increases the financial and social impact on their delivery.

The design of any price regulation model depends on a country's overarching policy objectives for the early childhood education and care sector, whether this is to secure universal high quality education and care for children, encourage workforce participation of parents, support gender equality or other objectives.

A shift toward supply-side and direct price controls would help address these issues.

CONCLUSION:

The provision of quality early learning services requires quality teachers, quality facilities and overall quality funding. High quality early learning services facilitate better outcomes for children and families and therefore better outcomes for our communities.

Local government has an essential role in early childhood education and care, and must be funded accordingly, particularly as council-run services more often cater to vulnerable children, low-income families, regional and rural communities and children with disability.

The ECEC sector is facing significant issues attracting and retaining a skilled workforce and there needs to be a coordinated approach across all levels of government to ensure funding aligns with common economic and educational goals for the ECEC sector.

Local government ECEC services are as diverse as the communities they serve – there should not be one-size-fits-all approaches when it comes to policies and regulation. Different barriers and opportunities in metropolitan, regional, rural and remote areas require flexibility in the funding and regulatory system to support varying models of ECEC services.

We thank the ACCC for providing the opportunity to provide feedback and commentary ahead of the final report on the Childcare Inquiry 2023.

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