

# ALRC 70

## Child Care For Kids

### Review of legislation administered by Department of Human Services and Health

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This Report reflects the law as at 1 August 1994

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Commission Reference: ALRC 70

The Australian Law Reform Commission was established by the *Law Reform Commission Act 1973*. Section 6 to review, modernise and simplify the law. It started operation in 1975.

# Terms of reference

## HEALTH, HOUSING AND COMMUNITY SERVICES LEGISLATION

### COMMONWEALTH OF AUSTRALIA

#### *Law Reform Commission Act 1973*

1. I, MICHAEL DUFFY, Attorney-General of Australia, at the request of the Minister for Health, Housing and Community Services (the Minister), refer to the Law Reform Commission for inquiry and report under the *Law Reform Commission Act 1973* section 6 the laws administered by the Minister that relate to programs for the provision of services by the Commonwealth or for the funding by the Commonwealth of services provided by other persons or agencies (the programs).
2. This reference includes the Acts listed in Part 1 of the Schedule, but excludes the Acts listed in Part 2 of the Schedule.
3. This reference does not extend to making recommendations about the underlying policy of the programs.
4. The Commission is to make recommendations on how Commonwealth legal policies (including administrative law, secrecy, privacy and criminal law), social justice and human rights should be reflected in new program legislation. The Commission is also to advise on the common elements to be included in program legislation. The Commission is to have regard to the need to ensure proper standards of accountability while retaining flexibility and innovation in the delivery of services.
5. The Committee is to make such interim reports under this reference as may be desirable to enable the progressive implementation of the recommendations on a program by program basis. The first interim report is to relate to the aged care program and is to be given not later than 12 months after the date of this reference with subsequent interim reports to be delivered to a timetable to be settled between the Commission and the Department of Health, Housing and Community Services. The final report is to be given not later than 3 years after the date of this reference.
6. In carrying out its work under this reference the Commission is to:
  - work closely with the Department of Health, Housing and Community Services and the Office of Parliamentary Counsel; and
  - consult, among others, relevant federal Departments and agencies including the States, representatives of service recipients, community welfare organisations and other persons and bodies with a special interest in the programs concerned.

DATED: 18 August 1992

Michael Duffy

Attorney-General

## Schedule

### *Part 1 - Acts included in this reference*

*Aged or Disabled Persons Care Act 1954*  
*Aged or Disabled Persons Hostels Act 1972*  
*Child Care Act 1972*  
Commonwealth and State Housing Agreements Acts  
*Defence (Re-establishment) Act 1965* Parts V and VA and section 59 in respect of powers and functions under those Parts, except in relation to payments to individuals  
*Delivered Meals Subsidy Act 1970*  
*Disability Services Act 1986*  
*Disability Services (Transitional Provisions and Consequential Amendments) Act 1986*  
*Epidemiological Research (Confidentiality) Act 1981*  
*First Home Owners Act 1983*  
*Handicapped Persons Assistance Act 1974*  
*Health Insurance Act 1973*  
*Home and Community Care Act 1985*  
*Home Deposit Assistance Act 1982*  
*Homeless Persons Assistance Act 1974*  
*Home Nursing Subsidy Act 1956*  
Home Savings Grants Act  
Housing Agreements Acts  
Housing Assistance Acts  
*National Health Act 1953*  
*Narcotic Drugs Act 1967* Sections 9, 10, 11, 13, 19 and 23, subsection 24(1) and so much of the rest of the Act (except sections 12 and 22) as relates to powers and functions under those provisions.  
*Nursing Homes Assistance Act 1974*  
*Re-establishment and Employment Act 1945* Part VIII. Part XI Division 1 so far as it relates to Part VIII, Part XI Division 3 except in relation to payments to individuals and Part XXI in relation to those provisions  
*Smoking and Tobacco Products Advertisements (Prohibition) Act 1989*  
*Social Welfare Commission (Repeal) Act 1976*  
*State Grants (Home Care) Act 1969*  
*State Grants (Housing) Act 1971*  
*States Grants (Nurse Education Transfer Assistance) Act 1985*  
*States Grants (Paramedical Services) Act 1969*  
Supported Accommodation Assistance Acts  
*Tuberculosis Act 1948*  
*World Health Organization Act 1947*

### *Part 2 - Acts excluded from this reference*

*Acoustic Laboratories Act 1948*  
*Australian Institute of Health and Welfare Act 1987*  
*Commonwealth Serum Laboratories Act 1961*  
*Health Insurance Commission Act 1973*  
*Health Insurance (Pathology) (Fees) Act 1991*  
*Health Insurance (Pathology) (Licence Fee) Act 1991*  
*Hearing Services Act 1991*  
*Medical Research Endowment Act 1937*  
*National Food Authority Act 1991*  
*Quarantine Act 1908*  
*Quarantine (Validation of Fees) Act 1985*  
*Therapeutic Goods Act 1989*  
*Therapeutic Goods (Charges) Act 1989*

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<sup>1</sup> \*The recommendations in the report and statements of opinion and conclusion are those of the members of the Commission. They are not necessarily shared by the consultants or nominees nor by the Departments or organisations with which they are associated.

## Abbreviations

HhAAT	Administrative Appeals Tribunal
ARC	Administrative Review Council
CA	Childcare Assistance
COAG	Council of Australian Governments
CROC	Convention on the Rights of the Child
CSP	Children's Services Program
D-SUPS	Disabled Supplementary Services Grants
DEET	Department of Employment, Education and Training
Department	Department of Human Services and Health
DSS	Department of Social Security
EFT	Equivalent Full-Time Attendance
FDC	Family Day Care
IPP	Information Privacy Principles
JET	Jobs, Education and Training program
LDC	Long Day Care
Mobiles	Mobile Children's Services
JETCCRW	Jobs, Education and Training Child Care Resource Worker
Multifunctionals	Multifunctional centres
MACS	Multifunctional Aboriginal Children's Services
NCAC	National Childcare Accreditation Council
OPC	Office of Parliamentary Counsel
OSHC	Outside School Hours Care
RTAG	Regional Travel Assistance Grants
Special CA	Special Childcare Assistance
SSAT	Social Security Appeals Tribunal
SUPS	Supplementary Services Grants
YAS	Youth Activity Services

# Summary of recommendations

## Principles and objectives

### *The Commonwealth's role in childcare*

1. The Commission recommends that federal child care legislation establish key principles for federally funded children's services. The key principles should be equity, accessibility, affordability and quality. These principles should underlie the Commonwealth's funding process and the operations of the services themselves. These principles should apply regardless of the arrangements for federal funding, that is, whether services are funded directly or through the States and Territories, and regardless of the type of service funded, that is, whether the service is a community based service, a government operated service or a private for profit service (para 2.6).

### *Legislation should provide a framework for the future*

2. The Commission recommends that federal child care legislation enable maximum flexibility in the Commonwealth's Children's Services Program, consistent with the four key principles and the broad objectives of the program. The legislation should be able to apply regardless of the arrangements for federal funding and regardless of the type of service funded (para 2.7).

### *Children's services are for children*

3. The Commission recommends that the fundamental objective of the Children's Services Program should be to enhance the well-being of children. The legislation should provide that the welfare of the child for whom child care is being or will be provided is to be the paramount consideration in any decision or action taken under or for the purposes of the legislation (para 2.9).

### *Need for a national coordinating body*

4. The Commission recommends that the Commonwealth establish a national agency to coordinate government policy affecting children and to monitor the implementation of programs, policies and laws to ensure that the rights and interests of children are protected and promoted (para 2.12).

## Access and equity

### *Priority of access*

5. The Commission recommends that the legislation set out the Commonwealth's priorities for the Children's Services Program. The major priority is to provide child care for the children of working parents (see para 4.59 for proposed broader definition of work). The legislation should also provide that the following children identified in the Government's social justice strategy should have priority

- children from lower income families
- Aboriginal and Torres Strait Islander children
- children from non-English speaking backgrounds
- children with a disability or whose parents have a disability
- children at serious risk of abuse and neglect
- children from sole parent families
- children in families from rural and remote areas (para 4.9).

### *Priority of access guidelines*

6. The Commission recommends that the legislation enable the Minister to issue child care access guidelines to ensure priority for children in the identified groups. The guidelines should include procedures for the consistent application of priority rules. In the interests of the welfare of children the application of the guidelines should not require the exclusion of children already in a service. The legislation should require all



federally funded services to comply with these guidelines as a condition of funding. The Department should ensure that the application of the guidelines is monitored (para 4.13).

#### ***Sibling priority***

7. The Commission recommends that priority should also be given to siblings of children already in a particular service (para 4.14).

#### ***Older school age children***

8. The Commission recognises the need for an expansion of services for older post primary children and recommends that the legislation be flexible enough to permit this expansion when resources become available (para 4.16).

#### ***Infant care***

9. The Commission recommends that the legislation permit the Minister to require, as a condition of funding, that a service provide a designated number of places for babies and children under 2 years (para 4.19).

#### ***Access for children from non-English speaking backgrounds***

10. The Commission recommends that legislation should permit the funding of specialist support services for children who are members of particular cultural or ethnic communities (para 4.22).

#### ***More appropriate services for children of Aborigines and Torres Strait Islanders***

11. The Commission recommends that the legislation recognise the particular needs of indigenous communities for culturally appropriate services and permit the Minister to approve funding to a service for Aboriginal and Torres Strait Islander children even if the service does not conform to a mainstream service type. The Commission also recommends that the legislation require the Department, before funding a specialist service in an indigenous community, to consult with other agencies providing services to indigenous communities, especially the Aboriginal and Torres Strait Islander Commission, to ensure that special service funding is used effectively to meet needs of those communities (para 4.25).

#### ***Equitable access for children with a disability***

12. The Commission recommends that the legislation require services, as a condition of funding, to ensure that there are no barriers to access by children with a disability. The Disability Discrimination Commissioner should develop appropriate standards for federally funded children's services, for adoption by the Attorney-General under the *Disability Discrimination Act 1992* (Cth) s 31 (para 4.28).

#### ***Families living in rural and remote areas***

13. The Commission recommends that the legislation should enable the Minister to give additional funding where a service type is needed in an area but is likely to be marginally viable or not viable because of its location (para 4.31).

#### ***Affordability***

14. The Commission recommends that the legislation afford equal treatment of service types, to the extent that this is appropriate. It should require the same means and assets tests for eligibility for Childcare Assistance regardless of service type. Special Childcare Assistance should also be available to eligible parents regardless of service type (para 4.38).

#### ***All OSHC services should offer Childcare Assistance***

15. The Commission recommends that the legislation require, as a condition of receiving operational subsidy, that all services, including OSHC services, offer CA (para 4.40).

### ***OSHC funding is inequitable***

16. The Commission recommends that the Department examine the funding arrangements for Outside School Hours Services to ensure that these services are able to meet the same standards of care as other services (para 4.43).

### ***Family day care meals, snacks and loadings***

17. The Commission recommends that the Childcare Assistance funding formula for family day care services be the same as that for other service types. This will require examination by the Department of funding meals, snacks, transport and loadings. However, Childcare Assistance for family day care should not be reduced until the appropriate legal relationship between family day carers, coordination units and sponsors has been determined and consequential reforms to the funding of family day care implemented, as recommended at para 8.22 (para 4.47).

### ***Flexibility***

18. The Commission recommends that, in implementing provisions in the new legislation enabling flexibility in funding services, the Minister should be able to waive the current Childcare Assistance funding requirement that a service is open 8 hours a day, 48 weeks a year, where it may inhibit the provision of services to parents whose work or study patterns are different from the standard nine to five, Monday to Friday, 40 hours a week pattern (para 4.53).

### ***New legislation should promote flexibility***

19. The Commission recommends that the legislation should permit the Minister to vary or waive funding conditions, or impose additional funding conditions, with the agreement of the service provider, when necessary to overcome barriers to providing services for a community or special needs group. Legislation should also provide for funding innovative and flexible child care service models (para 4.57).

### ***Definition of work related care in new legislation should be broader***

20. The Commission recommends that, in according priority to work related child care, the legislation should include a broad definition of work. The definition should encompass paid employment and self employment, whether full-time, part-time or casual, unpaid community work, education and training, whether formal or informal, and activities which contribute to long term employment prospects (para 4.59).

## **Planning**

### ***Planning to meet the needs of the children of working parents equitably***

21. The Commission recommends that the new legislation set out the principles which should underlie the planning process.

- It should be open and transparent.
- It should identify the community's needs, including the special needs of priority groups identified in the legislation, and aim to meet those needs.
- It should provide adequate opportunity for the community in general and special needs groups within the community to participate in the planning process.
- It should include processes to ensure that the community, especially special needs groups within the community, is informed about the planning process and about decisions and reasons for decisions made during the process.
- It should provide for regular evaluation of

- the effectiveness of the process
- the appropriateness of specifically identified special needs groups
- the appropriateness of data identified as being necessary to meet needs (para 5.18).

***Guidelines should identify data that should be collected and used in the planning process***

22. The Commission recommends that the legislation provide for the development of guidelines to specify the data to be considered in identifying needs in a particular area in making planning decisions. The guidelines should include data on

- the ages of children for which an area has a need for services (for example, 0 to 2 and 2 to 5 year olds and, for OSHC, 5 to 8 and 8 to 12 year olds)
- where, within the area, child care places are most needed
- the number of places that are needed
- the type of care needed (including the hours that it is needed)
- what kinds of services or places should be located there
- the extent of and kind of special needs which should be met
- anything else that is necessary (para 5.20).

***Legislation should give the Secretary the power to ensure that services can be required to meet identified needs***

23. The Commission recommends that the legislation give the Secretary the power to require as a condition of funding that a service meet specified needs (para 5.21).

***Exercising some control over the location of private services***

24. The Commission recommends that the legislation permit the Secretary to include private for profit services (which are eligible for CA) within the planning process to enable the Commonwealth to ensure its limited funding is targeted to areas of need (para 5.25).

## **Information and participation**

***Making sure parents have the information they need***

25. The Commission recommends that the Commonwealth develop a national strategy for getting information about its role in child care to families throughout Australia. It should include a specific strategy to meet the information requirements of groups with special needs (para 6.15).

26. The Commission recommends that the legislation require the Commonwealth, in cooperation with State, Territory and local governments, to establish a publicly available central register of all available child care services (para 6.15).

***Specific information about a child care service for users***

27. The Commission recommends that the legislation should, as a condition of funding, require a service receiving federal funding to provide specified information to parents about the service. To accommodate variations between service types, variations between States and Territory licensing laws and changes over

time, the specific information services should provide should be set out in guidelines. The guidelines would require services to provide information about

- the kind of quality or level of quality services are required to continue to be eligible for CA under the Accreditation System
- the fees charged
- the availability of CA and special CA and eligibility requirements
- the hours and weeks of opening
- whether a service is registered and accredited, or progressing towards accreditation
- parents' rights and responsibilities
- information on complaints mechanisms, internal and external (para 6.16).

### ***Parent involvement - community management***

28. The Commission recommends that the legislation should set out the purpose of the Commonwealth's provision of additional funding to community managed services through payment of the operational subsidy (para 4.24). The purpose is to encourage parents to participate in decision making about the service program and policies. To achieve this, the Commission recommends that the legislation require, as a condition of operational subsidy funding, that

- community managed services have, and are able to demonstrate that they are pursuing, specific strategies to encourage parents, including parents from special needs groups, to participate in management and decision making
- parents are permitted to participate in the management of the service to the extent that they wish to do so
- services evaluate the effectiveness of their strategies on a regular basis (para 6.24).

### ***Parent involvement - other CSP funded services***

29. The Commission recommends that the legislation require, as a condition of a service receiving CA or any other kind of Commonwealth child care funding, that the service meet a standard on parent participation and consultation consistent with that necessary for the service to meet at least the basic requirements for accreditation (para 6.29).

## **Complaints about child care services**

### ***Internal complaints mechanisms***

30. The Commission recommends that the legislation require, as a condition of funding, that a service should have to demonstrate that it has an established procedure for dealing with complaints made about the management or operation of the service by parents of children attending the service. The Department should issue guidelines setting out the essential features that all mechanisms must have, which should include the minimum requirements recommended by the Administrative Review Council. The guidelines should outline a model or models that services can choose if they do not wish to develop their own (para 7.11).

### ***External complaints mechanisms***

31. The Commission recommends that the legislation should provide that there should be an independent, external body to deal with complaints about child care services (para 7.16).

### ***Powers the external complaints body should have***

32. The Commission recommends that legislation should give the independent complaints body the powers necessary to deal with disputes quickly and effectively. The body should be able to make recommendations to services, the Department and the Minister. It should have an appropriate structure and appropriate procedures to ensure that it is able to meet the needs of consumers of child care services (para 7.21).

### ***Duplication with State and Territory mechanisms should be avoided***

33. The Commission recommends that the legislation should establish a Commonwealth body to handle the complaints that parents have about a federally funded child care service. Where a State or Territory has an appropriate independent complaints body able to deal with parents' complaints about a child care service, the legislation should enable the Commonwealth to authorise that body to deal with all parent complaints, including complaints under federal legislation. Where there is no State or Territory body the Commonwealth should negotiate with that State or Territory to enable the Commonwealth body to handle complaints about child care services which might otherwise be outside its jurisdiction (para 7.24).

## **Family Day Carers — special issues**

### ***Relationship between carers, coordination units and sponsors***

34. The Commission recommends that, as a matter of urgency, carers be clearly classified as either employees or self employed contractors before the new legislation is drafted and that they be guaranteed the rights and privileges associated with whichever status is agreed (para 8.22).

### ***There should be agreed policies on specific matters***

35. The Commission recommends that the legislation require, as a condition of funding, that FDC schemes have either written agreements between or specific written policies agreed between carers, units, parents and sponsors on matters specified in guidelines. These matters would include those which address the roles and responsibilities of the sponsor organisation, the unit, carers and parents including

- how carers are to be selected and approved
- the basis on which children will be allocated to carers and the procedure that the unit should follow
- how fees are set and the procedure if parents do not pay their fees
- the standards of care carers are required to meet
- the procedure for monitoring standards, including what should happen if a unit believes a carer is not meeting standards or breaches other scheme requirements
- how often unit staff will visit a carer and on what basis
- what training and support the unit will provide to carers
- the responsibilities of parents to carers and carers to parents

The Commission recommends that before the FDC guidelines are drafted the Department should consult with key organisations to determine on other matters on which FDC schemes should be required to have written policies (8.23).

### ***Information***

36. The Commission recommends that the Commonwealth develop a national strategy for getting information about Commonwealth policies and the CSP to all carers. The Department should add a special

section to the FDC handbook which sets out this information in a form suitable for carers. The information should be available in community languages. It should be a condition of funding that schemes pass information produced by the Department on to carers (8.32).

### ***Getting specific information to carers***

37. The Commission recommends that the legislation require, as a condition of funding, that coordination units give information to carers about what the scheme's policies are. In addition units should be required to give information to carers about

- the opportunities for carers to participate in the management of the service (see para 8.44)
- complaint handling procedures (see para 8.52)
- the availability of an external complaints mechanism (see para 8.53) (para 8.33).

### ***Carer participation in management***

38. The Commission recommends that the legislation require, as a condition of funding, that FDC schemes have a written agreed policy on how carers are to be involved in decisions made by the sponsor or the coordination unit which affect them and specific strategies to encourage carers to become involved. These strategies should be evaluated regularly (para 8.44).

### ***Carers from identified special needs groups***

39. The Commission recommends that the legislation require, as a condition of funding, that family day care schemes have specific strategies to encourage Aborigines and Torres Strait Islanders and people from non-English speaking backgrounds to become carers. These strategies should be evaluated regularly (para 8.45).

### ***Carer complaints: internal mechanism***

40. The Commission recommends that the legislation should require, as a condition of funding, that an FDC scheme have an established procedure for dealing with complaints by carers about the management or operation of the scheme. The Department should include guidelines in the FDC handbook setting out the essential features that complaints mechanisms must have. The guidelines should reflect the minimum requirements recommended by the Administrative Review Council (para 7.9). They should include a model that schemes can implement if they do not wish to develop their own (para 8.53).

### ***External complaints mechanism***

41. The Commission recommends that carers who have a complaint about an FDC scheme should have access to the appropriate external review body handling parents' complaints about child care services in the particular State or Territory (see para 7.16) (para 8.54).

## **Legislating the funding process**

### ***Getting funding***

42. The Commission recommends that the legislation set out the steps a service must take to receive funding. The legislation should clearly state the grounds on which an application made under the legislation can be refused. These grounds should include that the applicant or a director of the applicant is not fit and proper to conduct a child care service and that the proposed service is unsatisfactory for reasons such as failure to comply with local child care licensing laws or relevant State or Territory building controls or comply with the requirements of the Quality Improvement and Accreditation System. The legislation should provide that reasons must be given if an application is refused (para 9.5).

### ***Attaching conditions to funding***

43. The Commission's recommendations in this report include matters which should be included in legislation as conditions of funding. These requirements should be standard conditions applicable to all service types or to particular service types as appropriate. The legislation should provide that the Secretary of the Department have the power to add, omit or vary conditions with the consent of the operator when necessary in particular circumstances (para 9.11).

### ***Making the decision to withdraw funding***

44. The Commission recommends that the legislation should set out the grounds on which a decision to withdraw funding may be made and the process to be followed. The grounds should include

- inadequate standards of care
- neglect or abuse of children or a significant risk of neglect or abuse
- serious or continuous failure to provide care that meets the physical, emotional or developmental needs of the children
- serious or continuous failure to comply with legislative requirements or funding conditions
- dishonesty or fraud or a significant risk of dishonesty or fraud (para 9.15).

### ***Reviewing decisions***

45. The Commission recommends that the legislation should provide that the following decisions should not be subject to review on their merits:

- planning decisions
- allocations from limited pools of funding such as capital funds, operational subsidy, flexible service model funding, and grants for program support and industry efficiency purposes (para 9.20).

### ***Decisions that should be reviewable by the AAT***

46. The Commission recommends that the legislation should provide that the Administrative Appeals Tribunal should be able to review decisions

- to approve a service for Childcare Assistance funding
- to change the conditions under which funding is or will be granted
- to take funding away from a service for not complying with conditions of funding.

These decisions should first be reviewed internally by the Department before there is a right of review to the AAT (para 9.23).

### ***Decisions made by State and Territory governments administering Commonwealth funds***

47. The Commission recommends that the legislation should provide service providers with the same review rights whether the federal funds are provided directly by the Commonwealth or indirectly through a State or Territory. The Commonwealth should be able to enter agreements with a State or Territory for the review of a State or Territory decision to be undertaken by a body other than the federal Administrative Appeals Tribunal where another appropriate body exists (para 9.24).

## **Information protection**

### ***Protecting personal information held by services***

48. The Commission recommends that the legislation require, as a condition of funding, that services collect, store, use and disclose personal information only in a manner that protects the privacy of that information. Where services receive Commonwealth funding through State or Territory governments the Commonwealth should negotiate with these governments about how they will ensure that services properly protect personal information (para 10.10).

### ***Compliance with privacy principles***

49. The Commission recommends that the legislation require, as a condition of funding, that child care services comply with the Information Privacy Principles of the *Privacy Act 1988* (Cth) amended as appropriate for child care services. The amended principles should be developed by the Department in cooperation with the Commonwealth Privacy Commissioner. They should be included in the legislation (para 10.11).

### ***Guidelines should be developed which expand on the principles***

50. The Commission recommends that the new legislation require the Department to develop specific guidelines on how services should comply with the privacy principles set out in the legislation (para 10.12).

### ***Protecting information held by the Commonwealth***

51. The Commission recommends that provisions relating to the collection and protection of information be placed together in a separate part of the new legislation on information handling (para 10.18).

### ***Minimising overlap in the information collected and record keeping requirements imposed on services***

52. The Commission recommends that the Department establish whether there is duplication in the collection and storage of information by Commonwealth and State and Territory authorities. If there is duplication the Department should work with State and Territory authorities to remove it (para 10.19).

### ***Offences to deter unauthorised use of information by Departmental officers***

53. The Commission recommends that the legislation create offences to deter unauthorised use of information held by the Department. The new legislation should provide that it is an offence

- to release or use, without authority, information held by the Department
- to attempt to obtain information the Department holds if release of that information is unauthorised and the person seeking it knows or should reasonably know its release is unauthorised
- to offer to supply or hold oneself out as being able to supply information the person is not authorised to supply if the person knows or should know that supply of that information is unauthorised (para 10.25).

## **Achieving quality**

### ***State and Territory licensing requirements***

54. The Commission recommends that the legislation require, as a condition of funding, that a service comply with the standards imposed by the State or Territory in which it is located (para 11.4)



### *National standards*

55. The Commission encourages the development of national standards applicable in all States and Territories provided that those standards are consistent with the principles, objectives and requirements in federal child care legislation (para 11.6).

### *Quality Improvement and Accreditation System*

56. The Commission recommends that the Quality Improvement and Accreditation System be extended and adapted to all child care service types. The Commission also recommends that the legislation require, as a condition of funding, that all Commonwealth funded services be registered with the National Childcare Accreditation Council and be required to address the accreditation Principles (para 11.10).

### *CSP's role in enforcing standards of quality*

57. The Commission recommends that the new legislation establish principles as the basis of standards monitoring, whether the monitoring is undertaken by the States and Territories, by the National Childcare Accreditation Council or by the Department itself.

- All service types should be subject to standards about the physical environment in which care is provided, for example, buildings, space, facilities and hygiene.
- All service types should have a quality assurance mechanism which ensures that the care provided meets the physical, emotional, social, cultural and developmental needs of all children using child care services.
- Quality in its broadest sense should be regulated and monitored by the one agency.
- Quality standards should take into account the values of Aboriginal and Torres Strait Islander people and people of non-English speaking backgrounds.
- The quality measures applying to standard model services should be nationally consistent.
- Non-standard model services should have measures which are appropriate for the needs each service is designed to meet (para 11.16).

## **Protecting community resources**

### *Capital funding*

58. The Commission recommends that the legislation should provide a set of core provisions which apply to all services receiving capital funding from the Department. There should also be program and project specific conditions, where appropriate (para 12.10).

### *All parties with an interest in a capital project should be subject to conditions and obligations*

59. The Commission recommends that all parties with an interest in a capital funded service should be subject to conditions and obligations. Conditions should apply to the owner of the land on which a service is being built and the operator of the service (para 12.11).

### *The period of obligation to keep providing the service*

60. The Commission recommends that the legislation should require that as a general rule capital funding agreements should impose an obligation to provide the service for which funds are being given for a period of 30 years. This period may be more or less depending on certain specified factors which should be clearly communicated to all parties (para 12.12).

### ***The Commonwealth should take security***

61. The Commission recommends that the legislation should require as a general rule that the Commonwealth should take security over the land on which a capital funded child care service is built. The landowner should not be permitted to sell or otherwise dispose of the land or to mortgage it or give some other form of security over it without the approval of the Secretary of the Department(para 12.13).

### ***Repayment of capital grants***

62. The Commission recommends that the legislation should give the Secretary power to require repayment of a capital grant in full or in part. It should prescribe matters to be taken into account in this decision including

- whether the need for the service still exists
- how long the service has been operating since the grant was made
- the age and condition of the building and whether there is a need to upgrade it
- the use to which the building will be put after it is sold (for example, whether it is to be used for another community service)
- the proportion of the Commonwealth's contribution to the value of the land or building.

The legislation should also provide that other matters to be considered may be specified in the capital funding agreement between the Department and the landowner or service operator (para 12.17).

### ***Determining what amount should be repaid***

63. The Commission recommends that the legislation should provide that the amount of capital funding to be repaid should reduce in accordance with the length of time the service has operated. The whole of the grant should be repayable if the service closes within the first 10 years of the 30 year period. The obligation to repay will decrease more rapidly in the last 10 years of the 30 year period. The obligation to repay will end after the service has operated for 30 years, unless it has been extended by additional funding (para 12.18).

### ***Financial accountability***

64. The Commission recommends that the legislation should impose a duty on services to keep records. The legislation should give the Secretary power to specify what records or class of records services must keep, who must keep them, where they should be kept and the minimum time for which they must be kept. The legislation should provide that a former operator must keep records for a specified period in a place approved by the Department after ceasing to be an operator (para 12.22).

### ***Powers of Commonwealth officers***

65. The Commission recommends that the legislation should give Commonwealth officers whose duty it is to monitor child care services clear powers necessary to do so effectively. It should include powers

- to enter premises where a service is being conducted, during business hours, with the operator's consent or under a warrant
- to enter premises where records are kept, with the Secretary's consent
- to enter other premises, with consent or under a warrant
- to search for, direct production of, examine and copy documents

- to ask questions of service operators, their staff and relevant other persons
- to direct third parties (para 12.25).

***Duties of cooperation on management, staff and other relevant third parties***

66. The Commission recommends that the legislation impose specific duties of cooperation on the management and staff of services and relevant third parties. It should include duties

- to help and cooperate with officers
- to allow entry during specified hours
- to answer questions
- to obey authorised directions
- to provide information (para 12.28).

***Enforcing obligations***

67. The Commission recommends that the legislation should set out sanctions which the Secretary can exercise where obligations attached to funding are breached. It should include the power

- to revoke and suspend approvals and impose additional conditions
- to name a service in Parliament or in a public document

The Secretary should also be able to appoint an advisor with the consent of the service (para 12.32).

# 1. The reference

## Background

### *The reference*

1.1 On 18 August 1992 the then Attorney-General, Mr Michael Duffy, gave the Australian Law Reform Commission a reference to inquire into and report on a large number of Acts administered by the Department of Health, Housing and Community Services (as it then was). The Attorney General did this at the request of Mr Brian Howe, then Minister for Health, Housing and Community Services. The Minister for Human Services and Health (as it is now called) is Dr Carmen Lawrence. Senator Rosemary Crowley is the Minister for Family Services. Dr Andrew Theophanous is Parliamentary Secretary to the Minister for Human Services and Health and has executive responsibility for the Department's law reform program. The reference covers Acts that deal with Commonwealth service provision and Commonwealth funded service provision in areas including aged care, child care, disability services and health.

### *The terms of reference*

1.2 The tasks for the Commission in this reference are

- to make recommendations on how Commonwealth legal policies (including administrative law, secrecy, privacy and criminal law), social justice and human rights should be reflected in the new legislation
- to advise on the common elements to be included in the program legislation (with a view to achieving consistency as far as possible across programs)
- to have regard to the need to ensure proper standards of accountability while retaining flexibility and innovation in the delivery of services.

The terms of reference explicitly state that the reference does not extend to making recommendations about the underlying policy of the programs.<sup>1</sup> The Commission is also required by its legislation to ensure that its recommendations are consistent with the provisions of the ICCPR.

### *Aims of the project*

1.3 ***Problems with existing legislation.*** The existing Acts administered by the Department were passed at different times over a long period. Some have been amended many times and contain a great deal of complicated detail. Others do not contain enough detail on important issues. Many are difficult to use and understand. They often regulate the same types of matters in different ways for no apparent reason.

1.4 ***Child care legislation.*** The Children's Services Program operates largely outside legislation. *The Child Care Act 1972* (Cth) covers funding for long day care centres. Other service types such as family day care and occasional care are regulated administratively through guidelines and handbooks.

1.5 ***New legislation.*** The ultimate goal of the reference is the production, by the Office of Parliamentary Counsel, of new, simplified and consistent Acts covering the four program areas of aged care, child care, disability services and health. The Commission's role in its reports is to make recommendations about how best to ensure that the new legislation reflects Commonwealth legal policies, and social justice and human rights, for example, how best to protect the interests of consumers of the services funded by the Commonwealth.

## The Commission's work

### *Publications*

1.6 In the course of this project so far the Commission has published two discussion papers.

- **Child care.**<sup>2</sup> In this discussion paper the Commission describes the Commonwealth's Children's Services Program. It examines the program from the point of view of consumers of children's services, service providers and the Commonwealth. It considers whether the program adequately reflects Commonwealth legal policies and social justice and human rights requirements. It discusses how to maintain proper standards of accountability for the Department and for service providers while retaining and improving flexibility and innovation in service delivery. The Commission makes provisional proposals about how new legislation might provide better for these matters and in a series of questions asks for submissions on the issues raised and proposals made in the paper.
- **Aged care.**<sup>3</sup> In this discussion paper the Commission describes parts of the Commonwealth's Aged and Community Care Program. These are nursing homes, hostels, community aged care packages and the domiciliary nursing care benefit. It does not discuss the home and community care (HACC) program. (This will be dealt with later.) It examines the program, raises issues, makes provisional proposals and asks questions using a similar approach to that taken in the child care discussion paper.

### ***This report***

1.7 The issues raised and the proposals made in the child care discussion paper are considered in this report in the light of the Commission's consultations since it was published. The report considers these matters as they relate to consumers, that is, children and their parents and guardians, service providers and the Commonwealth, under four major subject headings. These are

- Social justice and access and equity (chapters 2-8)
- Decision making (chapter 9)
- Privacy (chapter 10)
- Accountability (chapters 11 & 12).

### ***Consultation***

1.8 ***Consultation with federal, State and Territory agencies.*** In its work on this reference the Commission has worked closely with officers of the Department. It consulted a number of federal bodies whose interests and work were relevant to this inquiry. They included

- the Administrative Review Council
- the Privacy Commissioner of the Human Rights and Equal Opportunity Commission
- the Office of the Status of Women
- the National Childcare Accreditation Council.

The Commission also consulted relevant State and Territory Departments and met with the Children's Services Sub-Committee of the Standing Committee of Community Services and Income Security Administrators.

1.9 ***Appointment of honorary consultants.*** Following its usual practice the Commission appointed a number of honorary consultants to help it with its inquiry. The names of consultants are listed at the beginning of this report and the Commission acknowledges with appreciation the contribution they have made. They took time out from busy work schedules to attend two meetings to discuss the Commission's proposals and draft documents and gave other detailed comment and assistance. Their expertise and insights were very valuable.

1.10 ***Community consultation.*** Following the publication of the child care discussion paper the Commission consulted throughout Australia with a wide range of organisations and individuals with a special interest in child care.

- ***Distribution of discussion paper.*** The Commission's child care discussion paper was widely distributed (12 000 copies were sent out). It was mailed to every children's service receiving Commonwealth funding. It was also sent to relevant peak organisations and interest groups. The Commission made special efforts to reach family based child care workers. It prepared an extract of the section of the discussion paper concerning carers and, with the help of the National Family Day Care Council, distributed it to carers.
- ***Information seminars.*** Every person receiving a discussion paper was invited to attend an information seminar. The seminars were also advertised in the national and regional press. Seminars were held in every capital city and in some regional areas. At the seminars the Commission gave information about the reference, talked about the discussion paper and gave participants the chance to make comments. The seminars were attended by industry representatives, services providers, child care workers, parents, academics and other people with an interest in child care. The Commission held special seminars in outer urban areas of Sydney and Melbourne for parents with children in child care and for home based child care workers.
- ***Public meetings.*** The Commission held a public meeting, at which the public was invited to speak, in each Australian capital city. Ninety two organisations and individuals made oral submissions at these meetings. The names of the people who made oral submissions are listed in Appendix 1.
- ***Submissions.*** The issues and proposals raised in the discussion paper formed the basis for significant and detailed comment. The Commission received 439 written and oral submissions from individuals and groups including State and Territory governments, service providers, service sponsors, parents, child care workers, groups representing children with a disability, people of non-English speaking backgrounds, Aborigines and Torres Strait Islanders, people in rural and remote areas and trade unions.
- ***Consultation with Aboriginal and Torres Strait Islanders.*** The Commission held a two day meeting with representatives of Aboriginal and Torres Strait Islander organisations involved in child care and with representatives from the Aboriginal and Torres Strait Islander Commission and councils.

## **Acknowledgements**

1.11 The Commission thanks all those who contributed to this report by accepting appointment as honorary consultants, by making written or oral submissions and attending the public meetings and information seminars. Particular thanks are extended to Margaret Carmody and the many officers of the CSP of the Department who provided invaluable assistance in helping the Commission understand the policies and operations of the program. The Commission also thanks Lee Emerson of the Department's Strategic Development Branch.

## **Other relevant inquiries and initiatives**

### ***Administrative Review Council***

1.12 The Administrative Review Council (ARC) has been examining what review of administrative decisions there should be for programs funded by the Department. The Council released an issues paper in June 1993 and consulted widely in the second half of 1993. Its final report was released in August 1994. In preparing this report the Commission has taken account of the principles and approaches adopted by the ARC in its final report.

### ***Plain English***

1.13 The Department engaged Dr Robyn Penman, of the Communication Research Institute of Australia, to provide advice on plain English techniques for the new legislation. Dr Penman identified the main users of the Department's legislation and the problems they have in understanding and using the legislation regulating the programs. She also identified a number of features that would help make the legislation more 'user friendly'. The Commission has taken Dr Penman's findings into account in making its recommendations.

### ***International Year of the Family***

1.14 The National Council for the International Year of the Family produced a discussion paper in March 1994 entitled *The Heart of the Matter*. The paper discussed the child care needs of families and referred to the Commission's child care discussion paper. Professor Bettina Cass, the Chair of the Council, is also a part-time Commissioner working with the Commission on this reference.

### ***Children's Services Program reviews***

1.15 There have been several reviews of the CSP since the Commission began its review of the laws under which the program is administered. Recently completed reviews include

- an efficiency audit of the CSP conducted by the Auditor-General<sup>4</sup>
- an evaluation of supplementary services of the CSP.<sup>5</sup>

The Department is also evaluating Youth Activity Services (YAS). The Department has deferred its proposed review of outside school hours care until the outcome of the review mentioned below is known.

### ***Council of Australian Governments***

1.16 On 25 February 1994 the Council of Australian Governments (COAG) agreed that

The Commonwealth is to commence discussions with States and Territories in March/April 1994 to collect data and identify possible areas for reform within the general areas of child care, and provide a report for consideration at the next council meeting in August 1994.

The report considered at the Council meeting identified draft national objectives for child care and possible areas of reform. It also outlined broad options for rationalising the respective roles and responsibilities of the Commonwealth and the States and Territories in the planning, distribution and delivery of child care services. The Council is likely to consider a detailed evaluation of these options in February 1995.

### ***Report is interim***

1.17 Although, at this stage, the Commission regards its recommendations as final, it has called the report 'interim'. When the outcome of the COAG process is known it may be necessary for the Commission to clarify its recommendations or make more detailed recommendations in some areas to enable drafting instructions for new child care legislation to be prepared.

## 2. Principles and objectives

### Introduction

2.1 The new federal child care legislation should incorporate certain principles and objectives that should be fundamental to children's services. The guiding principles and objectives are access, equity, affordability and quality. The fundamental objective should be the welfare of children for whom child care is or will be provided. To achieve these principles and objectives, the new legislation should allow maximum flexibility in the Children's Services Program (CSP) - the legislation should be able to apply regardless of the arrangements for federal funding and regardless of the type of service funded. The Commonwealth should coordinate government policy and monitor programs through a national agency. This chapter sets out the principles and objectives that should guide the content and administration of children's services.

- It looks at the Commonwealth's social justice principles and human rights obligations in relation to child care (para 2.2-3).
- It looks at whether the CSP is currently consistent with those principles (para 2.4).
- It examines the constitutional power of the Commonwealth to legislate on child care (para 2.5).
- It examines the role the Commonwealth should have in legislating on child care (para 2.6-7).
- It recommends that the welfare of children be the paramount consideration in the new child care legislation (para 2.9-10).
- It examines the need for a nationally integrated approach to children's services and makes a recommendation about this (para 2.11-12).

### Four key principles

#### *Commonwealth policy*

2.2 **Social justice strategy.** As part of its social justice strategy, the Commonwealth is guided by four key principles when funding and administering its programs. Those principles are access, equity, affordability and quality. These principles aim to ensure that all people have equal access to affordable, high quality services funded and administered by the Commonwealth. These principles should lie at the heart of the CSP.

2.3 **Human rights obligations.** Australia is a party to a number of international conventions which place human rights obligations on it. The Conventions ratified by Australia that have an impact on child care are

- **Convention on the Rights of the Child.** The Convention on the Rights of the Child (CROC) provides that in all actions concerning children the best interests of the child shall be 'a primary consideration'.<sup>6</sup> Signatories undertake to ensure that
  - children get the protection and care necessary for their well being, and
  - institutions, services and facilities responsible for the care and protection of children conform with appropriate standards of health, safety, staffing and supervision.<sup>7</sup> CROC also addresses the needs of children with a disability and children who have been subjected to violence, abuse or neglect.
- **ILO Convention 156.** ILO Convention 156: Workers with family responsibilities (ILO 156) promotes equality of opportunity for workers with family responsibilities. Article 5 provides that nations that have signed the convention should take all measures compatible with local conditions
  - (a) to take account of the needs of workers with family responsibilities in community planning; and



- (b) to develop or promote community services, public or private, such as child care and family services and facilities.
- ***ILO Recommendation 165.*** ILO Recommendation 165: Workers with family responsibilities spells out what parties to ILO 156 should do in relation to the child care and family services and facilities referred to in ILO 156. This includes
  - ensuring services meet the needs and preferences of the community as revealed by consultation
  - ensuring services comply with appropriate standards.

***Is the CSP consistent with the principles?***

2.4 The CSP reflects the Commonwealth's human rights obligations and commitment to access, equity, affordability and quality to a degree. The priority of access guidelines recognise the rights of workers with family responsibilities by requiring services to accept first children whose parents work, train or study. Childcare Assistance makes child care more affordable for parents and the national accreditation system developed for long day care centres helps to ensure that those centres observe the proper standards of quality. There is scope, however, for the CSP to reflect social justice and human rights principles more effectively. There are problems with the availability of services for children lower down on the priority of access scale. There is also no effective and consistent means to ensure compliance with priority of access guidelines. There are inequities in funding between various service types, including different entitlements to Childcare Assistance for parents using different service types.

***The Commonwealth's role in child care***

2.5 ***Does the Constitution give the Commonwealth power to legislate for the range of services offered by CSP?*** There are a number of heads of constitutional power that would support child care legislation. They include the appropriations power,<sup>8</sup> the power to make grants to the States,<sup>9</sup> the Territories power<sup>10</sup> and the social welfare power.<sup>11</sup> The constitutional power that would support the most comprehensive legislation is the external affairs power.<sup>12</sup> The external affairs power enables the Commonwealth to make laws about children's services to the extent that the laws implement Australia's obligations under an international agreement, convention or treaty. The Commonwealth may also make laws based on recommendations or principles on matters of legitimate international concern. The law is a valid exercise of the power if it fulfils the obligation<sup>13</sup> and conforms to the provisions of the convention. ILO Convention 156 and ILO Recommendation 165 would provide the basis for the Commonwealth to make laws about the provision of child care services for workers with family responsibilities. CROC would provide a wider basis for the Commonwealth to make laws about the provision of child care services for children generally and, in particular, children with a disability, children who have been abused or neglected and children from cultural minority groups. Taken together, the conventions would justify legislation governing the range of services offered by the CSP, if necessary. They would also provide the basis for laws setting standards with which child care services must comply and for the monitoring of standards.

2.6 ***There should be Commonwealth children's services legislation.*** The CSP may not always be funded or administered the way that it is at the moment. The COAG meeting to be held in February 1995 will consider and discuss possible areas of reform in child care and outline the roles and responsibilities of the Commonwealth and the States and Territories in the planning, distribution and delivery of child care services.<sup>14</sup> In the future, the balance between the number of private and community managed services may change. Regardless of any changes to the funding or administration of the CSP that may result from COAG or from a growth in the private sector, it is important that the Commonwealth maintain a role in ensuring that the four key principles of access, equity, affordability and quality are reflected in the CSP. **The Commission recommends that federal child care legislation establish key principles for federally funded children's services. The key principles should be equity, accessibility, affordability and quality. These principles should underlie the Commonwealth's funding process and the operations of the services themselves. These principles should apply regardless of the arrangements for federal funding, that is, whether services are funded directly or through the States and Territories, and regardless of the type of service**

**funded, that is, whether the service is a community based service, a government operated service or a private for profit service.**

2.7 *Flexibility.* The child care industry is growing. The types of federal funding required, and the mix of community, government and private services, might be expected to change as the industry grows. Any Commonwealth legislation should be flexible enough to accommodate any future changes. It should provide a framework within which the growth and economic change can be accommodated consistently with federal social justice principles. This will ensure that the legislation remains relevant and avoid the need to amend the legislation each time a change occurs. **The Commission recommends that federal child care legislation enable maximum flexibility in the Children's Services Program, consistent with the four key principles and the broad objectives of the program. The legislation should be able to apply regardless of the arrangements for federal funding and regardless of the type of service funded.**

### **Tension in the terms of reference**

2.8 The terms of reference for the Commission's inquiry explicitly state that the reference 'does not extend to making recommendations about the underlying policy of the programs' of the Department of Human Services and Health (the Department). The terms of reference do, however, ask the Commission to make recommendations about how 'social justice and human rights should be reflected in new program legislation'. It is difficult to consider how legislation should reflect these matters without asking some questions about program policy. In the course of its critical examination of the CSP the Commission became aware of considerable inequities affecting individuals and families in some aspects of the CSP. It also became aware that some aspects of the program may give competitive advantage to some kinds of child care organisations over others. The Commission has taken the view that its terms of reference require it to address the former issue, namely, inequities affecting individuals, but not the latter. New legislation should not entrench aspects of program policy which result in inequitable outcomes for individuals or families.

### **Children's services for children**

2.9 *The interests of children should be paramount.* In the Commission's view, the fundamental interest of the child should be the paramount consideration in developing and implementing policies about child care. Children are the primary consumers of child care services, but they have the least power. Their rights and interests must be considered when decisions that affect them are made. CROC (art 3.1) provides that in all actions concerning children the best interests of the child shall be 'a primary consideration'. Other Federal, State and Territory legislation puts this obligation even higher, making welfare of children the paramount consideration.<sup>15</sup> **The Commission recommends that the fundamental objective of the Children's Services Program should be to enhance the well-being of children. The legislation should provide that the welfare of the child for whom child care is being or will be provided is to be the paramount consideration in any decision or action taken under or for the purposes of the legislation.**

2.10 *Other people with interests.* The CSP's main objective is to help parents with dependent children find adequate child care so they can participate in the workforce and in the general community. It does this within a tight budgetary context. Other groups that have an interest in the Commonwealth's child care program include the private service providers' interest in making a profit and the community's interest in having services that are managed and controlled by parents. Parents also have an interest in being able to choose good quality child care and child care workers have an interest in ensuring that their working conditions are suitable.

### **A national approach to children's services**

2.11 *Need for a national and integrated approach.* The Commonwealth's CSP is only one element of a whole range of family and other children's services in Australia with wide-ranging policy goals. There needs to be a more rational and coordinated approach to children's services in general. In its submission to the Commission, the Institute of Early Childhood says there should be a 'national integrated children's services program'. This has been the vision of many early childhood professionals for some time. This integrated program should include

greater recognition of the rights of the child and the need for children's services to be responsive to children and their families. Amidst the political imperatives of expansion of places and affordability concerns, it is vital that we do not lose sight of the Government's commitment to the United Nations Convention on the Rights of the Child and ILO Convention 156 ... Careful monitoring and evaluation needs to focus on whether policy and practice reflects the Government's stated goals of the CSP as well as these international declarations and conventions.<sup>16</sup>

A nation-wide child focused vision for all Australian children's services is vital to ensuring that the needs of children are identified and met and their rights and interests protected on a comprehensive, systematic and nationally consistent basis. The Commonwealth cannot achieve this on its own. Large areas of children's service provision are State and Territory responsibilities. One way of ensuring that the rights of children in children's services are protected on a national basis would be for the Commonwealth to exercise its obligations under CROC in the form of a Children's Rights Act. The development of such an Act would be an appropriate exercise for the Australian Law Reform Commission to undertake.

**2.12 *Need for a national coordinating body.*** A national approach to children's services could best be achieved by creating a federal office of children to coordinate children's policies at a national level. The Commonwealth could also create a federal Children's Commissioner, as many commentators have proposed, to monitor compliance with CROC. **The Commission recommends that the Commonwealth establish a national agency to coordinate government policy affecting children and to monitor the implementation of programs, policies and laws to ensure that the rights and interests of children are protected and promoted.**

## 3. Existing children's services program

### Introduction

3.1 This chapter describes how the existing Children's Services Program (CSP) is funded and supported.

- It examines the policy objectives and the legislation currently regulating the CSP (para 3.2-3).
- It describes the role of the Commonwealth, State, Territory and local governments and parents and local communities in supporting child care services (para 3.4-8).
- It examines how the Commonwealth funds individuals and organisations to provide child care services (para 3.9-12).
- It looks at the types of services funded by the Commonwealth and the needs those services are designed to meet (para 3.13-29).
- It looks at the types of funding provided by the Commonwealth (para 3.30-48).

### Policy objectives

3.2 The main objective of the CSP is to help families with dependent children participate in the workforce and in the general community. It does this by helping to make child care affordable for low and middle income families and helping to improve the supply and quality of child care. In particular the aims are

- **affordability**
  - to help keep the cost of child care affordable for low and middle income families
- **supply**
  - to increase the supply of child care places in a variety of community managed, private and employer sponsored services
- **quality**
  - to encourage services to provide care which meets the physical, emotional and developmental needs of children
  - to support services to enable them to provide care for children with special needs
  - to encourage efficiently managed services.

### Current legislation

3.3 The CSP is a relatively new Commonwealth program. It is constantly developing to meet the needs of its target groups better. The federal legislation currently covering funding for child care is the *Child Care Act 1972* (Cth). It only covers funding for long day care centres. A number of other models for providing children's services are now of equal or substantial importance to the program. These have operated outside the Child Care Act. Instead of legislation, federal funding conditions are largely imposed administratively, through agreements, administrative guidelines and bulky handbooks.

## **How the Commonwealth supports child care**

### *Commonwealth support*<sup>17</sup>

3.4 The Commonwealth supports child care by providing funding to

- parents directly
- organisations to provide child care in mainstream models
- organisations to provide child care in flexible ways or in special services
- organisations set up to give support to children's services, for example SUPS and program support.

The kinds of funding it provides include

- to parents directly - Childcare Rebate
- to organisations
  - Childcare Assistance funding (formerly known as fee relief)<sup>18</sup>
  - building and equipment funding
  - operational subsidy
  - one off grants.

### *Expansion strategies*

3.5 As part of election promises or budget initiatives over the last 10 years, the Government has announced four specific commitments to increase the number of child care places.<sup>19</sup> The program calls these 'expansion strategies'. Each strategy aims to increase places by a specific number in specified service types. It usually identifies the type and amount of funding to be allocated per place. Most strategies have been developed on the basis that State and Territory governments will contribute a certain level of funding for the expansion. The Commonwealth has generally entered into agreements with the States and Territories about how much each will contribute, for what purposes and on what conditions. The Commonwealth and States have taken a long time to reach agreement on the most recent expansion strategies and the Commonwealth has not been able to reach agreement at all with some States.<sup>20</sup> This has meant that some places from earlier strategies are still being established or being established on different funding bases.

## **How State and Territory governments support child care**

3.6 State and Territory governments also fund children's services. The way they support children's services varies from State to State and depends to some extent on the agreement the State or Territory has reached with the Commonwealth about the particular new places being established. In past expansion strategies most States and Territories have contributed, or do still contribute, at least half of the capital that goes towards establishing new services. Most States and Territories have contributed, or do still contribute, towards the staffing or recurrent costs of community managed long day care centres, occasional care centres and outside school hours services. Family day care is funded only by the Commonwealth. Most State and Territory governments also fund children's services which fall outside Commonwealth children's services funding programs, for example, state-funded pre-schools, school age programs and occasional care.

## **How local government supports child care**

3.7 Local governments also give substantial support to children's services. Very often local government councils contribute the land on which new child care centres are built. Many also take responsibility for

building new services and getting them up and running. They often provide other resources to services. They may also take part in the planning process. Some local government councils directly manage a number of children's services.

## **How parents and communities support child care**

3.8 Parents and local community organisations also give enormous support to children's services. Community organisations, including churches, often sponsor services, taking responsibility for setting them up and managing them. They often give continuing financial support. Parents also make a significant contribution to children's services. They lend management and other expertise to staff and participate actively in fundraising for services.

## **Funding parents directly**

### *Childcare Rebate scheme*

3.9 The Commonwealth Childcare Cash Rebate scheme began operating on 1 July 1994. Childcare Rebate is available for a family's work related child care expenses for children up to and including 12 years of age. Work includes full or part-time work, study, training and looking for work. The child care for which costs can be claimed includes care provided in children's services and centres and, through paid informal arrangements, by baby sitters or nannies, as long as the care meets State and Territory standards and the carer is over 18 years old and has an approved carer provider number.

### *Who administers the Childcare Rebate scheme?*

3.10 The Childcare Rebate scheme is administered by the Health Insurance Commission. It establishes the eligibility of carers and applicants and pays the rebates. Families can claim the rebate by mail or in person through local Medicare offices.

### *How much is the Childcare Rebate worth?*

3.11 The amount of the rebate is 30% of claimable weekly child care costs in excess of a minimum fee (in line with Childcare Assistance for one child for 50 hours of care: currently \$16.00). The ceiling on claimable costs is the same as the Childcare Assistance ceiling for one child in care (currently \$110.00) and twice that amount for two or more children in care. The maximum Childcare Rebate is currently \$28.20 a week for 1 child and \$61.20 for 2 or more children. If a family receives Childcare Assistance, the rebate is paid on the amount paid by the family after taking into account the amount of Childcare Assistance that the family attracts.

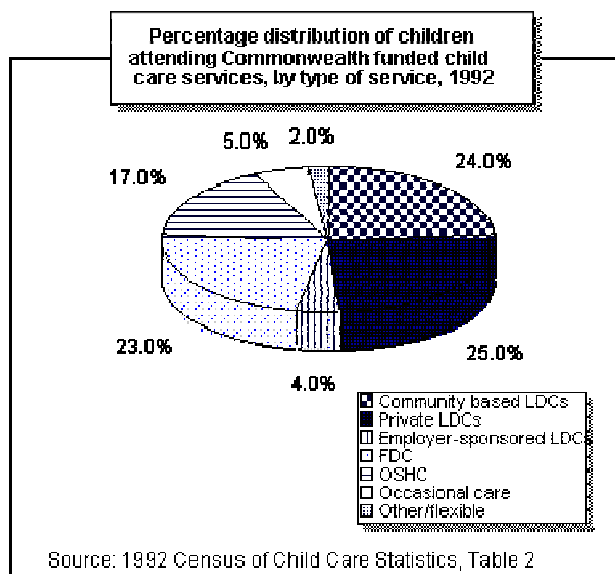
## **Funding organisations to provide child care**

3.12 Most of the funding under the CSP goes to organisations that provide child care. The Commonwealth gives these organisations a number of different kinds of funding depending on the type of organisation, the type of service provided and the age of the children for whom care is provided. As the CSP has developed, four main models of service provision have become the major focus for funding. These are

- family day care schemes
- long day care centres
- outside school hours care services, including vacation care
- occasional care centres.

These services also care for a large number of children with special needs with the help of resource workers and additional funding. The program has also tested a number of other ways of providing child care aimed at meeting the needs of groups whose needs cannot otherwise be addressed. These models include

Multifunctional Aboriginal Children's Services (MACS), Multifunctional children's services (Multifunctionals), mobile services and Youth Activity Services (YAS). The Department is placing increasing importance on the ability to be more flexible. It wants to develop mainstream models and test new models so that it will be more responsive to community needs.



## Family day care schemes

### *What is family day care?*

3.13 Family day care (FDC) is child care provided by carers who are part of a network.<sup>21</sup> They care for other people's children in the carers' own homes. The network is organised and supported by a central coordination unit that helps place children with carers, monitors the care provided by the carers and provides administrative support for the network. Some are run by local government councils, or community organisations on a non profit basis, for example, a church, a community group or a parents' committee. The unit must be community managed and non profit. In South Australia, the State government is the sole sponsor of family day care. Family day care networks operate in both urban and rural communities. The number of children in a network can range from fewer than 50 to over 400.

### *What needs does it meet?*

3.14 In general terms, family day care is designed to meet the child care needs of parents who work or who are looking for work or are in training. The care is provided for children who have not yet started school (or are in primary school). Care is usually regular full-time or part-time, but may include up to 24 hour, occasional, emergency and before and after school care. Care must be offered for at least 8 hours a day on all normal working days for at least 48 weeks a year. The care offered must be consistent with the physical, emotional and developmental needs of the children. FDC schemes must also provide parents with an opportunity to participate in the management of the scheme.

### *What funding does it receive?*

3.15 Family day care coordination units receive

- Childcare Assistance funding
- Special Childcare Assistance
- operational subsidy.

New units receive

- equipment funding
- a start up grant to employ a person to set up the unit.

In appropriate circumstances, coordination units may also receive

- regional travel assistance grants (RTAG)
- additional operational subsidy to cover part time users
- funding for clients in additional places created under the Jobs Education and Training (JET) scheme.

Services may also get SUPS assistance to support children with identified special needs.<sup>22</sup> If a carer looks after a child with a disability, she or he may receive a special grant called a D-SUPS grant. This is a regular payment made to the carer. The coordination unit must approve the payment. D-SUPS funding recognises the fact that a child with disabilities needs more care and attention than other children. It compensates the carer for the loss of income suffered because the carer is not able to care for as many children as she or he might otherwise have done.

### ***What do families pay?***

3.16 There are a number of different payment arrangements. If the family does not attract Childcare Assistance, the family pays the full fee to the carer. If the family does attract Childcare Assistance, it pays the fee less the Childcare Assistance entitlement.<sup>23</sup> In some schemes, the unit pays the Childcare Assistance direct to the carer and the parent pays the remainder of the fee to the carer. In others, the parent pays the unit which then pays the carer the fee including the Childcare Assistance component. Coordination units may charge parents a levy for membership of the scheme and to help with some administrative costs.

## **Long day care centres**

### ***What are long day care centres?***

3.17 Long day care centres are child care centres licensed under State and Territory child care laws.<sup>24</sup> Some are run by local government councils or community organisations on a not for profit basis, for example, a church, a community group or a parents' committee. Others are run for profit on a fully commercial basis. Still others are run by employers whose employees need child care.<sup>25</sup>

### ***What needs are met by long day care centres?***

3.18 Long day care centres are designed primarily to meet the child care needs of parents who work, are looking for work or are in training, for children who have not yet started school (although it may also include children who are in primary school). Generally speaking, a centre must be open and provide care for at least 8 hours a day on all normal working days and for at least 48 weeks a year. The care offered must be consistent with the physical, emotional and developmental needs of the children. Community managed long day centres receiving operational subsidy must also provide parents with an opportunity to participate in the management of the centre.

### ***What funding do they receive?***

3.19 ***Community managed long day care centres.*** Approved community managed long day care centres receive

- Childcare Assistance funding
- Special Childcare Assistance
- operational subsidy.



New community managed services receive

- a building and equipment grant or, in some cases, a grant and a repayable interest free loan
- a start up grant equivalent to 6 weeks salary, to be spent on employing a person to set up the centre.

In appropriate circumstances, community managed centres may also receive funding for clients in additional places created under the JET scheme. They may also get SUPS assistance.

3.20 ***Other long day care centres.*** Other long day care centres, including employer sponsored centres, receive

- Childcare Assistance funding
- Special Childcare Assistance.

They may receive

- SUPS assistance
- funding for clients in additional places created under the JET scheme.

Employer sponsored centres may also receive an interest free loan to help build the centre.

#### ***What do parents pay?***

3.21 The parents pay the fee charged by the centre less the amount of Childcare Assistance, if any, that the family attracts.<sup>26</sup>

## **Outside school hours care services**

#### ***What is outside school hours care?***

3.22 Outside school hours care services provide care for school age children, particularly primary school children, at times when they are not at school.<sup>27</sup> The care takes the form of supervised and planned recreational activities in an informal setting. Services are community managed and non profit and are usually found in schools or in community facilities near schools. Traditionally, before and after school care (called outside school hours care) and school holiday care (called vacation care) have been two distinct service types. However, the Department is now giving funding priority to a new model (called year round outside school hours care) in which all care that is provided outside school hours, including vacation care, can be organised through a single contact point.

#### ***What needs does it meet?***

3.23 Outside school hours care is designed primarily to meet the needs of parents who work, are looking for work or are in training, for care for primary school age children when the children are not at school, that is

- during school holidays<sup>28</sup>
- before school starts
- after school
- on days when children are not at school because teachers are having in-service training (pupil free days).

### ***What funding does it receive?***

3.24 Outside school hours care services that receive federal funding<sup>29</sup> (except vacation care) and services running the new year round care model, receive

- Childcare Assistance funding (at the outside school hours care rate)<sup>30</sup>
- operational subsidy.

New services receive

- equipment funding
- a start up grant, of a set dollar amount.

In appropriate circumstances services may receive funding for clients in additional places created under the JET scheme. They may also receive help from a SUPS service. The Commonwealth currently also funds some vacation care by a block grant to the States and Territories, who administer these services.

## **Occasional care**

### ***What is occasional care?***

3.25 Occasional care is provided for children not yet at school whose parents are

- not in the workforce or
- in the workforce but only require child care for short periods.<sup>31</sup>

One parent is usually in the workforce. Attendance may be regular or irregular. It is intended mainly to be used once or twice a week, or less. Services must limit the amount of care a family can use where there is a large number of families wanting child care. It is provided in child care centres that are licensed under State and Territory laws. To receive federal funding a centre must be run by a community managed organisation on a not for profit basis. Occasional care centres are often found in regional shopping centres, the central business districts of cities and on major transport routes. They can provide limited outside school hours care.

### ***What needs does it meet?***

3.26 Unlike long day care and outside school hours care, occasional care is not primarily designed to meet the needs of working parents. It is designed to meet the need that parents at home may have for short periods of care for their under school age children. Parents can leave their children at a centre while they attend appointments, shop or just give themselves a break. It also gives children an opportunity to play with other children.

### ***What funding does it receive?***

3.27 The main federally funded occasional care model receives

- Childcare Assistance funding
- Special Childcare Assistance
- operational subsidy.

New occasional care services receive

- a building and equipment grant

- a start up grant, of a set dollar amount.

In appropriate circumstances, occasional care centres may also receive funding for clients in additional places created under the JET scheme. They may also receive help from a SUPS service. The Commonwealth funds some other occasional care centres which fall outside this model.

## **Child care delivered in flexible or innovative ways**

### *Making mainstream models more flexible*

3.28 The CSP is still in a state of rapid expansion and development. The needs of some groups in the community may better be met by child care delivered in ways other than by mainstream models. These include people in rural or remote areas, itinerant workers or Aboriginal and Torres Strait Islander communities. Multifunctional services and MACS are examples of services designed to meet the needs of these communities. To fund some of these services the Department pools the funds that would be provided if the service were a mainstream model and uses them in the way that better meets the needs of the users of the new service. The Department is also developing new ways to deliver children's services in combination with other community services funded by the Department. This will improve access to services by people in communities too small to support a single function service.

### *Services for children with special needs*

3.29 The Department also funds services for groups with identified special needs using funds which are not allocated as part of mainstream strategies. These identified groups overlap with those most likely to be catered for by flexible or innovative children's services. Services funded under this part of the program include

- special play groups which provide enrichment programs for Aboriginal and Torres Strait Islander communities
- outside school hours care or vacation care services for children in Aboriginal and Torres Strait Islander communities
- mobile services, where staff with equipment travel on a regular schedule to a number of locations, for under school age and primary school age children in rural and remote communities and
- youth activity services for secondary school age children living in socially and economically disadvantaged areas.

## **Kinds of funding to children's services**

### *Childcare Assistance - centres, family day care and occasional care*

3.30 **What is Childcare Assistance?** Most of the Commonwealth's spending on child care is by way of Childcare Assistance (formerly known as fee relief). It is directed to families with low and middle incomes.<sup>32</sup> The Commonwealth pays Childcare Assistance funding in advance to services who must reduce the fees payable by parents accordingly.

3.31 **How is it assessed?** Childcare Assistance is targeted to individual families. The amount of Childcare Assistance payable to a service depends mainly on the income and assets of the families whose fees will be reduced. Each family is assessed by the Department of Social Security (DSS) to work out the percentage amount by which its fees (up to a maximum) should be reduced. The rate of Childcare Assistance is similar for long day care services (long day care centres and family day care) and for occasional care.

3.32 **How much is payable to a service?** The service works out the Childcare Assistance entitlement on a per child basis using the formula

**Amount of care used per week x the fee on which the Commonwealth will pay Childcare Assistance (in most cases it is a ceiling of \$2.20 an hour) x Childcare Assistance entitlement rate (the percentage amount worked out by DSS).<sup>33</sup>**

The Department allows a fee ceiling higher than \$2.20 an hour in family day care to take into account the cost of meals, snacks and travel and part-time and casual care.

#### ***Special Childcare Assistance - centres, family day care and occasional care***

3.33 Services providing long day care, including family day care, and occasional care services may claim Special Childcare Assistance

- for families suffering sudden, severe short term financial difficulty or
- for children at risk of serious abuse or neglect where families cannot or will not pay the fee.

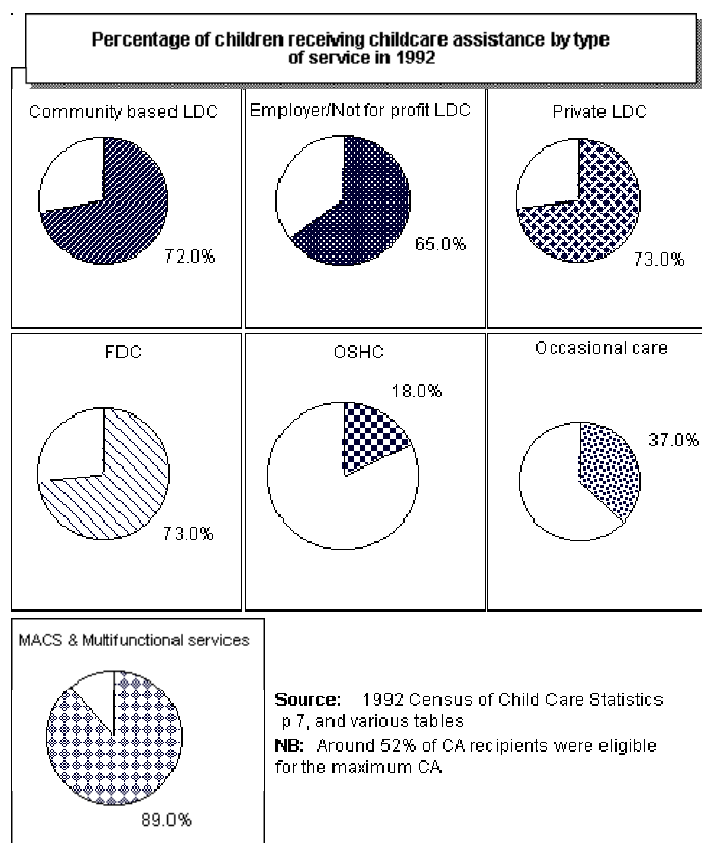
This enables the service to reduce the fees that the families have to pay. The maximum period for which Special Childcare Assistance is available is 13 weeks in any one year. Longer periods require Departmental approval. There is no formal assessment by DSS or the Department to work out whether a service should give a family Special Childcare Assistance and, if so, how much. The service assesses whether the family meets the criteria and how much to reduce its fee. It can reduce it by up to 100%. It claims that amount from the Commonwealth. It can claim, in one payment period, up to 5% of what it was paid in Childcare Assistance in the previous period. With Departmental approval a service's Special Childcare Assistance allocation can be increased to 10%. Any parent who meets the criteria may receive Special Childcare Assistance; it is not restricted to parents eligible for Childcare Assistance.

#### ***Childcare Assistance - outside school hours care services***

3.34 Outside school hours care Childcare Assistance is paid at a lower hourly rate and is subject to a more stringent means test than long day and occasional care Childcare Assistance. It is administered differently. The service assesses a family's eligibility for CA based on the DSS's assessment of the family's entitlement to additional Family Payment. There are two rates:

- the full rate of assistance of \$0.68 an hour is allowed to families with an income that entitles them to the maximum income tested additional Family Payment
- the partial rate of assistance of \$0.36 an hour is allowed to families that are entitled to a partial payment of income tested additional Family Payment.

Outside school hours services cannot claim for Special Childcare Assistance. The Commonwealth is about to review outside school hours care funding arrangements.



### ***Building and equipment funding***

**3.35 *Purchase or building of premises.*** The capital cost of new community managed places is usually shared between the Commonwealth and a State or Territory, with a local government or other organisation supplying the land for the new centre. Where a State or Territory government has not agreed with the Commonwealth to share capital costs for past expansion strategies and for the most recent expansion strategy, the Commonwealth has developed a new partnership arrangement. Under this arrangement, the Commonwealth will pay a capital grant and a capital loan. The land and any balance of funds will be contributed by local government or other sponsoring organisations. The amount paid by the Commonwealth is worked out using the formula applying to the expansion strategy under which the centre is being established.

**3.36 *Eligibility for building and equipment funding.*** Only community managed long day care centres and occasional care centres in areas of need are eligible for capital grants for building or extensions. Under the most recent expansion strategy community managed long day care centres may receive a grant (50% of cost up to a maximum amount) and an interest free loan (also 50% of cost up to a maximum amount). Employers wishing to sponsor a long day care centre may also apply for an interest free loan for building a centre (50% of cost up to a maximum amount). The grant includes funding for equipment.

**3.37 *Equipment.*** A new service that is eligible receives a once only grant to enable it to buy equipment, such as toys or computers, and to help with establishment costs. Generally speaking, the amount is based on a formula. For community managed long day care centres and occasional care centres the equipment grant is included in the building grant. For family day care coordination units it is currently \$51.54 a place, for outside school hours care services it is \$500 a service, and for MACS and Multifunctionals it is \$402 a place. In some cases, for example, SUPS and special services, no formula is used; the amounts are worked out on the basis of need.

**3.38 *Other.*** Some services, for example, MACS and mobiles, may receive capital grants to buy new or replacement vehicles.

## ***Operational subsidy***

3.39 ***Purpose of operational subsidies.*** The Commonwealth pays operational subsidies to all approved community managed services. Operational subsidies support the development of a community managed child care sector. The subsidy can be used for salaries and other ongoing costs. It helps ensure that services are set up in places where they are most needed. In most cases, services receive a one off subsidy for starting up a new service.

3.40 ***Community managed long day care centres.*** The Commonwealth pays operational subsidies to community managed long day care centres at two rates:

- \$21.40 a place a week for children under three
- \$14.35 a place a week for children over three.

These rates apply for centres open for up to 10 hours a day. Pro-rata additional subsidies are paid to centres open between 10 and 12 hours a day. If a service is approved to provide more than 12 hours care a day, the Commonwealth also pays a 100% loading for the extra hours. Centres use operational subsidy for a variety of purposes, including

- offsetting the high cost of caring for babies<sup>34</sup>
- enabling the centre to accept more children with special needs whose care costs more
- employing extra staff and better qualified staff
- keeping fees down.

3.41 ***Family day care coordination units.*** The Commonwealth pays operational subsidy to approved family day care schemes to contribute to the costs of operating the coordination unit. The subsidy helps to ensure that the quality of family day care is maintained at a high level. The rate of operational subsidy is \$16.45 an equivalent full-time place (EFT) a week. There is an additional amount for children in part-time care, to compensate for the additional workload. Some rural coordination units and some home based care services organised from Multifunctionals get an additional amount of operational subsidy (called a Regional Travel Assistance Grant). It compensates for the cost of long distance travel. If a scheme includes employer sponsored places, the employer pays for reserving those places.

3.42 ***Outside school hours services.*** Operational subsidy for outside school hours care helps with the general costs of operating the service. Outside school hours care services cater for large numbers of children for limited hours. The subsidy does not fully cover the cost. The rate of operational subsidy is \$0.54 a place an hour for the first 30 places and \$0.47 a place an hour for any additional places.

3.43 ***Occasional care services.*** Operational subsidy for occasional care centres provides some compensation for the higher cost of caring for babies and for the additional administrative costs of high volume and less regular usage. The rate of operational subsidy for the Commonwealth funded model is \$20.00 a place per 40 hour week.

## ***JET program***

3.44 The Jobs, Education and Training program (JET) is a joint program administered by DSS, the Department of Education, Employment and Training (DEET), and the Department. The aim of the scheme is to help sole parent pensioners enter or re-enter the workforce by providing an integrated program of advice, child care and access to education, training and employment opportunities. DSS has overall administrative responsibility for the program and provides the necessary child care funds. The Department's role in the program is to help JET clients get child care. It approves community groups to employ workers whose role is to arrange child care places for JET clients who cannot find places in Commonwealth funded services. If there are no vacant Commonwealth funded places for JET clients, the worker arranges for the Department to

create temporary additional places which attract JET Childcare Assistance and a placement grant. The Department allows clients to hold their places and receive JET Childcare Assistance for

- the length of their education or training course
- four weeks to look for a job and
- their first 26 weeks at work.

The program covers care for under school age children and outside school hours and vacation care.

## **Funding program support and industry efficiency**

### ***Introduction***

3.45 The Commonwealth funds organisations to provide support for children's services and to improve industry efficiency. The amount paid out depends on the need. Funding is mostly used for operational purposes but in some cases might be used for minor equipment or building purposes.

### ***Supplementary services assistance (SUPS) and special services***

3.46 The purpose of SUPS assistance is to give children with identified special needs better access to mainstream children's services and to help services provide more appropriate care for these children. The priority groups for SUPS assistance are

- children from non-English speaking backgrounds
- children with a disability
- Aboriginal and Torres Strait Islander children.

SUPS assistance may be in the form of a grant. In most cases services receive support from an agency funded to employ SUPS workers. Support can include resources, equipment, training, minor modifications to premises, transport and hands on help. All Commonwealth funded services can seek SUPS assistance. Services receive assistance on the basis of

- the number of special needs children and the degree of those needs
- the suitability of the proposed services
- the availability of other services
- the priority of need in comparison to other requests.

Children's services workers, casual ethnic workers pools and links schemes for children with a disability are some of the ways in which the Department provides this kind of assistance.

### ***Program support grants***

3.47 ***What are they?*** These grants are made to agencies or individuals

- to help the Department plan where new services should go
- to help organisations set up new services
- to help services manage themselves efficiently

- to help services provide quality care
- to help the Department consult industry groups and to help industry groups to consult each other
- to support playgroups<sup>35</sup>
- to conduct research.

3.48 ***Resource and advisory agencies.*** The bulk of program support funding goes into grants for resource and advisory agencies. They provide in-service training and resources for staff and management committees of Commonwealth funded children's services.



# 4. Access and equity

## Introduction

4.1 Comparing the principles in chapter 2 and the program described in chapter 3, it is clear that the present program imperfectly implements the principles of access, equity, affordability and quality. In the discussion paper, the Commission outlined the strategies the Children's Services Program (CSP) uses to implement the Commonwealth's social justice and access and equity policies and asked whether these strategies are effective. This chapter reports the outcomes of the Commission's consultation. It includes recommendations on matters that fall within the terms of reference; it does not include recommendations on matters of underlying program policy. This chapter is about how new legislation should reflect the Commonwealth's human rights, social justice and access and equity policies.

- It describes the priority of access guidelines and concerns expressed in submissions about government priorities and makes a recommendation about priorities (para 4.2-9).
- It outlines concerns expressed in submissions about implementation and monitoring of priority of access guidelines and makes a recommendation about this (para 4.10-13).
- It makes a recommendation that priority should be given to siblings of children already at a service (para 4.14).
- It outlines concerns expressed in submissions that there are unmet care needs for children aged 10 to 16 and makes a recommendation about this (para 4.15-16).
- It examines the lack of available places for children under 2 years of age and makes a recommendation about this (para 4.17-19).
- It outlines concerns expressed in submissions about access to services for children from non-English speaking backgrounds, Aborigines and Torres Strait Islanders, children with a disability and families living in rural and remote areas and makes recommendations about these (para 4.20-31).
- It outlines views in submissions about whether Childcare Assistance (CA) improves affordability and the inequities in CA for outside school hours care (OSHC) and makes recommendations about this (para 4.33-40).
- It outlines concerns expressed in submissions that OSHC services are inadequately funded relative to other community managed service types and makes a recommendation about this (para 4.41-43).
- It discusses family day care meals, snacks and loadings for CA, outlines why submissions consider that these should attract CA in family day care and makes a recommendation about this (para 4.44-47).
- It outlines widespread concern that the CSP is not meeting the needs of families in which parents work flexible hours or study and makes a recommendation about this (para 4.49-53).
- It discusses how the new legislation can promote flexibility and makes a recommendation about this (para 4.54-57).
- It makes a recommendation about how the definition of work related care in the new legislation could be broadened (para 4.58-59).

## Priority of access

### *Priority of access guidelines*

4.2 The main priority of the CSP is to help families with dependent children to participate in the workforce and in the general community. This is consistent with Australia's obligations under ILO 156.<sup>36</sup> The Commonwealth supports its labour market program by requiring services to allocate places according to priority of access guidelines. The guidelines (for all mainstream services except occasional care services and Multifunctional Aboriginal Children's Services (MACS)) require services to give preference to

- children in families in which the sole parent is, or both parents are, employed, looking for employment or studying or training for future employment<sup>37</sup> (priority 1)
- children who have, or children of parents who have, a continuing disability or incapacity (priority 2)
- children at risk of serious abuse or neglect (priority 3)
- children of parents at home with more than one child below school age and sole parents at home (priority 4).

The guidelines state that services need to assess priority within each group and to consider 'the particular benefits or restricted alternatives affecting'

- families on lower incomes
- Aboriginal and Torres Strait Islander families
- parents or children with a disability
- families of non-English speaking backgrounds
- sole parents or
- socially isolated families.

In allocating vacant places services are not to discriminate on any other ground. In the discussion paper the Commission asked how priority of access guidelines could be made more effective.

### *Submissions express concern about policy underlying priority of access guidelines*

4.3 **Concern about focus on work related care.** Submissions, oral and written, question the workplace participation focus of the Commonwealth's child care policies. It is said to be incompatible with social justice for **all** children. A typical response was

Priority of access guidelines as they now stand are based on a fallacious judgment which values the economics of paid employment above all else, relegating those who do not fit the Commonwealth policy tool to a poor 2nd, 3rd or 4th.<sup>38</sup>

Some submissions say that, while the Government has made it quite clear that its priority is work related care,<sup>39</sup> it is 'difficult to understand how the priority listing meets the broad social justice objectives of the Commonwealth'.<sup>40</sup> It is said that 'inherent in the current guidelines is the assumption that some families have less right to support from the Commonwealth via its CSP' than others.<sup>41</sup> This is seen as inconsistent with the widely held belief that 'access and equity strategies should be consistent across all identified factors of disadvantage whether it be disability, race, gender, inadequate income or geographical remoteness'.<sup>42</sup> Submissions say that the guidelines discriminate against children from disadvantaged groups, for example, children from Aboriginal and Torres Strait Islander or non-English speaking backgrounds and children with a disability, because their parents are not well represented in the workforce.<sup>43</sup> Submissions are concerned that guidelines seem to assume that the needs of children of lower priority can be met in other ways.<sup>44</sup>

**4.4 *Children at risk should be given higher priority.*** Submissions express concern that children at risk of serious abuse and neglect are only third priority in the guidelines. Children at risk have access to federally funded child care only for a limited period and only if the abuse or neglect looks serious.<sup>45</sup> Yet child care is a recognised early intervention strategy.<sup>46</sup> Access to services may mean the difference between being a child 'at risk' and 'actually being the subject of abuse'.<sup>47</sup> It is noted that in New South Wales alone, while there are some 9,000 children in confirmed situations of abuse and neglect, only a few hundred enter State welfare care. These children are excluded from mainstream services both by their low priority and because even a minimal fee is a serious impediment. In many cases families must seek assistance from other welfare agencies to legitimise or verify requests for access under priorities 3 and 4.<sup>48</sup>

**4.5 *Responsibilities of Commonwealth and States and Territories should be clarified.*** Historically, there has been a division in responsibility for child care between the Commonwealth and the States and Territories. The Commonwealth has had primary responsibility for work related child care and States and Territories have had responsibility for other child care. Despite this division, the Commonwealth has contributed significant funds for non work related care by including these groups in its priority of access guidelines, and by funding play groups, occasional care and some Aboriginal and Torres Strait Islander services. However, submissions suggest that there is not enough non work related child care.<sup>49</sup> This is not an area on which the Commission can make recommendations.<sup>50</sup> The new legislation, however, would be clearer if the functional responsibility for these areas between the Commonwealth and the States and Territories were clarified.

#### ***Groups of lower priority in guidelines are not getting access***

**4.6 *No places for lower categories.*** Many submissions reveal a concern that by giving greatest priority to work related child care the Commonwealth is unjustifiably disadvantaging parents and children needing child care for a whole range of other reasons.<sup>51</sup> During consultations and in written and oral submissions, the Commission was told that in some areas demand for work related care is so high that parents in the lower priority categories are unable to get places at all.<sup>52</sup> For example, it was said that there is still limited access (and long waiting lists in community based centres<sup>53</sup>) for children with a disability even though they are second priority.

**4.7 *Other factors cause inequity.*** Submissions say that the application of the guidelines is 'subject to a number of variables'. These include the demand for and supply of work related places, resources available to a service and the training and attitude of staff. Access for particular target groups may vary across Australia.<sup>54</sup> Children in families in lower priority categories in areas where there is an oversupply of places have a better chance of getting access to Commonwealth funded child care than children in these categories in areas where there is an under supply.<sup>55</sup>

**4.8 *A possible solution.*** Some submissions suggest that services should be required to set aside a number or proportion of places for nominated groups, for example, children with a disability, children at risk of abuse or children of non English speaking backgrounds.<sup>56</sup>

**4.9 *The Commission's recommendation.*** Submissions suggest that the policy underlying the priority of access guidelines is not as clear as it could be. This means that the guidelines themselves are not clear or easy to implement.<sup>57</sup> Services are interpreting the guidelines in various ways. It is not clear whether the CSP requires some places to be given to families in the lower categories, or alternatively whether services are to use the guidelines only to allocate surplus places when places are not required for work related clients. The Commission is concerned that the ability of parents in the lower categories to get access to child care places seems very variable. It also appears to depend very much on the level of demand and supply of places in a particular area. The new legislation should clarify the CSP's policy on access, especially for children in families in lower priority groups. **The Commission recommends that the legislation set out the Commonwealth's priorities for the Children's Services Program. The major priority is to provide child care for the children of working parents.**<sup>58</sup> **The legislation should also provide that the following children identified in the Government's social justice strategy should have priority**

children from lower income families  
Aboriginal and Torres Strait Islander children

children from non-English speaking backgrounds  
children with a disability or whose parents have a disability  
children at serious risk of abuse or neglect  
children from sole parent families  
children in families from rural and remote areas.

### ***Guidelines are difficult to implement and monitor***

4.10 ***Implementation by services is difficult.*** Submissions raise a number of concerns about the implementation of the priority of access guidelines. Implementation of the guidelines is difficult if not impossible<sup>59</sup> because they are 'broad' and open to interpretation.<sup>60</sup> This can lead to unnecessary invasion into the private lives of families and may leave service providers to 'make policy decisions based on subjective analysis of social issues specific to each family'.<sup>61</sup> It is said that access guidelines can only work if there are vacant places;<sup>62</sup> otherwise services would have to enrol children and then remove them when someone with a higher priority comes along,<sup>63</sup> or if their parent becomes unemployed. Complying with guidelines may adversely affect a service's financial viability.<sup>64</sup> Services are 'under enormous financial pressure to fill places as quickly as possible to break even and limit fee increases'.<sup>65</sup> Services may find it very difficult to justify the Commonwealth's work related priority to 'stay at home' parents and staff feel very uncomfortable requesting these parents to alter or forgo their child care arrangements.<sup>66</sup> Submissions criticise private centres for not adhering to the guidelines,<sup>67</sup> which can have adverse effects on other existing services.

4.11 ***Waiting lists.*** There is a mixed response in submissions to the value of waiting lists as a way of making the guidelines work more equitably. Some say that waiting lists must be kept.<sup>68</sup> As a vacancy occurs 'we would start at the top of the list and see the first that fitted the criteria that the vacancy allowed . . . a chronological type of order'.<sup>69</sup> Waiting lists might assist in guaranteeing accountability and equity,<sup>70</sup> especially if the CSP introduced standardised lists.<sup>71</sup> In the past there have been problems with parents waitlisting children at many centres and failing to notify a service if they took another place.<sup>72</sup> Often by the time a service has a vacancy, the family's needs may have changed or the needs of another family might be greater, causing 'heartache and administrative nightmares'.<sup>73</sup>

4.12 ***Monitoring compliance with guidelines.*** A number of submissions pointed out that services are not required by the CSP to report compliance with the guidelines.<sup>74</sup> The system is 'easily manipulated' and needs monitoring.<sup>75</sup> It is suggested that recurrent funding be linked to systematic evaluation of service delivery.<sup>76</sup> On the other hand, some centres would like to be able to ask parents for proof of their employment status.<sup>77</sup> The current system is seen as easily abused<sup>78</sup> because assertive people can often 'badger' their way to get a place<sup>79</sup> or 'make written or verbal complaints to an MP'.<sup>80</sup>

4.13 ***The Commission's recommendation.*** Priority of access guidelines should be more effectively implemented and monitored. There is a lot of room for misunderstanding the current guidelines. The guidelines should be comprehensive and include important matters that should be taken into account, for example, sibling relationships. The effect that a change in the parents' needs or circumstances has on the placement of a child at a particular service also needs to be considered. Children settled in a service should not to be disrupted by the movement of their families in and out of the workforce. The guidelines should also give service providers clear directions on how to implement them. The Department should monitor the extent to which its priority goals are being met in broad terms, using local statistics gathered as part of needs based planning. If it appears that a service is not complying with the priority of access guidelines then the Secretary should be able to impose conditions designed to ensure that service complies in future.<sup>81</sup> **The Commission recommends that the legislation enable the Minister to issue child care access guidelines to ensure priority for children in the identified groups. The guidelines should include procedures for the consistent application of priority rules. In the interests of the welfare of children the application of the guidelines should not require the exclusion of children already in a service. The legislation should require all federally funded services to comply with these guidelines as a condition of funding. The Department should ensure that the application of the guidelines is monitored.**

### *Sibling priority*

4.14 Submissions suggest that the issue of sibling enrolment should be addressed within the guidelines.<sup>82</sup> It is in the interests of children and their families that services are allowed to give priority to children who have siblings already at a service. This permits children to have the familiarity and comfort of a sibling with them, and avoids families having to make multiple trips to drop off and pick up. **The Commission recommends that priority should also be given to siblings of children already in a particular service.**

### *Older school age children*

4.15 **Needs are neglected.** A number of submissions say that the needs of older post primary children are neglected by the CSP. They point out that childhood does not stop at age 10 or 12<sup>83</sup> and that OSHC does not meet the needs of older children and youth.<sup>84</sup> It is suggested that children over 12 may still be too young to be unsupervised after school.<sup>85</sup> Parents who are shift workers with children of this age or who have children with a disability may be especially in need of child care.<sup>86</sup> A number of submissions say that YAS are very important and that there should be more of them.<sup>87</sup> Some submissions are concerned that the Childcare Rebate is available only for children no older than 12 years.<sup>88</sup>

4.16 **The Commission's recommendation.** The Commission understands that the Department is currently evaluating the effectiveness of the YAS model. The Commission recognises the need for an expansion of services for older post primary children and recommends that the legislation be flexible enough to permit this expansion when resources become available.

### *Infant care*

4.17 **Not enough available places.** A number of submissions point out that child care for babies and toddlers under 3 is in 'incredibly short supply' in some areas; children under 3 can be waitlisted for up to 2 to 3 years.<sup>89</sup> One centre reported that it had 850 babies on the waiting list.<sup>90</sup> The problem is that care for babies is 'labour intensive and hence expensive'.<sup>91</sup> The higher cost of equipment, hygiene needs and staffing were identified as inhibiting factors.<sup>92</sup> Further it is an 'anomaly' that higher operational subsidy is paid for under 3s in centre based care but not in FDC or in private centres when the costs are the same.<sup>93</sup> Private centres are criticised in the submissions for 'opening only for limited hours and weeks and not providing adequate places for children under 3'.<sup>94</sup> Statistics show, however, that provision of care for under-2s in private centres varies greatly from State to State.<sup>95</sup>

4.18 **Suggested solutions.** It is suggested that 'new centres only be funded if they accept children from 6 weeks of age and have hours to meet the needs of working parents, at least 10 hours per day'.<sup>96</sup> Another proposal is for a mechanism to be established to monitor the number of places provided for children under 3.<sup>97</sup>

4.19 **The Commission's recommendation.** **The Commission recommends that the legislation permit the Minister to require, as a condition of funding, that a service provide a designated number of places for babies and children under 2 years.**

## **Families with special needs**

### *Access for children from non-English speaking backgrounds*

4.20 **What submissions say.** Submissions show great concern that children from non-English speaking backgrounds are not getting access to child care services and that services may not be not culturally appropriate. The following issues are raised in the submissions.

- **Problems accessing services.** Submissions say there are gaps and deficiencies in the provision of child care services to religious and ethnic communities.<sup>98</sup> It is said that 'usually those who do not know the system, or are unable to express themselves in English are the first to lose out'.<sup>99</sup> Many submissions raise problems in accessing appropriate information on what services are available.<sup>100</sup>

- **Lack of culturally appropriate services.** A number of submissions say that services are not culturally and linguistically appropriate for children from non-English speaking backgrounds.<sup>101</sup> This can be a barrier to people actually wanting to access available services.<sup>102</sup> There is a perception among some non-English speaking background communities that 'the environment of centres is mono-cultural and that implicitly they do not validate cultures other than the mainstream'.<sup>103</sup>
- **Under-representation in the management of services.** A number of submissions raise the problem of inadequate participation by families from non-English speaking backgrounds in the management of services.<sup>104</sup> They are said to be under-represented on parent committees and consultation groups.<sup>105</sup> Submissions say that not all services encourage participation.<sup>106</sup> Opportunities for consultation and participation are seen to be absolutely crucial for parents of non-English speaking backgrounds because their diverse cultural and religious values affect their child rearing practices. In South Australia, an Inter-cultural Children's Services Association has been established to encourage parent and community participation in the provision of integrated and diversified children's services.<sup>107</sup>
- **Inadequate funding.** Some submissions question the current funding strategies for children from non-English speaking background groups.<sup>108</sup> Inadequate funding can make child care less affordable for families from non-English speaking backgrounds.<sup>109</sup>

4.21 **Suggestions for improvement.** Submissions raise a number of suggestions for improvement.

- **Greater flexibility.** It is said that service delivery should be flexible enough to accommodate the needs of groups that are not already catered for by the mainstream and innovative ways should be used to accommodate their needs.<sup>110</sup> Submissions suggest that people from non-English speaking backgrounds should design child care services according to their own perception of need.<sup>111</sup> The importance of a centralised and integrated 'one-stop' approach to co-ordinating services for families of non-English speaking backgrounds and the need for specific models to be established outside mainstream services is stressed in the submissions.<sup>112</sup>
- **Practical assistance.** Some people from non-English speaking backgrounds may need very practical help finding out about and accessing appropriate services. This might extend to taking them by the hand to enrol their children. Some communities may need help to sponsor and run children's services more suitable to their needs.<sup>113</sup> It is also important that staff of services catering for children from a non-English speaking background have cross-cultural training provided by the service and a second language.<sup>114</sup>
- **Encourage participation.** Services should actively encourage the participation of families from non-English speaking backgrounds in the management of services.<sup>115</sup>

4.22 **The Commission's recommendation.** The Commission recommends that the legislation should permit the funding of specialist support services for children who are members of particular cultural or ethnic communities.

#### ***More appropriate services for children of Aborigines and Torres Strait Islanders***

4.23 **What submissions say.** The need to provide better and more appropriate services to children of Aborigines and Torres Strait Islanders was a major issue during the Commission's consultations and in submissions.

- **Consultation needed.** Aboriginal and Torres Strait Islanders should be properly consulted before there are changes to the law governing the CSP. They should also be consulted about the kinds of services they want.<sup>116</sup>
- **Lack of co-ordination.** The development of adequate and appropriate services is often haphazard, fragmented and impeded by bureaucratic and legal obstacles.<sup>117</sup> The Commission was told of a number instances where capital funding was provided by a federal or State or Territory department or by ATSIC, without consulting with other interested bodies who may be relied upon to provide recurrent

funding. State and Territory licensing requirements can be an obstacle to Aboriginal communities getting the services they need.

- ***Not enough culturally appropriate services.*** Funding and service delivery should take into account the values that are held in the particular community and the conditions that Aboriginal and Torres Strait Islander families experience.<sup>118</sup> Many Aboriginal people do not use mainstream child care services because their method of operation and physical environment are culturally alien and because they fear discrimination.<sup>119</sup>
- ***Different concept of 'quality'.*** The Commission was told that for many Aboriginal people a new building with state of the art facilities does not necessarily fit their concept of a 'quality' service.<sup>120</sup> The interconnectedness of the care with family is the main concern when it comes to quality issues. Aboriginal people closely monitor the care their children receive by selecting a carer they know and trust.<sup>121</sup> This person is usually a relative. Aboriginal people should be consulted about quality indicators or standards that are to apply to their services.<sup>122</sup>
- ***Mainstream funding is not accessible and special service funding is inadequate.*** The Commission was told that CSP funding earmarked for special non-mainstream services is inadequate to meet needs. However attempts to access mainstream work-related funding is difficult. This is because Aboriginal and Islander community wants and needs do not necessarily fit the criteria for getting funding or the conditions attached to funding (or have been regarded as not fitting them).<sup>123</sup> For example, a community may want a child care service to achieve longer term goals than making it easier for families to enter the paid workforce. These goals may include providing children with good food and education and women with training and employment skills. Capital funding for a new building may be less important than a bus to transport children or workers. Family day care requirements on housing, for example, for fencing or other safety issues, may exclude Aboriginal carers and a community getting this service.
- ***More training and support needed.*** There is a need for training in cross-cultural awareness for non Aboriginal child care workers. A great deal of support is also needed to help Aboriginal students complete child care study programs, in particular when they live in remote areas.<sup>124</sup> It is also very important for training institutions and funding agencies to provide appropriate training to people managing the services. This is needed to enable them to administer the service appropriately and fulfil funding requirements.<sup>125</sup>
- ***Child care services provide a range of functions.*** A strong point is made that child care services are also used to provide a whole range of other family and community activities.<sup>126</sup> A functioning service will be used by children of all ages as well as by parents (most likely women). It may be used for health and nutrition, time out, cultural strengthening and as work related care<sup>127</sup> for educational and referral reasons.
- ***Aboriginal people must be able to choose from a range of child care options.*** No one model will suit all Aboriginal and Torres Strait Islander people. Values and needs will vary according to where people live in Australia and the extent of remoteness or urbanisation.<sup>128</sup>
- ***SUPS funding.*** Services are not getting sufficient SUPS funding for Aboriginal children with a disability.<sup>129</sup>

4.24 ***Solutions suggested.*** Through consultations and submissions, a number of solutions have been suggested to improve access to services by Aboriginal and Torres Strait Islander children.

- ***Responsive legislation.*** Submissions say that the new legislation should be sensitive to the needs of Aboriginal and Torres Strait Islander people because

any legislation ... that promotes the welfare of Aboriginal children, that safeguards and protects their rights, must be consistent with the family and community values, cultural identities, lifestyles and kinship structures of Aboriginal communities.<sup>130</sup>

- ***Needs of the Aboriginal and Islander communities should be identified.*** Submissions suggest that the Department should have a process to identify and respond to the child care needs of Aboriginal and Torres Strait Islander children and should put more effort into establishing what the community wants.<sup>131</sup> There should be an identifiable submission process and local people should feel that they are able to participate in the process. Submissions also suggest that the Department should ensure that Aboriginal people know what funding and services are available to them.<sup>132</sup>
- ***Flexible models.*** Mainstream models should be flexible enough to enable Aborigines and Torres Strait Islanders to have access to funding for the kind of service they need.<sup>133</sup> Where appropriate, mainstream services should set aside a certain number (more than one, say five to six) of places for Aborigines and Torres Strait Islanders. In remote areas there is a clear case for the implementation of flexible service models.<sup>134</sup>

4.25 ***The Commission's recommendation.*** Detailed and coordinated planning and flexibility in establishing and funding services are the keys to ensuring appropriate services for Aboriginal and Torres Strait Islander children. The Commission sees evidence of efforts to overcome barriers at all levels. However, Aboriginal and Islander people are still having problems accessing child care services because the infrastructure which is taken for granted in most communities and on which most planning and funding is based is simply not there in remote Aboriginal and Torres Strait Islander communities. **The Commission recommends that the legislation recognise the particular needs of indigenous communities for culturally appropriate services and permit the Minister to approve funding to a service for Aboriginal and Torres Strait Islander children even if the service does not conform to a mainstream service type. The Commission also recommends that the legislation require the Department, before funding a specialist service in an indigenous community, to consult with other agencies providing services to indigenous communities, especially the Aboriginal and Torres Strait Islander Commission, to ensure that special service funding is used effectively to meet needs of those communities.**

#### ***Equitable access for children with a disability***

4.26 ***What submissions say.*** Submissions and consultations show concern that parents of children with a disability are not getting adequate access to Commonwealth funded child care services.<sup>135</sup> During consultations the Commission was told that children with a disability are refused places in some child care services even where places are available. The Commission heard of an experience of a child with specific 'high level' needs having been excluded because of inadequate support to meet the needs.<sup>136</sup> Several submissions mentioned that children with a disability were subject to 'outright discrimination'.<sup>137</sup> In some cases services tell parents that they cannot provide the necessary support to ensure the safety and well being of the child. Service providers who do care for children with a disability reported the need for considerable resources to ensure proper care.

4.27 ***Suggestions for improvement.*** Submissions emphasise a need for greater resources, in particular for OSHC services, so that services can cater adequately for children with a disability.<sup>138</sup> The importance of D-SUPS to cover the extra costs and responsibilities of home based child care workers was noted.<sup>139</sup> The Commission was told that behavioural difficulties should also be characterised as a disability.<sup>140</sup> Submissions call for specialised care and assistance to cater for children with a disability whose parents are shift workers or from non-English speaking backgrounds.<sup>141</sup>

4.28 ***The Commission's recommendation.*** **The Commission recommends that the legislation require services, as a condition of funding, to ensure that there are no barriers to access by children with a disability. The Disability Discrimination Commissioner should develop appropriate standards for federally funded children's services for adoption by the Attorney-General under the *Disability Discrimination Act 1992 (Cth)* s 31.**

#### ***Families living in rural and remote areas***

4.29 ***What submissions say.*** During consultations and in submissions the Commission was told that services operating in rural and remote areas and users of those services are disadvantaged because services cost more to run and it is harder for services to remain viable. Extra or higher costs these services must pay include



- extra costs to attract staff from urban areas, including transport and other staff employment package incentives<sup>142</sup>
- higher building material, equipment, food and supply costs because of additional transport costs<sup>143</sup>
- higher costs of sending staff off for training<sup>144</sup>
- staff transport, including higher petrol costs<sup>145</sup>
- higher phone costs.

The Commission was also told that some rural and remote services experience a higher than average level of part-time, seasonal and casual usage.<sup>146</sup> A number of submissions consider the difficulties in keeping family day care schemes in rural and remote areas viable. The issues raised include the following.

- ***Regional Travel Assistance Grants.*** Submissions say that Regional Travel Assistance Grants (RTAG) are needed for all FDC services where staff must travel long distances for the scheme to survive.<sup>147</sup> RTAG does not meet the needs of small rural schemes. Potential sponsors in rural areas are discouraged because of low funding levels and particularly because there is no travel grant initially provided.<sup>148</sup> RTAG only cuts in after 7,800 kms. This makes it difficult for small schemes with limited staff hours and limited travel funds to meet travelling costs up to this point.<sup>149</sup>
- ***Communities too small to support a full FDC scheme.*** A number of isolated rural communities need a small number of FDC places but cannot support the usual 50 place scheme.<sup>150</sup>

4.30 ***Suggested solutions.*** Submissions suggest the following solutions.

- ***Make RTAG more realistic.*** RTAG should be paid at a more realistic level than it is currently.<sup>151</sup>
- ***Allow existing FDC schemes to be expanded.*** Country FDC schemes should be able to expand existing schemes into isolated rural areas.<sup>152</sup>
- ***Tailored FDC model.*** Submissions suggest that the Commonwealth should fund FDC models to suit isolated communities.<sup>153</sup> Models could include
  - a network of schemes, each providing a small number of places, pooling CA administration and accountability requirements<sup>154</sup>
  - a funding model which provides adequate base line operating funds rather than being so entirely dependent on full-time attendance, especially for small isolated services with transient populations.<sup>155</sup>
- ***Higher operational subsidy as well as money for vehicles.*** Operational subsidy for child care services in rural and remote areas should be higher.<sup>156</sup> Regional schemes or services also need more money for vehicles.<sup>157</sup>
- ***Multi-purpose and more flexible services needed.*** There is a need to improve access to services by people in communities too small to support a single function service. This would be possible if there are more multi-purpose services.<sup>158</sup> To promote viability more flexible services are required, like mobile services.<sup>159</sup>

4.31 ***The Commission's recommendation.*** **The Commission recommends that the legislation should enable the Minister to give additional funding where a service type is needed in an area but is likely to be marginally viable or not viable because of its location.** Legislation could set out the basis on which this additional funding could be granted. The issue of promoting more flexible services which better meet existing needs is dealt with in para 4.56 below.

## Affordability

### *Introduction*

4.32 The CSP has strategies to make services more affordable and therefore accessible to all parents, regardless of their income. The main way it does this is by providing Childcare Assistance (CA) funding which is targeted at low and middle income families. This reduces the cost of child care to these families. Special CA funding is also used to help families suffering exceptional short term financial hardship to pay their child care fees. Working families may also claim Childcare Rebate, a cash payment (up to \$28.20 for one child or \$61.20 for two or more children).

### *Is CA effective in improving affordability?*

4.33 Many submissions say that CA does improve affordability.<sup>160</sup> However, a number identify some problems with affordability.

- **Gap fees.** The main problem with affordability identified by submissions is the 'gap fee'. The gap fee is the amount between the maximum fee on which CA can be claimed and the fee actually charged. Gap fees are seen as a major barrier to using child care services, particularly for people on low incomes.<sup>161</sup> Affordability is said to be compromised because there is no approved maximum fee.<sup>162</sup> The CA ceiling is said to be a purely arbitrary figure which has no direct relation to the actual costs of providing care. CA is generous for users in some income brackets in services with low or no gap fees, but not where there is a high gap fee.<sup>163</sup> Affordability will continue to be an issue for low income earners until CA is provided for the full cost of care, including gap fees (which may be up to \$40).<sup>164</sup> Commonwealth support needs to reflect a 'realistic contribution to the cost of child care' to keep down the gap fee which can force low income people out of child care.<sup>165</sup> Submissions do not take into account the extra assistance provided by Childcare Rebate which has been available since July 1994.
- **Special help for immigrants and refugees.** Some submissions say that special consideration in relation to CA and Special CA should be given to families from non-English speaking backgrounds who are immigrants, at least in the first two or three years after arrival.<sup>166</sup>

### *CA for Outside School Hours Care is inequitable*

4.34 In the discussion paper the Commission outlined a number of inequities in the way CA operated in relation to OSHC.

- **Childcare Assistance for OSHC is less than for other services.** CA in OSHC is lower than CA for other Commonwealth funded service types and the means test is more stringent. Fewer people receiving CA use OSHC and CA is administered differently. Families cannot get Special Childcare Assistance. OSHC services receive a higher hourly rate of operational subsidy than other service types.
- **System is inequitable.** OSHC services find the administration of their limited CA system difficult. Therefore, some do not offer it. Some families who might be entitled to CA miss out. Some families pay more for OSHC than they would pay if they used other service types for before and after school and holiday care.

Many submissions agree with the Commission that CA for OSHC was not adequate and made OSHC less affordable than other types of child care.<sup>167</sup>

### *Equity between service types in eligibility for, and the amount of, Childcare Assistance*

4.35 **Support for same means and assets test for all services.** The inequities described in paragraph 4.34 will not be addressed unless, at the very least, eligibility for, and the amount of, CA for families with school age children in child care is the same whether they attend a long day care or an OSHC service. In its discussion paper the Commission asked whether the means test and the assets test for families using OSHC services

should be the same as those applying to families using other kinds of Commonwealth funded child care services. Most submissions support this approach.<sup>168</sup> They also support making the amount payable for outside school hours care the same for all service types regardless of the age of the child.<sup>169</sup> The Department of Social Security (DSS) estimates that the gain to many working families in lower income brackets would be about \$17 a week for one child after allowing for the effect of the Childcare Cash Rebate.<sup>170</sup> A number of submissions favour an age based approach.<sup>171</sup> A possible effect of improved affordability is increased numbers using OSHC which would demand better venues and stricter accountability.<sup>172</sup>

4.36 **Formula to assess amount.** Submissions are less enthusiastic about using the existing long day care formula to calculate how much CA a family using an OSHC service should receive.<sup>173</sup> A number say the formula is too complex and should be simplified for all services.<sup>174</sup>

4.37 **Special CA.** Submissions agree that in the interest of equity special CA should also be available for OSHC services as it is for other services.<sup>175</sup>

4.38 **The Commission's recommendation.** In the Commission's view, the current situation is inequitable. OSHC services should be as affordable for parents as other service types. The means and assets test for CA for OSHC users should be the same as for all other kinds of Commonwealth funded services. Special CA should also be available. This recommendation may have cost implications. However, the current inequities should not be entrenched in the new legislation. **The Commission recommends that the legislation afford equal treatment of service types, to the extent that this is appropriate. It should require the same means and assets tests for eligibility for Childcare Assistance regardless of service type. Special Childcare Assistance should also be available to eligible parents regardless of service type.**

#### *All OSHC services should offer Childcare Assistance*

4.39 **Should all OSHC services offer CA?** In its discussion paper the Commission proposed that it should be a condition of receiving operational subsidy funding that OSHC services offer CA to families. It asked whether imposing this condition would pose special problems for OSHC services. Submissions support the proposal that offering CA should be a condition of funding for OSHC services.<sup>176</sup> Many are concerned, however, that the proposal would add to the administrative costs of running the service and that extra funding would be needed.<sup>177</sup> Others are concerned that many OSHC services lack the facilities for storing the necessary records required for CA.<sup>178</sup> Some submissions suggest ways of avoiding administrative complexity, including

- the government pays CA direct to parents<sup>179</sup>
- additional funding for computers to enable services to fulfil their accounting requirements<sup>180</sup>
- the Department of Social Security or the Department administers CA instead of services<sup>181</sup>
- all CA assessed and formulated with a unique identifier for all child care services with a family receiving one assessment for all children or a code for each child in the family.<sup>182</sup>

A number of submissions say that the inequity in CA for OSHC is only one of a number of inconsistencies and inequities with this service type and should not be considered in isolation. They say that the funding and organisation of the service type as a whole needs a major review.<sup>183</sup> The Commission considers some of the other inequities in para 4.41.

4.40 **The Commission's recommendation.** If the recommendation in para 4.38 above is accepted and the inequities in before and after school and holiday care are addressed, all OSHC services should be required to offer CA. If States and Territories administer Commonwealth funds for OSHC it should be a condition of the grant to the States and Territories that they require OSHC services to offer CA. **The Commission recommends that the legislation require, as a condition of receiving operational subsidy, that all services, including OSHC services, offer CA.**

## *OSHC funding is inequitable*

4.41 *What submissions say.* Submissions and consultations indicate that there is widespread concern about inequity in service provision for school aged children. OSHC services are commonly described as being the 'poor relative' of other child care service types.<sup>184</sup> There is a widespread perception that there are not enough appropriate services for older school age children. A number of submissions suggest that inequities in funding for OSHC services prevent them from providing an acceptable level of care for children.<sup>185</sup> It is said that the current funding inequity for OSHC centres

is extremely unfair on working parents who are entitled to expect that a Federally funded child care service meets its program objectives regardless of the age and socio-economic status of the families involved.<sup>186</sup>

Submissions indicate that OSHC services suffer from a number of problems as a result.

- ***Inadequate facilities and transport services.*** OSHC services often operate in inappropriate premises.<sup>187</sup> Several submissions from OSHC services themselves say they and many others administer the service from the boot of car because they have nowhere else to keep records.<sup>188</sup> Premises are generally not purpose built and children have to share them with other users. In Western Australia the Commission was told that the State government does not make schools available for services and they must pay high rent in other facilities. In other States, schools are increasingly seeking to recover costs for the use of their facilities by OSHC services. This adds to the costs of services.
- ***Inadequate resources.*** OSHC services often start in debt, with limited equipment and consumables. If they provide care year round they do not receive a higher establishment grant even though they may provide before school and vacation care as well as after school care.<sup>189</sup> Inadequate funding also means services cannot afford to operate as efficiently as they could. For example, they may not be able to afford to transport children from local schools to the service.
- ***Poor parental and community support.*** Funding difficulties can discourage parents from becoming involved with the service.<sup>190</sup> They also make it hard to find community sponsors in some areas, especially where there is no involvement from local councils.<sup>191</sup> Because services tend to be smaller, they have a small pool of parents to draw on for management committees and are more likely to have viability problems.
- ***Cannot cater for some children.*** Several submissions said that OSHC services cannot accommodate children with a disability.<sup>192</sup> This is because they have low staff to child ratios and because services have trouble getting access to SUPS resources. One submission said they cannot adequately cater for older primary school children who tend therefore not to use them.<sup>193</sup> This is a particular problem in rural areas.<sup>194</sup>

Submissions also point out that OSHC services have a number of additional costs caused by a high level of casual, occasional and part-time use<sup>195</sup> and the high turnover of equipment and materials.<sup>196</sup>

4.42 *Submissions suggest solutions.* It is suggested that current funding policies for OSHC are based on the false assumption that premises will be available at little or no cost.<sup>197</sup> Accommodation should be available in a dedicated space, which children consider to be theirs and where they are the primary users.<sup>198</sup> A number of submissions suggested that, in line with community based long day care centres, OSHC services should receive capital funding for premises or for a bus where needed.<sup>199</sup> Others submissions suggest that OSHC services should receive more operational subsidy to cover the extra costs of high equipment turnover and a high level of part-time and casual usage.<sup>200</sup> The needs of older primary school aged children, it is suggested, could be met by extending the Youth Activity Services (YAS) model to these children.<sup>201</sup>

4.43 *The Commission's recommendation.* Parents and children using OSHC services appear to be disadvantaged in the current funding structure. Although OSHC services are intended to provide for the needs of all primary school aged children, services appear, generally speaking, to be unable to provide for the needs of older children with their current funding. In the Commission's view, OSHC services should be funded to enable them to operate at the standard expected of other community based service types. They

should also be funded so they can meet the needs of older primary school aged children and children with special needs. **The Commission recommends that the Department examine the funding arrangements for Outside School Hours Services to ensure that these services are able to meet the same standards of care as other services.**

#### *Family day care meals, snacks and loadings*

4.44 ***Childcare Assistance to families using FDC is higher.*** Families using FDC may receive a greater benefit from CA than families using long day care centres or occasional care centres. The formula to calculate CA is the same. But the fee to which the formula is applied can be higher. On top of the \$2.20 an hour fee which is the ceiling for other service types (except OSHC), FDC schemes can add amounts for the costs a carer has incurred for meals, snacks, transport and part time care, and then apply the CA percentage to that higher fee. In the discussion paper, the Commission asked whether there is a good reason why meals, snacks and loadings should attract additional CA in FDC but not in long day care centres. Submissions provide a number of reasons.

- ***FDC is unique.*** Submissions say that FDC is unique in that the income of carers is directly related to CA and the fees charged to parents.<sup>202</sup> The fees that FDC schemes currently charge do not cover the costs to carers of providing meals, snacks, part-time and out of hours care and transport. Schemes do not generally charge a gap fee to cover these costs. Submissions say that additional CA for these costs compensates (not always fully) carers for their out of pocket expenses.<sup>203</sup> The additional CA also enables family day care schemes to keep their fees within the limit on which CA is payable (that is, avoids a gap fee). This is seen as keeping the care affordable for low income earners.<sup>204</sup>
- ***Flexibility justifies the cost.*** The part-time and out of ordinary hours care enables carers to provide a flexible type of care. The additional amount compensates them for the extra costs and inconvenience in providing this type of care.<sup>205</sup>
- ***Additional CA promotes children's welfare.*** A number of submissions say that paying CA for meals, snacks and transport promotes the welfare of children. CA for meals and snacks enables children in FDC to be provided with nutritional and healthy food.<sup>206</sup> Providing meals is part of the family environment that this type of care aims to provide.<sup>207</sup> It also enable carers to take children to pre-school.<sup>208</sup>
- ***FDC is cost effective.*** Some submissions say that FDC is a cost effective model for the Government and that this justifies the payment of CA for these extra components.<sup>209</sup>

4.45 ***Not all FDC schemes allow carers to claim Childcare Assistance for meals, snacks and transport.*** Submissions agree that it is inequitable for carers and families in FDC schemes that not all schemes allow carers to claim Childcare Assistance for meals, snacks and transport.<sup>210</sup> There was strong support for national consistency across all FDC schemes as to what carers can claim.<sup>211</sup>

4.46 ***Should extra CA be available for FDC only?*** CA for meals, snacks, transport and loadings is an important component of carers' incomes. It is particularly important when carers do not have control over the fees they can charge and so cannot ensure that the fees cover all the costs they incur. This issue is discussed in Chapter 8. The extra costs can be claimed as a business expense by the carer. But not all carers earn enough to pay tax.<sup>212</sup> It would not be appropriate to stop paying the extra CA to carers unless there is a way to ensure that their incomes are not affected. On the other hand, CA for meals, snacks, transport and loadings makes FDC more affordable than other service types which do not get CA for their gap fees. There is no real reason why FDC should be more affordable for families than these other services. Like FDC, transport for OSHC services is a very important issue. They provide snacks<sup>213</sup> and also have a very high percentage of part-time users.<sup>214</sup> Long day care centres often charge gap fees to cover meal costs.<sup>215</sup> If long day care centres got a part-time loading they also might be more willing to provide part-time care.<sup>216</sup>

4.47 ***The Commission's recommendation.*** The benefits available to families using children's services should be consistent within service types and among service types offering the same sort of service. In the meantime, or in the absence of a comprehensive examination of these issues, meals, snacks, transport and

loadings in FDC should continue to attract CA. **The Commission recommends that the Childcare Assistance funding formula for family day care services be the same as that for other service types. This will require examination by the Department of funding meals, snacks, transport and loadings. However, Childcare Assistance for family day care should not be reduced until the appropriate legal relationship between family day carers, coordination units and sponsors has been determined and consequential reforms to the funding of family day care implemented, as recommended at para 8.23.**

## **Flexibility**

### ***Introduction***

4.48 Although the main priority of the CSP is to help parents with dependent children participate in the workforce, consultations and submissions suggest that a number of families in this target group are finding it more difficult than others to access services and have their child care needs met. Parents working non standard hours or studying are examples of this.

### ***Child care services not meeting the needs of children of parents doing paid work during non-standard hours***

4.49 ***What submissions say.*** Submissions and consultations indicate an overwhelming concern in the community that current services do not meet the needs of children of parents whose paid working patterns do not fit the standard nine to five, Monday to Friday, 48 weeks a year work model.<sup>217</sup> These workers include

- part-time workers (whose demand for care is increasing)<sup>218</sup>
- casual workers<sup>219</sup>
- shift workers, in particular workers with rotating shifts<sup>220</sup>
- seasonal workers.<sup>221</sup>

There are very few long day care centres that are open before 8 am or after 6 pm.<sup>222</sup> Those that are have great difficulty remaining financially viable. Most long day care centres prefer parents wanting full time care rather than part-time or casual care as full time care is less expensive to administer and avoids financial difficulties caused by unfilled sessions.<sup>223</sup> Some parents end up paying for a full day or a full week even though their children do not use it. Part-time workers often use occasional care.<sup>224</sup> But occasional care may not be suitable for children who use it more than one or two sessions a week. The most suitable model for providing for shift, casual, overnight, weekend and other irregular hours is family day care. However, a large number of submissions said that the additional operational subsidy provided to schemes is not enough to accommodate the administrative costs and the support work required to provide this kind of care, especially where there are large numbers using part-time care.<sup>225</sup> Schemes in rural areas, where part-time work is the norm, have trouble both in keeping fees affordable for most users who have low incomes and in remaining viable.<sup>226</sup>

4.50 ***Suggested solutions.*** It was suggested that the private sector and employers should be encouraged to provide more care suitable for parents whose working patterns do not fit the norm and for students.<sup>227</sup> These include the use of part time loadings and funding extended hours through CA instead of operational subsidy.<sup>228</sup>

### ***Child care services not meeting the needs of children of students and workers at tertiary institutions***

4.51 ***What submissions say.*** A number of submissions from organisations representing students and people working at universities and TAFEs say that the current child care models are not suitable for their members.<sup>229</sup> They identify the following problems.

- ***Erratic student needs.*** Students do not need all day and year round care. They have casual, sessional and seasonal demands. The CA requirements do not recognise this. Generally speaking, services must

be open five days a week, 48 weeks a year. Services trying to cater for students' needs have difficulty remaining financially viable.<sup>230</sup> They must enrol children of families who want standard hours from the beginning of the year. By the time the university term starts and students need care the service is fully booked.<sup>231</sup> The occasional care model is not flexible enough to meet the needs of students.<sup>232</sup>

- ***Preference to students cannot be given.*** The requirements of community managed long day care centres and partnership models that they be open to the broader community do not enable the service to give preference to the children of students.<sup>233</sup>
- ***Inadequate places.*** There are not enough places attracting operational subsidy available, which means long waiting lists.<sup>234</sup> This is particularly so for baby places as there is a high demand from tertiary students for baby places.<sup>235</sup>

4.52 ***Suggested solutions.*** Submissions and consultations suggest that the needs of the children of students and workers in tertiary institutions may be met better by child care delivered in ways other than by mainstream models. It is suggested that there should be a tertiary education model or, failing that, a more flexible occasional care model.<sup>236</sup> Legislation should enable operational funding to be provided for multi-purpose facilities which have a range of flexible care options. Services need to be able to provide occasional, part-time and sessional care at one location.<sup>237</sup> They also need to be able to provide weekend, holiday, late afternoon and evening care.<sup>238</sup> Overseas students should be able to get care on short notice.<sup>239</sup> Staff and students should not have to pay for care they do not use in semester breaks and should be able to reserve places during sabbatical leave.<sup>240</sup>

4.53 ***The Commission's recommendation.*** **The Commission recommends that, in implementing provisions in the new legislation enabling flexibility in funding services, the Minister should be able to waive the current Childcare Assistance funding requirement that a service is open 8 hours a day, 48 weeks a year, where it may inhibit the provision of services to parents whose work or study patterns are different from the standard nine to five, Monday to Friday, 40 hours a week pattern.**

#### ***New legislation should promote flexibility***

4.54 ***Submissions support flexibility.*** The view was strongly expressed during consultations and in submissions that greater flexibility is the key to enabling the CSP to meet the increasingly wide range of needs. There should be more flexibility in the way child care services are funded and in the conditions of funding.<sup>241</sup>

4.55 ***Providing power to waive vary or add conditions with the approval of the service provider.*** The Commission is concerned that the new legislation should not lock the CSP into outdated and inequitable child care models. Changing working patterns as well as Commonwealth obligations to provide accessible services on an equitable basis require new legislation which provides a funding framework flexible enough to enable a wide range of needs to be met. The new legislation should be able to accommodate current as well as likely future requirements of the labour market. In the discussion paper the Commission proposed that the new legislation give the Secretary power to waive conditions of funding to enable funding for services which deliver child care in more flexible ways. Submissions show considerable support for this approach.<sup>242</sup>

4.56 ***Legislating a flexible funding model.*** In addition to providing for funding conditions to be waived, the new legislation should provide for funding child care services which fall within the program objectives but outside the standard models. This requires more than the ability to waive particular conditions. The legislation should not limit the ways this might be done. Approaches might include pooling CSP funding with funding from other sources such as State or Territory governments and giving organisations approval to provide a range of services funded by the Department of Human Services and Health from the one place. The criteria for approval could include

- that funding will be used primarily to meet the work related child care goals of the program either in the short or long term

- that the funding will be used to provide child care primarily for children within the target age groups
- that broad accountability can be met (ie some flexibility to negotiate one set of accountability reports would be needed).

Legislation could require that the Department and the prospective service provider and the community for which the service is to be provided, before approval is given, negotiate and reach agreement about

- what kind of service the client population needs and wants
- what kind of training and financial and non-financial support will be needed to enable the service to meet the needs of the community and to be soundly managed and financially viable
- the appropriate level of community participation in the service
- what appropriate outcomes for the service and clients are on matters such as quality control, consumer rights and financial accountability, taking into account the physical, geographical and cultural context in which the service is to be provided
- the evaluation and monitoring process.

The framework for the operation of the service and the required outcomes should be set out in an easy to read and understood agreement between the Department and the service. Services funded this way should be monitored against the stated outcomes by the Department, like other service types. To promote equity, a certain proportion of mainstream funding should be set aside for this type of flexible model. This proportion should be determined by a sensitive needs based planning process which identifies that there is a need but that there could be commercial viability problems. Ultimately, this is a matter for the Government and the Department to determine.

**4.57 *The Commission's recommendation.* The Commission recommends that the legislation should permit the Minister to vary or waive funding conditions, or impose additional funding conditions, with the agreement of the service provider, when necessary to overcome barriers to providing services for a community or special needs group. Legislation should also provide for funding innovative and flexible child care service models.**

***Definition of work related care in new legislation should be broader***

**4.58 *Child care contributes to long term prospects of employment.*** The Commission was told that, particularly in remote areas, communities are having difficulty getting mainstream funding because the Department considers that the care to be provided is not work related.<sup>243</sup> However the Commission was also told during consultations that, in the long term, child care services would contribute considerably to the employment prospects of families generally and women and children in particular. This happens in a number of ways. For example, women on the management committee of a child care service or working in a child care service develop the skills and confidence to seek further training and employment. In other cases, for example in Aboriginal communities, child care gives women the free time to perform other work like caring and cooking for older people. The Commission was told that parents with children with a disability may initially use child care as a respite service. When parents are comfortable with the service and realise that their child is happy and well cared for they may then consider going back to study or to the workforce. The Commission was told that this is a cycle for many other women too, particularly women living in rural areas.

**4.59 *The Commission's recommendations.* The Commission recommends that, in according priority to work related child care, the legislation should include a broad definition of work. The definition should encompass paid employment and self employment, whether full-time, part-time or casual, unpaid community work, education and training, whether formal or informal, and activities which contribute to long term employment prospects.**



# 5. Planning

## Introduction

5.1 This chapter looks at the needs based planning process used by the Children's Services Program (CSP). It is beyond the terms of reference to consider the underlying program policy issues raised in submissions. However, in the Commission's view, it is important to report the outcomes of the Commission's consultation. This chapter makes recommendations about how new legislation can help to ensure that services are placed where they are most needed.

- It describes the existing needs based planning process used by the CSP (para 5.2-3).
- It outlines concerns with the current planning system expressed in consultations and written submissions. These concerns relate to the collection of data, the effective targeting of services and the lack of transparency in the planning process (para 5.4-17).
- It makes recommendations
  - about including underlying planning principles in legislation (para 5.18)
  - on how better to ensure that the planning process meets identified needs (para 5.19-21).
- It outlines community concerns that services receiving Childcare Assistance (CA) only are not subject to the planning process (para 5.22-23).
- It makes a recommendation that the new legislation should include provisions enabling the Commonwealth to ensure CSP funding is used to meet identified needs (para 5.24-25).

## Planning to meet the needs of the children of working parents equitably

### *Existing needs based planning system*

5.2 **Community managed services are subject to needs based planning.** The Commonwealth is committed to ensuring that, as far as possible, services are located in areas where they are most needed. It does this by approving community managed services for capital funding and for operational subsidy only in areas of need. It approves services for loans only in areas of need. Needs based planning ensures that there is an equitable distribution of resources for child care. However, the needs based planning system applies only to community managed places under the National Child Care Strategy. It does not apply to services that do not receive Commonwealth funding and it does not apply to private long day care centres that receive CA funding only.<sup>244</sup>

5.3 **Planning system.** In all States and Territories, planning committees advise the Commonwealth and, where appropriate, State and Territory Ministers. Membership of committees varies but it may include representatives of relevant State, Territory and Commonwealth agencies, industry representatives and unions. Generally speaking, they identify areas of need using statistics of demand for child care places at local levels and data on supply of places in both commercial and non-profit services. The committees also make a qualitative analysis of need at local and regional levels and conduct community consultations. They rank areas according to their relative needs, providing separate rankings for children whose parents are working, seeking work or studying or training for work and who are school age or below. In addition, the needs based planning system now uses statistics on supply and demand for children with special needs. The target groups are

- children of non-English speaking backgrounds
- Aboriginal and Torres Strait Islander children

- children with a disability
- children in rural and remote areas.

This system aims to assist in the equitable distribution of Supplementary Services Grants (SUPS) and special services funding across Australia.

***Is the existing planning system effective?***

5.4 In its discussion paper the Commission asked whether the CSP's needs based planning processes are effective in ensuring that services are placed where they are most needed. Generally speaking, submissions favour needs based planning. It is said to be 'essential',<sup>245</sup> effective<sup>246</sup> and, despite some problems, still the preferred option.<sup>247</sup> Submissions do, however, identify some inadequacies with needs based planning. They address

- ensuring relevant data is collected
- targeting services effectively
- lack of transparency in the planning process.

***Ensuring relevant data collected***

5.5 ***Data should identify separately supply and demand for places for 0 - 2/3 year olds.*** Many submissions are concerned that data currently used to assess need does not adequately identify the urgent need for and under supply of places for 0 to 2/3 year olds. The data focuses on the general category of below school age children.<sup>248</sup> The problem has been aggravated by the rapid expansion of private child care places in some areas which may not now be regarded as areas of need. However, there may still be a desperate need for baby places because most of the extra places provided by private centres are for 3 to 5 year olds.<sup>249</sup>

5.6 ***Submissions support a broader approach to assessing supply and demand.*** Submissions suggest that planners should use more sophisticated ways of assessing supply and demand. For example, some submissions say that it is not enough to look at the number of services in an area and placements in these services to assess whether the supply of services is adequate. They say planners should also look at the level of use of a service.<sup>250</sup> A number of submissions suggest ways that assessment of demand could be enhanced. Some suggest the model should include figures for developing demand.<sup>251</sup> Another suggestion is that the planning model should include an impact study and 5 year projections of the 0 to 5 years old population. SUB? Assessment of need on the basis of where children of working parents live is said by some submissions to overlook the recent growth in demand for care near centres of employment or study or along transport or traffic routes.<sup>252</sup> The CSP does, however, take this demand into account.

5.7 ***All child care services in the area or servicing an area should be taken into account.*** The planning process takes into account all services, including TAFE funded services receiving CA because they are on the CSP's data base. The CSP's data on pre-schools is incomplete. A number of submissions say that planners do not take into account child care services funded by other bodies. These include services funded solely by State or Territory governments (for example pre-schools), by other federal government departments such as the Department of Education, Employment and Training (DEET) and the Aboriginal and Torres Strait Islander Commission (ATSIC), and by universities and TAFE. The submissions say that a result of this is that where data is incomplete, already established pre-schools may become unviable when services which receive CA and have lower fees are set up close by.<sup>253</sup> However, pre-schools cater to a different target group than long day care and their viability is critically dependent on the level of State or Territory funding.

5.8 ***Data does not address the type of care preferred or needed.*** Submissions say that planners should have much more information about the type of care needed.<sup>254</sup> Data should include information about the number and needs of shift workers<sup>255</sup> as well as the needs of students and staff of universities and TAFEs.<sup>256</sup> It should also include information about the preferences for care types among the target population including the preferences of parents of non-English speaking backgrounds and parents of children with a disability.

Planners should look to see whether available services are the preferred or appropriate kind.<sup>257</sup> There may be communities that do not have their needs met even in areas that have enough mainstream services.<sup>258</sup> Language barriers may effectively preclude people of non-English speaking backgrounds from participating in local consultations.

**5.9 *More relevant agencies should be included in planning.*** Submissions and consultations indicate strong support for including in the planning process all government agencies involved in providing resources for child care. Submissions from local governments emphasise the importance of involving local governments in the planning process to get better data on local needs and on physical, social, economic, environmental and cultural considerations.<sup>259</sup> Planning processes should include representation from TAFEs to ensure that TAFE centres do not compete inappropriately for the same users.<sup>260</sup> Consultations suggest that State and Territory governments and other Commonwealth agencies, for example, DEET and ATSIC, should have greater involvement in the planning process.<sup>261</sup> The Commission's consultations, particularly in remote areas, indicate a need for planning to cross State and Territory borders.

**5.10 *Current approach disadvantages rural and remote areas.*** The Commission's consultations and a number of submissions indicate strong concern that formulas currently used to assess the extent of need are inadequate to identify areas of greatest need in rural and remote areas. Formulas do not take into account the cumulative effect of a lack of services of various kinds in a particular area. Submissions point out that planners should look at social indicators other than child population and the number of working parents to assess need in rural areas adequately.<sup>262</sup> In areas with small and sparse populations the total population may fall below the target figure for the allocation of new mainstream places<sup>263</sup> even though there could be, for example, an urgent need for Outside School Hours Care (OSHC) in the town.<sup>264</sup> The Commission was told that in rural areas there are some towns which need services and do not get them and other towns where services find it difficult to fill their places.<sup>265</sup>

**5.11 *Data must be up to date.*** A number of submissions say that the information planners use, such as census material or material about the number of services in an area, is often out of date.<sup>266</sup> Supply data (that is, the number of places and services in an area) is usually up to date.

**5.12 *Assessing level of needs among groups with special needs.*** Submissions suggest how the assessment of the level of need for child care among groups with special needs can be improved. Submissions say that planners assessing demand for child care for parents and children of non-English speaking backgrounds should look at the backgrounds of parents<sup>267</sup> and language spoken at home,<sup>268</sup> not just the profile of the children (most of whom would be classified as Australian). Current statistical models do not identify the child care needs of parents of children with a disability.<sup>269</sup> Submissions suggest that planners may need to adopt a special approach to assess the need for child care for children with a disability. Many families are not registered with DSS. The classification of disabilities should be more flexible, for example to include children with behavioural disorders who also have special needs.<sup>270</sup> One approach to planning for children with a disability suggested by submissions is to allocate new places for children with a disability in proportion to their percentage representation in the general population.<sup>271</sup> Adequate funding to enable services to cater for the needs of children with a disability will also be needed.<sup>272</sup>

**5.13 *Factors in deciding location of services.*** Submissions suggest a number of matters that planners should take into account in deciding where services should be located. For example, when deciding where to locate an OSHC service, planners should consider matters such as the local community profile, the size, number and location of schools in the area, traffic levels and access to transport.<sup>273</sup> Services which are inappropriately located, for example, services that are not accessible to public transport, may not be used even though there is a need for the service in the area.<sup>274</sup> State or Commonwealth officers considering an application for funding usually consider the suitability of a proposed site. The CSP has recently agreed on a national set of site selection criteria.

### ***Targeting services effectively to meet needs***

**5.14 *Services not required to meet specialised needs.*** According to submissions and consultations a major problem with the Commonwealth's needs based planning process is that the planning and funding processes do not include a method of ensuring that new services meet the needs identified by the planning process. A

service receiving CA or operational subsidy is not required to provide a specified number of baby places or special needs places.<sup>275</sup> A new service in an area known to have a high number of shift workers would not be required to be open at the times and for the hours needed by shift working parents. Some submissions say that targets for service provision negotiated locally should address identified issues such as the type of service needed,<sup>276</sup> the level of need for services in non-English speaking background and Aboriginal and Torres Strait Islander communities, hours of operation and the number of places needed for the under 3 year olds.<sup>277</sup>

**5.15 *Inflexibility in allocation of places through expansion strategies.*** The Commonwealth's expansion strategies allocate funding for a specified number of places for each service type. Each place of each service type receives a nominated amount and type of funding. Although the Department of Human Services and Health can trade places between States and Territories, submissions say this does not allow enough flexibility to account for the differences among regions and States and Territories. Once money is allocated to a place it cannot be pooled, easily added to or spent in different ways to enable special or changing needs to be met or to enable a viable service to be established.<sup>278</sup>

**5.16 *Planning process not well known or accountable.*** Views expressed in submissions and during consultations show considerable concern about the process by which the decision is made to select an area as one of 'high need'. It is said that it is often not clear to the community what the process is and why a particular area is selected instead of another. SUBS? submissions say that there is no way to find out the reason for a decision thought to be wrong and no avenue for public response.<sup>279</sup> Some submissions say this is why decisions about high needs areas should be subject to administrative review or some sort of appeal structure.<sup>280</sup>

#### ***Meeting concerns expressed in submissions and consultations***

5.17 Many of the concerns expressed in submissions and during consultations are matters of Government policy. Some concerns are matters of administrative practice. A number of them have already been addressed administratively. The CSP has, for instance, recently improved its planning data for special needs groups. It has improved its information package on the planning process. It recently agreed on a national set of site selection criteria for services. However, there are a number of ways that some of these concerns could be addressed in new legislation.

#### ***The Commission's recommendations***

**5.18 *The legislation should set out the principles underlying the planning process.*** Having an effective planning process is the main way the Commonwealth can achieve a rational and equitable distribution of limited funds according to the goals of the CSP. It is therefore appropriate that the legislation which sets out the framework for children's services funding should make some provision for the planning process. This ensures some level of national consistency which is important to achieve equity. It promotes transparency and accountability. It is also important that the legislation allows for the planning process to be adapted to local requirements in State and Territories and to changes in the CSP. This could be allowed by focusing in the legislation on general principles. **The Commission recommends that the new legislation set out the principles which should underlie the planning process.**

- **It should be open and transparent.**
- **It should identify the community's needs, including the special needs of priority groups identified in the legislation, and aim to meet those needs.**
- **It should provide adequate opportunity for the community in general and special needs groups within the community to participate in the planning process.**
- **It should include processes to ensure that the community, especially special needs groups within the community, is informed about the planning process and about decisions and reasons for decisions made during the process.**

- **It should provide for regular evaluation of**
  - **the effectiveness of the process**
  - **the appropriateness of specifically identified special needs groups**
  - **the appropriateness of data identified as being necessary to meet needs.**

5.19 *Guidelines should identify groups that may be disadvantaged or have special needs.* The Commonwealth's social justice and access and equity policies demand that measures be taken to ensure that people who may be disadvantaged or who have special needs have access to services. Mechanisms for achieving this are discussed in chapter 4. Guidelines should identify these groups to ensure that in selecting high needs areas and in allocating funding for places or services the planning process adequately identifies their needs. The groups should include

- children from non-English speaking backgrounds
- Aboriginal and Torres Strait Islander children
- children disadvantaged because of their parents' work commitments (for example, shift workers)
- children disadvantaged because of their families' location (for example, people who live a long way from the city or from public transport)
- children with a disability or who have parents with a disability
- children at serious risk of abuse or neglect
- any other class of children determined by the Secretary to be disadvantaged or having special needs.

5.20 *Guidelines should identify data that should be collected and used in the planning process.* **The Commission recommends that the legislation provide for the development of guidelines to specify the data to be considered in identifying needs in a particular area in making planning decisions. The guidelines should include data on**

- **the ages of children for which an area has a need for services (for example, 0 to 2 and 2 to 5 year olds and, for OSHC, 5 to 8 and 8 to 12 year olds)**
- **where, within the area, child care places are most needed**
- **the number of places that are needed**
- **the type of care needed (including the hours that it is needed)**
- **what kinds of services or places should be located there**
- **the extent of and kind of special needs which should be met**
- **anything else that is necessary.**

5.21 *Legislation should give the Secretary the power to ensure that services can be required to meet identified needs.* Having identified the level and nature of need in an area, community managed services approved for funding in that area should be required to meet that need. This is particularly important if all Commonwealth funded services are to be included in the planning process. Identified needs could be advertised and services willing and able to meet those needs invited to apply for available funding. It could be a condition of funding that the service meets the specifically identified needs.<sup>281</sup> This is done in the Commonwealth's Aged and Community Care program which advertises for organisations to set up services catering for special needs groups, such as people of a particular non-English speaking background. This

program also requires as a condition of funding that some service types provide a certain number of places for people who are 'financially disadvantaged'. Similarly, a child care service could be required to set aside a number of places for children with a disability. **The Commission recommends that the legislation give the Secretary the power to require as a condition of funding that a service meet specified needs.**

## **Exercising some control over the location of private services**

### *Not all services are subject to needs based planning*

5.22 Needs based planning underlies the Commonwealth's expansion strategy for community managed services. New community managed places are approved for capital funding and operational subsidy only if they are in areas of need. However, places are approved for CA funding only, whether or not they are in an identified area of need. The resulting services are mostly private for profit services. They can be established anywhere, even in an area where there is already a community managed service which has been built with Commonwealth (and State or Territory) funds. Submissions and consultations identify a number of ways that CSP objectives are being undermined by the fact that CA only services are not subject to a needs based planning process.

- **Over and under supply.** Submissions and consultations suggest there is an over supply of child care in a few areas.<sup>282</sup> In these areas CA is paid to services which largely cater to parents from the lower categories of the priority of access guidelines (namely, parents wanting non-work related care). In other areas, families requiring work related care are facing desperate shortages.<sup>283</sup>
- **Wasted capital investments.** There is a considerable lead time between the identification of an area of need and the establishment of a community managed service. Some submissions say that the Commonwealth's capital investment in a community managed service is wasted if a private service sets up in an area earmarked for a community managed service before that service is established.<sup>284</sup>

### *Should all Commonwealth funded services be subject to planning processes?*

5.23 **Submissions support planning for all Commonwealth funded services.** In its discussion paper the Commission canvassed the arguments for and against subjecting all Commonwealth funded children's services to a planning process. Submissions, including the majority of those from organisations representing private child care services, overwhelmingly support the need for some sort of planning for private services.<sup>285</sup> The few submissions not in favour of subjecting private services to a planning process consider that to do so would interfere with competition between services.<sup>286</sup>

5.24 **The Commission's view.** In the financial year 1992-93 the Commonwealth spent \$384 million on CA out of the total CSP budget of \$554.8 million. Of the total CA expenditure 41.1% went to private long day care centres which provided 26% of the total care.<sup>287</sup> The Commonwealth has a responsibility to ensure proper accountability for these funds. To do so requires an effective mechanism to ensure that, as far as possible, limited money is distributed to parents most in need of child care within the parameters of Government priorities. If, as submissions suggest, market forces are not sufficient to ensure that private services receiving CA are located where work related long day care places are needed and are not effective in meeting parents' need for care for babies and appropriate hours, then the Minister should be able to include private for profit services that accept CA within the planning processes to ensure that the goals of the CSP are met. One way of doing this would be to grant CA funding only to services that have been approved in advance to receive it. Approval would be granted only to services intending to set up in areas of need. Including private for profit services that accept CA (or any Commonwealth funding that might be offered in the future) in the planning process will ensure that Commonwealth funded services are established in areas of need and not in areas of oversupply or potential oversupply. Services that do not want Commonwealth funding of any kind may of course set up wherever they wish. It is not intended that the planning process should be used to restrict competition.

5.25 **The Commission's recommendation.** **The Commission recommends that the legislation permit the Secretary to include private for profit services (which are eligible for CA) within the planning process to enable the Commonwealth to ensure its limited funding is targeted to areas of need.**

## 6. Information and participation

### Introduction

6.1 This chapter is about two aspects of the Children's Services Program (CSP) which are important to achieve the social justice goals of choice and control over day to day life. It makes recommendations about how new legislation can help to make sure that parents get the information they need about child care generally and about the child care service they use. It is also about how new legislation should provide for parent participation in child care services.

- It describes what general information about child care the CSP and State and Territory governments provide and what submissions say is needed (para 6.2-5).
- It describes what specific information child care services are required to give parents and what submissions say is needed (para 6.6-8).
- It outlines what submissions say about how information about child care and child care services is best communicated, including information for special needs groups (para 6.9-14).
- It makes recommendations about how new legislation can help ensure that the general and specific child care information needs of parents are met (para 6.15-16).
- It describes community management and outlines what submissions say are the benefits of community management (para 6.17-19).
- It outlines what submissions say are the barriers to good community management and how they can be overcome (para 6.20-23).
- It makes recommendations about how the new legislation should provide for community management (para 6.24).
- It sets out the existing parent participation requirements for services receiving Childcare Assistance (CA) only (para 6.25-27).
- It outlines submission support for making parent participation a condition of receiving CA and makes a recommendation about this (para 6.28-29).

### Making sure parents have the information they need

#### *Introduction*

6.2 Providing information about child care is the starting point for ensuring that the needs and entitlements of consumers of child care services are met. Adequate information enables parents to make the best decision about the type of care they will use for their children. It enables them to make sure they get the care, benefits and services they are entitled to and to take action if their legitimate expectations are not met. In its discussion paper, the Commission asked what information about child care should be supplied by the Department of Human Services and Health (the Department) and what information about child care services should be supplied by services. It asked what are the best ways of getting the information to parents. The Commission also asked about the information needs of special needs groups such as families from non-English speaking backgrounds and parents of children with a disability.

#### *Parents need general child care information*

6.3 ***The Department provides information.*** The Department issues pamphlets describing the kinds of services available and the eligibility criteria for entry to those services. It also produces brochures about what kind of assistance is available to parents and how to get it. Some of these are printed in community

languages. They are distributed by service providers and community services such as migrant resources centres. Some federally funded independent agencies also publish and distribute information about child care. When new child care benefits become available, or there are changes to the CSP, the Department may conduct extensive advertising campaigns on television and in newspapers and magazines.<sup>288</sup> The CSP is working to update and broaden its information about the program and child care services.

**6.4 State and Territory departments provide information.** Some State and Territory governments also provide information for parents about what child care is available, what services can offer and what to look for when choosing a service.<sup>289</sup> The Queensland State Department has compiled a voluntary central register of child care services in Queensland.

**6.5 What submissions say.** Submissions suggest that parents need and the Department should provide a range of information about child care. The Department already provides some but not all of this information.

- **Child care available.** Submissions say that people need information about the type of services available, the number of places available and the needs that each service is designed to meet.<sup>290</sup>
- **Support services.** Submissions say that there should be more information about support services available for families with children with special needs.<sup>291</sup>
- **Government policy.** A number of submissions say that there is a need for more information about the government's child care policies. It should include details of the government's priority of access guidelines.<sup>292</sup> There should be more information when government policy changes.<sup>293</sup>
- **Funding given to services and to parents.** Submissions say that the Department should provide parents with information about the types of funding it gives each service and why that funding is given,<sup>294</sup> in particular, funding that directly affects parents, such as CA, Special CA and SUPS funding, and how families can qualify for it.<sup>295</sup>
- **Finding a 'quality' service.** Some submissions consider that the Department should provide details of national standards even though standards generally are matters of State and Territory law. Submissions also say there is a need for information about how long day care and other centres get accredited.<sup>296</sup> Some submissions suggest that the Department should give parents an idea of what factors contribute to a good quality of care.<sup>297</sup>
- **Complaints procedures.** A number of submissions say that it is important for the Department to inform parents about the steps they can take if they are not happy with a child care service.<sup>298</sup> They say that parents will only be able to take advantage of a complaints mechanism if they know about it. The information should include details about the procedures the Department has for settling disputes between parents and a service, and information about any independent body set up to deal with complaints made by parents about a child care service.<sup>299</sup>
- **Parents' rights and responsibilities.** Some submissions say that parents should know about their rights and responsibilities as users of child care services.<sup>300</sup> They say information should include the rights and responsibilities associated with community management and with parent participation.

#### **Parents need information about the child care service they use**

**6.6 Accreditation requirements.** Long day care centres are required, as a condition of receiving CA, to participate in the Quality Improvement and Accreditation System.<sup>301</sup> The National Childcare Accreditation Council (NCAC) has, in consultation with the industry, developed a set of quality principles to guide long day care centres in measuring the quality of care they provide.<sup>302</sup> These principles cover a number of aspects of information provision.

- **Policies of the centre.** A publication containing clear, concise information about the centre should be given to parents when they make initial inquiries. It should include the philosophy of the centre, the



policies of the centre, the hours and times of opening and closing, the program and safety and emergency procedures.<sup>303</sup>

- **Exchange of information.** There should be exchange of information between parents and the centre about the child, including his or her development and changes to centre policies.<sup>304</sup>
- **Orientation process.** The centre should have a pre-enrolment visit for new children and parents and an opportunity for parents to share information about children with the staff.<sup>305</sup>
- **Information about management.** Information about the centre's management should be readily available to staff and parents.<sup>306</sup>

6.7 **State and Territory licensing requirements.** Licensing laws in some States require services to give parents information about the service.

- **Queensland.** The Child Care (Child Care Centres) Regulation 1991 (Qld) requires the licensee of a service to give parents information about hours of opening, service policies, fees, staffing, parents' rights, including the right to participate in the service, and parents' responsibilities.<sup>307</sup> The Child Care (Family Day Care) Regulation 1991 (Qld) provides that the licensee must give parents information about the scheme's goals, objectives and practices, the selection process for carers, and parents' rights and responsibilities.<sup>308</sup>
- **Victoria.** The Children's Services Centres Regulations 1988 (Vic) require the proprietor of a service to display prominently details about the service's programs and activities, hours of operation, fees, enrolment procedures, complaints mechanisms and emergency procedures.<sup>309</sup>
- **Western Australia.** The Community Services (Child Care) Regulations 1988 (WA) require the licensee of a service to provide parents with information similar to that required of services in Victoria.<sup>310</sup>

6.8 **What submissions say.** Submissions suggest a number of different types of information that a child care service should have to give to parents. Some services are already required to provide some of this information.

- **Information about the way the service operates.** Submissions say that, to enable parents to decide whether the service will provide appropriate care for their child, parents should have basic information about the service, such as
  - the name of the sponsor or licensee<sup>311</sup>
  - the hours of operation<sup>312</sup>
  - the number and ages of children at a service<sup>313</sup>
  - types of activities offered at the service<sup>314</sup>
  - the facilities for children with a disability or from non-English speaking backgrounds<sup>315</sup>
  - the number of people on waiting lists.<sup>316</sup>
- **Staff.** The submissions show a widespread desire for parents to have information about the training, qualifications and experience of staff at a child care service<sup>317</sup> including
  - whether they have had training in first aid or lifesaving<sup>318</sup>
  - the number of staff compared with the number of children at a service.<sup>319</sup>

- **Service policies.** A significant number of submissions say it is important for parents to have information about a service's general philosophy, policies and procedures including
  - the values and expectations of carers<sup>320</sup>
  - the type of food a service provides<sup>321</sup>
  - the service's discipline policies<sup>322</sup>
  - the way a service resolves any complaints that a parent may have.<sup>323</sup>
- **Quality.** Submissions say it is important that parents have information about the quality of care a service provides. It was suggested that parents should be informed of
  - whether a service is registered or accredited<sup>324</sup>
  - the quality standards that services are required to meet to be accredited and to satisfy State and Territory licensing laws<sup>325</sup>
  - the results of any monitoring checks done by the Department.<sup>326</sup>
- **Fees and finances.** Submissions say that parents should be given as much information as possible about the fees charged by a service and how CA will reduce those fees for parents who are eligible.<sup>327</sup>
- **Parent involvement.** Submissions say that services should tell parents about the opportunities for parent involvement at a service,<sup>328</sup> including information about
  - how parents can become involved in the management of community managed services
  - parents' rights and responsibilities in relation to the care their child receives<sup>329</sup>
  - their child's development.<sup>330</sup>

### ***How information should be communicated***

6.9 **Mass media is effective.** A number of submissions support the use of mass media as an effective way for the Department to let parents know about basic child care issues. They say that community service announcements made on national radio and television and advertisements placed in newspapers and magazines are particularly effective.<sup>331</sup> Ethnic radio is the best way to reach people of non-English speaking backgrounds.<sup>332</sup> Submissions support the continued production of pamphlets listing the types of services that are available and giving parents information about CA and other types of funding.<sup>333</sup>

6.10 **Detailed information should be distributed locally.** There is strong support in the submissions for information produced either by the Department or by individual services to be distributed locally<sup>334</sup> in baby health centres, doctors' surgeries, Medicare offices, local councils, schools, libraries, community organisations and the Department of Social Security (where people lodge their CA application forms).<sup>335</sup> They say that these are places where many parents with young children get most of their information and where they can ask for more information if they need it.

6.11 **Services should use a range of strategies.** Submissions suggest that child care services should adopt a range of strategies within the service and in the community to improve access to information about the service. These include

- placing posters in prominent positions within the service or on community noticeboards
- placing advertisements in local newspapers
- holding regular meetings with parents

- producing pamphlets or handbooks<sup>336</sup>
- giving parents information and advice when they enrol their child in a service<sup>337</sup>
- encouraging carers to discuss issues with parents
- giving parents the phone number of a contact person at the service whom they can call if they have any questions or concerns.<sup>338</sup>

6.12 **Information should be presented clearly and updated regularly.** Submissions emphasise the importance of presenting information in plain language so that it is clear and easy to understand.<sup>339</sup> The information should be in a form that is low cost and easy for services to produce so that it can be regularly updated if policies change.<sup>340</sup> Some submissions say it is important to present information realistically and accurately so that parents are not mistaken about their entitlements under the priority of access guidelines or to SUPS assistance and CA.<sup>341</sup>

### **Information for special needs groups**

6.13 **Information they need.** Submissions suggest that the Department and services could give greater emphasis to making sure that special needs groups receive all the information they need.<sup>342</sup> They say the information special needs groups may need includes

- an explanation of the whole concept of child care so that people from different cultural backgrounds can understand what the CSP is about<sup>343</sup>
- information about child care services that have facilities especially designed for children with a disability
- more information about SUPS assistance including when and where it is available.<sup>344</sup>

6.14 **How it should be communicated.** Submissions say that where necessary information should be made available in community languages.<sup>345</sup> They say that information should be given to families through specialist community organisations such as migrant resources centres and disability support groups as well as through ordinary channels.<sup>346</sup> Submissions and consultations say that information should be communicated in culturally appropriate ways. It should take into account the fact that face to face communication by someone known and trusted may be the only effective method in some communities, especially those with an oral rather than written tradition.

### **The Commission's recommendations**

6.15 **General information about child care.** Parents need information about child care so that they can make the best decisions about the most appropriate type of care for their child. They need information to ensure they receive any benefits or services they are entitled to receive. The Commonwealth CSP and some States and Territories provide some of this information. However, submissions indicate that parents would benefit considerably from a more comprehensive, systematic and coordinated approach to providing general information about child care. Commonwealth, State and Territory and local governments should coordinate and share responsibility for producing and disseminating information about the areas for which they agree they are primarily responsible. The Commonwealth should be responsible for information about such matters as government child care policy, the funding given to each type of service and to parents and how people qualify for that funding. It should also be responsible for ensuring parents are aware of requirements it imposes on services that affect the quality of the service. **The Commission recommends that the Commonwealth develop a national strategy for getting information about its role in child care to families throughout Australia. It should include a specific strategy to meet the information requirements of groups with special needs.** That strategy should include a clear view about what information the CSP should aim to provide and the way in which the program should communicate that information. **The Commission recommends that the legislation require the Commonwealth, in**

**cooperation with State, Territory and local governments, to establish a publicly available central register of all available child care services.**

6.16 *Specific information about a child care service for users.* The States and Territories are presently developing nationally consistent standards for licensing legislation. These standards do not address issues of information provision by services, although some State licensing laws do. It is a condition of funding for all community based services that they have parent participation, which should include the provision of information. The Quality Improvement and Accreditation System, which only applies to long day care centres receiving CA, also requires centres to inform parents about their service. Having adequate information about the operation of a service is the starting point for parents being able to exercise their rights and responsibilities as consumers of a service. **The Commission recommends that the legislation should, as a condition of funding, require a service receiving federal funding to provide specified information to parents about the service. To accommodate variations between service types, variations between States and Territory licensing laws and changes over time, the specific information services should provide should be set out in guidelines. The guidelines would require services to provide information about**

- **the kind of quality or level of quality services are required to continue to be eligible for CA under the Accreditation System**
- **the fees charged**
- **the availability of CA and special CA and eligibility requirements**
- **the hours and weeks of opening**
- **whether a service is registered and accredited, or progressing towards accreditation**
- **parents' rights and responsibilities**
- **information on complaints mechanisms, internal and external.**

To help services with this, CSP handbooks for services could include some of this information in a standard form which could be photocopied and handed to parents. To help services meet the information needs of people of non-English speaking backgrounds, information in handbooks in standard form could also be available in a range of common community languages. Guidelines could also set out how services should provide this information. They might specify that particularly important information should be prominently displayed on the service's notice board.

## **Parent involvement - community management**

### *Community management*

6.17 Community managed child care services are not for profit services usually managed by a committee of parents and other members of the community. The service is often operated by a local government authority or a church organisation but in all cases there should be a management committee including parents or family members of the children at the service. The Commonwealth pays community managed services an operational subsidy to meet the higher costs associated with caring for babies and children with special needs and for this type of management structure. It is a condition of receiving operational subsidy that the services permit and encourage the parents or guardians of children who use the service to participate in the planning and management of the services provided. Community management is a feature of the Commonwealth's social justice program. It ensures that parents have an opportunity to have responsibility for and control over decisions about the way the service their child attends is run.

### *How community management works*

6.18 The management responsibilities in a child care centre include

- employing, paying and managing staff
- planning and managing finances
- developing and implementing policy
- keeping all necessary records and accounting for funds
- ensuring the service operates efficiently
- ensuring the service operates in line with laws and conditions of funding
- evaluating the service.

These responsibilities may be carried out within a number of different structures depending on the type of body that receives the Commonwealth funds.

- ***Sponsoring body.*** Where a sponsoring body such as a local government council receives the funding, the legal responsibility for carrying out these duties lies with that body, although some of those duties may be carried out by a sub-committee with representatives from the service. In some cases, the committee only acts in an advisory capacity with the ultimate decisions being made by the sponsoring body.
- ***Community organisation.*** Where funding is received by a community organisation, the entire responsibility for management falls upon the management committee which is usually (but need not be) composed of parents who hold honorary positions such as chairperson, secretary and treasurer. In many cases, the management committee employs a director or an accountant to look after the more technical aspects of management.
- ***Umbrella model.*** An increasingly popular model is where a single management body looks after a number of child care services. The central body, which may consist of parent representatives drawn from each service, would deal with all of the financial and administrative matters for all of the services in the network. This model has a number of benefits in reducing the amount of administrative work as services pool their skills into one committee.
- ***Buying management services.*** The management committee may buy the services of a management services contractor and concern itself only with matters of policy.

### ***The benefits of community management***

6.19 In its discussion paper the Commission asked questions about the effectiveness of community management. A number of submissions say that parents have a right to participate in the running of the service their child attends and that parent participation is a matter of social justice.<sup>347</sup> Submissions say that there are considerable benefits for the service, parents and children in community management.

- It is a way of encouraging parents to become involved in a service.
- Community managed services are more responsive and accountable because parents are more likely to listen to the needs and wishes of other parents<sup>348</sup> and the decision makers are those directly affected by the decisions.<sup>349</sup>
- Service quality is improved as services are able to pay more money for better staff because they are not concerned with making a profit.<sup>350</sup>
- It is in the best interests of the child as it creates a feeling of family involvement and belonging and parents are likely to be more responsive to the needs of their children.<sup>351</sup>

- It gives parents a greater opportunity to influence the type of care their child receives and how community resources are spent, and may reduce the number of complaints parents make about a service.<sup>352</sup>

### ***Barriers to good community management***

6.20 While the vast majority of submissions support broad parent participation in a service, some say that actual involvement in management can be difficult to achieve.<sup>353</sup> There are a number of reasons why this is so.

- ***Time.*** Many submissions note that the biggest obstacle to parents participating in the management of a child care service is a lack of time.<sup>354</sup> Most parents with children in Commonwealth funded child care services work outside the home or are studying or training and have little spare time to devote to the service. This is especially true for single parents.
- ***Expertise and experience.*** The fear of not being able to participate effectively in the running of a service because of inexperience or lack of skills may deter some parents from volunteering to participate. For example, parents may not be skilled or experienced in the financial and legal aspects of running a service, or may not want to take on the high level of responsibility.<sup>355</sup> This is understandable considering that the average service has an annual turnover of approximately \$500 000. Parents may also be reluctant to get involved in staff matters at a service.
- ***Changing parent representation on management committees.*** Parents are usually involved with a child care service only for a short period, a few years at the most. In some types of care, such as occasional care or outside school hours care, children may not attend the service regularly and parents will only have minimal involvement with the service. Some submissions say that constantly changing representatives on a management committee can cause problems for a service.<sup>356</sup> The lack of continuity in management can cause friction between parents and carers and affect the development of a service's long term policy goals.
- ***Special needs groups.*** Families from non-English speaking backgrounds or parents of children with a disability are often reluctant to participate in running a service.<sup>357</sup> Apart from the language barriers, families from a special needs group may feel that they are in the minority and have no right to have a say in the way a service runs. Information about how to participate in the management of a service is often not available in community languages because translating information is expensive.<sup>358</sup> Even if the information is available in community languages there is often a cultural barrier to families participating in managing a service as the Commonwealth's program may not be appropriate to the needs of other cultures.<sup>359</sup>

### ***Overcoming barriers to good community management***

6.21 ***More guidance to services.*** A number of submissions suggest that the Department should issue guidelines to clarify the role of management committees, identify any legal requirements on them and set out acceptable standards of service quality.<sup>360</sup> They say this would help parents feel more confident about participating in a service and would overcome the problems associated with the changing membership of management committees.

6.22 ***Provide more training programs for management committees.*** A significant number of submissions emphasise the importance of information and training programs for parents on management committees.<sup>361</sup> They say there should be more training in management techniques, the role of management generally, management/staff relations and financial management.

6.23 ***Encourage special needs groups.*** Submissions suggest that more concentrated information should be directed towards special needs groups encouraging them to participate in the management of the service their children attend.<sup>362</sup> Services should also be made more aware of the special needs of these families. Special units could be established to work with parents and services to encourage participation from special needs groups.<sup>363</sup>

### *The Commission's recommendation*

6.24 The submissions and the views expressed in consultations indicate significant support for the concept of community managed child care services. The community management model gives parents and community members the opportunity to play a major decision making role in all aspects of their local service. It gives them a chance, which they would not otherwise have, to set up and run a service that meets the particular needs of the local community. Even if not all parents wish to take on that level of responsibility, the social justice principles which support choice and control suggest that the model should be available for parents and community members who wish to fully exercise those rights. The CSP and some State government departments are working to provide greater support and training for management committees.<sup>364</sup> In the Commission's view, the goals or outcomes the CSP is seeking to achieve through funding community managed models should be set out in legislation. Guidance and requirements should not be too prescriptive because of the range of community management structures and communities. Parents should be able to develop the structure that best suits their needs. **The Commission recommends that the legislation should set out the purpose of the Commonwealth's provision of additional funding to community managed services through payment of the operational subsidy. The purpose is to encourage parents to participate in decision making about the service program and policies. To achieve this, the Commission recommends that the legislation require, as a condition of operational subsidy funding, that**

- **community managed services have, and are able to demonstrate that they are pursuing, specific strategies to encourage parents, including parents from special needs groups, to participate in management and decision making**
- **parents are permitted to participate in the management of the service to the extent that they wish to do so**
- **services evaluate the effectiveness of their strategies on a regular basis.**

### **Parent involvement - other CSP funded services**

#### *Introduction*

6.25 Private services do not receive operational subsidy and are not required as a condition of funding to encourage parental participation in the management of the service, although some private services choose to do so. In the discussion paper the Commission recognised that private services are running a business to make a profit and must have control over the financial aspects of the business. The discussion paper said that it would not, therefore, be fair or appropriate for the Commonwealth to require private for profit services to give management responsibility to parents. Nonetheless, the Commission asked whether private services should at least be required to consult parents about matters affecting their children as a condition of receiving CA.

#### *Current requirements*

6.26 **Accreditation requirements.** The Quality Improvement and Accreditation Scheme, which applies to all long day care centres that receive CA, includes principles relating to parent participation. The principles about providing information are discussed above.<sup>365</sup> In addition, principle 13 of the Accreditation Handbook provides that to reach a standard for good quality care parents and other family members should be encouraged to be involved in the program in various ways and are invited to contribute their knowledge and skills. The basic standard services must reach to be accredited requires them to make parents welcome visitors at all times. Principle 52 says that to reach the basic standard to be accredited a service must inform staff and parents of relevant meetings and issues for their comment and that staff and parents be permitted to attend meetings. CA can be withdrawn (but need not be) if a centre does not register with the NCAC or does not make satisfactory progress in reaching the standards necessary to be accredited over a number of review periods.

6.27 *State and Territory requirements.* In Queensland, the Child Care (Child Care Centres) Regulation 1991 (Qld) and the Child Care (Family Day Care) Regulation 1991 (Qld) provide that licensees must inform parents about their right to participate in management.<sup>366</sup>

#### *Support for consultation as a condition of receiving CA*

6.28 Of the submissions received on this issue, nearly all consider that it should be a condition of receiving CA that private services must consult parents on matters affecting them.<sup>367</sup> The majority consider that it is in the child's best interests for parents to be consulted. One notes that any service that 'fails to consult the parents of the children it serves is bound to operate in ignorance of the needs of its clients'.<sup>368</sup> Other submissions say that private services already have a practice of consulting parents, otherwise they would take their children to another service.<sup>369</sup>

#### *The Commission's recommendation*

6.29 Allowing families to have a say in the services they use is a basic principle of social justice and consumer protection. It enables parents to be sure that their children get the kind of care they want for their children. The Commission considers that consulting parents about the care their child receives is something that every service should do, whether private, community managed or receiving flexible or special service funding under the CSP. The accreditation guidelines provide a useful model for the type of consultation that should occur. **The Commission recommends that the legislation require, as a condition of a service receiving CA or any other kind of Commonwealth child care funding that the service meet a standard on parent participation and consultation consistent with that necessary for the service to meet at least the basic requirements for accreditation.** The relevant accreditation principles are 10, 11, 13 and 52. Services which are accredited could automatically be regarded as meeting this condition.



# 7. Complaints about child care services

## Introduction

7.1 This chapter is about ensuring that parents have appropriate mechanisms to resolve complaints they may have about child care services.

- It looks at the kinds of complaints parents may have about a child care service (para 7.2-3).
- It outlines what submissions say about the need for services to have an internal complaints mechanism and makes a recommendation about this (para 7.4-11).
- It describes what submissions say about the need for an external complaints mechanism and makes a recommendation about this (para 7.12-16).
- It discusses the powers the external complaints body should have (para 7.17-19).
- It makes a recommendation about the features the external body should have to enable it to meet the needs of parents effectively (para 7.20-21).
- It makes a recommendation about how duplication of State and Territory complaints mechanisms can be avoided (para 7.22-24).

## Kinds of complaints

### *Introduction*

7.2 Child care services make many decisions which affect the interests of the children who attend those services and their parents. The interests of children and their parents are best protected if these decisions are made openly, fairly, impartially and rationally. One important way of achieving fair decisions by services is to have mechanisms by which parents can air their grievances or make a complaint if they are not satisfied with the way a service is run or with the decisions the service provider makes. In its discussion paper the Commission asked what kinds of complaints parents might have about child care services.

### *Kinds of complaints parents make*

7.3 Submissions indicate that there is 'almost no limit' to the type of complaint that a parent may make.<sup>370</sup> Causes of complaint detailed in the submissions include

- problems with staff, including lack of expertise, poor communication between staff and parents and inadequate supervision of children by staff
- the cost of care
- the content of a service's programs and policies, for example, its rules about immunisation of children and treatment of sick children
- inappropriate disciplinary procedures
- lack of resources and equipment
- the type and quality of the food served
- the frequency of nappy changes, cleanliness and hygiene
- the hours of opening

- the lack of choice about carers
- problems with waiting lists and priority of access guidelines
- discriminatory conduct and unfair treatment directed towards families<sup>371</sup>
- abuse of children by a service provider.<sup>372</sup>

## **Should services be required to have an internal complaints mechanism?**

### ***Introduction***

7.4 In its discussion paper the Commission provisionally proposed that a child care service should have to develop satisfactory arrangements under which families could enquire into and complain about the operation or management of a child care service.<sup>373</sup> The Commission also proposed that the complaints or enquiries made by families should be properly considered and dealt with within a reasonable period of time. The Commission asked whether it should be a condition of approval as a service that it have a satisfactory complaints mechanism to deal with parents' complaints.

### ***Community response***

7.5 The fifty responses to this proposal received by the Commission all agree that a service should have an internal complaints mechanism and should be committed to dealing with problems raised by parents. Many of the submissions suggest that the mechanism should operate quickly, fairly and efficiently. Some submissions think that a model or guidelines as to how the mechanism should operate would be useful, but the mechanism would still have to be flexible and informal enough to deal with a wide range of matters. It is suggested that a national policy for complaints handling be developed for all services.<sup>374</sup> It is also said that the internal mechanism should be developed to take into account the fact that parents may feel uncomfortable approaching a service with a complaint for fear of victimisation.<sup>375</sup> The submissions generally agree that the complaints procedure should be well publicised and made known to parents. It is suggested that the mechanism should be available for carers to use as well as parents<sup>376</sup> and that the rights and responsibilities of all parties, including the sponsor of a service, should be recognised.<sup>377</sup> The point is also made that the complaints mechanism should be viewed positively as a way of encouraging openness and improving service quality rather than as a threatening experience.<sup>378</sup>

### ***Current situation***

7.6 ***Not all States and Territories require services to have a complaints mechanism.*** Victoria, Queensland and Western Australia have legislation requiring services to have a complaints mechanism. In Victoria, the *Health Act 1958* (Vic) provides that the proprietor must ensure that written information describing how the service deals with complaints is displayed prominently.<sup>379</sup> Queensland and Western Australia also have provisions stating that information must be given to parents about how their concerns will be dealt with.<sup>380</sup> Other State and Territories have less formal requirements outlined in procedures manuals or handbooks. For example, South Australia has a handbook containing a written complaints procedure for all early childhood services, the Australian Capital Territory has a procedures manual and services in the Northern Territory are required to have an operating plan for dealing with complaints.

7.7 ***Accreditation.*** Principle 11 of the Quality Improvement and Accreditation System Handbook of the National Child Care Accreditation Council (NCAC) promotes an active exchange of information between parents and staff of a long day care centre. A centre will only reach the standard required for accreditation if it arranges for opportunities, both formal and informal, for staff and families to exchange information about children, families and the centre. By providing for greater communication between parents and staff, this principle could be a useful tool in preventing many complaints a parent may have about a service.

7.8 ***Gaps.*** While licensing and the accreditation system have some requirements about internal complaints mechanisms, there are still gaps which need to be addressed. Some States and Territories do not require services to have an internal complaints mechanism. Those that do are not specific about the elements that the

complaints procedure should have. The accreditation system provides for discussions to occur between parents and staff but falls short of requiring a service to have a formalised method of handling parent complaints when problems do arise. Accreditation currently applies only to long day care centres. At present, the Commonwealth does not require other types of child care services to provide avenues or opportunities for parents to complain about the service.

**7.9 Administrative Review Council report.** A recently released report of the Administrative Review Council (ARC) recommends that service providers should be the starting point for addressing consumer complaints about a service.<sup>381</sup> It recommended minimum requirements that should form the basis for service provider complaints mechanisms

- consumers must be given information about the processes for complaining
- privacy and confidentiality must be maintained to the maximum extent possible and consumers are assured of this
- consumers must not be treated unfairly or services withheld if they complain and they are assured of this
- consumers must also be given information about the right to complain to someone outside the service
- where appropriate, information should be presented in a variety of formats and styles to maximise its usefulness and effectiveness to consumers
- review should be conducted by a person within the organisation who was not involved in the matter that the complaint is about
- complaints should be addressed within a reasonable time.

**7.10 Standards Australia draft complaints handling standard.** Standards Australia has recently released a draft Australian standard for complaints handling 'in response to the call from professional and other organisations for assistance in what is now accepted as an essential component of quality management'.<sup>382</sup> The draft standard sets out essential elements for effective complaints handling and gives guidance on implementation, complaints handling processes and dispute resolution.

### ***The Commission's recommendation***

7.11 Ensuring there is some formalised way of hearing and dealing with enquiries and complaints made by parents is often the most effective way of resolving conflict between parents and the staff or management of child care services. Resolving disputes at this level is fast and inexpensive, and may not be as damaging to the relationship between the parent and child on the one hand and the staff or management of the service on the other. If the dispute is settled amicably the child could continue to attend the service. This is important because of the lack of alternative child care options. Parents cannot easily move their child to another child care service if they have an unresolved complaint about a service. **The Commission recommends that the legislation require, as a condition of funding, that a service should have to demonstrate that it has an established procedure for dealing with complaints made about the management or operation of the service by parents of children attending the service. The Department should issue guidelines setting out the essential features that all mechanisms must have, which should include the minimum requirements recommended by the Administrative Review Council. The guidelines should outline a model or models that services can choose if they do not wish to develop their own.** The complaints procedures need not be the same for every service, so long as the mechanism has the essential features set out in the guidelines issued by the Department. To avoid the possibility of a clash with State and Territory requirements the Department should develop the guidelines in consultation with State and Territory governments and reach agreement about who should monitor service provider complaints mechanisms.

## Should there be an external body?

### *Discussion paper*

7.12 At present, the Department of Human Services and Health (the Department) and the relevant State and Territory Departments and agencies receive complaints from people dissatisfied with the management or operation of a child care service. Commonwealth and State and Territory Ministers also receive complaints. In its discussion paper the Commission's preliminary view was that there should be a mechanism external to the child care service to deal with disputes between parents and the service. The Commission asked what kind of independent body should be set up.

### *Support for having an external body*

7.13 There was unanimous support in submissions for having some form of body external to the service that parents could complain to, either if they found the service's own mechanism unsatisfactory or felt uncomfortable complaining to the service in the first instance.<sup>383</sup> Suggestions in submissions about the body are that it should

- be quick, informal and non-legalistic
- be representative of parents and the industry
- be made up of people with specialist knowledge in the child care area
- have people skilled in mediation
- involve and inform all parties and give them the opportunity to respond
- be adequately resourced to enable it to employ skilled personnel and investigate complaints properly.

It is suggested that the body provide advocacy services for clients<sup>384</sup> and that clear guidelines as to how the body should operate would be helpful.<sup>385</sup>

### *Divided views about the structure of the body*

7.14 Submissions are divided as to the structure of the body. Some suggest that a complaints unit be set up within the Department similar to the units that deal with complaints about residential aged care services. It is suggested that disputes be dealt with by the Arbitration Council<sup>386</sup> or by an external consultant with expertise in child care.<sup>387</sup> A few submissions suggest that the structure of the body should change with the nature of the complaint.

### *ARC recommendation*

7.15 The ARC recommends that consumers be able to complain to someone outside a service if they have not been able to resolve their problems with the service provider.<sup>388</sup>

### *The Commission's recommendation*

7.16 Parents should be able to appeal to an independent body outside the service if their complaint has not been resolved or dealt with effectively by the service's internal mechanism or if they do not feel comfortable approaching the service with a complaint. Parents should be encouraged to use the service's internal mechanism first. However, there should be no formal restriction on a parent bypassing a service's internal complaints mechanism and going directly to the outside body. **The Commission recommends that the legislation should provide that there should be an independent external body to deal with complaints about child care services.**

## **What sort of body?**

### ***Powers the body should have***

7.17 The body should have the powers it needs to deal with disputes quickly and effectively. It should have a range of powers including the power

- to dismiss a complaint if the body is of the opinion that the complaint is frivolous
- to investigate a complaint
- to call for evidence
- to conciliate and mediate disputes
- to recommend that a complaint be referred to another more appropriate body or agency such as the Department, the police, the NCAC or a State or Territory licensing authority.

### ***Should it be able to make binding decisions?***

7.18 The external complaints body should be a non-legalistic, informal dispute settling body. Giving the body the power to make binding determinations would not be consistent with the intention that the body be flexible and informal. Given the nature of the complaints that such a body would be likely to receive, it may also be unnecessary for the body to be able to make binding decisions. The body would probably receive a number of complaints involving personal conflict between parents and services rather than questions of fact or law involving right and wrong. This type of dispute would best be settled by mediation and not by a binding determination. If the external body investigates a complaint involving a more serious matter, such as an alleged breach of a funding condition, it would ultimately be up to the Department or the Minister to investigate and to take action if the service has breached conditions of funding. In the Commission's view the body should be able to make recommendations to the parties involved, to the Department or to the Minister as to what action would be appropriate. It should not have the power to make binding decisions. This is consistent with the recommendations of the ARC.<sup>389</sup>

### ***What kind of external body should handle complaints about service providers?***

7.19 In its report the ARC recommends that the Commonwealth Ombudsman's office should have this external complaints function.<sup>390</sup> The ARC recognises that this involves a major expansion in the role and functions of the Ombudsman and makes a number of recommendations to ensure that this occurs. The Commission is not particularly concerned with what body carries out this function. It is concerned to ensure that the external complaints body has the necessary features and functions to effectively meet the needs of consumers. While the Commission is not convinced that the Ombudsman is the appropriate body to undertake this role, it makes no recommendation on this issue.

### ***Features the body should have***

7.20 Whichever body handles consumers' complaints about child care it must be set up in a way that ensures it is able to meet the needs of consumers of child care services. In the Commission's view it should

- be quick, informal, approachable, consumer focused and non-legalistic
- have an emphasis on, and be staffed by people skilled in, investigation mediation and dispute resolution policy and procedures
- take into account the cultural diversity of the Australian community, including any variations in approach to dispute resolution

- as far as possible have a staffing profile which reflects the cultural diversity in the Australian community
- have procedures which take into account and correct power imbalances between parties, for example, by allowing advocates where appropriate
- be decentralised with a shop front and outreach approach
- have strong community links
- be accessible to consumers in rural and remote areas and carers whose mobility is limited
- regularly consult with community, industry and specialists including with people of non-English speaking backgrounds, Aborigines and Torres Strait Islanders, people with a disability and people in rural and remote areas at the establishment and operational phases
- have an image and a structure which demonstrates independence from recognisable government institutions
- have a high profile in the community
- have a data collection system which enables it to maintain a comprehensive statistical complaints database and to build up a profile of service providers about what complaints have been made and whether attempts to resolve complaints have or have not been successful
- have its own discrete budget
- have procedures from the time of its establishment which enable it to evaluate its performance against these criteria.

### *The Commission's recommendation*

**7.21 The Commission recommends that legislation should give the independent complaints body the powers necessary to deal with disputes quickly and effectively. The body should be able to make recommendations to services, the Department and the Minister. It should have an appropriate structure and appropriate procedures to ensure that it is able to meet the needs of consumers of child care services.**

## **How to avoid duplication with State and Territory mechanisms**

### *External complaints mechanisms exist in some States and Territories*

7.22 The States and Territories currently have different means of providing independent review of complaints made by parents against services. New South Wales is the only State so far to legislate for an independent body to deal with complaints by users of community services. In New South Wales the Community Services Commission and the Community Services Tribunal hear and investigate complaints about community services within its jurisdiction.<sup>391</sup>

### *Duplication should be avoided*

7.23 In establishing an independent complaints handling body to deal with disputes involving child care services under the Children's Services Program it is not desirable to duplicate State or Territory mechanisms which parents can already use to resolve complaints. This would create two possible avenues for complaint and lead to confusion and a waste of resources. Where services are jointly funded, both bodies could have jurisdiction to take the same complaint. This means it would be more difficult to monitor trends in the nature and outcome of disputes.

*The Commission's recommendation*

7.24 The Commission recommends that the legislation should establish a Commonwealth body to handle the complaints that parents have about a federally funded child care service. Where a State or Territory has an appropriate independent complaints body able to deal with parents' complaints about a child care service, the legislation should enable the Commonwealth to authorise that body to deal with all parent complaints, including complaints under federal legislation. Where there is no State or Territory body the Commonwealth should negotiate with that State or Territory to enable the Commonwealth body to handle complaints about child care services which might otherwise be outside its jurisdiction.

## 8. Family day carers — special issues

### Introduction

8.1 A family day care (FDC) scheme is a network of family based care workers (carers) who provide child care for other people's children in the carer's own home.<sup>392</sup> Each network is organised by a central coordination unit that places children with carers and monitors the standard of care being provided. The staff of the coordination unit are employees of a sponsoring organisation or operator. This chapter looks mainly at the relationship between carers and coordination units.

- It looks at carer concerns about the relationship between carers, coordination units and sponsors and makes recommendations about this (para 8.2-23).
- It looks at what carers say about the information they need and makes recommendations about this (para 8.24-33).
- It looks at what carers say about their participation in management and makes recommendations about this (para 8.34-44).
- It looks at encouraging people of non-English speaking backgrounds and Aborigines and Torres Strait Islanders to become carers and makes a recommendation about this (para 8.42-44).
- It looks at internal and external complaints mechanisms for carers and makes a recommendation about this (para 8.46-54).

### Relationship between carers, coordination units and sponsors

#### *Existing regulation of relationship between carers and coordination units*

8.2 There are now a range of ways that the relationship between carers and FDC coordination units are regulated.

- ***Children's Services Program does not regulate the relationship.*** The *Child Care Act 1972* (Cth) does not cover FDC schemes. The current funding agreement for FDC does not have provisions dealing with the relationship between the parties to a FDC scheme. The handbook says sponsors must 'consult' carers when setting fees.
- ***Draft national standards.*** Draft national standards for FDC are in the process of being developed by States and Territories.<sup>393</sup> The standards spell out the rights and responsibilities of carers in FDC schemes.
- ***Queensland the only State to regulate FDC.*** Queensland is the only State or Territory to have specific FDC regulations. The *Child Care (Family Day Care) Regulation 1991* (Qld) regulates all aspects of FDC schemes, including supervision and support for staff of the scheme. It requires role statements to be prepared for everyone engaged in the scheme. Some other States regulate care in a carer's home but not specifically in relation to FDC.
- ***Carer agreements.*** Some schemes have formal agreements which set out the rights and responsibilities of carers.

#### *How FDC schemes work*

8.3 ***Role of coordination units.*** The role of coordination units is to administer the FDC scheme. They

- recruit carers



- approve carers to look after children in their own homes
- match carers with children
- monitor the standard of care provided by carers
- offer training and support to carers.

In some cases the staff of the coordination units are employees of a sponsoring body such as a local council or a religious or community organisation. In South Australia, the State government is the sponsor for all FDC schemes in the State. Where the sponsor receives the funding then the sponsor, not the coordination unit, is ultimately responsible for ensuring that all of the obligations imposed by its funding agreement are met.

**8.4 A good relationship is crucial.** The success of the family day care model depends largely on the strength of the relationship between the carer, the coordination unit and, where applicable, the sponsoring body. Carers rely on their units to refer children to them and to provide help and advice. The coordination units rely on carers to keep them informed about how the service is operating, including any problems or vacancies a carer has.

### ***The discussion paper***

8.5 In the discussion paper the Commission asked questions about the relationship between carers and their coordination units. The Commission concentrated on this relationship rather than that between the coordination unit and the sponsor because the carer/coordination unit relationship is more likely to have a direct impact on the care provided. The Commission asked whether there are problems in the relationship between carers and coordination units relating to selecting carers, referring parents to carers, setting fees, monitoring standards of care and administrative activities. It asked how these problems could be addressed. The Commission also asked whether coordination units apply access and equity and social justice strategies in delivering their services to carers

### ***Many FDC schemes work very well***

8.6 A number of carers made submissions which indicate that they are very positive about their coordination unit. They note that their coordination unit regularly visits them to assess their information and training needs and are helpful and supportive.<sup>394</sup> Some schemes are 'fine examples of sound management and participatory models with social justice, access and equity principles in relation to carers clearly illustrated'.<sup>395</sup> Where there is a good relationship between the carer and the unit, the unit's job of monitoring the quality of care is made easier. Many coordination units tell the Commission that they are committed to supporting and providing advice and assistance to their carers.<sup>396</sup>

### ***Coordination units caught between sponsors and carers***

8.7 A number of coordination unit workers raise concerns that the problems they experience should also be taken into account. Where the staff of the coordination unit are employees of the sponsoring body, the coordination unit is responsible both to the carer and to the sponsor. This can, at times, place the coordination unit in a difficult position. The unit has to ensure that the carer is following the guidelines set by the sponsor and, at the same time, has to make sure that the sponsor understands the needs of the carer. The Commission is told by some coordination units that in many cases the sponsor organisation does not allow the unit to have a great deal of control over the way the scheme is run.<sup>397</sup>

### ***Carer concerns***

8.8 ***Selecting new carers.*** Carers are concerned that they are not consulted by coordination units or invited to contribute when new carers are being recruited. They say that the selection criteria for recruiting new carers is not adequate nor being applied consistently.<sup>398</sup> Because the criteria is inadequate good carers may be excluded or inadequate carers accepted.<sup>399</sup> Submissions show that carers are also concerned that new carers recruited in their area can jeopardise the existing carer's continuing income.<sup>400</sup>

8.9 **Referring parents to carers.** Carers cannot directly approach parents but must rely totally on coordination units to refer parents to carers. Carers note instances where the coordination unit ignored a parent's specific request for a child to be placed with a particular carer and then referred the parent to another carer.<sup>401</sup> Some carers are concerned that this dependency can limit a carer's access to work and income and has the potential to be used as a disciplinary measure.<sup>402</sup> Many carers raise the problem of coordination units not consulting carers when placing children with carers. Carers say that sometimes units do not check that a carer has a vacancy before referring a parent.<sup>403</sup>

8.10 **Setting fees.** Many carers are concerned that although they provide the care they cannot set their own fees.<sup>404</sup> Some carers highlight their low level of remuneration, believing that the low income of carers is at the expense of keeping FDC 'affordable' to parents.<sup>405</sup> Other problems raised by carers include the lack of consultation by the coordination unit when fees are being set<sup>406</sup> and inconsistency between schemes in fee setting.<sup>407</sup>

8.11 **Monitoring quality.** Some submissions note that coordination unit workers who conduct monitoring visits of carers are in a difficult position because they are both advisers and supervisors.<sup>408</sup> A poor assessment can cause resentment between carers and coordination units.<sup>409</sup> Carers are also concerned standards are not always developed, interpreted or applied consistently by coordination units.<sup>410</sup> Sometimes they do not cover issues that are important to carers such as first aid or emergency procedures.<sup>411</sup> Submissions also express concern that coordination units do not have appropriate training to monitor standards.<sup>412</sup>

8.12 **Employment status.** Carers are concerned about their uncertain employment status. They are not employees of the coordination unit<sup>413</sup> and so do not have the benefits generally enjoyed by employees, such as holiday and sickness benefits.<sup>414</sup> On the other hand, they are not treated as being 'self employed'. They cannot set their own fees or choose which children they care for. Submissions comment that this lack of certainty can cause frustration about the right of carers to be consulted about, and have control over, matters that affect them.<sup>415</sup>

8.13 **Major variations between schemes.** In submissions and during consultations concern was expressed at major differences in working conditions between schemes. Of particular concern are the different requirements and inconsistencies between schemes relating to the training of carers, administration, quality standards and fees.<sup>416</sup>

#### ***What submissions say carers want***

8.14 **Control over working conditions.** Many submissions comment that carers want more control over the way they earn their income. In particular, carers want to be able to set their own fees for the care they provide.<sup>417</sup> Submissions also say carers want to be able to choose the children whom they care for rather than rely on referrals from the coordination unit.<sup>418</sup>

8.15 **Consultation about issues affecting them.** Carers want to be consulted about decisions that affect their capacity to earn a living. For example, carers want to be consulted when fees are being set.<sup>419</sup> They want to participate in the selection of new carers recruited in their area as this could affect the existing carer's business.<sup>420</sup> The First National Carers Forum held in 1993 recommended that schemes have a responsibility and commitment to existing carers to fill their vacancies before recruiting new carers.<sup>421</sup> Submissions say that if carers cannot choose the children they care for, they at least want to be consulted before the coordination unit places a child with them.<sup>422</sup> Parents also would like a choice of who cares for their child.

8.16 **Clarification of employment status.** Many carers believe that they would have more control over their working conditions and a greater right to be consulted about important matters if they were clearly classified as either employees of the coordination unit or as self employed contractors.<sup>423</sup> Carers consider that this would give carers either the rights and the responsibilities of employees, such as the right to holiday and sick pay and clearly defined duties of accountability, or the autonomy of self employed workers. At present they have neither.

8.17 **Training and advice.** A number of carers note that they are overwhelmed by FDC administrative requirements. They would appreciate advice and general help with procedures and Commonwealth, State and

Territory FDC requirements.<sup>424</sup> Carers also believe there should be training about standards monitoring requirements for both carers and coordination units.<sup>425</sup> The Carers Forum recommended that Commonwealth funding be directly allocated to inservice training for all carers in Australia.<sup>426</sup>

8.18 **Guidelines setting out roles.** A number of submissions suggest that the relationship between carers and coordination units would be clarified if standard guidelines were developed to regulate the role of coordination units in their dealings with carers.<sup>427</sup> Submissions say that guidelines would be particularly useful in promoting consistency in fee setting, standards monitoring and the selection of carers. The Carers Forum also recommended that a national perspective be developed to eliminate inconsistencies in working conditions and earning opportunities for carers.<sup>428</sup>

### ***Setting out rights and responsibilities in an agreement***

8.19 **Discussion paper.** In the discussion paper the Commission asked whether it would be useful to have the rights and responsibilities of parents, carers and coordination units set out in an agreement.

8.20 **Support for an agreement.** About 80% of submissions received on this issue support an agreement.<sup>429</sup> They consider that an agreement setting out the rights and responsibilities of parents, carers, coordination units and sponsoring bodies would prevent many misunderstandings that currently occur. Suggestions about what should be included in an agreement include

- complaints procedures<sup>430</sup>
- the carer's right to get information and participate in management<sup>431</sup>
- confidentiality and privacy provisions<sup>432</sup>
- the coordination unit's policies and expectations of quality<sup>433</sup>
- the support that carers, parents, coordination units and sponsors need to give each other<sup>434</sup>
- departmental policies and any Commonwealth, State or Territory requirements.<sup>435</sup>

Submissions say that the agreements should be clear, in Plain English, available in community languages<sup>436</sup> and consistent with each other.<sup>437</sup> Some submissions say agreements are unnecessary. These submissions are from schemes that already have effective consultation procedures in place.<sup>438</sup>

### ***The Commission's recommendations***

8.21 **Carer concerns in context.** The Commission notes that the submissions from carers may not fully or accurately reflect the current situation. For example, submissions may not recognise that coordination units play an important role in ensuring that FDC places are allocated according to priority of access guidelines. Coordination units also make sure that baby places are found for families. Priority of access guidelines would be more difficult to apply and monitor if carers were in control of their own placements. The administrative costs to carers for such things as advertising would also be higher. Some coordination units may want to give carers more control over their working conditions but are restricted by the sponsoring body. However, the fact that carers express such concern about a range of aspects of their relationship with their coordination unit indicates that there is a need to clarify the relationship between carers, coordination units and sponsors.

8.22 **Status of carers must be clarified.** Most carers do not appear to have the kind of control over or responsibility for their working conditions that independent contractors would be expected to have. This is so even though there are court cases saying that most carers are independent contractors. Carers cannot choose which children they care for or set their own level of fees. Nor do they have the benefits of employee status such as the right to holiday or sick pay. It would seem that carers have the worst of both worlds. A clear employment status is fundamental to carers' basic rights and responsibilities. It also determines the nature of their relationship with the coordination unit and sponsor. **The Commission recommends that, as a matter**

**of urgency, carers be clearly classified as either employees or self employed contractors before the new legislation is drafted and that they be guaranteed the rights and privileges associated with whichever status is agreed.**

8.23 *There should be agreed policies on specific matters.* There are very few legal provisions regulating the relationships between the parties to FDC schemes. Some regulation would prevent the uncertainty and inconsistency that now characterises the relationship between carers, parents, units and sponsors in some schemes. However, any regulation should not be too prescriptive. Schemes need to be sensitive to local needs and structures. Units should be required to have policies developed and agreed to by all parties. The content of the policies and whether or not they are formalised into an agreement will depend on the employment status of carers. **The Commission recommends that the legislation require, as a condition of funding, that FDC schemes have either written agreements or specific written policies agreed between carers, units, parents and sponsors on matters specified in the guidelines. These matters would include those which address the roles and responsibilities of the sponsor organisation, the unit, carers and parents including**

- **how carers are to be selected and approved**
- **the basis on which children will be allocated to carers and the procedure that the unit should follow**
- **how fees are set and the procedure if parents do not pay their fees**
- **the standards of care carers are required to meet**
- **the procedure for monitoring standards, including what should happen if a unit believes a carer is not meeting standards or breaches other scheme requirements**
- **how often unit staff will visit a carer and on what basis**
- **what training and support the unit will provide to carers**
- **the responsibilities of parents to carers and carers to parents.**

**The Commission recommends that before the FDC guidelines are drafted, the Department should consult with key organisations to determine other matters on which FDC schemes should be required to have written policies.** Where schemes are required under State or Territory legislation to have policies on any of these areas, the Department should reach agreement about who is going to monitor the specific requirement.

## **Information**

### *Discussion paper*

8.24 The Commission discusses, more broadly, the information needs of parents about child care in chapter 6. This section builds on that discussion. It looks at the information that carers need from both the Department and FDC schemes. In the discussion paper the Commission asked what information carers need, who should be responsible for preparing that information and how it can best be communicated to carers.

### *Current information provision*

8.25 *The FDC handbook.* The Department issues a handbook to FDC schemes outlining the Commonwealth's objectives in promoting FDC schemes. It gives information on funding arrangements and what subsidies are available.

8.26 *Draft national standards.* The draft national standards being developed by the States and Territories for FDC<sup>439</sup> propose that a scheme must have clearly stated procedures and channels of communication and

reporting between management and staff. The scheme must also develop clear selection criteria, job descriptions, training and employment conditions, grievance procedures, role statements and procedures for supervision and support and standards monitoring.<sup>440</sup> The standards emphasise that written policies on these matters should be made available to ensure that carers and parents have consistent information. The standards require the information to be available. They do not, however, require the schemes to provide the information directly to all carers.

8.27 **Carer agreements.** Some agreements give carers the right to access information about the scheme. For example, in one FDC agreement, given to the Commission as an example, carers have the right to access to information about the operation, objectives and policies of the scheme and about the roles of all those involved in the scheme.

8.28 **Queensland has regulations.** In Queensland the *Child Care (Family Day Care) Regulation 1991* (Qld) provides that carers must be provided with all relevant information about the legislation and regulations, including appeal rights, all information that parents are entitled to receive and any other written material relevant to the carers' duties.<sup>441</sup>

### ***What submissions say about information needs of carers***

8.29 Because of the different layers of regulation of the FDC scheme carers need to get different information from each of the players.

- **Information from the Department.** Carers want information from the Department about general government policies, including priority of access guidelines, Childcare Assistance and general funding policies.<sup>442</sup> Carers also want information on fee setting and on the employment status of carers.<sup>443</sup>
- **Information from States and Territories.** Carers need information about relevant State or Territory provisions on the rights and responsibilities of carers or coordination units.<sup>444</sup>
- **Information from schemes.** Carers want specific information from schemes about how their particular scheme works and what their particular rights and responsibilities are in relation to the scheme and to parents. Carers say they need information about
  - individual scheme policies and procedures<sup>445</sup>
  - the selection and recruitment of carers<sup>446</sup>
  - fee setting<sup>447</sup>
  - working conditions and the expectations of the coordination units and sponsors<sup>448</sup>
  - children placed in their care.<sup>449</sup>

### ***What submissions say about how information is best communicated to carers***

8.30 **Department should have a national information strategy.** There was strong support in submissions for the development of clear and nationally consistent procedures for the distribution of information to carers.<sup>450</sup> Carers support the Department providing general information directly to carers in the form of a handbook or a newsletter.<sup>451</sup> The Carers Forum recommended that the Commonwealth produce a national handbook specifically for carers that can be easily updated when information changes.<sup>452</sup> It was suggested that making information available to carers directly rather than through the coordination units avoids the potential problem of some carers not having access to information if coordination units do not pass it on.<sup>453</sup>

8.31 **Information provided by coordination units or sponsors.** Some carers suggest that sponsors and/or coordination units should develop a handbook in consultation with carers.<sup>454</sup> The scheme coordinator could be responsible for ensuring that every carer has a copy of the handbook.<sup>455</sup> It is suggested that it should be a condition of funding that coordination units advise the Department of procedures they have in place to ensure that carers have the information they need.<sup>456</sup> The Carers Forum also recommended that schemes take

responsibility for ensuring that there is a flow of information between carers and the relevant State or Territory FDC Association.<sup>457</sup>

### *The Commission's recommendation*

8.32 ***Getting general information to carers.*** Carers indicate that they would like more information about general government policies and the CSP. Submissions indicate that some schemes appear to pass on more information about these matters than others. In some cases, information is not being passed to carers at all. Some submissions want the Department to provide information directly to carers. However, the Department has no legal relationship with carers. It does not have access to their names and addresses. Because there is no direct relationship compiling a data base of all carers and keeping it up to date would not be possible for the Department. The Commission agrees, however, that there is a need for a more consistent approach to ensure that carers receive accurate and relevant general information about child care, government policy and FDC. **The Commission recommends that the Commonwealth develop a national strategy for getting information about Commonwealth policies and the CSP to all carers. The Department should add a special section to the FDC handbook which sets out this information in a form suitable for carers. The information should be available in community languages. It should be a condition of funding that schemes pass information produced by the Department on to carers.**

8.33 ***Getting specific information to carers.*** There are currently no Commonwealth requirements that schemes provide certain information to carers, although this is required by some carer agreements and Queensland licensing laws. The Commission recommends at paragraph 8.23 that schemes be required to have agreed policies on a number of specific areas of the relationship between carers and units. **The Commission recommends that the legislation require, as a condition of funding, that coordination units give information to carers about what the schemes policies are. In addition units should be required to give information to carers about**

- the opportunities for carers to participate in the management of the service (see para 8.44)
- complaint handling procedures (see para 8.52)
- the availability of an external complaints mechanism (see para 8.53).

Information should be provided in community languages for carers from non-English speaking backgrounds.<sup>458</sup> However units may require help from the Department or resource and advisory units to provide this.

## **Carer participation in management**

### *Introduction*

8.34 In chapter 6 the Commission discusses issues of parent participation in the management of a child care service. While these issues are relevant for parents with children in FDC schemes, the further matter of carer participation in the management of schemes needs to be considered. In the discussion paper the Commission proposed that it should be a condition of FDC funding that carers participate in the management of the service. The Commission sought views on this matter and asked about measures that need to be taken to ensure that Aborigines and Torres Strait Islanders and people from non-English speaking backgrounds become carers and participate in management.

### *Current requirements*

8.35 ***Recurrent funding agreement and FDC handbook.*** Conditions in the FDC recurrent funding agreement require a scheme to provide parents with adequate opportunities for participating in the management of a scheme. However, the agreement does not provide that carers should have the opportunity to participate in management. The FDC handbook requires units to consult carers in setting fees.

8.36 **Draft national standards.** The draft national standards being developed by States and Territories for FDC propose that a scheme must have effective advising mechanisms to allow participation from carers, coordinators, parents and community representatives.

8.37 **Carer agreements.** One carer agreement the Commission is aware of provides that carers have a right to contribute to decisions that affect them by holding discussions with unit staff and the Carers' Association. Carers could also contribute by being a representative on the management committee of the Carers' Association.<sup>459</sup>

8.38 **Carer participation compulsory in Queensland.** The *Child Care (Family Day Care) Regulation 1991* (Qld) provides that the licensee of a scheme must ensure that the scheme's management includes effective participation of carers, coordinators, parents and community representatives (for example, as members of the committee of management or an advisory committee).<sup>460</sup> Submissions say that this management structure is 'much applauded'.<sup>461</sup>

#### ***What submissions say about carer participation in management***

8.39 **Support for carer participation.** About 60% of the submissions received on this issue were unreservedly in favour of carer participation in management being a condition of approval for FDC schemes. Almost all of these submissions came from carers. Submissions in support of carer participation argue that carers are professional people running their own business and therefore deserve a voice in the way the scheme is run.<sup>462</sup> Submissions consider that carer participation should not be rigidly enforced but should depend on the carer's skills and availability.<sup>463</sup> It was also suggested that the coordinator of the scheme should be involved.<sup>464</sup>

8.40 **Some submissions have reservations about or do not support carer participation.** A number of submissions either disagree totally with the concept of carer participation in management or support the idea with reservations.

- **Local council sponsored schemes.** A number of submissions received from local councils and from FDC associations do not think that carer participation in local council run schemes is appropriate. They think that management should be left to the council.<sup>465</sup>
- **Potential conflict of interests.** Some submissions say that there may be a conflict of interest if carers become involved in the management of a scheme from which they will benefit financially.<sup>466</sup> There is a concern that the interests of proper management may be subjected to the self interest of carers.
- **Employment status of carers needs to be defined.** Submissions note that the question of whether carers are classified as employees or independent contractors may be relevant to the appropriateness of their participation in management.<sup>467</sup> If carers are classified as contractors it may be more appropriate for management issues to be dealt with in the contract between the carer and the coordination unit.<sup>468</sup>
- **Confidentiality problems.** Submissions express concern about possible breaches of confidentiality that may occur if carers became involved in management activities. Carers might have access to files held by the coordination unit and could discover confidential information about other carers.<sup>469</sup>
- **Problems in rural areas.** Submissions note that there may be logistical problems in large rural areas. Time and travel costs make it difficult for carers to participate in management if the coordination unit is some distance away from where the carer lives.<sup>470</sup>
- **Insufficient management skills.** Some submissions consider that a lack of skill or expertise may prevent carers from fully participating in management activities.<sup>471</sup> One submission says that if carers could not make a meaningful contribution to management they would be unhappy with what they see as 'powerless representation'.<sup>472</sup>

8.41 **Suggested ways carers can participate.** A number of submissions do not support participation in management being made a condition of funding but agree that carers should be involved to some degree.<sup>473</sup>

Some suggest that there should be a consultative arrangement whereby carers can contribute to management decisions, perhaps through an advisory committee.<sup>474</sup>

### ***Encouraging Aborigines and Torres Strait Islanders and people from non-English speaking backgrounds to become carers***

8.42 ***What submissions say are the barriers.*** Some of the barriers to Aborigines and Torres Strait Islanders and people from non-English speaking backgrounds becoming carers identified in submissions include

- the difficulties Aboriginal and Torres Strait Islander people and people from non-English speaking backgrounds may have in meeting certain State and Territory licensing criteria and conditions for being a carer, for example, fluency in English<sup>475</sup>
- the need to have a telephone and hold a first aid certificate<sup>476</sup>
- that established services may not be appropriate or attractive to people from different cultural backgrounds.<sup>477</sup>

Submissions also say that people of non-English speaking backgrounds and Aborigines and Islanders do not have enough information about child care options.<sup>478</sup> This is largely due to the remoteness of some of the communities and the high cost to services of translating written material.<sup>479</sup>

8.43 ***What submissions say about how they can be encouraged.*** Submissions say that Aborigines and Torres Strait Islanders and people of non-English speaking background need more encouragement if they are to become carers.

- ***Information and training.*** Many submissions focus on how information can best be directed to these groups.<sup>480</sup> They say information should be in community languages.<sup>481</sup> It should take the form of pamphlets or be provided through telephone or personal interpreter services<sup>482</sup> or community or ethnic radio.<sup>483</sup> Submissions note that the information should be clear and relevant, with illustrations if possible.<sup>484</sup> Some suggest that information sessions specifically targeted at particular communities may attract carers.<sup>485</sup> They suggest that specialised training for the staff of coordination units, focusing on improving access to carers from these groups, would also be helpful.<sup>486</sup> Another suggestion was that Aboriginal FDC field workers should be employed to recruit, train and support carers.<sup>487</sup> Multicultural officers and SUPS workers could publicise the role of the FDC scheme and of carers.<sup>488</sup> Submissions note that this extra and specialised training would require additional funding.<sup>489</sup>
- ***Positive discrimination.*** One submission suggests that regional targets should be set for the participation of Aborigines, Torres Strait Islanders and people of non-English speaking background as both carers and users of FDC.<sup>490</sup>
- ***Flexibility.*** Submissions suggest that regulations could be made more flexible so that cultural practices could be accommodated.<sup>491</sup> This is an area of State and Territory responsibility.

### ***The Commission's recommendations***

8.44 ***Carer participation in management.*** The FDC funding conditions provide for parent participation in the planning and management of a FDC scheme. They do not, however, refer to carer participation in management (except for consultation about fees). Participation of carers in FDC management ensures that carers have a say in decisions that affect their working conditions and livelihood. Participation is also a means of improving communication between carers, coordination units and sponsors. **The Commission recommends that the legislation should require, as a condition of funding, that FDC schemes have a written agreed policy on how carers are to be involved in decisions made by the sponsor or the coordination unit which affect them and specific strategies to encourage carers to become involved. These strategies should be evaluated regularly.**



8.45 *Carers from identified special needs groups.* It is important as a matter of access and equity that schemes take measures to encourage Aborigines and Torres Strait Islanders and people of non-English speaking background to become carers and to participate in decisions which affect them. **The Commission recommends that the legislation require, as a condition of funding, that FDC schemes have specific strategies to encourage Aborigines and Torres Strait Islanders and people from non-English speaking backgrounds to become carers. These strategies should be evaluated regularly.** Resource and advisory agencies could be appropriate organisations to help schemes develop strategies. There may be resource implications for schemes as a result of both of these recommendations.

## Carer complaints

### *Discussion paper*

8.46 In chapter 7 the Commission discusses internal and external mechanisms for handling parent complaints about child care services. This section looks at the complaints carers may have about FDC schemes and how those complaints should be dealt with. The Commission proposed in its discussion paper that it be a condition of approval of coordination units that they make satisfactory arrangements for carers to enquire into or complain about the management or operation of the scheme. The Commission asked for comments on this proposal. It also asked what sort of external review body should be established to deal with carer complaints.

### *Current requirements*

8.47 *Draft national standards.* The draft national standards being developed by States and Territories for FDC propose that schemes must have procedures that enable carers and parents to raise matters of concern.

8.48 *Carer agreements.* Some carer agreements provide that carers should have the right to raise concerns with the coordination unit about the overall operation of the scheme. They set out a procedure the carer can follow if he or she has concerns.

8.49 *Queensland regulations.* In Queensland the *Child Care (Family Day Care) Regulation 1991* (Qld) says that the licensee of the FDC scheme must ensure that the scheme has procedures that enable carers and parents to raise concerns about the scheme.<sup>492</sup>

### *What submissions say*

8.50 *General support for internal complaints mechanism.* Nearly all submissions received on this issue agree with the need for schemes to develop a way of dealing with carer complaints. Most submissions consider it 'highly desirable' for coordination units to have a grievance policy.<sup>493</sup> It was pointed out that the obligation should rest with the funding recipient if that body is separate from the coordination unit, for example where a scheme is sponsored by a local council.<sup>494</sup> The Carers Forum recommended that all carers should have access to a grievance procedure.<sup>495</sup>

8.51 *Kinds of internal complaints mechanisms suggested.* The submissions did not comment in detail on the kind of internal mechanism there should be. Some submissions suggest that the procedure should be clear and consistent across units, with easily understood guidelines spelling out how carers' complaints will be dealt with.<sup>496</sup> Most submissions say that model guidelines are a good idea as this promotes consistency between coordination units and promotes carers' awareness of the procedures.<sup>497</sup> Some note that carers should be able to have confidence that their complaints will be treated seriously and fairly.<sup>498</sup> It was also suggested that carers should have the right to an advocate such as a representative from a union or the Carers Association.<sup>499</sup>

8.52 *Need for external body.* A number of submissions say that it is necessary to have an external body to deal with complaints that could not be resolved by a scheme's internal mechanism or to deal with situations where the carer does not feel comfortable going to the unit's complaints mechanism for fear of reprisal.<sup>500</sup> Submissions are divided as to whether it should be an FDC specific body,<sup>501</sup> a Departmental body,<sup>502</sup> an independent body<sup>503</sup> or a combination of those options. Most submissions consider that the body should be

able to make binding decisions, while a number felt that the body should be able to mediate and conciliate complaints.<sup>504</sup>

### *The Commission's recommendations*

8.53 *Internal mechanism.* If coordination units have a developed grievance procedure many disputes are more likely to be resolved quickly, to the satisfaction of both parties and in a way that enables the carer to continue to participate in the scheme. The comments and recommendations made by the Commission at paragraph 7.11 in relation to internal review by services of parent's complaints are also relevant to carer complaints. **The Commission recommends that the legislation should require, as a condition of funding, that an FDC scheme should have an established procedure for dealing with complaints by carers about the management or operation of the scheme. The Department should include guidelines in the FDC handbook setting out the essential features that all complaints mechanisms must have. The guidelines should reflect the minimum requirements recommended by the Administrative Review Council (para 7.9). They should include a model that schemes can implement if they do not wish to develop their own.**

8.54 *External complaints mechanism.* Carers should also have access to external complaints mechanisms if the scheme's internal mechanism fails to resolve the complaint or if the carer does not feel comfortable complaining to the scheme. Carers should, however, be encouraged to use the scheme's internal complaints mechanism first. In chapter 7 the Commission recommends that a review body be set up to deal with parents' complaints about child care services in general. Carers should also have access to this body. The external review body should have the powers necessary to deal with the types of complaints that carers are likely to have about schemes in a quick, inexpensive and non-threatening way. Skilled mediators and conciliators with knowledge of FDC schemes could work with the parties to negotiate a resolution. **The Commission recommends that carers who have a complaint about an FDC scheme should have access to the appropriate external review body handling parents' complaints about child care services in the particular State or Territory (see para 7.16).**

# 9. Legislating the funding process

## Introduction

9.1 This chapter focuses on decisions to fund or not to fund organisations to provide services. The decisions may be made by the Commonwealth in circumstances where the Commonwealth funds children's services directly or by the States and Territories when the Commonwealth gives money for children's services to a State or Territory government and the Commonwealth and State or Territory government jointly decide who should get the funding.<sup>505</sup> The underlying policy goals of the recommendations made in this chapter are that government decision making should be transparent, decisions should be made on a rational basis and that everyone affected by decisions about funding should have access to the criteria on which decisions are made. The chapter considers the extent to which the decision making process should be provided for in the new legislation.

- It considers whether the steps in the funding process should be set out in legislation and makes a recommendation about this (para 9.2-5).
- It considers whether the conditions of funding should be set out in legislation and whether it should be possible to add, omit or vary conditions and makes a recommendation about this (para 9.6-11).
- It considers whether the grounds on which a decision to revoke an approval for funding and the process that should be followed should be in legislation and makes a recommendation about this (para 9.12-15).
- It discusses review of decisions made by governments and a project by the Administrative Review Council that considers whether there are appropriate review rights for funding decisions made by the Department (para 9.16-18).
- It identifies decisions that, in the Commission's view, should not be reviewable by the Administrative Appeals Tribunal (AAT) and makes a recommendation about this (para 9.19-20).
- It identifies decisions that, in the Commission's view, should be reviewable by the AAT and makes a recommendation about this (para 9.21-23).
- It considers and makes a recommendation about mechanisms to ensure administrative accountability on the part of States and Territories that administer child care programs funded by the Commonwealth (para 9.24).

## Getting funding

### *Existing law and practice*

9.2 The *Child Care Act 1972* (Cth) gives the Minister power to approve funding for 'eligible child care centres'. The Minister approves funding for other services, for example, Family Day Care, Outside School Hours Care and Occasional Care by authority of the executive and appropriation powers. The Act requires certain steps to be taken when approving a long day care centre. These are supplemented by internal guidelines on approving services. The process is agreed between Commonwealth and State and Territory governments as part of expansion strategies. For example it has been agreed that there be a committee and it consider needs based planning, conduct the necessary consultations and then make a recommendation to the Ministers. However the steps in this process are not clear.

### *Discussion paper proposal*

9.3 In the discussion paper the Commission proposed that the steps a service must take to receive funding should be set out in the legislation. The legislation should clearly state the grounds on which an application made under the legislation can be refused. It should provide that reasons must be given if an application is refused.

### *Should the funding process be set out in legislation?*

9.4 If the steps that a person must take to receive funding and the circumstances in which an application might be approved or not approved are set out in legislation the funding process is likely to work more efficiently and effectively than it does now. Clear criteria help ensure good decision making and enable effective review of decisions. Oral and written submissions received by the Commission and views expressed during consultations show strong support for setting out the funding process in legislation.<sup>506</sup> On the other hand, the role of governments in funding child care services is in a continual state of development. The Commission's consultation shows that governments need to be able to respond to changing needs.<sup>507</sup> Decisions about funding therefore should not be too circumscribed by legislative requirements. There is a danger that if criteria for approval are too detailed it might become difficult for the Department to fund more flexible types of services.<sup>508</sup> Criteria might quickly become irrelevant and legislation cannot be changed easily.

### *The Commission's recommendation*

**9.5 The Commission recommends that the the legislation set out the steps a service must take to receive funding. The legislation should clearly state the grounds on which an application made under the legislation can be refused. These grounds should include that the applicant or a director of the applicant is not fit and proper to conduct a child care service and that the proposed service is unsatisfactory for reasons such as failure to comply with local child care licensing laws or relevant State or Territory building controls, or comply with the requirements of the Quality Improvement and Accreditation System. The legislation should provide that reasons must be given if an application is refused.** The legislation should be expressed in broad enough terms that flexibility is not inhibited.

## **Attaching conditions to funding**

### *Existing law and practice*

9.6 Grants made under the *Child Care Act 1972* (Cth) can be made on

such terms and conditions, not inconsistent with this Act, as the Minister thinks fit.<sup>509</sup>

All grants, whether made under the Act or otherwise, are made subject to conditions. The conditions are contained in an agreement the Commonwealth makes with the person who receives the grant. There is usually a capital funding agreement if applicable, and a recurrent funding agreement, for operational subsidy, Childcare Assistance or both, for each service.

### *Discussion paper*

9.7 In the discussion paper the Commission expressed the view that the conditions that apply to all services, or all services of a particular type, for example, all family day care schemes, should be in the legislation (either the Act or delegated legislation). The discussion paper included examples of conditions that would apply. It stated that the legislation should give the Secretary power to waive conditions or to impose additional conditions on a service. The conditions should be listed in the instrument of approval and should be acknowledged by the person on whom they are imposed.

### *Should conditions of funding be in the legislation?*

9.8 Flexibility is the main advantage of imposing the conditions of funding by agreement. Conditions suitable to the particular service can be worked out and agreed upon. The main advantages of stating the conditions of funding in legislation are transparency and consistency. If conditions are in the legislation everyone with an interest in child care, including service providers and consumers, would know what they were. Service providers would be able to make an informed decision about whether to apply for funding. The funding process would be more transparent and the conditions subject to parliamentary scrutiny. This is appropriate given the seriousness of the consequences that attach to breach of conditions. All funded services would be subject to the same conditions which would not then vary according to where or when an agreement is made.

### *What kind of conditions should be imposed?*

9.9 The conditions attached to an approval for funding should be conditions necessary to ensure that the purposes for which money is given are able to be fulfilled. The kind of conditions will depend on the extent to which the funding body wants to play a regulatory role, the matters over which it wants some control and the outcomes it wants to achieve. Legislation might include conditions about compliance with the Commonwealth's planning processes, the qualifications of applicants for funding and the quality of the service.

### *Should it be possible to vary conditions or to impose additional conditions?*

9.10 The strongest argument against having legislative conditions is that they would inhibit flexibility. If all services were to be subject to the same conditions it might not be possible to meet the needs of some communities. However, the legislation could give a person, for example, the Secretary of the Department administering the funds, the power to vary conditions, including the power to waive them, and the power to impose additional conditions. Flexibility will then be retained. With agreement between the service provider and the Department conditions might be varied to enable a service to meet local needs in circumstances where a standard model service may not adequately do so. In some areas, for example, employment patterns might require different hours and weeks of operation.<sup>510</sup> There is a danger, however, that the power would be used in such a way that the conditions in the legislation would no longer be those that generally applied.<sup>511</sup> This could be avoided by limiting the power by reference to the purposes of the legislation.

### *The Commission's recommendation*

**9.11 The Commission's recommendations in this report include matters which should be included in legislation as conditions of funding. These requirements should be standard conditions applicable to all service types or to particular service types as appropriate. The legislation should provide that the Secretary of the Department have the power to add, omit or vary conditions with the consent of the operator when necessary in particular circumstances.** The effect of this would be that, generally speaking, all eligible children's services would be subject to the same conditions. If a service is to receive capital funding, operational subsidy or CA standard conditions applicable to its funding would be imposed. There would also be standard additional conditions that would apply to all services of a particular kind.

## **Making the decision to withdraw funding**

### *Existing law and practice*

9.12 The *Child Care Act 1972* (Cth) envisages that an approval for operational subsidy can be revoked by the Minister. It does not say under what circumstances this might happen or outline the procedure that should be followed. Some funding agreements between the Commonwealth and long day care centres provide that the Commonwealth may terminate an agreement if the operator fails to comply with the conditions specified in the Act, the guidelines or the agreement.<sup>512</sup> Others provide that if the Minister considers that a service is not being conducted in accordance with the agreement the Minister may

- ask that there be discussions between the operator and the Department
- request in writing that certain changes take place within a reasonable time
- withhold payment of the grant or instalments of the grant until the operator complies with the agreement.

Long day care (private service) agreements provide that the Minister may terminate the grant by notice in writing to the operator at any time if the operator fails to comply with the agreement.

### *Discussion paper proposal*

9.13 In its discussion paper the Commission proposed that the Secretary of the Department should be able to revoke an approval for funding only on the grounds specified in legislation.

#### ***Should the circumstances when funding might be revoked be in the legislation?***

9.14 Losing funding is likely to have very serious effects on a service and on the parents and children who use it. The service may have to close down altogether and parents have to find alternative child care for their children. Nevertheless it is a decision that the body that is providing the funds ought to be able to make. However, such a decision should not be able to be made arbitrarily. The grounds on which a decision to revoke funding should be able to be made should be known to those likely to be affected and should be relevant to the issue. The procedure to be followed should also be set out in legislation. The decisions ought to be able to be reviewed, a process that requires clear criteria for the decision in the first place. Submissions said the kinds of circumstances in which a decision to revoke funding might be made include where

- children are receiving inadequate standards of care or are in danger<sup>513</sup>
- the service fails to comply with legislative requirements<sup>514</sup> or continuously fails to comply with funding conditions<sup>515</sup>
- the care provided does not meet the physical, emotional or developmental needs of the children<sup>516</sup>
- there is dishonesty or fraud.<sup>517</sup>

#### ***The Commission's recommendation***

**9.15 The Commission recommends that the legislation should set out the grounds on which a decision to withdraw funding may be made and the process to be followed. The grounds should include**

- **inadequate standards of care**
- **neglect or abuse of children or a significant risk of neglect or abuse**
- **serious or continuous failure to provide care that meets the physical, emotional or developmental needs of the children**
- **serious or continuous failure to comply with legislative requirements or funding conditions**
- **dishonesty or fraud or a significant risk of dishonesty or fraud.**

## **Reviewing decisions**

### ***Existing law and practice***

9.16 **Judicial review.** Decisions made by a Commonwealth agency that are unlawful can be reviewed by a court (judicial review). The Commonwealth has passed legislation to make judicial review more accessible than it is under common law.<sup>518</sup> Only decisions made under legislation can be reviewed using this simpler process. Only some children's services under the Children's Services Program (CSP) are now covered by legislation. When a court reviews a decision it can only make orders that will ensure that the decision is made as required by law. It cannot reconsider the decision or decide whether the decision was preferable or correct (merits review).

9.17 **Merits review.** There are no provisions in the *Child Care Act 1972* (Cth) about merits review of decisions affecting children's services. Guidelines applying to long day care centres provide for review by the Administrative Appeals Tribunal (AAT) of a decision

- not to determine that a new centre is an 'eligible child care centre' on the ground that the operator has not registered with the National Childcare Accreditation Council
- that an existing 'eligible child care centre' is no longer an 'eligible child care centre' following unsatisfactory compliance with the Quality Improvement and Accreditation System.<sup>519</sup>

### ***Administrative Review Council project***

9.18 The Administrative Review Council in its report *Administrative Review and Funding Programs (A Case Study of Community Services Programs)* considered whether there are appropriate review rights available to service providers and consumers of programs funded by the Department of Human Services and Health.<sup>520</sup> The ARC takes the view that a decision made by the Commonwealth is appropriate for merits review 'if the interests of a person are affected by that decision' and there is no valid reason why it should not be reviewed. Decisions that the ARC considers are not suitable for review include decisions

- involving matters of the highest consequence to the Government or involving major political issues, for example, budgetary decisions
- which necessarily affect other decisions in the same field, for example, a decision about how a limited pool of money will be divided between organisations or individuals
- that involve the competing interests of a number of parties into which the reviewing body would have to make wide ranging inquiries
- that are preliminary or procedural
- where the reviewing body can give no suitable help, for example, where a decision has already been acted on.<sup>521</sup>

In its report the ARC considers decisions affecting consumers, service providers and States and Territories. In this section of the report the Commission considers decisions made by the Commonwealth that affect service providers.

### ***Some decisions should not be reviewable by the AAT***

9.19 ***Planning decisions.*** In its discussion paper the Commission expressed the view that planning decisions should not be merits reviewable. Of the submissions that comment on this, more than half disagree with the Commission's position. However, some submissions say that a better solution is to ensure that the planning process is transparent and that it involves all interested parties. They fear that review could delay the establishment of much needed services.<sup>522</sup> The planning process is discussed in chapter 5 of this report. Planning decisions are concerned with ensuring that limited pools of funds are allocated in ways that best meet the goals of the CSP. The Department has only limited funds to distribute for capital and operational subsidy purposes. The Minister decides how the funding will be divided between States and Territories. This decision is political and a matter of negotiation between governments. The Minister may reallocate places later if a State or Territory does not fulfil its part of the agreement. This decision should not be merits reviewable. The Minister also decides, on the basis of advice provided by a planning committee, what local areas within States and Territories are to be identified as areas of need. The decision indicates where the Department will target its funds to establish new child care places. The Minister may decide to target other areas in need if no organisation in an approved area wants to take up a funding offer. The Department may establish services in places where people work, rather than where they live. The decision does not necessarily or directly affect the interests of a person and, in the Commission's view, should not be merits reviewable.

9.20 ***Approvals for budget limited funding.*** The Commission also expressed the view in the discussion paper that approvals for budget limited funding should not be merits reviewable. When the Department makes a decision to approve a service to receive a specific type or types of funding it is allocating limited pools of funds. Examples of the funds it allocates from limited pools are capital funds, operational subsidy and

flexible service model funding. Allocation of capital and operational subsidy funds usually involves the Department finding an organisation to fund rather than choosing between competing organisations. However, it may in the future involve the Department in having to choose between competing organisations. A decision to approve one will mean that another will not be approved because there is not enough money. There was little comment on this in submissions. The ARC considered the issue at length. It concluded that merits review was not appropriate for decisions to allocate grant funding to service providers. Instead, the criteria for funding and the process of decision making should be clear and all applicants should be given reasons for decisions.<sup>523</sup> This is consistent with recommendations made by the Commission in para 9.5 of this report. **The Commission recommends that the legislation should provide that the following decisions should not be subject to review on their merits:**

- **planning decisions**
- **allocations from limited pools of funding such as capital funds, operational subsidy, flexible service model funding, and grants for program support and industry efficiency purposes.**

*Decisions that should be reviewable by the AAT*

9.21 *Discussion paper proposals.* In its discussion paper the Commission identified decisions in the funding process that, applying the principles stated by the ARC, should or should not be reviewable by an external body. In general terms the Commission proposed that the decisions that should be reviewable are decisions

- to approve a service for CA funding
- to change the conditions under which funding is or will be granted
- to take funding away from a person for not complying with conditions of funding
- based on the application of a formula for calculating funding.

Submissions generally agree with the proposals.<sup>524</sup> They are consistent with the recommendations made by the ARC.

9.22 *There should be an internal review mechanism.* There should be a mechanism which gives the person affected by the decision an opportunity to have the matter reconsidered and the Department an opportunity to reconsider it. Internal review is a relatively cheap means of review. It can happen relatively quickly. If a mistake has been made it can be easily rectified. In the Commission's view the Department should have well defined internal review procedures. All decisions affecting service providers made by the Department should be reviewable internally by the Department. Decisions should be reviewable internally whether or not they are also reviewable by the AAT. Submissions to the ARC supported internal review.

9.23 *The Commission's recommendation.* **The Commission recommends that the legislation should provide that the Administrative Appeals Tribunal should be able to review decisions**

- **to approve a service for Childcare Assistance funding**
- **to change the conditions under which funding is or will be granted**
- **to take funding away from a service for not complying with conditions of funding.**

**These decisions should first be reviewed internally by the Department before there is a right of review to the AAT.**



## **Decisions made by State and Territory governments administering Commonwealth funds**

9.24 In South Australia, outside school hours care payments are administered by the State government. They also sponsor family day care. The Victorian Government administers outside school hours care. Decisions about the approval of funds to services are made jointly by the Commonwealth and State and Territory governments. In the Commission's view there should be mechanisms to ensure administrative accountability on the part of the States and Territories. In its report the ARC recommended that service providers should have access to the same types of protections under State and Territory administered programs as in programs administered by the Commonwealth. State and Territory review mechanisms should comply with minimum Commonwealth requirements and, if they do not, States and Territories should be required to provide them as a condition of funding.<sup>525</sup> The Commission agrees with the ARC. **The Commission recommends that the legislation should provide service providers with the same review rights whether the federal funds are provided directly by the Commonwealth or indirectly through a State or Territory. The Commonwealth should be able to enter agreements with a State or Territory for the review of a State or Territory decision to be undertaken by a body other than the federal Administrative Appeals Tribunal where another appropriate body exists.**

# 10. Information protection

## Introduction

10.1 This chapter looks at personal or sensitive information held by child care services and by the Commonwealth. In particular, it focuses on the protection of personal information but it also considers non-personal information.

- It considers existing legislative provisions regulating the protection of personal information held by service providers (para 10.2-6).
- It looks at what submissions say about how service providers should protect personal information and makes recommendations about this (para 10.7-12).
- It considers existing provisions protecting information about individuals and services held by the Commonwealth (para 10.13-16)
- It looks at what submissions say about how the Commonwealth should protect confidential information and makes recommendations about the collection of personal information (para 10.17-19).
- It examines what submissions say about offences that should exist for unauthorised dealings with confidential information and makes recommendations about this (para 10.20-25).

## Protecting personal information held by services

### *Type of information held by services about families*

10.2 Services may hold very sensitive personal information about family relationships and other matters, such as the illnesses a child has or has had. They may hold information about the financial circumstances of families who apply for Special Childcare Assistance.

### *Legal protection is inadequate*

10.3 **Common law.** The common law provides limited protection against the unauthorised disclosure of personal information supplied by a parent to a service.

- **Law of torts.** Personal information held by children's services may receive limited protection under the laws of defamation and negligent advice.
- **Law of contract.** If a contract or written agreement between a parent and a service expressly includes protection for confidential information, the parent may sue for breach of contract if the service discloses it. To be effective, the contract must define the nature of the confidential information and identify the disclosure or misuse which is prohibited.
- **Duty of confidence.** Personal information provided to a service may be subject to an obligation of confidence if the information is not commonly or publicly known and if the information is provided in circumstances which imply that an obligation of confidence exists. For the duty to be breached, there must be an actual or threatened misuse of the information without the person's consent.

The scope of the protection offered by common law is inadequate and the law is difficult to enforce. Even if the parents are aware that information about them is being misused, they may not be able to enforce their rights because of the cost, emotional and financial, involved. In most cases the breach has already occurred and damages in the form of money are often inappropriate to redress an invasion of privacy or damaged reputation.

10.4 **State and Territory licensing requirements.** All State and Territory licensing laws require licensees to keep records which include personal information about children and families using a service.<sup>526</sup> These laws do not cover all services types. Some, but not all, include provisions about confidentiality.

- **New South Wales.** New South Wales licensing regulations require that the authorised supervisor of a child care centre must ensure that child care records are not inspected other than by
  - the licensee or
  - a member of staff of the centre or
  - an authorised officer or
  - a person otherwise authorised by law to inspect the records.

The authorised supervisor must, on request of a parent of a child at the centre, allow the parent to inspect the centre's child care records that relate to that child.<sup>527</sup> New South Wales has similar provisions for family day care services.<sup>528</sup>

- **Queensland.** Queensland's licensing regulations specify that the records that child care centres are required to keep about a child or staff member are 'confidential' and that the licensee must not disclose confidential information about a person to another person who does not have a 'genuine interest' in obtaining it.<sup>529</sup> The licensee of a family day care scheme must ensure that the scheme's policies and practices on maintaining confidential information about
  - care providers and their families and
  - families using the scheme

are acceptable to the chief executive.<sup>530</sup>

- **South Australia.** The South Australian Children's Services Office gives oral advice to licensed services about the storage and protection of personal information.
- **Northern Territory.** The Northern Territory legislation has a secrecy provision which applies to departmental officers, not licensees. It makes it an offence for an officer to make a record of or disclose or communicate information to anyone about another's affairs where the information was acquired while exercising the officer's duties or functions under the Act, except as required by the officer's duties, powers and functions under the Act.<sup>531</sup>
- **Australian Capital Territory.** In the Australian Capital Territory the *Children's Services Act 1986* (ACT) applies to children's services.<sup>532</sup> The relevant provision is similar to that in the Northern Territory.

These provisions do not say how licensed services should protect confidentiality or how they should store personal information.

10.5 **Uniform national standards.** National standards for licensing have either been agreed to or are now in the process of being agreed to by State and Territory governments, although they are not yet in place. The standards address the issue of protection of personal information in the following way.

- **Centre based long day care.** The agreed standard is that the licensee must keep specified records up to date and in a safe and secure area. The records will remain confidential and will only be made available to those who have a genuine 'interest' in obtaining them.<sup>533</sup>
- **Family day care.** The proposed standard is that services must have policies and practices that serve to maintain confidentiality about

- care providers and their families and
- families using the scheme.<sup>534</sup>
- **Outside school hours care.** The proposed standard is that records specified to be kept 'shall be confidential'.<sup>535</sup>

10.6 **Quality Improvement and Accreditation System.** The Quality Improvement and Accreditation System does not address the issue of protection of personal information held by long day care centres. The National Childcare Accreditation Council (NCAC) is currently addressing the issue of protecting the personal information it holds.

***What submissions say about the protection of personal information***

10.7 Submissions the Commission received on this issue and views expressed during consultations indicate that protection of personal information held by services is of concern to parents<sup>536</sup> and to service providers, including management committees.<sup>537</sup> Matters of concern raised in submissions include

- the particular sensitivity of information held about children<sup>538</sup> and children with a disability in particular and the need to protect it<sup>539</sup>
- the difficult issues involved in the exchange of information between FDC coordination units, carers and parents and the need for more guidance on this matter<sup>540</sup>
- the problems with maintaining confidentiality in small country towns<sup>541</sup>
- the need for employers to keep personal information about employees using employer sponsored child care services separate from work related personal information<sup>542</sup>
- difficulties in handling disclosures within services, including within management committees and between management committees and staff<sup>543</sup>
- pressures on services to disclose personal information to courts or aggrieved parties when custody and access disputes arise and in child abuse cases.<sup>544</sup>

***It should be a condition of funding that child care services protect personal information***

10.8 **Most submissions support proposal.** Protecting personal information about families using child care services and about carers and staff of services is important. Failure to protect information may cause damage to a child which can have an effect for a considerable period of his or her life.<sup>545</sup> It can result in severe embarrassment to or harassment of parents or other family members. There was strong support in submissions for making it a condition of funding that services collect, store, use and disclose personal information only in a manner that ensures confidentiality of that information.<sup>546</sup> Making protection of information a condition of funding indicates to services the importance the Commonwealth places on protecting confidential information.<sup>547</sup> It also enables the Commonwealth to take a range of actions (with revocation of funding approval only to be used as a last resort) if services do not have appropriate systems.<sup>548</sup>

10.9 **Some concerns raised.** Some submissions have concerns about making information protection a condition of funding.<sup>549</sup> They say that lack of adequate facilities and storage equipment would make it difficult for Outside School Hours Care (OSHC) services to comply with conditions that required appropriate storage to protect confidentiality.<sup>550</sup> Other concerns are that the funding of a service should not be jeopardised as a result of a breach by just one person involved with providing that service,<sup>551</sup> that making it a condition of funding would not be an effective means of enforcing this obligation and that breaches should be dealt with 'externally'.<sup>552</sup>

10.10 **The Commission's recommendation.** Commonwealth legal policy provides that government Departments and agencies should have provisions which protect the confidentiality of personal information

they hold. This protection should be extended to personal information held by Commonwealth funded services because

- the effect of release of personal information on a child or his or her family or a carer is likely to be the same whether the information is held by a government agency or by a Commonwealth funded service (which may often hold information on behalf of the government or as a result of federally imposed requirements)
- as 'user rights' or 'consumer protection' is now a fundamental part of Commonwealth policy it is reasonable to expect organisations receiving Commonwealth funding to respect and implement that policy
- national consistency on information protection in child care services is important as a matter of social justice.

To be consistent, it is important that where the Commonwealth provides funding for services through State or Territory governments, those services are also required to protect the privacy of personal information. **The Commission recommends that the legislation require, as a condition of funding, that services collect, store, use and disclose personal information only in a manner that protects the privacy of that information. Where services receive Commonwealth funding through State or Territory governments the Commonwealth should negotiate with these governments about how they will ensure that services properly protect personal information.** The Commission acknowledges that implementing this recommendation may have resource implications for services and/or the Commonwealth.

#### ***What form should the provision requiring services to protect confidential information take?***

10.11 ***Compliance with privacy principles.*** A number of submissions suggest that the new legislation should require child care services to comply with privacy principles similar to the Information Privacy Principles (IPPs) contained in the *Privacy Act 1988 (Cth)*.<sup>553</sup> These form the core of the Act and outline federal agencies' responsibilities in relation to information they hold. The Commonwealth Privacy Commissioner's Office agrees that this would 'provide a degree of protection for personal information held outside the jurisdiction of the Privacy Act which at the present time has little in the way of formal privacy protection'.<sup>554</sup> The IPPs are too complex in their current form to be appropriate for child care service providers to follow. With some modification, however, they would form a sound basis for the protection of personal information for all child care services. The Privacy Commissioner's Office also expresses concern that there should not be a piecemeal approach to privacy regulation outside the jurisdiction of the Privacy Act and that there should be a uniform national response to increasing national and international concern among policy makers about information protection. The Office favours the development of privacy principles which are sufficiently general to apply over a number of sectors. The development of principles would be overseen by a neutral regulator such as the Privacy Commissioner's Office. The Office suggests that specific rules for certain sectors could be set out in more detailed codes of practice. These could also be developed in consultation with, or endorsed by, the Privacy Commissioner's Office. This would require the extension of the jurisdiction of the Privacy Act. The Commission considers that there is considerable merit in this approach and would also favour it if the framework could be settled before new child care legislation is drafted. In the meantime, **the Commission recommends that the legislation require, as a condition of funding, that child care services comply with the Information Privacy Principles of the *Privacy Act 1988 (Cth)* amended as appropriate for child care services. The amended principles should be developed by the Department in cooperation with the Commonwealth Privacy Commissioner. They should be included in the legislation.** The principles should cover the collection, storage, use and disclosure of personal information held by service providers.

10.12 ***Guidelines should be developed which expand on the principles.*** These principles would form the basis on which more detailed guidelines which are applicable to the particular service type could be developed. Views expressed in consultations and submissions indicate that services are interested in having more detailed guidance about matters of confidentiality.<sup>555</sup> The Department of Human Services and Health (the Department) should develop these guidelines in consultation with State and Territory licensing authorities, local governments, the industry and the Office of the Privacy Commissioner. Ideally, they would

be incorporated into national standards for licensing. The guidelines should include information about the following matters.

- **Collection.** The guidelines should give details on
  - what specific information a service should be able to ask for in its forms and the purposes for which it can ask for it and use it
  - what forms used for collecting information should say about the purposes for which information is being collected, how it will be used and the circumstances in which it will be disclosed to other people.
- **Storage and use.** The guidelines should give details on
  - how long the information should be kept
  - what kind of storage is appropriate
  - who within a service (including management committees) should have access to what kind of oral and recorded information (in family day care schemes, the guidelines should address issues of what coordination units can and cannot tell carers about parents and children, and vice versa).
- **Disclosure.** The guidelines should give details on
  - the circumstances in which a service may disclose what kind of information to other people or agencies
  - handling information between disputing parents in custody and access cases.

If the jurisdiction of the Privacy Act was extended, the Office of the Privacy Commissioner could endorse these guidelines. In the meantime, **the Commission recommends that the new legislation require the Department to develop specific guidelines on how services should comply with the privacy principles set out in the legislation.** The Department should develop a strategy for informing and educating service providers and service users about these principles and guidelines. Developing and carrying out these strategies would have resource implications for the Department.

## **Protecting information held by the Commonwealth**

### ***Personal information held by Commonwealth agencies about families and service providers***

10.13 The Department as well as the Department of Social Security (DSS) hold information about families using children's services. Parents who apply to the DSS for assessment of their eligibility for Childcare Assistance (CA) give the DSS details of their income and assets, employment and residential details and information about how many dependent children they have. The Department may also hold personal information about operators of children's services who receive or apply to receive funding. Officers of the Department may come across personal information about families when performing a service assessment. The Department would also have information about a parent who lodges a complaint with the Department about a particular service provider. JET officers and JET child care resource workers hold details about the needs of a family and their children. In administering the Childcare Rebate scheme the Health Insurance Commission holds data about families, children, services and carers.

### ***Other potentially sensitive information held by the Commonwealth about services***

10.14 The Commonwealth may hold information about the services it funds, for example, its name and address and the number of places it has. It may also hold information about the corporate entity that operates the service.

## *Existing legal protection*

10.15 **General law.** Information held by the Department is protected in the following ways.

- **Privacy Act 1988 (Cth).** The Privacy Act regulates the collection, storage, use, access and disclosure by Commonwealth agencies of personal information, that is about people. If a complaint is made about an agency breaching an IPP the Privacy Commissioner investigates the complaint and attempts to resolve it through conciliation or negotiation. If this is not possible the Privacy Commissioner can make a determination to declare that the agency should stop breaching the Act, do something to remedy the loss or damage suffered by the complainant or order the agency to compensate the complainant for any loss, including out of pocket expenses.<sup>556</sup>
- **Crimes Act 1914 (Cth).** The Crimes Act prohibits the unauthorised disclosure of any information acquired by a Commonwealth officer in the course of his or her duties.<sup>557</sup>
- **Public Service Act 1922 (Cth).** Under the Public Service Act an officer may be disciplined if he or she takes improper advantage of, or discloses without authorisation, information acquired in the course of his or her employment.<sup>558</sup>
- **Social Security Act 1991 (Cth).** The Social Security Act includes specific offences to protect information held by the DSS. These offences may apply to personal information collected by the DSS for the purpose of assessing a person's eligibility for CA.

The *Privacy Act 1988* (Cth) and the *Social Security Act 1991* (Cth) protect only personal information. The *Crimes Act 1914* (Cth) and the *Public Service Act 1922* (Cth) protect both personal and other information held by the Department. The common law duty of confidence and the *Freedom of Information Act 1982* (Cth) provide protection against the release of non-personal information in some circumstances.

10.16 **Discussion paper.** In the discussion paper the Commission pointed out that the *Child Care Act 1972* (Cth) does not include a provision prohibiting the disclosure of information.<sup>559</sup> It said that it is generally accepted that the provisions of the Crimes Act are too broad and difficult to apply and that, given the nature of the information, the penalties are inappropriate. The discussion paper asked how personal information and non-personal information held by the Department should be protected.

## *What submissions say*

10.17 **Broad approach to information protection required.** The Office of the Privacy Commissioner in its submission is concerned that information protection addresses issues of the collection, storage and access/amendment rights to personal information as well as use and disclosure of information.<sup>560</sup> It suggests that one approach to minimising the collection of information would be for the 'Commonwealth and States to agree to one or other collecting certain information and informing the other that "X" requirement is satisfied'. To make clear the interdependency between information collection and other information protection measures, such as offences, the Privacy Commissioner favours bringing these two aspects together into a single information handling part of the Act.<sup>561</sup>

## *The Commission's recommendations*

10.18 **Structure of new legislation in relation to information protection.** The Commission agrees with the Office of the Privacy Commissioner that the new legislation should take a broad approach to protecting information. The Commission accepts that there is a close relationship between information gathering and other information protection provisions. **The Commission recommends that provisions relating to the collection and protection of information be placed together in a separate part of the new legislation on information handling.**

10.19 **Minimising overlap in the information collected and record keeping requirements imposed on services.** The Commission is concerned to ensure that Commonwealth and State or Territory authorities are not unnecessarily holding the same information about child care services or requiring services to duplicate

record keeping. **The Commission recommends that the Department establish whether there is duplication in the collection and storage of information by Commonwealth and State and Territory authorities. If there is duplication, the Department should work with State and Territory authorities to remove it.**

### *Offences to deter unauthorised use of information by Departmental officers*

10.20 ***New legislation should have offences protecting information.*** Submissions and consultations support having offences protecting information held by the Department in the new legislation.<sup>562</sup> This will help to ensure that departmental officers, service providers and families know what protection exists.<sup>563</sup> Setting these offences out in the new legislation means they can be more specific so that

- departmental officers will have a better guide on how to comply and the incidence of non-compliance should be reduced
- information that should be released can be released without undue fuss
- penalties can be imposed which are appropriate<sup>564</sup> and
- the offence provisions will be used when necessary and appropriate.

Submissions say that people would be more willing to give the Department personal information if they knew that the confidentiality of the information is protected by criminal offences.<sup>565</sup>

10.21 ***Legislation should protect both personal and other information.*** In its discussion paper, the Commission distinguished between personal and other non-personal information with the view that personal information might need greater protection than commercial information. However, it could be argued that all information held by the Department may be 'sensitive', that is, its unauthorised release may cause harm or embarrassment to an individual or organisation. Submissions and consultations support the view that the new legislation should contain provisions protecting non-personal information about services held by the Department.<sup>566</sup> If the policy objective is to protect individuals or organisations from harm or embarrassment caused by release or use of information held by the Department, this may be better achieved if offences focus on the circumstances in which information is released rather than on the nature of the information.

10.22 ***Provision for release of some kinds of information.*** The Department holds information about services that, if not on the public record, is easily ascertainable, is not sensitive and may be of use to parents looking for child care in a particular area. This information includes the name of a service, its address and telephone number, details of its operations such as opening and closing times, number of places and age groups provided for and how much funding a service gets. This kind of information should be able to be released and legislation should specifically authorise this.<sup>567</sup>

10.23 ***Provision for release of information in some circumstances.*** There are a number of circumstances in which release of information collected by a department is justified. A blanket secrecy provision with no exceptions could inhibit good administration. Government departments are being required to move to more open administration and it is important that legislation does not unduly restrict giving out information. Circumstances in which information should be able to be released include

- if the person or organisation consents to its release
- if an officer is exercising powers, duties and functions under the Act and release is for the purpose of achieving the objects of the Act
- if release is certified by the Secretary to be in the public interest (with the power to impose conditions)
- to a court in any proceeding on the condition that officers of the court only disclose that information to a person for the purposes of the proceedings.



10.24 *Provision for exchange of information between government agencies.* A number of Commonwealth and State and Territory departments and agencies have an interest in providing child care services. Often responsibilities overlap. For example, Commonwealth outcomes standards monitors may become aware of breaches of State or Territory licensing requirements and vice versa. The Office of the Privacy Commission considers that routine and bulk disclosures of information between State and Commonwealth bodies should be provided for in primary legislation. Where the Department or the program area can identify bodies to whom and circumstances in which it may need to release information the legislation should specifically authorise release to that body or in those circumstances. For example, legislation could specifically allow

- information about CA to be transferred between DSS and the Children's Services Program (CSP)
- information to be transferred between the NCAC and the CSP
- information to be transferred between State departments responsible for licensing and the CSP
- information to be transferred between any complaints body set up and the Department.

10.25 *The Commission's recommendation.* The Office of the Privacy Commissioner considers that there should be criminal offences for soliciting the release of information and the wilful and improper use and disclosure of personal information and that there should be offences specified for each stage of disclosure. However, the Office favours a systematic set of provisions applicable to all activities of the Commonwealth and set out in the one place, such as the Privacy Act, rather than repeated in every piece of legislation. Whether this approach is taken or not the Commission considers that, to ensure that service providers and families can find out about information protection provisions more easily, provisions should be enacted or mirrored in the new child care legislation. **The Commission recommends that the legislation create offences to deter unauthorised use of information held by the Department. The new legislation should provide that it is an offence**

- to release or use, without authority, information held by the Department
- to attempt to obtain information the department holds if release of that information is unauthorised and the person seeking it knows or should reasonably know its release is unauthorised
- to offer to supply or hold oneself out as being able to supply information the person is not authorised to supply if the person knows or should know that supply of that information is unauthorised.

# 11. Achieving quality

## Introduction

11.1 This chapter is about the ways that the Commonwealth and the States and Territories ensure that child care services funded by the Commonwealth provide quality care.

- It describes State and Territory licensing requirements and the move towards national standards for licensing and makes recommendations about these (para 11.2-6).
- It describes the Children's Services Program (CSP) strategies for promoting quality services (para 11.7-9).
- It recommends that the Quality Improvement and Accreditation System be extended to all types of child care services (para 11.10).
- It considers the role of the CSP in enforcing standards of quality in the light of responses to the proposal in the discussion paper (para 11.11-14).
- It outlines the Commission's view and makes a recommendation about the role of the Commonwealth in achieving quality in services (para 11.15-16).

## Setting standards

### *State and Territory licensing requirements*

11.2 ***Not all service types are covered by regulations.*** The Commonwealth has relied heavily on State and Territory child care licensing laws to ensure that some service types maintain appropriate standards. The service types covered by licensing requirements vary between the States and Territories. Child care centres, long day and occasional, are covered by licensing laws in all States and Territories. OSHC is covered by licensing laws only in the Australian Capital Territory and is regulated to some extent in Western Australia. Carers in family day care schemes are specifically regulated in some States and Territories but only in certain circumstances, for example, if the carer has more than a specific number of children of certain ages.<sup>568</sup>

11.3 ***Regulation is not consistent throughout Australia.*** The extent to which States and Territories regulate standards varies. All States and Territories regulate the physical environment in which centre based care is provided, including the standard of the premises, staff/child ratios and the suitability of the operator. In some States and Territories authorities consider whether prospective employees of a service are 'fit and proper' before granting a licence.<sup>569</sup> In others they are concerned only with the educational qualifications and suitability of the owner or applicant for the licence.<sup>570</sup> Some States and Territories prescribe outcomes on a whole range of matters. In Queensland, for example, the *Child Care (Child Care Centres) Regulation 1991* says

a centre's program must be based on a clear set of goals, and must, for example, nurture self-esteem, meet the individual needs of children from different cultures and with special needs, offer a variety of developmentally appropriate activities and materials, emphasise concrete learning experiences, give a balance of activities, be flexible and responsive, be developed in cooperation with staff and reflect the multicultural nature of society.<sup>571</sup>

It also prescribes child management techniques to be used and what information a service provider must give parents using a service.<sup>572</sup> In addition, some States and Territories<sup>572</sup> run training programs for centre staff and carers and some State and Territory departments and agencies provide advice on how to set up a service and a management committee.

11.4 ***The Commission's recommendation.*** The Commission recommends that the legislation require, as a condition of funding, that a service comply with the standards imposed by the State or Territory in which it is located.

## *National standards*

11.5 The Standing Committee of Community Services and Income Security Administrators, through its Children's Services Sub-Committee, is working towards a common set of standards for each of the main child care service types. All States and Territories have agreed on a set of standards for long day care centres and have agreed to implement them by 1996. There is an agreed draft set of standards for consultation for Outside School Hours Care (OSHC) and for Family Day Care (FDC). The standards include

- the physical environment of the child care centre, including specifications about space requirements, laundry facilities, food preparation facilities, toilets, nappy change facilities and sleeping facilities
- health and safety, including specifications about fencing, glass, telephones, pools, heating, infectious diseases, illness and accident, medication, play equipment, cleanliness, staff health, plants, animals, first aid and emergency procedures
- curriculum and programming, including specifications about curriculum policy and implementation strategies, the written program and its display, equipment to support the program and staff interaction with children
- administrative functions, including specifications about parents' access to children, information for parents, records, insurance, arrival and departure of children, authority for treatment, excursions and licensee requirements.

**11.6 *The Commission's recommendation.* The Commission encourages the development of national standards applicable in all States and Territories provided that those standards are consistent with the principles, objectives and requirements in federal child care legislation.**

## *CSP strategies for promoting quality*

11.7 ***Funding agreements.*** The CSP uses funding conditions to promote quality care in the services it funds. Compliance with State and Territory child care licensing laws, if any, is a minimum condition of all recurrent funding agreements. There is a standard condition in most operational subsidy funding agreements that the funding recipient will operate the centre in a way that will best meet the social, intellectual, emotional and other developmental needs of the children.<sup>573</sup> Except through the Quality Improvement and Accreditation System, the Department of Human Services and Health (the Department) does not monitor quality of care in a comprehensive or systematic way. The major focus of service assessment is management of the service and financial accountability.

11.8 ***Quality Improvement and Accreditation System.*** The Quality Improvement and Accreditation System applies to long day care centres which receive or wish to receive CA. It commenced on 1 January 1994. The System focuses on outcomes for children rather than the physical environment of services. It is administered by the National Childcare Accreditation Council (NCAC).<sup>574</sup> The NCAC has developed guidelines and principles which have been approved by the Minister and tabled in Parliament. Centres are assessed against these standards. NCAC has developed the broad process for assessing and monitoring the quality of care.

- ***Registration.*** The centre formally registers with the NCAC. This is a condition of receiving Childcare Assistance (CA).
- ***Self assessment.*** The centre assesses itself by comparing the quality of care it provides with the levels of quality set out in the Quality Improvement and Accreditation System Handbook. Where the quality of care is below that set for accreditation, the centre develops and implements over the next review period a 'plan of action' to improve the quality of care towards the levels necessary for accreditation.
- ***Review.*** The NCAC appoints reviewers and trains them to examine and validate the self-study report and, if there is one, the plan of action, against Principles set out in the handbook. In subsequent visits reviewers will report on the extent to which a centre has met its previous year's plan of action, if it has one.

- **Moderators' reports.** The NCAC employs moderators to examine reviewers' reports, centres' self-assessments and plans of action. They make recommendations to the NCAC about
  - the level of quality achieved by the centre and whether the centre should be accredited
  - where the centre is below the level of quality set for accreditation
  - whether the centre has made satisfactory progress in achieving its plan of action for the last review period
  - the appropriateness of a proposed plan of action for the next review period.
- **Accreditation.** The NCAC decides the level of quality achieved by a centre, whether a centre has made satisfactory progress, the appropriateness of plans of action and whether to accredit the centre. It decides this on the basis of the self-study report, the reviewer's report and the moderator's report and recommendation.

If the NCAC assesses a service as not making satisfactory progress over two review periods with no good reason, the NCAC may advise the Minister that a centre is 'of concern'. This may (but need not) lead to a decision by the Minister to name the service in Parliament and eventually withdraw the centre's approval for CA, and where appropriate, for operational subsidy.

11.9 **Family day care coordination units.** Family day care coordination units are responsible for monitoring quality in home based care. They do this by assessing and selecting carers to be part of the scheme. They interview parents wanting to use the scheme and provide them with a range of carers to choose from. The units employ staff to visit carers regularly. These staff also run playgroups for carers and the children they are caring for. Playgroups provide children with structured and stimulating activity and carers with the chance to meet other carers. They give the unit an additional opportunity to observe, support and train carers. Units may also hold more formal in-service training meetings.

11.10 **The Commission's recommendation.** The Commission considers that nationally consistent standards of quality are important for all types of child care services. Parents deserve to have the assurance that, no matter what type of care they choose for their child, the service complies with standard and identifiable indicators of quality. The Commonwealth also needs to know that the funding it gives to child care services is being used to provide quality care measurable against nationally accepted quality indicators. **The Commission recommends that the Quality Improvement and Accreditation System be extended and adapted to all child care service types. The Commission also recommends that the legislation require, as a condition of funding, that all Commonwealth funded services be registered with the National Childcare Accreditation Council and be required to address the accreditation Principles.**

## **What should be the CSP's role in enforcing standards of quality?**

### *Discussion paper proposal*

11.11 In the discussion paper the Commission proposed that the new legislation should include provisions to ensure that all children's services funded by the Commonwealth meet certain basic standards and that if those conditions are not met, the Department should be able to take remedial action. It suggested that when the Department is deciding whether to fund or defund a child care service the decision maker should be able to take into account relevant matters including

- compliance with State and Territory child care licensing laws
- the significance of any risk to the welfare of children, for example, risk evidenced by a criminal conviction of the operator of a service or the operator's officers or employees
- health and safety considerations

- compliance with requirements under the Quality Improvement and Accreditation System
- the extent to which the care to be provided meets the physical, emotional and developmental needs of the children.

### ***What submissions say***

11.12 ***Submissions favour national consistency and consistency among service types.*** Submissions show strong support for the Commission's proposal.<sup>575</sup> The importance of ensuring that services receiving public money provide a service of high quality is emphasised.<sup>576</sup> Submissions and consultations indicate concern about the inequities arising from differences between State and Territory regulations and from the fact that they do not apply to all services types.<sup>577</sup> They say that regulations and the quality improvement scheme should apply to all service types.<sup>578</sup> They express greatest concern about the need for regulation and quality improvement for OSHC, family day care<sup>579</sup> and occasional care.<sup>580</sup> Consultations and some submissions showed some concern that Childcare Rebate is received for care that may be completely unregulated.<sup>581</sup> A minority of submissions opposed making participation in the quality improvement scheme a condition of CA funding<sup>582</sup> and extending the scheme to other service types.<sup>583</sup> Their opposition was based on the cost of complying with the quality improvement scheme.

11.13 ***Submissions express concern about possible duplication or overlap with State and Territory monitoring.*** During consultations and in some submissions strong concern was expressed, particularly by State and Territory governments, that the Commission's proposal does not take enough account of the significant State and Territory contribution to promoting service quality. There was a fear that the proposal might duplicate State and Territory licensing laws or the quality improvement system and create a third layer of quality control.<sup>584</sup> Submissions were particularly concerned that the proposal might create overlap in monitoring service quality.

11.14 ***Submissions say quality should accommodate a range of values.*** In submissions from and consultations with Aborigines and Torres Strait Islanders in particular, there is concern that any scheme designed to promote quality in child care should take into account different value systems.<sup>585</sup> They say that for many Aboriginal and Torres Strait Islanders, the ability to place a child with a family member who is known and trusted is much more important to the quality of care than well equipped, well designed premises with qualified staff or a carefully planned program of activities. The Commission was told that in some cases undue emphasis on physical requirements or staff qualifications was making it difficult for Aboriginal and Torres Strait Islander communities to set up the kind of services or get the kind of care they want and need.<sup>586</sup> Submissions and consultations emphasise the need to have Aboriginal and Torres Strait Islander and non-English speaking background representation on committees that develop standards and at all levels of the quality improvement system, including the NCAC.<sup>587</sup> A number of submissions say that an important role of quality standards is to combat discrimination of any type against families who may require additional support to be able to use services. The guidelines should also include affirmative action strategies.<sup>588</sup>

### ***The Commission's view***

11.15 ***The Commonwealth has a legitimate concern with quality of care.*** In the Commission's view the Commonwealth must have some way of ensuring that the child care services it funds provide quality child care. It is in the interests of children, parents and the community that it do so. Indeed, the Commonwealth is required to do so as part of Australia's international obligations towards children. It is an important aspect of accounting for Commonwealth funds. The current approach is not entirely satisfactory. This is because

- reliance on State and Territory licensing laws leaves gaps
- the quality improvement system applies only to long day care centres receiving CA
- there is already a very fine line and the potential for duplication between the Commonwealth's accreditation system and existing regulations in some States and Territories.

A further layer of complication is added because in two States the State government administers OSHC. The Commission recognises that the current arrangements and problems have come about as a result of the varying histories of and commitment to child care provision in each State and Territory, the varying functional divisions of responsibility for child care and child welfare between States and Territories and the rapid expansion and change taking place in the CSP. It also recognises that the Commonwealth and the States and Territories are working towards achieving national standards.

11.16 *The Commission's recommendation.* The Commission is concerned that any recommendation it makes in this area should not increase the potential for duplication of regulation. **The Commission recommends that new legislation establish principles as the basis of standards monitoring, whether the monitoring is undertaken by the States and Territories, by the NCAC or by the Department itself.**

- **All service types should be subject to standards about the physical environment in which care is provided, for example, buildings, space, facilities and hygiene.**
- **All service types should have a quality assurance mechanism which ensures that the care provided meets the physical, emotional, social, cultural and developmental needs of all children using child care services.**
- **Quality in its broadest sense should be regulated and monitored by the one agency.**
- **Quality standards should take into account the values of Aboriginal and Torres Strait Islander people and people of non-English speaking backgrounds.**
- **The quality measures applying to standard model services should be nationally consistent.**
- **Non-standard model services should have measures which are appropriate for the needs each service is designed to meet.**

The Commonwealth should have the power to refuse an application for funding, revoke funding or take some other remedial action in appropriate circumstances, for example, where the welfare of children is at risk. It should also have power to make guidelines about standards or quality of service provision to accommodate a range of possible Commonwealth/State and Territory funding arrangements and functional divisions of responsibility, and a potential continuation of variations or gaps in State and Territory licensing requirements. It should use this power only when necessary, for example, when there is not adequate State or Territory regulation or there is not an appropriate quality assurance mechanism operating.

# Appendix 1: List of submissions

## Oral submissions

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Association of Registered Child-care Centres of WA *Submission 89*  
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M McGregor-Loundes QLD *Submission 9*

Meerilinga Young Children's Foundation WA *Submission 91*  
Monash University Child & Family Services VIC *Submission 45*  
Municipal Association of Victoria *Submission 49*  
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National Family Day Care Council NSW *Submission 44*  
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1 The terms of reference are at the beginning of this report.  
2 ALRC DP 55, October 1993.  
3 ALRC DP 57, April 1994.  
4 The Auditor-General *Mind the Children: The Management of the Children's Services Program* Audit Report No 42 Department of Human  
Services and Health 1993-94.  
5 Wallis Consulting Group Pty Ltd *Supplementary Services (SUPS) Program Evaluation* prepared for the Family and Children's Services  
Division of the Department of Human Services and Health April 1994.  
6 art 3.1.  
7 art 3.2-3.  
8 Constitution s 81.  
9 Constitution s 96.  
10 Constitution s 122.  
11 Constitution s 51 (xxiiiA).  
12 Constitution s 51 (xxiv).  
13 See eg *Commonwealth v Tasmania* (1983) 158 CLR 1.  
14 See paragraph 1.13.  
15 Commonwealth, State and Territory family law legislation.  
16 Institute of Early Childhood, Macquarie University NSW *Submission 386*.  
17 In 1993-94 the Commonwealth will spend \$691.5 million on child care: *Australian social trends 1994*, Australian Bureau of statistics, 1994,  
p 47.  
18 Childcare Assistance is paid to services on behalf of parents.  
19 Between 1984 and 1993 the number of Commonwealth funded child care places increased from nearly 59 000 to 211 000: *Australian Social  
Trends* ABS, p 10.  
20 NSW and Victoria.  
21 In 1992, 68 447 children (or 23% of children attending Commonwealth funded child care services) were in FDC: *1992 Census of Child Care  
Services*, Commonwealth Department of Human Services and Health, (formerly the Department of Health, Housing, Local Government and  
Community Services )AGPS 1994, Table 2. Number and Percentage Distribution of Children Attending by Type of Service, for all States  
and Territories, 1992, p 10.  
22 10% of children in Family Day Care (7413 children) were identified as Special Needs Children. Of these 1210 (or 2%) were children with a  
disability, 453 (1%) were children who had parents with a disability, 665 (1%) were referred because the child was at risk, 581 (1%) were  
Aboriginal or Torres Strait Islanders, and 4504 (7%) were of non-English speaking backgrounds. Some of these children may be in more  
than one category: *1992 Census of Child Care Services*, Table 5, p 19 & Table 11.2.6, p 137. The number of children in Family Day Care  
who were assisted by Supplementary Workers was 808 ( 189 children with a disability, 60 Aboriginal and Torres Strait Islanders, 517 from  
non-English speaking backgrounds and 42 other), Table 11.1.9. p 131.  
23 73% of families using FDC received some CA in 1992: *1992 Census of Child Care Services*, op. cit., Table 8, p 37.  
24 In 1992, 153 614 children (or 53% of children attending Commonwealth funded child care services) were in long day care centres. See pie  
chart on p 5.  
25 Of children in LDC in 1992, 44% were in community managed centres, 48% were in private for profit centres and 7% were in employer and  
and non profit services: *1992 Census of Child Care Services*, p 10.  
26 72% of families using community managed LDC centres, 73% of families using private for profit LDC centres and 65% of families using  
employer sponsored and non-profit LDC centres receive some CA: *1992 Census of Child Care Services*, Table 8, p 37.  
27 In 1992 49 808 children (or 17% of children attending Commonwealth funded child care services) were in OSHC: *Census of Child Care  
Services*, Table 3, p 10.  
28 Vacation care is especially important for children in isolated areas: Humpty Doo Outside Hours School Care NT *Submission 67*.  
29 There are many outside school hours care services that do not receive federal funding.  
30 82% of families using OSHC do not receive CA: *Census of Child Care Services*, Table 12.2.9, p 177.  
31 In 1992, 13 445 children (or 5% of children attending Commonwealth funded child care services) were in occasional care. See pie chart on p  
5.  
32 The number of families assisted by CA grew from an estimated 118 500 in 1991 to an estimated 188 000 in June 1992: *1992 Census of Child  
Care Services*, p 7.  
33 This formula takes into account the 1993 Budget decision to use the amount of care used rather than the amount of care booked.  
34 Children under 12 months make up 3% of places in community managed centres and 2% in private centres; children under 3 years make up  
38% and 23% of places respectively.  
35 Playgroups are designed to offer an opportunity to parents with young children to meet and provide socialisation and play for their children.  
36 See para 2.5.  
37 Employers may give priority to their own employees in employer sponsored child care.  
38 P Abbott QLD *Submission 18*. See also Playworks Resource Unit for Children with Disabilities in Childcare VIC *Submission 214*;  
Benevolent Society of New South Wales NSW *Submission 215*; Bayside Community & Child Care Centre Inc QLD *Submission 358*;  
Western Districts Family Day Care QLD *Submission 323*; City of Ballarat VIC *Submission 359*; National Family Day Care Council (Aust)  
Inc NSW *Submission 385*; Ethnic Child Care Development Unit NSW *Submission 408*; Uniting Church Children's Services Forum NSW  
*Submission 410*.  
39 Australian Early Childhood Association ACT *Submission 34*; Women's Action Alliance (Australia) Inc VIC *Submission 381*.  
40 Benevolent Society of New South Wales NSW *Submission 215*. See also National Family Day Care Council (Aust) Inc NSW *Submission  
385*.  
41 City of Ballarat VIC *Submission 359*.

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42 Playworks Resource Unit for Children with Disabilities in Childcare VIC *Submission 214*. See also Victorian Day Care Association Inc VIC *Submission 189*; Council of the City of Townsville QLD *Submission 309*; Western Districts Family Day Care QLD *Submission 323*; City of Broadmeadows VIC *Submission 373*; Ethnic Child Care Development Unit NSW *Submission 408*.

43 Townsville City Council QLD *Submission 360*; Playworks Resource Unit VIC *Submission 43*; Playworks Resource Unit for Children with Disabilities in Childcare VIC *Submission 214*.

44 See eg PAbbott *Submission 18*; National Association for Prevention of Child Abuse and Neglect *Submission 90*; Barnardo's Australia NSW *Submission 352*.

45 Barnardo's Australia NSW *Submission 352*.

46 National Association for Prevention of Child Abuse & Neglect WA *Submission 90*.

47 Office of Women's Affairs, Victoria Women's Council VIC *Submission 433*.

48 Barnardo's Australia NSW *Submission 32*.

49 Tasmanian Family Day Care Co-ordinators Association TAS *Submission 53*; Parents for Affordable Child Care SA *Submission 69*; S Degotardi NSW *Submission 210*.

50 See para 1.2.

51 P Abbott QLD *Submission 18*; Australian Early Childhood Association ACT *Submission 34*; Playworks Resource Unit VIC *Submission 43*; National Association for Prevention of Child Abuse & Neglect WA *Submission 90*; Playworks Resource Unit for Children with Disabilities in Childcare VIC *Submission 214*; National Children's & Youth Law Centre NSW *Submission 298*; Barnardo's Australia NSW *Submission 352*.

52 A Queensland EFT utilisation survey showed that 95.3% of children in care were priority 1 and only 1.4% were priority 2: Bayside Community & Child Care Centre Inc QLD *Submission 358*.

53 Confidential NSW *Submission 272*.

54 Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*.

55 M Hunter SA *Submission 239*. See also Association of Registered Child-care Centres of WA *Submission 89*; Hobart Family Day Care Scheme TAS *Submission 319*; Australian Council of Trade Unions VIC *Submission 331*.

56 P Abbott QLD *Submission 18*; Resource Unit for Children with Special Needs Inc WA *Submission 195*; Council of Single Mothers & their Children Inc VIC *Submission 219*.

57 See also para. 4.10.

58 See para 4.58-9 for the Commission's discussion and recommendation on the wider definition of 'work'.

59 Family Day Care Schemes of WA *Submission 86*; Playworks Resource Unit for Children with Disabilities in Childcare VIC *Submission 214*; City of Melbourne VIC *Submission 217*.

60 Resource Unit for Children with Special Needs Inc WA *Submission 195*; City of Ballarat VIC *Submission 359*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*; The Association of Child Care Centres of NSW Inc NSW *Submission 422*.

61 Queensland Professional Childcare Centres Association Inc QLD *Submission 401*; Local Government Association SA *Submission 420*.

62 City of Frankston VIC *Submission 423*.

63 Association of Registered Child Care Centres of WA *Submission 89*; Association of Registered Child Care Centres Inc WA *Submission 297*.

64 Tuggeranong Community Service Inc ACT *Submission 226*; Belconnen Community Service Inc, ACT *Submission 316*; Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*.

65 City of Springvale VIC *Submission 301*.

66 National Family Day Care Council (Aust) Inc NSW *Submission 385*.

67 East Brisbane Community Centre Inc (FDC) QLD *Submission 306*; City of Northcote VIC *Submission 403*.

68 Inner City Care NSW *Submission 194*; The Sydney Day Nursery & Nursery Schools Association NSW *Submission 391*; Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*; Uniting Church Children's Services Forum NSW *Submission 410*.

69 Family Day Care Schemes of WA *Submission 86*.

70 Warringah Council NSW *Submission 416*.

71 Hawkesbury City Council NSW *Submission 177*; Shire of Melton Child Care Advisory Committee VIC *Submission 329*; The Sydney Day Nursery & Nursery Schools Association NSW *Submission 391*.

72 Queensland Professional Childcare Centres Association Inc QLD *Submission 401*.

73 Queensland Professional Childcare Centres Association Inc QLD *Submission 401*.

74 eg Inner City Care NSW *Submission 194*.

75 eg Creche & Kindergarten Association QLD *Submission 404*; Uniting Church Children's Services Forum NSW *Submission 410*.

76 Resource Unit for Children with Special Needs Inc WA *Submission 195*.

77 T Hall QLD *Submission 20*.

78 Tuggeranong Community Service Inc ACT *Submission 226*.

79 Council of Single Mothers & their Children Inc VIC *Submission 219*.

80 P Putney QLD *Submission 199*.

81 For details of the Commission's proposals regarding the power to impose additional conditions see para 6.11.

82 See eg Wollongong & Shellharbour City Council NSW *Submission 395*; Community Child Care Association of Managements - ACT *Submission 400*.

83 Fitzroy Adventure Playground VIC *Submission 46*; Combined Adventure Playgrounds NSW *Submission 187*; 'Life. Be in it' Australia NSW *Submission 205*; Work & Child Care Advisory Service QLD *Submission 321*.

84 State Consultative Committee for Children's Services SA *Submission 71*; Combined Adventure Playgrounds NSW *Submission 187*; Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*.

85 Fitzroy Adventure Playground VIC *Submission 4*; Combined Adventure Playgrounds NSW *Submission 187*; 'Life. Be in it' Australia NSW *Submission 205*; Work & Child Care Advisory Service QLD *Submission 321*; Bayside Community & Child Care Centre Inc QLD *Submission 358*; Creche & Kindergarten Association QLD *Submission 404*.

86 C Gard ACT *Submission 35*; Central Coast OOSH Forum NSW *Submission 27*.

87 Karawarra Community Project WA *Submission 92*; Creche & Kindergarten Association QLD *Submission 404*; Network of Community Services NSW *Submission 388*.

88 Kath Dickson Centre NSW *Submission 312*; Goodna Family Day Care QLD *Submission 356*; Family Day Care Resource Office QLD *Submission 368*.

89 Blacktown City Council NSW *Submission 25*; Hawkesbury City Council NSW *Submission 177*; Inner City Core NSW *Submission 194*.

90 Inner City Care NSW *Submission 194*.

91 Benevolent Society of New South Wales NSW *Submission 215*.

92 Victorian Day Care Association Inc VIC *Submission 189*; East Brisbane Community Centre Inc (FDC) QLD *Submission 306*; Family Day Care Resource Office QLD *Submission 368*; Pine Rivers Shire Council QLD *Submission 370*; City of Broadmeadows VIC *Submission 373*; City of Northcote VIC *Submission 403*.



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- 93 Sydney Rescue Work Society NSW *Submission 320*. See also Association of Registered Child Care Centres Inc WA *Submission 297*; Bayside Community & Child Care Centre Inc QLD *Submission 358*; National Family Day Care Council (Aust) Inc NSW *Submission 385*. This issue is discussed further at para 3.39-43.
- 94 Queensland Family Day Care Association QLD *Submission 2*; Griffith Childcare Centre Inc NSW *Submission 216*; Mobile Resource Services Association of New South Wales Inc NSW *Submission 243*; S Degotardi NSW *Submission 210*.
- 95 Private centres in NSW and Queensland provide only 4% and 9% of infant care respectively, compared with 12% and 18% for community based centres. However, private centres provide 25% of infant care in the ACT and 22% in SA as against the 24% and 23% provided by community based centres. (Figures were supplied by Department of Human Services and Health.)
- 96 Hawkesbury City Council NSW *Submission 177*.
- 97 NSW Family Day Care Association Inc NSW *Submission 242*.
- 98 National Association for Prevention of Child Abuse & Neglect WA *Submission 90*; Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*.
- 99 Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*.
- 100 Victorian Supplementary Children Service Workers Association VIC *Submission 47*; Intercultural Children's Services Association of SA *Submission 79*; Migrant Resource Centre of SA Inc SA *Submission 311*; Muslim World League in Australia VIC *Submission 190*; Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*. See ch 10 for a discussion of information generally.
- 101 Intercultural Children's Services Association of SA *Submission 79*; Multicultural Child Care Unit SA *Submission 179*; Muslim World League in Australia VIC *Submission 190*; Migrant Resource Centre of SA Inc SA *Submission 311*; Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*.
- 102 Multicultural Child Care Unit SA *Submission 179*; Muslim World League in Australia VIC *Submission 190*.
- 103 Muslim World League in Australia VIC *Submission 190*.
- 104 Ethnic Child Care & Community Services Cooperative NSW *Submission 31*; Victorian Supplementary Children Service Workers Association VIC *Submission 47*; Multicultural Child Care Unit SA *Submission 179*; Victorian Children's Services Resource & Development Officers Association Inc VIC *Submission 196*; Migrant Resource Centre of SA Inc SA *Submission 311*.
- 105 Victorian Supplementary Children Service Workers Association VIC *Submission 47*.
- 106 Multicultural Child Care Unit SA *Submission 179*; Victorian Children's Services Resource & Development Officers Association Inc VIC *Submission 196*; Migrant Resource Centre of SA Inc SA *Submission 311*.
- 107 Migrant Resource Centre of SA Inc SA *Submission 311*.
- 108 See eg Multicultural Child Care Unit SA *Submission 179*; Migrant Resource Centre of SA Inc SA *Submission 311*; Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*.
- 109 D Port TAS *Submission 59*; Intercultural Children's Services Association of SA *Submission 79*; Migrant Resource Centre of SA Inc SA *Submission 311*; Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*. See also para 4.33.
- 110 Ethnic Child Care & Community Services Cooperative NSW *Submission 31*.
- 111 Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*. See also Migrant Resource Centre of SA Inc SA *Submission 311*.
- 112 Muslim World League in Australia VIC *Submission 190*.
- 113 Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*.
- 114 Muslim World League in Australia VIC *Submission 190*; Community Child Care Forum (ACT) ACT *Submission 315*; E Shanahan NSW *Submission 376*.
- 115 Victorian Children's Services Resource & Development Officers Association Inc VIC *Submission 196*.
- 116 See eg Secretariat of National Aboriginal & Islander Child Care VIC *Submission 48*; South Australian Aboriginal Child Care Agency SA *Submission 75*.
- 117 Secretariat of National Aboriginal & Islander Child Care VIC *Submission 48*.
- 118 South Australian Aboriginal Child Care Agency SA *Submission 75*.
- 119 Meeting of representatives of Aboriginal and Torres Strait Islander child care workers, Sydney, 26-27 May 1994.
- 120 Meeting of representatives of Aboriginal and Torres Strait Islander child care workers, Sydney, 26-27 May 1994.
- 121 Meeting of representatives of Aboriginal and Torres Strait Islander child care workers, Sydney, 26-27 May 1994; D Hart & J Walder QLD *Submission 21*.
- 122 Meeting of representatives of Aboriginal and Torres Strait Islander child care workers, Sydney, 26-27 May 1994.
- 123 Secretariat of National Aboriginal & Islander Child Care VIC *Submission 48*.
- 124 Aboriginal Education Centre NSW *Submission 299*.
- 125 Aboriginal Education Centre NSW *Submission 299*.
- 126 Meeting of representatives of Aboriginal and Torres Strait Islander child care workers, Sydney, 26-27 May 1994. See also Aboriginal Children's Centre (TAC Inc) TAS *Submission 181*.
- 127 M Willshire NT *Submission 64*.
- 128 See eg M Willshire NT *Submission 64*.
- 129 Aboriginal Children's Centre (TAC Inc) TAS *Submission 181*.
- 130 South Australian Aboriginal Child Care Agency SA *Submission 75*. See also Aboriginal Education Centre NSW *Submission 299*; Aboriginal & Torres Strait Islander Commission ACT *Submission 427*.
- 131 D Hart & J Walder QLD *Submission 21*; South Australian Aboriginal Child Care Agency SA *Submission 75*; Aboriginal & Torres Strait Islander Commission ACT *Submission 427*.
- 132 D Hart & J Walder QLD *Submission 21*; Aboriginal Education Centre NSW *Submission 299*.
- 133 D Hart & J Walder QLD *Submission 21*.
- 134 Northern Territory Children's Services Resource & Advisory Program NT *Submission 397*; Queensland Professional Childcare Centres Association QLD *Submission 401*; Department of Family Services and Aboriginal and Islander Affairs QLD *Submission 402*.
- 135 See eg Southside Disability Support QLD *Submission 4*; Playworks Resource Unit VIC *Submission 43*; Resource Unit for Children with Special Needs WA *Submission 85*; Resource Unit for Children with Special Needs Inc WA *Submission 195*; Confidential NSW *Submission 272*.
- 136 Confidential NSW *Submission 272*.
- 137 Playworks Resource Unit VIC *Submission 43*; Playworks Resource Unit for Children with Disabilities in Childcare VIC *Submission 214*; Resource Unit for Children with Special Needs Inc WA *Submission 195*.
- 138 KU Children's Services NSW *Submission 24*; National Out of School Hours Services Association VIC *Submission 390*.
- 139 Caboolture & Districts Child Care Association Inc QLD *Submission 213*; Wavell Heights Family Day Care QLD *Submission 225*; Kath Dickson Centre NSW *Submission 312*; Goodna Family Day Care QLD *Submission 356*.

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140 Caboolture & Districts Child Care Association Inc QLD *Submission 213*; Wavell Heights Family Day Care QLD *Submission 225*; East Brisbane Community Centre Inc (FDC) QLD *Submission 306*; Kath Dickson Centre NSW *Submission 312*; Goodna Family Day Care QLD *Submission 356*; Family Day Care Resource Office QLD *Submission 368*.

141 Western Districts Family Day Care QLD *Submission 323*.

142 Meeting of representatives of Aboriginal and Torres Strait Islander child care workers, Sydney, 26-27 May 1994.

143 Meeting of representatives of Aboriginal and Torres Strait Islander child care workers, Sydney, 26-27 May 1994.

144 Ethnic Child Care Resource Unit Inc WA *Submission 304*.

145 eg Western Districts Family Day Care QLD *Submission 323*.

146 See eg Tweed Shire Family Day Care NSW *Submission 231*.

147 See eg J Oldfield QLD *Submission 184*; P Putney QLD *Submission 199*; Caboolture & Districts Child Care Association Inc QLD *Submission 213*; Wavell Heights Family Day Care QLD *Submission 225*; Kath Dickson Centre NSW *Submission 312*; Family Day Care Resource Office QLD *Submission 368*; Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*.

148 NSW Family Day Care Association Inc NSW *Submission 242*.

149 NSW Family Day Care Association Inc NSW *Submission 242*.

150 N Dwyer NSW *Submission 30*; J Oldfield QLD *Submission 184*; Country Children's Services Association Inc NSW *Submission 300*.

151 Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*.

152 Victorian Day Care Association Inc VIC *Submission 189*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Community Services Shire of South Gippsland VIC *Submission 41*.

153 Deniliquin & District Family Day Care Inc NSW *Submission 342*; Tweed Shire Family Day Care NSW *Submission 231*.

154 NSW Family Day Care Association Inc NSW *Submission 242*; Kath Dickson Centre NSW *Submission 312*. The Commission has been told that this already occurs: eg, two small schemes in Wagga Wagga and Dubbo share administrative resources.

155 The Council of the Shire of Eurobodalla NSW *Submission 347*; Uniting Church in Australia (Child & Family Care) QLD *Submission 377*.

156 Kinglake Child Care Centre VIC *Submission 244*; City of Broadmeadows VIC *Submission 373*; Family Day Care Inner-Urban Support Group VIC *Submission 378*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

157 Kath Dickson Centre NSW *Submission 312*.

158 Shire of Melton Child Care Advisory Committee VIC *Submission 329*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Council of Social Welfare Ministers NSW *Submission 431*.

159 C Lamb NSW *Submission 29*; Maroochy Shire Council QLD *Submission 175*; Country Children's Services Association Inc NSW *Submission 300*.

160 See eg Griffith Childcare Centre Inc NSW *Submission 216*; City of Melbourne VIC *Submission 217*; Tuggeranong Community Service Inc ACT *Submission 226*; Association of West Australian FDC Schemes WA *Submission 241*; Community Child Care Forum (ACT) NSW *Submission 315*; Belconnen Community Service Inc, ACT *Submission 316*; Queensland Children's Activities Network Inc QLD *Submission 369*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*; Ethnic Child Care Development Unit NSW *Submission 408*; National Association of Community Based Children's Services (NSW Branch) *Submission 409*; City of Morwell VIC *Submission 417*.

161 Community Child Care VIC *Submission 38*; Community Child Care Forum (ACT) NSW *Submission 315*; Belconnen Community Service Inc, ACT *Submission 316*; SA Association of Community Based Child Care Centres Inc SA *Submission 361*; City of Collingwood VIC *Submission 374*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Brunswick Child Care Co-ordinators' Support Group VIC *Submission 428*.

162 City of Frankston VIC *Submission 423*.

163 M Hunter SA *Submission 239*.

164 Shop, Distributive & Allied Employers' Association VIC *Submission 328*; Australian Council of Trade Unions VIC *Submission 331*.

165 City of Melbourne VIC *Submission 217*. More than half of the submissions on this issue came from Victoria.

166 Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 330*.

167 See eg Life Be In It, School Age Care QLD *Submission 3*; Maroochy Shire Council QLD *Submission 175*; Family Research Action Centre Inc VIC *Submission 207*; Xavier Out of School Hours Care QLD *Submission 235*; City of Springvale VIC *Submission 301*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; National Out of School Hours Services Association VIC *Submission 390*; City of Northcote VIC *Submission 403*; City of Frankston VIC *Submission 423*.

168 See eg Central Coast OOSH Forum NSW *Submission 27*; Inner City Care NSW *Submission 194*; City of Melbourne VIC *Submission 217*; City of Springvale VIC *Submission 301*; City of Dandenong VIC *Submission 303*; Ethnic Child Care Resource Unit Inc WA *Submission 304*; Shop, Distributive & Allied Employers' Association VIC *Submission 328*; Australian Council of Trade Unions VIC *Submission 331*; The Baptist Union of Western Australia Inc WA *Submission 333*; Queensland Children's Activities Network Inc QLD *Submission 369*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*; Association of Subsidised Child Care Centres in Victoria Inc VIC *Submission 407*.

169 See eg Monash University Union, VIC *Submission 218*; Out of School Hours Care Association SA *Submission 233*; Children's Services Support Unit WA (Inc) WA *Submission 234*; The Association of West Australian FDC Schemes WA *Submission 241*; National Children's & Youth Law Centre NSW *Submission 298*; City of Springvale VIC *Submission 301*; City of Dandenong VIC *Submission 303*; Migrant Resource Centre of SA Inc SA *Submission 311*; Community Child Care Forum (ACT) NSW *Submission 315*; Child Care Centres Association of Victoria VIC *Submission 332*; The Baptist Union of Western Australia Inc WA *Submission 333*; Family Day Care Resource Office QLD *Submission 368*; Queensland Children's Activities Network Inc QLD *Submission 369*; City of Broadmeadows VIC *Submission 373*; National Tertiary Education Industry Union VIC *Submission 375*; Uniting Church in Australia (Child & Family Care) QLD *Submission 377*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Uniting Church Children's Services Forum NSW *Submission 410*; National Association of Community Based Children's Services (NSW Branch) *Submission 412*; Warringah Council NSW *Submission 416*; City of Morwell VIC *Submission 417*.

170 Family Program Branch, DSS ACT *Submission 432*.

171 LHMU (SA)/Association of Community Based Children's Services SA *Submission 73*; M Hunter SA *Submission 239*; Institute of Early Childhood, Macquarie University NSW *Submission 386*; Ethnic Child Care Development Unit NSW *Submission 408*; City of Frankston VIC *Submission 423*; Office of Women's Affairs, Victoria Women's Council VIC *Submission 433*.

172 Central Coast OOSH Forum NSW *Submission 27*.

173 Ethnic Child Care & Community Services Cooperative NSW *Submission 31*; J Selby TAS *Submission 357*; Lutheran Church of Australia (Qld District Schools Department) QLD *Submission 394*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*; City of Frankston VIC *Submission 423*.

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- 174 Children's Services Support Unit WA *Submission 82*; Children's Services Support Unit WA (Inc) WA *Submission 234*; Shire of Melton Child Care Advisory Committee VIC *Submission 329*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; City of Frankston VIC *Submission 423*.
- 175 See eg Association of West Australian FDC Schemes WA *Submission 241*; City of Springvale VIC *Submission 301*; City of Dandenong VIC *Submission 303*; Ethnic Child Care Resource Unit Inc WA *Submission 304*; Sydney Rescue 'Work Society NSW *Submission 320*; Australian Council of Trade Unions VIC *Submission 331*; Queensland Children's Activities Network Inc QLD *Submission 369*; City of Broadmeadows VIC *Submission 373*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*; National Association of Community Based Children's Services (NSW Branch) *Submission 409*.
- 176 'Life. Be in it' Australia NSW *Submission 205*; M Hunter SA *Submission 239*; Association of West Australian FDC Schemes WA *Submission 241*; Mobile Resource Services Association of New South Wales Inc NSW *Submission 243*; National Children's & Youth Law Centre NSW *Submission 298*; City of Springvale VIC *Submission 301*; Ethnic Child Care Resource Unit Inc WA *Submission 304*; Belconnen Community Service Inc, ACT *Submission 316*; Sydney Rescue 'Work Society NSW *Submission 320*; Uniting Church in Australia (Child & Family Care) QLD *Submission 377*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; National Out of School Hours Services Association VIC *Submission 390*; NT Children's Services Resource & Advisory Program NT *Submission 397*; Community Child Care Association of Managements - ACT *Submission 400*; Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*; Women's Bureau, DEET ACT *Submission 406*; Association of Subsidised Child Care Centres in Victoria Inc VIC *Submission 407*; National Association of Community Based Children's Services (NSW Branch) *Submission 409*; Uniting Church Children's Services Forum NSW *Submission 410*; City of Frankston VIC *Submission 423*; Minister for Community Development: The Family WA *Submission 426*; Department for Education & Children's Services SA *Submission 430*; Office of Women's Affairs, Victoria Women's Council VIC *Submission 433*.
- 177 See eg Outside School Hours Care Association TAS *Submission 58*; Local Government Association of NSW/Shires Association of NSW *Submission 227*; City of Springvale VIC *Submission 301*; East Brisbane Community Centre Inc (FDC) QLD *Submission 306*; Hobart Family Day Care Scheme TAS *Submission 319*; Institute of Early Childhood Educators Inc. SA *Submission 327*; Shire of Melton Child Care Advisory Committee VIC *Submission 329*; Australian Council of Trade Unions VIC *Submission 331*; The Council of the Shire of Eurobodalla NSW *Submission 347*; City of Broadmeadows VIC *Submission 373*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Lutheran Church of Australia (Qld District Schools Department) QLD *Submission 394*; Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*; Ethnic Child Care Development Unit NSW *Submission 408*; Department for Education & Children's Services SA *Submission 430*.
- 178 Life Be In It, School Age Care QLD *Submission 3*; Network of Community Activities NSW *Submission 26*; NT Outside School Hours Care Association NT *Submission 65*; Holland Park OSHC Committee QLD *Submission 208*.
- 179 Office of Women's Affairs, Victoria Women's Council VIC *Submission 433*.
- 180 East Brisbane Community Centre Inc (FDC) QLD *Submission 306*.
- 181 National Children's & Youth Law Centre NSW *Submission 298*; Australian Council of Trade Unions VIC *Submission 331*; Shop, Distributive & Allied Employers' Association VIC *Submission 328*.
- 182 Life Be In It, School Age Care QLD *Submission 3*; 'Life. Be in it' Australia NSW *Submission 205*.
- 183 M Hunter SA *Submission 239*; City of Collingwood VIC *Submission 374*; Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*.
- 184 'Life. Be in it' Australia NSW *Submission 205*; Griffith Childcare Centre Inc NSW *Submission 216*; City of Collingwood VIC *Submission 374*; Uniting Church Children's Services Forum NSW *Submission 410*.
- 185 Life Be In It, School Age Care QLD *Submission 3*; Life. Be in it. Australia NSW *Submission 205*; Children's Services Support Unit WA (Inc) WA *Submission 234*; Network of Community Services NSW *Submission 388* & National Out of School Hours Services Association VIC *Submission 390*.
- 186 Children's Services Support Unit WA (Inc) WA *Submission 234*.
- 187 Network of Community Activities NSW *Submission 26*; Central Coast OOSH Forum NSW *Submission 27*; NT Outside School Hours Care Association NT *Submission 65*; City of Werribee VIC *Submission 230*; Children's Services Support Unit WA (Inc) WA *Submission 234*; The Council of the Shire of Eurobodalla NSW *Submission 347*; Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*; NT Children's Services Resource & Advisory Program NT *Submission 397*; National Association of Community Based Children's Services (NSW Branch) *Submission 409*; Warringah Council NSW *Submission 416*.
- 188 Network of Community Activities NSW *Submission 26*. See also eg Life Be In It, School Age Care QLD *Submission 3*; NT Outside School Hours Care Association NT *Submission 65*.
- 189 NT Children's Services Resource & Advisory Program NT *Submission 397*; National Association of Community Based Children's Services (NSW Branch) *Submission 409*.
- 190 Network of Community Activities NSW *Submission 26*; Network of Community Services NSW *Submission 388*.
- 191 Network of Community Services NSW *Submission 388*.
- 192 Local Government Community Services Association Inc NSW *Submission 212*; The Council of the Shire of Eurobodalla NSW *Submission 347*; Department for Education & Children's Services SA *Submission 430*.
- 193 Combined Adventure Playgrounds NSW *Submission 187*.
- 194 State Consultative Committee for Children's Services SA *Submission 71*.
- 195 Network of Community Activities NSW *Submission 26*; Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*; NT Children's Services Resource & Advisory Program NT *Submission 397*.
- 196 Griffith Childcare Centre Inc NSW *Submission 216*.
- 197 Network of Community Services NSW *Submission 388*.
- 198 Network of Community Services NSW *Submission 388*.
- 199 NT Outside School Hours Care Association NT *Submission 65*; Holland Park OSHC Committee QLD *Submission 208*; Local Government Association of NSW/Shires Association of NSW *Submission 227*; M Hunter SA *Submission 239*; Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*; Uniting Church Children's Services Forum NSW *Submission 410*.
- 200 M Hunter SA *Submission 239*; Local Government Association of NSW/Shires Association of NSW *Submission 227*.
- 201 Warringah Council NSW *Submission 416*.
- 202 See eg Country Children's Services Association Inc NSW *Submission 300*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; City of Morwell VIC *Submission 417*.
- 203 See eg Queensland Family Day Care Association QLD *Submission 2*; Country Children's Services Association Inc NSW *Submission 300*; Kath Dickson Centre NSW *Submission 312*; WA Family Day Care Association WA *Submission 313*; Community Child Care Forum (ACT) NSW *Submission 315*; Australian Council of Trade Unions VIC *Submission 331*; Barnardo's Australia NSW *Submission 352*; Family Day

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Care Resource Office QLD *Submission 368*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Community Child Care Association of Managements - ACT *Submission 400*; Women's Bureau, DEET ACT *Submission 406*; Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*; Family Day Care Association Inc QLD *Submission 425*.

204 See eg Queensland Family Day Care Association QLD *Submission 2*; Victorian Day Care Association Inc VIC *Submission 189*; M Hunter SA *Submission 239*; Association of West Australian FDC Schemes WA *Submission 241*; WA Family Day Care Association WA *Submission 313*; City of Broadmeadows VIC *Submission 373*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Warringah Council NSW *Submission 416*; City of Frankston VIC *Submission 423*; Family Day Care Association Inc QLD *Submission 425*.

205 Caboolture & Districts Child Care Association Inc QLD *Submission 213*; Wavell Heights Family Day Care QLD *Submission 225*; NSW Family Day Care Association Inc NSW *Submission 242*; Kath Dickson Centre NSW *Submission 312*; WA Family Day Care Association WA *Submission 313* Family Day Care Resource Office QLD *Submission 368*; Women's Action Alliance (Australia) Inc VIC *Submission 381*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Warringah Council NSW *Submission 416*; Family Day Care Association Inc QLD *Submission 425*.

206 Queensland Family Day Care Association QLD *Submission 2*; Victorian Day Care Association Inc VIC *Submission 189*; Caboolture & Districts Child Care Association Inc QLD *Submission 213*; Wavell Heights Family Day Care QLD *Submission 225*; Kath Dickson Centre NSW *Submission 312*; Barnardo's Australia NSW *Submission 352*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Family Day Care Association Inc QLD *Submission 425*.

207 Caboolture & Districts Child Care Association Inc QLD *Submission 213*; WA Family Day Care Association WA *Submission 313*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

208 Queensland Family Day Care Association QLD *Submission 2*; A Burgess QLD *Submission 22*; Family Day Care Schemes of WA *Submission 86*; P Putney QLD *Submission 199*; Association of West Australian FDC Schemes WA *Submission 241*.

209 Professional Child Carers Association of Tasmania TAS *Submission 56*; City of Springvale VIC *Submission 301*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

210 See eg Victorian Day Care Association Inc VIC *Submission 189*; City of Broadmeadows VIC *Submission 373*; City of Northcote VIC *Submission 403*.

211 NT Children's Services Resource & Advisory Program NT *Submission 397*; National Association of Community Based Children's Services (NSW Branch) *Submission 409*; Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*.

212 Wattle Community Association Inc ACT *Submission 418*.

213 Queensland Children's Activities Network Inc QLD *Submission 369*; City of Broadmeadows VIC *Submission 373*; National Out of School Hours Services Association VIC *Submission 390*.

214 NT Children's Services Resource & Advisory Program NT *Submission 397*. See para 4.41.

215 See eg Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*; City of Frankston VIC *Submission 423*.

216 Community Child Care Association of Managements ACT *Submission 400*.

217 See eg Work & Child Care Advisory Service QLD *Submission 8*; 'Life. Be in it' Australia NSW *Submission 205*; Work & Child Care Advisory Service QLD *Submission 321*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

218 City of Broadmeadows VIC *Submission 373*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; City of Northcote VIC *Submission 403*.

219 National Family Day Care Council (Aust) Inc NSW *Submission 385*.

220 Lady Ramsay Child Care Centre QLD *Submission 7*; Community Services, Shire of South Gippsland VIC *Submission 41*; The Lady Gowrie Child Care Centre Inc. Hobart, TAS *Submission 172*.

221 eg National Family Day Care Council (Aust) Inc NSW *Submission 385*.

222 See eg Lady Ramsay Child Care Centre QLD *Submission 7*; Work & Child Care Advisory Service QLD *Submission 8*; Griffith Childcare Centre Inc NSW *Submission 216*; Country Children's Services Association Inc NSW *Submission 300*.

223 These points were all made in consultations.

224 Pooh Bears Occasional Care ACT *Submission 33*; Students With Children VIC *Submission 40*.

225 See eg Municipality of Kingborough TAS *Submission 209*; Sydney Rescue 'Work Society NSW *Submission 320*; Nunawading Family Day Care Service VIC *Submission 355*; Bayside Community & Child Care Centre Inc QLD *Submission 358*; M Burke VIC *Submission 366*; Pine Rivers Shire Council QLD *Submission 370*; City of Broadmeadows VIC *Submission 373*; Family Day Care Inner-Urban Support Group VIC *Submission 378*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; City of Northcote VIC *Submission 403*; and 82 submissions from users of the Bellingen family day care scheme.

226 See PA Squires NSW *Submission 93* ( and 81 other Bellingen submissions): Bellingen FDC is a 50 EFT scheme and the only form of subsidised child care available in the 3 towns of this shire. Due to the part time nature of the Bellingen workforce, our scheme has at least 3 part time children in care for each EFT . . . The result is that parents who, as a group, earn the lowest per capita income in the state are presently paying an hourly administration levy that is at least twice that of other FDC schemes, in order that the only childcare service available here is able to survive.

227 eg Work & Child Care Advisory Service QLD *Submission 321*; Child Care Centres Association of Victoria VIC *Submission 332*.

228 eg Municipality of Kingborough TAS *Submission 209*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*.

229 Monash University Union, VIC *Submission 218*.

230 Association of Outside School Hours Care VIC *Submission 42*.

231 Monash University Union, VIC *Submission 218*; The University of Melbourne VIC *Submission 340*; National Tertiary Education Industry Union VIC *Submission 375*.

232 Monash University Union, VIC *Submission 218*.

233 Department of Employment & Technical & Further Education SA *Submission 174*; National Tertiary Education Industry Union VIC *Submission 375*; The University of Melbourne VIC *Submission 340*.

234 Students With Children VIC *Submission 40*.

235 Department of Employment & Technical & Further Education SA *Submission 174*.

236 Monash University Union, VIC *Submission 218*.

237 Students With Children VIC *Submission 40*; Monash University Child & Family Services VIC *Submission 45*.

238 Students With Children VIC *Submission 40*; Department of Employment & Technical & Further Education SA *Submission 174*; The University of Melbourne VIC *Submission 340*.

239 The University of Melbourne VIC *Submission 340*.

240 The University of Melbourne VIC *Submission 340*; Monash University Union, VIC *Submission 218*.

241 See Out of School Hours Care Association of SA *Submission 80*; 'Life. Be in it' Australia NSW *Submission 205*; Tweed Shire Family Day Care NSW *Submission 231*; Country Children's Services Association Inc NSW *Submission 300*; National Tertiary Education Industry Union VIC *Submission 375*; Network of Community Services NSW *Submission 388*; Lutheran Church of Australia (Qld District Schools Department) QLD *Submission 394*.

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- 242 'Life. Be in it' Australia NSW *Submission 205*; Country Children's Services Association Inc NSW *Submission 300*; Western Districts Family Day Care QLD *Submission 323*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Lutheran Church of Australia (Qld District Schools Department) QLD *Submission 394*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*; Warringah Council NSW *Submission 416*.
- 243 See eg Network of Community Services NSW *Submission 388*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*.
- 244 This is discussed further at para 5.22.
- 245 See eg New South Wales Nurses' Association NSW *Submission 336*; Uniting Church Children's Services Forum NSW *Submission 410*.
- 246 See eg The Association of West Australian FDC Schemes WA *Submission 241*; Minister for Community Development & the Family WA *Submission 426*.
- 247 National Association of Community Based Children's Services (NSW Branch) *Submission 409*.
- 248 Townsville District Early Childhood Association QLD *Submission 19*; Blacktown City Council NSW *Submission 25*; National Family Day Care Council NSW *Submission 44*; M Hunter SA *Submission 239*; NSW Family Day Care Association Inc NSW *Submission 242*; Country Children's Services Association Inc NSW *Submission 300*; Sydney Rescue Work Society NSW *Submission 320*; Wollongong & Shellharbour City Council NSW *Submission 395*; Uniting Church Children's Services Forum NSW *Submission 410*.
- 249 See eg Blacktown City Council NSW *Submission 25* with regard to Blacktown and other areas of Western Sydney.
- 250 'Life Be In It', School Age Care QLD *Submission 3*; 'Life. Be in it' Australia NSW *Submission 205*.
- 251 Inner City Care NSW *Submission 194*; Tuggeranong Community Service Inc ACT *Submission 226*.
- 252 Inner City Care NSW *Submission 194*; Tuggeranong Community Service Inc ACT *Submission 226*; Fairfield City Council NSW *Submission 296*; The University of Melbourne VIC *Submission 340*; Work & Childcare Advisory Service NSW *Submission 349*; Institute of Early Childhood, Macquarie University NSW *Submission 386*; The Sydney Day Nursery & Nursery Schools Association NSW *Submission 391*; Wollongong & Shellharbour City Council NSW *Submission 395*; Uniting Church Children's Services Forum NSW *Submission 410*; National Association of Community Based Children's Services (NSW Branch) *Submission 412*.
- 253 'Life Be In It', School Age Care QLD *Submission 8*; KU Children's Services NSW *Submission 24*; Fairfield City Council NSW *Submission 296*; Institute of Early Childhood, Macquarie University NSW *Submission 386* (pre-schools).
- 254 National Family Day Care Council NSW *Submission 44*; Griffith Childcare Centre Inc NSW *Submission 216*.
- 255 Lady Ramsay Child Care Centre QLD *Submission 7*.
- 256 Monash University Child & Family Services VIC *Submission 45*; Monash University Union VIC *Submission 218*; The University of Melbourne VIC *Submission 340*.
- 257 Community Child Care Association of Managements - ACT *Submission 400*; City of Morwell VIC *Submission 417*.
- 258 Multicultural Child Care Unit SA *Submission 179*.
- 259 Australian Local Government Association ACT *Submission 170*; City of Melbourne VIC *Submission 217*; Local Government Association of NSW/Shires Association of NSW *Submission 227*; Fairfield City Council NSW *Submission 296*; City of Springvale VIC *Submission 301*; City of Dandenong VIC *Submission 303*; East Brisbane Community Centre Inc (FDC) QLD *Submission 306*; New South Wales Nurses' Association NSW *Submission 336*; Wollongong & Shellharbour City Council NSW *Submission 395*; Warringah Council NSW *Submission 416*; City of Morwell VIC *Submission 417*.
- 260 Department of Employment & Technical & Further Education SA *Submission 174*.
- 261 Australian Early Childhood Association ACT *Submission 34*; Creche & Kindergarten Association QLD *Submission 404*.
- 262 Network of Community Activities NSW *Submission 26*; Griffith Childcare Centre Inc NSW *Submission 216*; Country Children's Services Association Inc NSW *Submission 300*.
- 263 T Hartikainen NSW *Submission 387*; National Association of Community Based Children's Services (NSW Branch) *Submission 409*.
- 264 Network of Community Services NSW *Submission 388*.
- 265 Network of Community Activities NSW *Submission 26*; 'Life. Be in it' Australia NSW *Submission 205* (gave an example in Ballarat of 2 schools funded to provide OSHC programs when 2 existing ones are under used).
- 266 LHMU (SA)/Association of Community Based Children's Services SA *Submission 73*; SA Association of Community Based Child Care Centres Inc SA *Submission 361*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*.
- 267 Ethnic Child Care & Community Services Cooperative NSW *Submission 31*.
- 268 Ethnic Child Care Development Unit NSW *Submission 408*.
- 269 Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*.
- 270 Resource Unit for Children with Special Needs WA *Submission 85*; Resource Unit for Children with Special Needs Inc WA *Submission 195*; S Degotardi NSW *Submission 210*; New South Wales Nurses' Association NSW *Submission 336*; Townsville City Council QLD *Submission 360*; Children's House Management Committee SA *Submission 392*.
- 271 National Out of School Hours Services Association VIC *Submission 390*.
- 272 Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*.
- 273 Family Day Care Resource Office QLD *Submission 368*.
- 274 L Beattie ACT *Submission 307*; Institute of Early Childhood Educators Inc. SA *Submission 327*; Wollongong & Shellharbour City Council NSW *Submission 395*.
- 275 City of Collingwood VIC *Submission 374*; Uniting Church in Australia (Child & Family Care) QLD *Submission 377*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.
- 276 Mobile Resource Services Association of New South Wales Inc NSW *Submission 243*; Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*.
- 277 Local Government Association of NSW/Shires Association of NSW *Submission 227*; Maroochy Shire Council QLD *Submission 175*; Hawkesbury City Council NSW *Submission 177*.
- 278 See eg Family Day Care Resource Office QLD *Submission 368*; Council of Social Welfare Ministers NSW *Submission 431*.
- 279 See eg Tasmanian Association of Children's Services, TAS *Submission 52*.
- 280 See eg City of Melbourne VIC *Submission 217*; City of Broadmeadows VIC *Submission 373*; City of Morwell VIC *Submission 417*; Black Mountain Child Care Centre ACT *Submission 176*.
- 281 Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*.
- 282 For example the Gold Coast, Qld and NSW on the north and south coasts: N Dwyer NSW *Submission 30*; Collingwood Vic: City of Collingwood VIC *Submission 374*; Bowral NSW for 3-5 year olds: Uniting Church Children's Services Forum NSW *Submission 410*.
- 283 See eg Lady Gowrie Child Care Centre QLD *Submission 1*; Inner City Care NSW *Submission 194*; Fairfield City Council NSW *Submission 296*; Kath Dickson Centre NSW *Submission 312*.
- 284 See eg N Dwyer NSW *Submission 30*; LHMU (SA)/Association of Community Based Children's Services SA *Submission 73*; Griffith Childcare Centre Inc NSW *Submission 216*; Lady Gowrie Child Centre Inc Adelaide SA *Submission 337*.
- 285 See eg Victorian Day Care Association Inc VIC *Submission 189*; Inner City Care NSW *Submission 194*; Playgrounds on Demand (Inc) WA *Submission 202*; 'Life. Be in it' Australia NSW *Submission 205*; 210; Griffith Childcare Centre Inc NSW *Submission 216*; City of Melbourne

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VIC *Submission 217*; Children's Services Support Unit WA (Inc) WA *Submission 234*; Municipal Association of Victoria VIC *Submission 237*; M Hunter SA *Submission 239*; Country Children's Services Association Inc NSW *Submission 300*; City of Springvale VIC *Submission 301*; City of Dandenong VIC *Submission 303*; Ethnic Child Care Resource Unit Inc WA *Submission 304*; Community Child Care Forum (ACT) NSW *Submission 315*; Sydney Rescue Work Society NSW *Submission 320*; Work & Child Care Advisory Service QLD *Submission 321*; Australian Council of Trade Unions VIC *Submission 331*; Family Day Care Resource Office QLD *Submission 368*; City of Broadmeadows VIC *Submission 373*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Institute of Early Childhood, Macquarie University NSW *Submission 386*; Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*; NT Children's Services Resource & Advisory Program NT *Submission 397*; Community Child Care Association of Managements - ACT *Submission 400*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*; Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*; Sutherland Shire Council NSW *Submission 405*; Association of Subsidised Child Care Centres in Victoria Inc VIC *Submission 407*; Ethnic Child Care Development Unit NSW *Submission 408*; National Association of Community Based Children's Services (NSW Branch) *Submission 409*; Uniting Church Children's Services Forum NSW *Submission 410*; National Association of Community Based Children's Services (NSW Branch) *Submission 412*; Warringah Council NSW *Submission 416*; City of Morwell VIC *Submission 417*.

286 Hobart Central Child Care Ltd TAS *Submission 60*; The Association of Registered Child Care Centres Inc WA *Submission 297*; Child Care Centres Association of Victoria VIC *Submission 332*.

287 The Auditor General *Mind the Children: The Management of the Children's Services Program* Audit Report No 42 Department of Human Services and Health 1993-94, p xviii, xix.

288 An example is the current extensive media advertising for the Childcare Rebate.

289 See for example *Parents' Guide to Family Day Care* and *Parents' Guide to Child Care Centres* produced by the Queensland Office of Child Care, Department of Family Services and Aboriginal and Islander Affairs.

290 City of Melbourne VIC *Submission 217*; Tuggeranong Community Service Inc ACT *Submission 226*; Community Child Care Forum ACT *Submission 315*; Belconnen Community Service Inc ACT *Submission 316*; Sydney Rescue Work Society NSW *Submission 320*; Shire of Melton Child Care Advisory Committee VIC *Submission 329*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Network of Community Services NSW *Submission 388*.

291 Hawkesbury City Council NSW *Submission 177*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*.

292 Hawkesbury City Council NSW *Submission 177*; City of Melbourne VIC *Submission 217*; Tuggeranong Community Service Inc ACT *Submission 226*; Fairfield City Council NSW *Submission 296*; Community Child Care Forum ACT *Submission 315*; Belconnen Community Service Inc ACT *Submission 316*; Australian Council of Trade Unions VIC *Submission 331*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Association of Subsidised Child Care Centres in Victoria Inc VIC *Submission 407*.

293 Life Be In It, School Age Care QLD *Submission 3*; Fairfield City Council NSW *Submission 296*; Community Child Care Forum (ACT) NSW *Submission 315*; Belconnen Community Service Inc ACT *Submission 316*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Community Child Care Association of Managements - ACT *Submission 400*; Women's Bureau, DEET ACT *Submission 406*; Local Government Association SA *Submission 420*.

294 Hawkesbury City Council NSW *Submission 177*; Community Child Care Forum (ACT) NSW *Submission 315*; Belconnen Community Service Inc, ACT *Submission 316*; Australian Council of Trade Unions VIC *Submission 331*; Bayside Community & Child Care Centre Inc QLD *Submission 358*; Queensland Children's Activities Network Inc QLD *Submission 369*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*; Local Government Association SA *Submission 420*.

295 Hawkesbury City Council NSW *Submission 177*; City of Melbourne VIC *Submission 217*; Tuggeranong Community Service Inc ACT *Submission 226*; Xavier Out of School Hours Care QLD *Submission 235*; Fairfield City Council NSW *Submission 296*; Sydney Rescue Work Society NSW *Submission 320*; Shire of Melton Child Care Advisory Committee VIC *Submission 329*; Australian Council of Trade Unions VIC *Submission 331*; Edith Cowan Childcare Centres Inc WA *Submission 379*; Community Child Care Association of Managements - ACT *Submission 400*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*; Women's Bureau, DEET ACT *Submission 406*; Association of Subsidised Child Care Centres in Victoria Inc VIC *Submission 407*.

296 Australian Council of Trade Unions VIC *Submission 331*; Edith Cowan Childcare Centres Inc WA *Submission 379*; Association of Subsidised Child Care Centres in Victoria Inc VIC *Submission 407*.

297 Hawkesbury City Council NSW *Submission 177*; Inner City Care NSW *Submission 194*; University of Western Sydney NSW *Submission 204*; Bayside Community & Child Care Centre Inc QLD *Submission 358*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

298 Hawkesbury City Council NSW *Submission 177*; Australian Council of Trade Unions VIC *Submission 331*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

299 The Commission recommends that an independent body be set up at paragraph 7.16.

300 University of Western Sydney NSW *Submission 204*; Tuggeranong Community Service Inc ACT *Submission 226*; Ethnic Child Care Resource Unit Inc WA *Submission 304*; Edith Cowan Childcare Centres Inc WA *Submission 379*; Local Government Association SA *Submission 420*.

301 For more information about the system see para 11.8.

302 See Quality Improvement and Accreditation System Handbook.

303 Principle 10. To achieve a good quality standard, the standard required for accreditation, these must have been developed through consultation with parents.

304 Principle 11. To achieve a good quality standard, the standard required for accreditation, there should be procedures and regular opportunities for sharing information about the centre and families, opportunities for private discussion that is kept confidential and more detailed information given to parents about their children's development.

305 Principle 12. Centres must provide this to achieve the basic standard of care necessary to be accredited.

306 Principle 52. To achieve the basic standard necessary to be accredited staff and parents should be informed of relevant meetings and issues for their comment and staff and parents should be permitted to attend meetings.

307 reg 9.

308 reg 14.

309 reg 38.

310 reg 71.

311 Inner City Care NSW *Submission 194*; Community Child Care Forum ACT *Submission 315*; NT Children's Services Resource & Advisory Program NT *Submission 397*; Women's Bureau, DEET ACT *Submission 406*; National Association of Community Based Children's Services (NSW Branch) *Submission 409*; Uniting Church Children's Services Forum NSW *Submission 410*; National Association of Community Based Children's Services (NSW Branch) *Submission 412*.

312 Maroochy Shire Council QLD *Submission 175*; Family Research Action Centre Inc VIC *Submission 207*; Edith Cowan Childcare Centres Inc WA *Submission 379*; Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC

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Submission 390, Sutherland Shire Council NSW Submission 405; Uniting Church Children's Services Forum NSW Submission 410, National Association of Community Based Children's Services (NSW Branch) Submission 412; Local Government Association SA Submission 420.

313 Inner City Care NSW Submission 194; Family Research Action Centre Inc VIC Submission 207; Edith Cowan Childcare Centres Inc WA Submission 379; NT Children's Services Resource & Advisory Program NT Submission 397; National Association of Community Based Children's Services (NSW Branch) Submission 409; Uniting Church Children's Services Forum NSW Submission 410; National Association of Community Based Children's Services (NSW Branch) Submission 412.

314 Family Research Action Centre Inc VIC Submission 207.

315 Inner City Care NSW Submission 194; E Kable QLD Submission 198; Playworks Resource Unit for Children with Disabilities in Childcare VIC Submission 214; NT Children's Services Resource & Advisory Program NT Submission 397; National Association of Community Based Children's Services (NSW Branch) Submission 409; Uniting Church Children's Services Forum NSW Submission 410; National Association of Community Based Children's Services (NSW Branch) Submission 412.

316 Australian Council of Trade Unions VIC Submission 331.

317 See eg Maroochy Shire Council QLD Submission 175; Hawkesbury City Council NSW Submission 177; Inner City Care NSW Submission 194; E Kable QLD Submission 198; S Degotardi NSW Submission 210; City of Springvale VIC Submission 301; Community Child Care Forum (ACT) NSW Submission 315; Belconnen Community Service Inc, ACT Submission 316; Australian Council of Trade Unions VIC Submission 331; Queensland Children's Activities Network Inc QLD Submission 369; Edith Cowan Childcare Centres Inc WA Submission 379; Central Canberra FDC ACT Submission 382; Network of Community Services NSW Submission 388; National Out of School Hours Services Association VIC Submission 390; NT Children's Services Resource & Advisory Program NT Submission 397; Community Child Care Association of Managements - ACT Submission 400; Women's Bureau, DEET ACT Submission 406; Association of Subsidised Child Care Centres in Victoria Inc VIC Submission 407; National Association of Community Based Children's Services (NSW Branch) Submission 412; City of Frankston VIC Submission 423.

318 WA Association for Out of School Hours Services WA Submission 87.

319 Family Research Action Centre Inc VIC Submission 207; Community Child Care Forum ACT Submission 314.

320 See eg D Port TAS Submission 59; Maroochy Shire Council QLD Submission 175; Black Mountain Child Care Centre ACT Submission 176; Outside School Hours Care Association TAS Submission 197; S Degotardi NSW Submission 210; Tuggeranong Community Service Inc ACT Submission 226; The Association of Registered Child Care Centres Inc WA Submission 297; QEH Community Child Care Centre SA Submission 314; Community Child Care Forum (ACT) NSW Submission 315; Belconnen Community Service Inc, ACT Submission 316; Institute of Early Childhood Educators Inc SA Submission 327; Queensland Children's Activities Network Inc QLD Submission 369; Central Canberra FDC ACT Submission 382; National Family Day Care Council (Aust) Inc NSW Submission 385; Network of Community Services NSW Submission 388; National Out of School Hours Services Association VIC Submission 390; Warringah Council NSW Submission 416; Local Government Association SA Submission 420.

321 Life Be In It, School Age Care QLD Submission 3; Black Mountain Child Care Centre ACT Submission 176; Hawkesbury City Council NSW Submission 177; E Kable QLD Submission 198; University of Western Sydney NSW Submission 204; S Degotardi NSW Submission 210; Tuggeranong Community Service Inc ACT Submission 226; Fairfield City Council NSW Submission 296; The Association of Registered Child Care Centres Inc WA Submission 297; WA Family Day Care Association WA Submission 313; Community Child Care Forum (ACT) NSW Submission 315; Belconnen Community Service Inc, ACT Submission 316; Australian Council of Trade Unions VIC Submission 331; Family Day Care Resource Office QLD Submission 368; Queensland Children's Activities Network Inc QLD Submission 369; Central Canberra FDC ACT Submission 382; National Family Day Care Council (Aust) Inc NSW Submission 385; Network of Community Services NSW Submission 388; National Out of School Hours Services Association VIC Submission 390; Association of Subsidised Child Care Centres in Victoria Inc VIC Submission 407; Warringah Council NSW Submission 416; Department for Education & Children's Services SA Submission 430.

322 Black Mountain Child Care Centre ACT Submission 176; Hawkesbury City Council NSW Submission 177; Outside School Hours Care Association TAS Submission 197; Children's Services Office SA Submission 325; QEH Community Child Care Centre SA Submission 314; Edith Cowan Childcare Centres Inc WA Submission 379.

323 D Port TAS Submission 59; Black Mountain Child Care Centre ACT Submission 176; Hawkesbury City Council NSW Submission 177; The Association of Registered Child Care Centres Inc WA Submission 297; WA Family Day Care Association WA Submission 313; Queensland Children's Activities Network Inc QLD Submission 369; National Family Day Care Council (Aust) Inc NSW Submission 385; Network of Community Services NSW Submission 388; National Out of School Hours Services Association VIC Submission 390; Uniting Church Children's Services Forum NSW Submission 410; National Association of Community Based Children's Services (NSW Branch) Submission 412.

324 Townsville City Council QLD Submission 360; Uniting Church Children's Services Forum NSW Submission 410; National Association of Community Based Children's Services (NSW Branch) Submission 412.

325 Black Mountain Child Care Centre ACT Submission 176.

326 E Kable QLD Submission 198; Hobart Family Day Care Scheme TAS Submission 319.

327 Maroochy Shire Council QLD Submission 175; Xavier Out of School Hours Care QLD Submission 235; The Association of Registered Child Care Centres Inc WA Submission 297; Hobart Family Day Care Scheme TAS Submission 319; Shire of Melton Child Care Advisory Committee VIC Submission 329; National Family Day Care Council (Aust) Inc NSW Submission 385; National Out of School Hours Services Association VIC Submission 390; Wollongong & Shellharbour City Council NSW Submission 395; Sutherland Shire Council NSW Submission 405; Uniting Church Children's Services Forum NSW Submission 410; Local Government Association SA Submission 420.

328 E Kable QLD Submission 198; Fairfield City Council NSW Submission 296; Belconnen Community Service Inc, ACT Submission 316; Family Day Care Resource Office QLD Submission 368; Queensland Children's Activities Network Inc QLD Submission 369; Edith Cowan Childcare Centres Inc WA Submission 379; Network of Community Services NSW Submission 388; National Out of School Hours Services Association VIC Submission 390; Uniting Church Children's Services Forum NSW Submission 410; National Association of Community Based Children's Services (NSW Branch) Submission 412; Warringah Council NSW Submission 416.

329 Griffith Childcare Centre Inc NSW Submission 216; Mobile Resource Services Association of New South Wales Inc NSW Submission 243; Creche & Kindergarten Association QLD Submission 404.

330 S Degotardi NSW Submission 210.

331 University of Western Sydney NSW Submission 204; City of Springvale VIC Submission 301; Australian Council of Trade Unions VIC Submission 331; Creche & Kindergarten Association QLD Submission 404; City of Morwell VIC Submission 417; City of Frankston VIC Submission 423.

332 University of Western Sydney NSW Submission 204.

333 Maroochy Shire Council QLD Submission 175; City of Dandenong VIC Submission 303; Australian Council of Trade Unions VIC Submission 331; National Family Day Care Council (Aust) Inc NSW Submission 385; Uniting Church Children's Services Forum NSW Submission 410.

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- 334 Victorian Children's Services Resource & Development Officers Association Inc VIC *Submission 196*; Griffith Childcare Centre Inc NSW *Submission 216*; Mobile Resource Services Association of New South Wales Inc NSW *Submission 243*; National Out of School Hours Services Association VIC *Submission 390*; Local Government Association SA *Submission 420*.
- 335 Hawkesbury City Council NSW *Submission 177*; Inner City Care NSW *Submission 194*; Fairfield City Council NSW *Submission 296*; City of Dandenong VIC *Submission 303*; Australian Council of Trade Unions VIC *Submission 331*; J Selby TAS *Submission 357*; Family Day Care Resource Office QLD *Submission 368*; Edith Cowan Childcare Centres Inc WA *Submission 379*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; National Out of School Hours Services Association VIC *Submission 390*; Creche & Kindergarten Association QLD *Submission 404*; Uniting Church Children's Services Forum NSW *Submission 410*; National Association of Community Based Children's Services (NSW Branch) *Submission 412*; Warringah Council NSW *Submission 416*.
- 336 Association of Registered Child-Care Centres of WA *Submission 89*; Hawkesbury City Council NSW *Submission 177*; Inner City Care NSW *Submission 194*; Playgrounds on Demand (Inc) WA *Submission 202*; Griffith Childcare Centre Inc NSW *Submission 216*; M Hunter SA *Submission 239*; Mobile Resource Services Association of New South Wales Inc NSW *Submission 243*; The Association of Registered Child Care Centres Inc WA *Submission 297*; Occasional Child Care Association of NSW Inc NSW *Submission 302*; QEH Community Child Care Centre SA *Submission 314*; J Selby TAS *Submission 357*; Edith Cowan Childcare Centres Inc WA *Submission 379*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; The Sydney Day Nursery; Nursery Schools Association NSW *Submission 391*; Uniting Church Children's Services Forum NSW *Submission 410*; National Association of Community Based Children's Services (NSW Branch) *Submission 412*; Warringah Council NSW *Submission 416*.
- 337 Xavier Out of School Hours Care QLD *Submission 235*; Ethnic Child Care Resource Unit Inc WA *Submission 304*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.
- 338 National Family Day Care Council (Aust) Inc NSW *Submission 385*.
- 339 Pilgrim Child Care Management Committee TAS *Submission 364*; Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*; Creche & Kindergarten Association QLD *Submission 404*.
- 340 Network of Community Activities NSW *Submission 26*; Occasional Child Care Association of NSW Inc NSW *Submission 302*; Bayside Community & Child Care Centre Inc QLD *Submission 358*; Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*.
- 341 Network of Community Activities NSW *Submission 26*; Family Day Care Resource Office QLD *Submission 368*; Network of Community Services NSW *Submission 388*.
- 342 Victorian Supplementary Children's Service Workers Association VIC *Submission 47*; Inner City Care NSW *Submission 194*; E Kable QLD *Submission 198*; University of Western Sydney NSW *Submission 204*; Playworks Resource Unit for Children with Disabilities in Childcare VIC *Submission 214*; J Selby TAS *Submission 357*; Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*; The Sydney Day Nursery & Nursery Schools Association NSW *Submission 391*; NT Children's Services Resource & Advisory Program NT *Submission 397*; Uniting Church Children's Services Forum NSW *Submission 410*; National Association of Community Based Children's Services (NSW Branch) *Submission 412*.
- 343 Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*.
- 344 Victorian Supplementary Children's Service Workers Association VIC *Submission 47*; Sydney Rescue Work Society NSW *Submission 320*; Shire of Melton Child Care Advisory Committee VIC *Submission 329*; LINKS Support for FDC Schemes VIC *Submission 341*; Queensland Children's Activities Network Inc QLD *Submission 369*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Institute of Early Childhood, Macquarie University NSW *Submission 386*; Network of Community Services NSW *Submission 388*; Sutherland Shire Council NSW *Submission 405*.
- 345 Network of Community Activities NSW *Submission 26*; Victorian Supplementary Children's Service Workers Association VIC *Submission 47*; D Port TAS *Submission 59*; Maroochy Shire Council QLD *Submission 175*; Victorian Children's Services Resource & Development Officers Association Inc VIC *Submission 196*; E Kable QLD *Submission 198*; Playgrounds on Demand (Inc) WA *Submission 202*; Monash University Union, VIC *Submission 218*; Out of School Hours Care Association SA *Submission 233*; Fairfield City Council NSW *Submission 296*; City of Springvale VIC *Submission 301*; City of Dandenong VIC *Submission 303*; Ethnic Child Care Resource Unit Inc WA *Submission 304*; Sydney Rescue Work Society NSW *Submission 320*; Shire of Melton Child Care Advisory Committee VIC *Submission 329*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Victorian Co-operative on Children's Services for Ethnic Groups VIC *Submission 389*; Community Child Care Association of Managements - ACT *Submission 400*; Women's Bureau, DEET ACT *Submission 406*; City of Frankston VIC *Submission 423*.
- 346 J Selby TAS *Submission 357*; Family Day Care Resource Office QLD *Submission 368*; Ethnic Child Care Development Unit NSW *Submission 408*.
- 347 City of Dandenong VIC *Submission 303*; J Selby TAS *Submission 357*; Uniting Church in Australia (Child & Family Care) QLD *Submission 377*; Department for Education & Children's Services SA *Submission 430*.
- 348 Parents for Affordable Child Care SA *Submission 69*; LHMU (SA)/Association of Community Based Children's Services SA *Submission 73*; Community Child Care Association of Managements - ACT *Submission 400*; Warringah Council NSW *Submission 416*; Department for Education & Children's Services SA *Submission 430*.
- 349 City of Northcote VIC *Submission 403*.
- 350 Parents for Affordable Child Care SA *Submission 69*; Department for Education & Children's Services SA *Submission 430*.
- 351 WA Association for Out of School Hours Services WA *Submission 87*; Inner City Care NSW *Submission 194*; Community Child Care Forum (ACT) NSW *Submission 315*; Edith Cowan Childcare Centres Inc WA *Submission 379*; Community Child Care Association of Managements - ACT *Submission 400*; Brunswick Child Care Co-ordinators' Support Group VIC *Submission 428*.
- 352 University of Western Sydney NSW *Submission 204*; Bayside Community & Child Care Centre Inc QLD *Submission 358*; National Association of Community Based Children's Services (NSW Branch) *Submission 409*.
- 353 Life Be In It, School Age Care QLD *Submission 3*; R Elliott QLD *Submission 14*; KU Children's Services NSW *Submission 24*; Kinglake Child Care Centre VIC *Submission 244*; Sydney Rescue Work Society NSW *Submission 320*; Nunawading Family Day Care Service VIC *Submission 355*; National Out of School Hours Services Association VIC *Submission 390*; NT Children's Services Resource & Advisory Program NT *Submission 397*; Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*; Sutherland Shire Council NSW *Submission 405*; Local Government Association SA *Submission 420*; City of Frankston VIC *Submission 423*.
- 354 Life Be In It, School Age Care QLD *Submission 3*; Community Services, Shire of South Gippsland VIC *Submission 41*; Darwin Carers Association NT *Submission 63*; Black Mountain Child Care Centre ACT *Submission 176*; *Children's Services Support Unit WA (Inc) WA Submission 234*; Sydney Rescue Work Society NSW *Submission 320*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; City of Morwell VIC *Submission 417*.
- 355 Outside School Hours Care Association TAS *Submission 197*; Children's Services Support Unit WA (Inc) WA *Submission 234*; Kinglake Child Care Centre VIC *Submission 244*; Country Children's Services Association Inc NSW *Submission 300*; Work & Child Care Advisory Service QLD *Submission 321*; The Council of the Shire of Eurobodalla NSW *Submission 347*; Pilgrim Child Care Management Committee TAS *Submission 364*; Family Day Care Association Inc QLD *Submission 425*.



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356 Central Coast OOSH Forum NSW *Submission 27*; Liquor, Hospitality & Miscellaneous Workers' Union NSW *Submission 28*; Liquor, Hospitality & Tasmanian Association of Children's Services TAS *Submission 52*; Outside School Hours Care Association TAS *Submission 197*; Country Children's Services Association Inc NSW *Submission 300*.

357 Ethnic Child Care & Community Services Cooperative NSW *Submission 31*; Barnardo's Australia NSW *Submission 32*.

358 Fairfield City Council NSW *Submission 296*.

359 Migrant Resource Centre of SA Inc SA *Submission 311*.

360 Carewest WA *Submission 353*; Pilgrim Child Care Management Committee TAS *Submission 364*; Network of Community Services NSW *Submission 388*; City of Northcote VIC *Submission 403*; Association of Subsidised Child Care Centres in Victoria Inc VIC *Submission 407*.

361 Family Research Action Centre Inc VIC *Submission 207*; Children's Services Support Unit WA (Inc) WA *Submission 234*; Country Children's Services Association Inc NSW *Submission 300*; L Beattie ACT *Submission 307*; Australian Council of Trade Unions VIC *Submission 331*; The Council of the Shire of Eurobodalla NSW *Submission 347*; Pilgrim Child Care Management Committee TAS *Submission 364*; Family Day Care Resource Office QLD *Submission 368*; City of Northcote VIC *Submission 403*; City of Frankston VIC *Submission 423*; Family Day Care Association Inc QLD *Submission 425*; Brunswick Child Care Co-ordinators' Support Group VIC *Submission 428*; Department for Education & Children's Services SA *Submission 430*.

362 Australian Council of Trade Unions VIC *Submission 331*; City of Northcote VIC *Submission 403*.

363 Ethnic Child Care Development Unit NSW *Submission 408*.

364 eg Network SA is working with the Department to produce resource materials to support management committees.

365 See para 6.6.

366 reg 9(c)(ii) and reg 14 respectively.

367 Of 57 submissions, 52 agree. See eg C Buck QLD *Submission 6*; Children's Services Support Unit WA *Submission 82*; The Association of Registered Child Care Centres Inc WA *Submission 297*; Country Children's Services Association Inc NSW *Submission 300*; The Association of Child Care Centres of NSW Inc NSW *Submission 422*.

368 Inner City Care NSW *Submission 194*.

369 Anson Road Child Care Centre QLD *Submission 362*; Pilgrim Child Care Management Committee TAS *Submission 364*.

370 Inner City Care NSW *Submission 194*.

371 Victorian Bar Council VIC *Submission 183*; National Children's & Youth Law Centre NSW *Submission 298*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

372 Victorian Bar Council VIC *Submission 183*; Xavier Out of School Hours Care QLD *Submission 235*.

373 *Child Care* (ALRC DP 55) para 3.45.

374 Nunawading Family Day Care Service VIC *Submission 355*.

375 Family Research Action Centre Inc VIC *Submission 207*.

376 Professional Child Carers Association of Tasmania TAS *Submission 223*.

377 Australian Council of Trade Unions VIC *Submission 331*.

378 Network SA *Submission 76*.

379 *Health Care Act 1958* (Vic) s 38 (i).

380 Child Care (Child Care Centres) Regulations 1991 (Qld) reg 9(c)(iii); Child Care (Family Day Care) Regulations 1991 (Qld) reg 4(g); Community Services (Child Care) Regulations 1988 (WA) reg 71(i).

381 Administrative Review Council *Administrative Review and Funding Programs (A case study of community services programs)* Report No 37 August 1994.

382 Standards Australia *Draft Australian Standard on Complaints Handling* 1994, 1.

383 The ARC also reports overwhelming support for having an external body: para 3.118.

384 Australian Council of Trade Unions VIC *Submission 331*.

385 Bayside Community & Child Care Centre Inc QLD *Submission 358*.

386 The Association of Registered Child Care Centres Inc WA *Submission 297*.

387 Pilgrim Child Care Management Committee TAS *Submission 364*.

388 para 3.119.

389 para 3.136-3.139.

390 para 3.155.

391 Established by the *Community Services (Complaints, Appeals, and Monitoring) Act 1993* (NSW).

392 Throughout this report the Commission uses the term 'family day care' to refer to the scheme whereby carers, co-ordinated by a central unit, look after other people's children in the carer's own home. The Commission notes that the terms used to describe carers can vary dramatically between States and even between schemes. They are referred to as 'care givers', 'care workers', 'care providers', 'family day care workers', 'family day carers', 'home based child carers', 'home based childcare workers' or 'family based childcare workers'. For the sake of brevity, clarity and consistency, the Commission uses the generic term 'carer'. In 1993, the National Carers' Forum passed a resolution recommending that the term 'family based childcare workers' be adopted.

393 See para 8.26.

394 D Toms QLD *Submission 13*; R Elliott QLD *Submission 14*.

395 National Family Day Care Council (Aust) Inc NSW *Submission 385*.

396 See eg D Toms QLD *Submission 13*; R Elliott QLD *Submission 14*; City of Northcote VIC *Submission 403*.

397 Careproviders Association of SA *Submission 240*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

398 L Sanders QLD *Submission 17*; Mersey Leven Family Day Care Scheme TAS *Submission 228*; Careproviders Association of SA *Submission 240*; Tasmanian Family Day Care Co-ordinators Association TAS *Submission 351*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

399 M Dorward NSW *Submission 317*; M Burke VIC *Submission 366*.

400 Professional Child Carers Association of Tasmania TAS *Submission 56*; W & K Brown QLD *Submission 206*; Professional Child Carers Association of Tasmania TAS *Submission 223*; M Hunter SA *Submission 239*; M Bryant SA *Submission 318*; Australian Council of Trade Unions VIC *Submission 331*; Confidential NSW *Submission 365*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*.

401 Family Day Care Schemes of WA *Submission 86*; Professional Child Carers Association of Tasmania TAS *Submission 223*; L Morgan NSW *Submission 224*; The Association of West Australian FDC Schemes WA *Submission 241*; Tweed Carers Association NSW *Submission 350*.

402 Professional Child Carers Association of Tasmania TAS *Submission 56*; M Parker SA *Submission 72*; L Morgan NSW *Submission 224*; Australian Council of Trade Unions VIC *Submission 331*.

403 J Oldfield QLD *Submission 184*; Careproviders Association of SA *Submission 240*; M Bryant SA *Submission 318*; Confidential NSW *Submission 365*.

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404 Professional Child Carers Association of Tasmania TAS *Submission 56*; Careproviders Association of SA *Submission 240*; M Dorward NSW *Submission 317*; Australian Council of Trade Unions VIC *Submission 331*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

405 Australian Council of Trade Unions VIC *Submission 331*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*.

406 Family Day Carers Association of NSW *Submission 367*; E Shanahan NSW *Submission 376*; Central Canberra FDC ACT *Submission 382*; Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*.

407 Victorian Day Care Association Inc VIC *Submission 189*; City of Springvale VIC *Submission 301*; Tasmanian Family Day Care Co-ordinators Association TAS *Submission 351*; J Selby TAS *Submission 357*; Confidential QLD *Submission 384*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

408 A Frossinakis SA *Submission 77*.

409 Tasmanian Family Day Care Co-ordinators Association TAS *Submission 351*.

410 Family Day Carers Association of NSW *Submission 367*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

411 Careproviders Association of SA *Submission 240*; Australian Council of Trade Unions VIC *Submission 331*.

412 Australian Council of Trade Unions VIC *Submission 331*.

413 Some carers in Victoria are classified as employees.

414 Tasmanian Family Day Carers Association Incorporated TAS *Submission 54*; Confidential VIC *Submission 338*; K Johns VIC *Submission 399*.

415 See eg Tasmanian Family Day Carers Association Incorporated TAS *Submission 54*; V Lewer NSW *Submission 171*; Community Child Care Forum (ACT) ACT *Submission 315*; M Bryant SA *Submission 318*.

416 Australian Council of Trade Unions VIC *Submission 331*; Family Day Carers Association of NSW *Submission 367*; Central Canberra FDC ACT *Submission 382*; Confidential QLD *Submission 384*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; K Johns VIC *Submission 399*.

417 Professional Child Carers Association of Tasmania TAS *Submission 56*; Careproviders Association of SA *Submission 240*; M Dorward NSW *Submission 317*; Australian Council of Trade Unions VIC *Submission 331*.

418 M Parker SA *Submission 72*; Family Day Care Schemes of WA *Submission 86*.

419 Family Day Carers Association of NSW *Submission 367*; E Shanahan NSW *Submission 376*; Central Canberra FDC ACT *Submission 382*; Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*.

420 W & K Brown QLD *Submission 206*; Professional Child Carers Association of Tasmania TAS *Submission 223*; Confidential NSW *Submission 365*.

421 Minutes from the First National Carers Forum 1993, p 21.

422 J Oldfield QLD *Submission 184*; Professional Child Carers Association of Tasmania TAS *Submission 223*; Careproviders Association of SA *Submission 240*; M Bryant SA *Submission 318*; Confidential NSW *Submission 365*.

423 Community Child Care Forum (ACT) NSW *Submission 315*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; K Johns VIC *Submission 399*.

424 M Bryant SA *Submission 318*; Confidential NSW *Submission 365*; E Shanahan NSW *Submission 376*.

425 W & K Brown QLD *Submission 206*; Australian Council of Trade Unions VIC *Submission 331*; E Shanahan NSW *Submission 376*.

426 Minutes from the First National Carers Forum, p 29.

427 Victorian Day Care Association Inc VIC *Submission 189*; City of Springvale VIC *Submission 301*; Australian Council of Trade Unions VIC *Submission 331*; Tasmanian Family Day Care Co-ordinators Association TAS *Submission 351*; J Selby TAS *Submission 357*; E Shanahan NSW *Submission 376*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*.

428 Minutes from the First National Carers Forum 1993, p 23.

429 See eg D Toms QLD *Submission 13*; Municipal Employees Union TAS *Submission 55*; M Parker SA *Submission 72*; P Putney QLD *Submission 199*; The Association of West Australian FDC Schemes WA *Submission 241*; Fairfield City Council NSW *Submission 296*; City of Dandenong VIC *Submission 303*; Family Day Carers Association of NSW *Submission 367*; Pine Rivers Shire Council QLD *Submission 370*; Central Canberra FDC ACT *Submission 382*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; M Robinson VIC *Submission 393*; Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*.

430 The Association of West Australian FDC Schemes WA *Submission 241*; Family Day Carers Association of NSW *Submission 367*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

431 K Smith NSW *Submission 186*; Family Day Carers Association of NSW *Submission 367*.

432 Central Canberra FDC ACT *Submission 382*.

433 The Association of West Australian FDC Schemes WA *Submission 241*.

434 See eg The Association of West Australian FDC Schemes WA *Submission 241*.

435 National Family Day Care Council (Aust) Inc NSW *Submission 385*.

436 Fairfield City Council NSW *Submission 296*; National Association of Community Based Children's Services (NSW Branch) *Submission 409*.

437 R Cummings VIC *Submission 380*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*.

438 M Miller TAS *Submission 193*; Tweed Shire Family Day Care NSW *Submission 231*.

439 See para 11.5.

440 Draft National Standards for Family Day Care, October 1993, 4.9.1.

441 reg 13.

442 The Association of West Australian FDC Schemes WA *Submission 241*; WA Family Day Care Association WA *Submission 313*; Family Day Care Resource Office QLD *Submission 368*; E Shanahan NSW *Submission 376*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Family Day Care Association Inc QLD *Submission 425*.

443 Family Research Action Centre Inc VIC *Submission 207*; Tuggeranong Community Service Inc ACT *Submission 226*; The Association of West Australian FDC Schemes WA *Submission 241*; WA Family Day Care Association WA *Submission 313*; Hobart Family Day Care Scheme TAS *Submission 319*; E Shanahan NSW *Submission 376*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

444 Hobart Family Day Care Scheme TAS *Submission 319*.

445 Family Research Action Centre Inc VIC *Submission 207*; Mersey Leven Family Day Care Scheme TAS *Submission 228*; The Association of West Australian FDC Schemes WA *Submission 241*; WA Family Day Care Association WA *Submission 313*; Community Child Care Forum (ACT) NSW *Submission 315*; Hobart Family Day Care Scheme TAS *Submission 319*; Australian Council of Trade Unions VIC *Submission 331*; E Shanahan NSW *Submission 376*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*.

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- 446 Tuggeranong Community Service Inc ACT *Submission 226*; City of Springvale VIC *Submission 301*; Hobart Family Day Care Scheme TAS *Submission 319*; Australian Council of Trade Unions VIC *Submission 331*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.
- 447 Tuggeranong Community Service Inc ACT *Submission 226*; The Association of West Australian FDC Schemes WA *Submission 241*; WA Family Day Care Association WA *Submission 313*; Hobart Family Day Care Scheme TAS *Submission 319*; E Shanahan NSW *Submission 376*.
- 448 Mersey Leven Family Day Care Scheme TAS *Submission 228*; Hobart Family Day Care Scheme TAS *Submission 319*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.
- 449 Careproviders Association of SA *Submission 240, 315*; Hobart Family Day Care Scheme TAS *Submission 319*; Tweed Carers Association NSW *Submission 350*; Family Day Care Resource Office QLD *Submission 368*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Community Child Care Forum (ACT) *Submission 315*; City of Frankston VIC *Submission 423*.
- 450 A Frossinakis SA *Submission 77*; M Hunter SA *Submission 239*.
- 451 Mersey Leven Family Day Care Scheme TAS *Submission 228*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.
- 452 Minutes from the First National Carers Forum 1993, p 30.
- 453 Mersey Leven Family Day Care Scheme TAS *Submission 228*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.
- 454 E Shanahan NSW *Submission 376*.
- 455 Tweed Shire Family Day Care NSW *Submission 231*; Fairfield City Council NSW *Submission 296*; Human Services & Health (Burnie) TAS *Submission 335*.
- 456 Australian Council of Trade Unions VIC *Submission 331*.
- 457 Minutes from the First National Carers Forum 1993, 22.
- 458 Community Child Care Association of Managements ACT *Submission 400*; Women's Bureau, DEET ACT *Submission 406*.
- 459 Family Day Care Darwin Region Inc, para 30(e).
- 460 reg 4 (e).
- 461 D Toms QLD *Submission 13*; Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*.
- 462 K Smith NSW *Submission 186*; NSW Family Day Care Association Inc NSW *Submission 242*.
- 463 Institute of Early Childhood, Macquarie University NSW *Submission 386*.
- 464 NSW Family Day Care Association Inc NSW *Submission 242*.
- 465 Tasmanian Family Day Care Co-ordinators Association TAS *Submission 53*; Municipality of Kingborough TAS *Submission 209*; Hobart Family Day Care Scheme TAS *Submission 319*; Metropolitan Municipal Association VIC *Submission 363*; Sutherland Shire Council NSW *Submission 405*.
- 466 Tasmanian Family Day Care Co-ordinators Association TAS *Submission 53*; Municipality of Kingborough TAS *Submission 209*; NSW Family Day Care Association Inc NSW *Submission 242*; Sydney Rescue Work Society NSW *Submission 320*; National Association of Community Based Children's Services (NSW Branch) *Submission 412*; Warringah Council NSW *Submission 416*.
- 467 Coburg City Council VIC *Submission 222*; Municipal Association of Victoria VIC *Submission 237*; City of Broadmeadows VIC *Submission 373*; K Johns VIC *Submission 399*; City of Morwell VIC *Submission 417*.
- 468 Municipal Association of Victoria VIC *Submission 237*; City of Morwell VIC *Submission 417*.
- 469 Blacktown City Council NSW *Submission 25*; Coburg City Council VIC *Submission 222*; Tasmanian Family Day Care Co-ordinators Association TAS *Submission 351*.
- 470 City of Swan Hill VIC *Submission 185*.
- 471 M Miller TAS *Submission 193*.
- 472 M Hunter SA *Submission 239*.
- 473 Caboolture & Districts Child Care Association Inc QLD *Submission 213*; Wavell Heights Family Day Care QLD *Submission 225*; Kath Dickson Centre NSW *Submission 312*; Human Services & Health (Burnie) TAS *Submission 335*; Family Day Care Resource Office QLD *Submission 368*; The New South Wales Bar Association NSW *Submission 421*.
- 474 The Association of West Australian FDC Schemes WA *Submission 241*; Metropolitan Municipal Association VIC *Submission 363*; Sutherland Shire Council NSW *Submission 405*.
- 475 Intercultural Children's Services Association of SA *Submission 79*; Victorian Children's Services Resource & Development Officers Association Inc VIC *Submission 196*; LINKS Support for FDC Schemes VIC *Submission 341*; Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*.
- 476 The Association of West Australian FDC Schemes WA *Submission 241*.
- 477 The Commission was told that some communities tend to rely more on family and community networks to meet their child care needs. The Baptist Union of Western Australia Inc WA *Submission 333*.
- 478 Mersey Leven Family Day Care Scheme TAS *Submission 228*.
- 479 Edith Cowan Childcare Centres Inc WA *Submission 379*.
- 480 Mersey Leven Family Day Care Scheme TAS *Submission 228*; Ethnic Child Care Resource Unit Inc WA *Submission 304*; Community Child Care Forum (ACT) NSW *Submission 315* ; The Baptist Union of Western Australia Inc WA *Submission 333*; LINKS Support for FDC Schemes VIC *Submission 341*; E Shanahan NSW *Submission 376*; Edith Cowan Childcare Centres Inc WA *Submission 379*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.
- 481 Victorian Children's Services Resource & Development Officers Association Inc VIC *Submission 196*, Ethnic Child Care Resource Unit Inc WA *Submission 304*, LINKS Support for FDC Schemes VIC *Submission 341*; E Shanahan NSW *Submission 376*.
- 482 Community Child Care Forum (ACT) NSW *Submission 315*; Edith Cowan Childcare Centres Inc WA *Submission 379*.
- 483 Fairfield City Council NSW *Submission 296*.
- 484 The Baptist Union of Western Australia Inc WA *Submission 333*.
- 485 M Miller TAS *Submission 193*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.
- 486 National Family Day Care Council (Aust) Inc NSW *Submission 385*.
- 487 Department for Education; Children's Services SA *Submission 430*.
- 488 National Family Day Care Council (Aust) Inc NSW *Submission 385*.
- 489 E Kable QLD *Submission 198*; Fairfield City Council NSW *Submission 296*; Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*.
- 490 Department for Education & Children's Services SA *Submission 430*.
- 491 Victorian Children's Services Resource & Development Officers Association Inc VIC *Submission 196*; LINKS Support for FDC Schemes VIC *Submission 341*.
- 492 reg 4 (g).
- 493 A Frossinakis SA *Submission 77*; City of Dandenong VIC *Submission 303*.
- 494 Caboolture & Districts Child Care Association Inc QLD *Submission 213*; Wavell Heights Family Day Care QLD *Submission 225*; Municipal Association of Victoria VIC *Submission 237*; Pine Rivers Shire Council QLD *Submission 370*.

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495 Minutes from the First National Carers Forum 1993, p 13.  
496 The Association of West Australian FDC Schemes WA *Submission 241*; WA Family Day Care Association WA *Submission 313*; G Peterson  
TAS *Submission 343*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.  
497 National Family Day Care Council NSW *Submission 44*; Australian Council of Trade Unions VIC *Submission 331*; National Family Day  
Care Council (Aust) Inc NSW *Submission 385*.  
498 G Peterson TAS *Submission 343*.  
499 Liquor, Hospitality & Miscellaneous Workers' Union NSW *Submission 28*; Tasmanian Family Day Carers Association Incorporated TAS  
*Submission 54*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.  
500 G Peterson TAS *Submission 343*; Nunawading Family Day Care Service VIC *Submission 355* ; Family Day Carers Association of NSW  
*Submission 367*; R Cummings VIC *Submission 380*.  
501 M Miller TAS *Submission 193*, Professional Child Carers Association of Tasmania TAS *Submission 223*; E Shanahan NSW *Submission 376*.  
502 Fairfield City Council NSW *Submission 296*, Community Child Care Association of Managements ACT *Submission 400*; National  
Association of Community Based Children's Services (NSW Branch) *Submission 409*.  
503 Victorian Day Care Association Inc VIC *Submission 189*; Mersey Leven Family Day Care Scheme TAS *Submission 228*; City of Dandenong  
VIC *Submission 303*; Australian Council of Trade Unions VIC *Submission 331*; Family Day Carers Association of NSW *Submission 367*.  
504 Mersey Leven Family Day Care Scheme TAS *Submission 228* ; The Association of West Australian FDC Schemes WA *Submission 241*;  
Fairfield City Council NSW *Submission 296*; City of Broadmeadows VIC *Submission 373*; E Shanahan NSW *Submission 376*; R Cummings  
VIC *Submission 380*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Creche & Kindergarten Association QLD  
*Submission 404*; Women's Bureau, DEET ACT *Submission 406*; Ethnic Child Care Development Unit NSW *Submission 408*; Victorian  
Home Based Caregivers Association (Inc) VIC *Submission 419*.  
505 There are a number of arrangements whereby the Commonwealth can do this: see para 3.5-6.  
506 See eg Tasmanian Association of Children's Services, TAS *Submission 52*; Black Mountain Child Care Centre ACT *Submission 176*;  
Victorian Day Care Association Inc VIC *Submission 189*; 'Life. Be in it' Australia NSW *Submission 205*; City of Melbourne VIC *Submission*  
*217*; Monash University Union, VIC *Submission 218*; Council of Single Mothers & their Children Inc VIC *Submission 219*; M Hunter SA  
*Submission 239*; City of Springvale VIC *Submission 301*; Occasional Child Care Association of NSW Inc NSW *Submission 302*; City of  
Dandenong VIC *Submission 303*; Work & Child Care Advisory Service QLD *Submission 321*; Australian Council of Trade Unions VIC  
*Submission 331*; Child Care Centres Association of Victoria VIC *Submission 332*; The City of Orange NSW *Submission 345*; Nunawading  
Family Day Care Service VIC *Submission 355*; J Selby TAS *Submission 357*; City of Broadmeadows VIC *Submission 373*; National  
Tertiary Education Industry Union VIC *Submission 375*.  
507 See eg Migrant Resource Centre of SA Inc *Submission 311*; Local Government Association of NSW/Shires Association of NSW *Submission*  
*334*.  
508 See eg Life Be In It, School Age Care QLD *Submission 3*.  
509 s 20 (1).  
510 Additional conditions might also be imposed to require a service to meet specifically identified needs or as a sanction. This is discussed  
further in ch 4.  
511 Child Care Centres Association of Victoria VIC *Submission 332*; Child Care Association for FFZ Protection NSW *Submission 441*.  
512 The agreement may also be terminated by the operator if he or she no longer wishes or is not able to comply with the terms of the agreement.  
513 Community Child Care Association of Managements ACT *Submission 400*.  
514 Australian Council of Trade Unions VIC *Submission 331*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.  
515 NSW Family Day Care Association Inc NSW *Submission 242*; Country Children's Services Association Inc NSW *Submission 300*; National  
Family Day Care Council (Aust) Inc NSW *Submission 385*; City of Morwell VIC *Submission 417*.  
516 Australian Council of Trade Unions VIC *Submission 331*; Women's Bureau, DEET ACT *Submission 406*.  
517 E Kable QLD *Submission 198*; Country Children's Services Association Inc NSW *Submission 300*; National Family Day Care Council  
(Aust) Inc NSW *Submission 385*.  
518 *Administrative Decisions (Judicial Review) Act 1977* (Cth).  
519 *Guidelines for Determination of Eligible Child Care Centres (Childcare Assistance)*.  
520 Administrative Review Council *Administrative Review and Funding Programs (A Case Study of Community Services Programs)* AGPS  
Canberra 1994.  
521 Administrative Review Council *Administrative Review of Health Housing and Community Services Programs* Canberra 1993.  
522 Australian Council of Trade Unions VIC *Submission 331*; Family Day Care Resource Office QLD *Submission 368*.  
523 para 5.18.  
524 See eg Local Government Community Services Association Inc, WA *Submission 305*; Australian Council of Trade Unions VIC *Submission*  
*331*; Women's Bureau, DEET ACT *Submission 406*.  
525 Recommendation 29-30.  
526 Centre-Based Child Care Services Regulations 1989 (NSW) regs 17-19; Family Day Care Services Regulations 1989 (NSW) regs 16-21;  
Children's Services Regulations 1988 (Vic) reg 36 (1); *Child Care Act 1991* (Qld) s 26 (1); Child Care (Child Care Centres) Regulation 1991  
(Qld) regs 11 (3)-(5); Child Care (FDC) Regulation 1991 (Qld) reg 7; *Children's Services Act 1985* (SA) s 28; Regulations under the  
Children's Services Act 1985 (SA) reg 27 (1); Community Services (Child Care) Regulations 1988 (WA) regs 69-70; *Child Welfare Act 1960*  
(Tas) s 57(1); *Community Welfare Act 1983* (NT) s 97; Children's Services Regulations 1987 (ACT) regs 6-7.  
527 Centre-Based Child Care Services Regulations 1989 (NSW) reg 19 (1), (2).  
528 Family Day Care Services Regulation 1989 (NSW) reg 21 (1),(2).  
529 Child Care (Child Care Centres) Regulation 1991 (Qld) reg 11 (3), (4), (5).  
530 Child Care (Family Day Care) Regulation 1991 (Qld) reg 7.  
531 *Community Welfare Act 1987* (NT) s 97 (2).  
532 s 172 (1).  
533 Standards for Centre Based Long Day Care, July 1993, Standard 5.3.1.  
534 Draft National Standards for Family Day Care, October 1993, Standard 3.4.1.  
535 Draft National Standards for Outside School Hours Care, January 1994, Standard 5.3.1.  
536 See eg State Consultative Committee for Children's Services SA *Submission 71*; Victorian Children's Services Resource & Development  
Officers Association Inc VIC *Submission 196*; Playworks Resource Unit for Children with Disabilities in Childcare VIC *Submission 214*.  
537 See eg KU Children's Services NSW *Submission 24*; M Hunter SA *Submission 239*.  
538 Children's Services Office SA *Submission 325*.  
539 Victorian Children's Services Resource & Development Officers Association Inc VIC *Submission 196*; Playworks Resource Unit for  
Children with Disabilities in Childcare VIC *Submission 214*.  
540 See eg Professional Child Carers Association of Tasmania TAS *Submission 56*; Family Day Care Resource Office QLD *Submission 368*; E  
Shanahan NSW *Submission 376*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

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541 See eg Community Services, Shire of South Gippsland VIC *Submission 41*; State Consultative Committee for Children's Services SA *Submission 71*; The Council of the Shire of Eurobodalla NSW *Submission 347*.

542 Work & Child Care Advisory Service QLD *Submission 321*; Shire of Melton Child Care Advisory Committee VIC *Submission 329*.

543 M Hunter SA *Submission 239*.

544 KU Children's Services NSW *Submission 24*; M Hunter SA *Submission 239*; The Association of West Australian FDC Schemes WA *Submission 241*.

545 L Doig SA *Submission 71*.

546 See eg Liquor Hospitality & Miscellaneous Workers Union(SA)/Association of Community Based Children's Services SA *Submission 73*; Network SA *Submission 76*; Hobart Community Legal Service TAS *Submission 173*; Manning Child Care Centres Inc. NSW *Submission 180*; Victorian Children's Services Resource & Development Officers Association Inc VIC *Submission 196*; Playworks Resource Unit for Children with Disabilities in Childcare VIC *Submission 214*; Tuggeranong Community Service Inc ACT *Submission 226*; Tweed Shire Family Day Care NSW *Submission 231*; Burdekin Community Association (Inc) QLD *Submission 232*; Country Children's Services Association Inc NSW *Submission 300*; City of Springvale VIC *Submission 301*; Occasional Child Care Association of NSW Inc NSW *Submission 302*; City of Dandenong VIC *Submission 303*; Ethnic Child Care Resource Unit Inc WA *Submission 304*; Belconnen Community Service Inc, ACT *Submission 316*; Sydney Rescue Work Society NSW *Submission 320*; Human Rights & Equal Opportunity Commission NSW *Submission 322*; Australian Council of Trade Unions VIC *Submission 331*; The Council of the Shire of Eurobodalla NSW *Submission 347*; Work & Childcare Advisory Service NSW *Submission 349*; Central Canberra FDC ACT *Submission 382*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

547 Country Children's Services Association Inc NSW *Submission 300*; Human Rights & Equal Opportunity Commission NSW *Submission 322*; Children's Services Office SA *Submission 325*; Pilgrim Child Care Management Committee TAS *Submission 364*; Central Canberra FDC ACT *Submission 382*.

548 City of Melbourne VIC *Submission 217*; Human Rights & Equal Opportunity Commission NSW *Submission 332*; Institute of Early Childhood Educators Inc. SA *Submission 327*; Sutherland Shire Council NSW *Submission 405*.

549 Child Care Centres Association of Victoria VIC *Submission 332*.

550 Life Be In It, School Age Care QLD *Submission 3*; Association of Outside School Hours Care VIC *Submission 42*.

551 Institute of Early Childhood Educators Inc. SA *Submission 327*.

552 Black Mountain Child Care Centre ACT *Submission 176*.

553 Human Rights & Equal Opportunity Commission NSW *Submission 322*; Children's Services Office SA *Submission 325*; Work & Childcare Advisory Service NSW *Submission 349*.

554 Human Rights & Equal Opportunity Commission NSW *Submission 322*.

555 See eg Family Research Action Centre Inc VIC *Submission 207*; Country Children's Services Association Inc NSW *Submission 300*; City of Dandenong VIC *Submission 303*; Human Rights & Equal Opportunity Commission NSW *Submission 332*; The Council of the Shire of Eurobodalla NSW *Submission 347*; Sutherland Shire Council NSW *Submission 405*.

556 *Privacy Act 1988* (Cth) s 52. These declarations are binding on the agency concerned.

557 *Crimes Act 1914* (Cth) s 70, 79.

558 *Public Service Act 1922* (Cth) s 61, 62; Public Service Regulations regs 8A, 35.

559 Other Departmental portfolio legislation does: see eg *National Health Act 1953* (Cth) s 135A.

560 Human Rights & Equal Opportunity Commission NSW *Submission 322*.

561 Human Rights & Equal Opportunity Commission NSW *Submission 322*.

562 Hobart Community Legal Service, TAS *Submission 173*; E Kable QLD *Submission 198*; 'Life. Be in it' Australia NSW *Submission 205*; Family Research Action Centre Inc VIC *Submission 207*; Xavier Out of School Hours Care QLD *Submission 235*; Fairfield City Council NSW *Submission 296*; National Children's & Youth Law Centre NSW *Submission 298*; Country Children's Services Association Inc NSW *Submission 300*; City of Springvale VIC *Submission 301*; East Brisbane Community Centre Inc (FDC) QLD *Submission 306*; Community Child Care Forum (ACT) NSW *Submission 315*; Human Rights & Equal Opportunity Commission NSW *Submission 322*; Australian Council of Trade Unions VIC *Submission 331*; The Baptist Union of Western Australia Inc WA *Submission 333*; J Selby TAS *Submission 357*; Family Day Care Resource Office QLD *Submission 368*; City of Broadmeadows VIC *Submission 373*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.

563 Hobart Community Legal Service, TAS *Submission 173*; E Kable QLD *Submission 198*; National Children's & Youth Law Centre NSW *Submission 298*; Wollongong & Shellharbour City Council NSW *Submission 395*; Office of Women's Affairs, Victoria Women's Council VIC *Submission 433*.

564 Human Rights & Equal Opportunity Commission NSW *Submission 322*.

565 See eg Liquor Hospitality & Miscellaneous Workers Union(SA)/Association of Community Based Children's Services SA *Submission 73*.

566 See eg Network SA *Submission 76*; Hobart Community Legal Service TAS *Submission 173*; Victorian Day Care Association Inc VIC *Submission 189*; The Association of Registered Child Care Centres Inc WA *Submission 297*; City of Springvale VIC *Submission 301*; City of Dandenong VIC *Submission 303*; East Brisbane Community Centre Inc (FDC) QLD *Submission 306*; Australian Council of Trade Unions VIC *Submission 331*; Nunawading Family Day Care Service VIC *Submission 355*; J Selby TAS *Submission 357*.

567 Hobart Community Legal Service, TAS *Submission 173*; Human Rights & Equal Opportunity Commission NSW *Submission 322*; Child Care Centres Association of Victoria VIC *Submission 332*.

568 All carers are regulated in Qld, NSW & WA. In SA they are regulated because they come within the definition of a 'children's service'. In the ACT & NT they are regulated if they care for more than 4 children under the age of 6; in Victoria if they care for more than 5 children. In Tasmania any carer who provides care outside the child's home must be licensed.

569 See eg *Child Care Act 1991* (Qld); Centre Based Child Care Services Regulation 1989 (NSW).

570 See eg *Health Act 1959* (Vic); *Children's Services Act 1986* (ACT).

571 reg 8.1.

572 regs 9-10.

573 Agreements with services receiving CA only do not contain this provision.

574 The NCAC is an incorporated association.

575 See eg Victorian Day Care Association Inc VIC *Submission 189*; Inner City Care NSW *Submission 194*; Victorian Children's Services Resource & Development Officers Association Inc VIC *Submission 196*; 'Life. Be in it' Australia NSW *Submission 205*; Playworks Resource Unit for Children with Disabilities in Childcare VIC *Submission 214*; Griffith Childcare Centre Inc NSW *Submission 216*; City of Melbourne VIC *Submission 217*; Australian Early Childhood Association QLD *Submission 221*; Out of School Hours Care Association SA *Submission 233*; Children's Services Support Unit WA (Inc) WA *Submission 234*; Municipal Association of Victoria VIC *Submission 237*; The Association of West Australian FDC Schemes WA *Submission 241*; NSW Family Day Care Association Inc NSW *Submission 242*; Mobile Resource Services Association of New South Wales Inc NSW *Submission 243*; National Children's & Youth Law Centre NSW *Submission 298*; Occasional Child Care Association of NSW Inc NSW *Submission 302*; City of Dandenong VIC *Submission 303*; Ethnic Child Care Resource Unit Inc WA *Submission 304*; Kath Dickson Centre NSW *Submission 312*; Belconnen Community Service Inc ACT

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- Submission 316*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 330*; Australian Council of Trade Unions VIC *Submission 331*; LINKS Support for FDC Schemes VIC *Submission 341*; Work & Childcare Advisory Service NSW *Submission 349*; ; Family Day Care Resource Office QLD *Submission 368*; City of Broadmeadows VIC *Submission 373*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Institute of Early Childhood, Macquarie University NSW *Submission 386*; Network of Community Services NSW *Submission 388*; National Out of School Hours Services Association VIC *Submission 390*; NT Children's Services Resource & Advisory Program NT *Submission 397*; Community Child Care Association of Managements - ACT *Submission 400*; Sutherland Shire Council NSW *Submission 405*; Women's Bureau, DEET ACT *Submission 406*; Association of Subsidised Child Care Centres in Victoria Inc VIC *Submission 407*; Ethnic Child Care Development Unit NSW *Submission 408*; Uniting Church Children's Services Forum NSW *Submission 410*; City of Morwell VIC *Submission 417*.
- 576 eg Community Child Care VIC *Submission 38*.
- 577 Community Child Care VIC *Submission 38*; City of Dandenong VIC *Submission 303*; NT Children's Services Resource & Advisory Program NT *Submission 397*; Brunswick Child Care Co-ordinators' Support Group VIC *Submission 428*.
- 578 See eg C Buck QLD *Submission 6*; National Family Day Care Council NSW *Submission 44*; Inner City Care NSW *Submission 194*; Playworks Resource Unit for Children with Disabilities in Childcare VIC *Submission 214*; Griffith Childcare Centre Inc NSW *Submission 216*; Australian Early Childhood Association QLD *Submission 221*; Out of School Hours Care Association SA *Submission 233*; City of Dandenong VIC *Submission 303*; City of Ballarat VIC *Submission 359*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Network of Community Services NSW *Submission 388*; The Sydney Day Nursery & Nursery Schools Association NSW *Submission 391*; City of Northcote VIC *Submission 403*; Uniting Church Children's Services Forum NSW *Submission 410*; National Association of Community Based Children's Services (NSW Branch) *Submission 412*; City of Morwell VIC *Submission 417*; Brunswick Child Care Co-ordinators' Support Group VIC *Submission 428*; Office of Women's Affairs, Victoria Women's Council VIC *Submission 433*.
- 579 See eg Community Child Care VIC *Submission 38*; National Family Day Care Council NSW *Submission 44*; Hobart Community Legal Service TAS *Submission 173*; Caboolture & Districts Child Care Association Inc QLD *Submission 213*; Wavell Heights Family Day Care QLD *Submission 225*; Tweed Shire Family Day Care NSW *Submission 231*; Kath Dickson Centre NSW *Submission 312*; Western Districts Family Day Care QLD *Submission 323*; Nunawading Family Day Care Service VIC *Submission 355*; Bayside Community & Child Care Centre Inc QLD *Submission 358*; Family Day Care Resource Office QLD *Submission 368*; National Family Day Care Council (Aust) Inc NSW *Submission 385*.
- 580 Community Child Care VIC *Submission 38*; Occasional Child Care Association of NSW Inc NSW *Submission 302*.
- 581 See eg Community Child Care VIC *Submission 38*; Victorian Day Care Association Inc VIC *Submission 189*; M Hunter SA *Submission 239*; City of Springvale VIC *Submission 301*; City of Dandenong VIC *Submission 303*; Kath Dickson Centre NSW *Submission 312*; Sydney Rescue Work Society NSW *Submission 320*; Children's Services Office SA *Submission 325*; Australian Council of Trade Unions VIC *Submission 331*; Family Day Care Resource Office QLD *Submission 368*; City of Broadmeadows VIC *Submission 373*; Uniting Church in Australia (Child & Family Care) QLD *Submission 377*; National Family Day Care Council (Aust) Inc NSW *Submission 385*; Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*; Victorian Home Based Caregivers Association (Inc) VIC *Submission 419*; Family Day Care Association Inc QLD *Submission 425*; Minister for Community Development: The Family WA *Submission 426*; Council of Social Welfare Ministers NSW *Submission 431*.
- 582 Quality Independent Child Care Association QLD *Submission 11*; NSW Childcare Association NSW *Submission 23*; Australian Confederation of Child Care Centres VIC *Submission 37*; Association of Child Care Centres of South Australia SA *Submission 70*; Child Care Centres Association of Victoria VIC *Submission 332*; R E & L A Brown SA *Submission 344*; The Association of Child Care Centres of NSW Inc NSW *Submission 422*.
- 583 Sydney Rescue Work Society NSW *Submission 320*.
- 584 Municipal Association of Victoria VIC *Submission 237*; M Hunter SA *Submission 239*; Uniting Church in Australia (Child & Family Care) QLD *Submission 377*; Queensland Professional Childcare Centres Association Inc QLD *Submission 401*; Department of Family Services & Aboriginal & Islander Affairs QLD *Submission 402*; Minister for Community Development & the Family WA *Submission 426*; Department for Education & Children's Services SA *Submission 430*; Council of Social Welfare Ministers NSW *Submission 431*.
- 585 See eg South Australian Aboriginal Child Care Agency SA *Submission 75*.
- 586 Meeting of representatives of Aboriginal and Torres Strait Islander child care workers, Sydney, 26- 27 May 1994.
- 587 See eg Multicultural Child Care Unit SA *Submission 179*.
- 588 Victorian Supplementary Children's Service Workers Association VIC *Submission 47*; Victorian Children's Services Resource & Development Officers Association Inc VIC *Submission 196*; LINKS Support for FDC Schemes VIC *Submission 341*.