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**Australian Childcare Alliance**  
Representing the future of Australia's children

**Submission to House of Representatives  
House Standing Committee on Education and  
Employment Inquiry  
into  
THE EARLY YEARS QUALITY FUND  
SPECIAL ACCOUNT BILL 2013**

**Prepared by ACA National Policy Office June 2013**



**Address:** Suite 6, 539 Highett Road, Highett, VIC, 3190  
**T:** (03) 9532 2017  
**Fax:** (03) 9532 3336

**Contact Person:** President: Gwynn Bridge (QLD)

**State Membership:** Victoria  
New South Wales  
Queensland (Australian Capital Territory)  
South Australia (Tasmania and Northern Territory)  
Western Australia



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## 1. INTRODUCTION

The Australian Childcare Alliance (ACA) is the National Peak Body representing the Long Day Education and Care Sector throughout Australia with offices in Victoria, New South Wales, Queensland, South Australia, Tasmania, Western Australia and the Northern Territory.

ACA compliments the Australian Government on its commitment to the provision of strong support and financial assistance to education and care of children in their early years. Research has proven that support for this important cohort of young Australians will reap enormous rewards - economic, familial and social for our country - now and long into the future.

This significant benefit is realised through sustained participation of women in the workforce and in producing confident, nurtured, educated and happy children able to participate in high quality care and early learning programs.

High quality early learning services underpin the workforce. ACA supports the Government's motives to continue to encourage the sector to provide superior care and early learning reforms and to encourage workforce participation within the early education and care sector.

ACA recognises that it is vital to encourage the growth of the current workforce to participate in choosing a career in education and care for children in their early years, particularly in the Long Day Care, Family Day Care and Outside School Hours Care sectors.

ACA acknowledges that there is a shortage of qualified educators particularly in view of the National Quality Framework (NQF) requirements for the 1 January 2014 implementation of an Early Childhood Teacher in every service and for 50 per cent of educators to have at least an approved diploma level education qualification. However, we do not agree that the proposal put forward in the Early Years Quality Fund Special Account Bill 2013 will assist to enhance professionalism in the sector nor will it improve attraction and retention of a skilled and professional workforce.



We ask that the House Standing Committee on Education and Employment considers our submission in view of the fact that more than 60 per cent of educators in the long day care education and care sector alone will not be beneficiaries of any of the grant monies to be distributed through this fund.

ACA has not been included in any discussions with the Australian Government in relation to the Early Years Quality Fund Grant.

Our submission is informed by the input of our members, educators throughout the sector, both union and non-union members, families of children attending services and the general population.

We thank all of the participants who sent us their views and stories on how this will affect them and on the disenchantment they feel with the Australian Government over the decision to create a pay inequity within a sector already under stress from legislative changes recently initiated by the Australian Government.



## 2. RESPONSE TO TERMS OF REFERENCE

In this submission we respond to:

3 Object

6 Credits to the Early Years Quality Fund Special Account

7 Purpose of the Early Years Quality Fund Special Account

### **History and outcomes of this decision from a sector perspective**

For the past two years, the United Voice Union has been campaigning for an increase in wages for all staff in the Early Childhood Education and Care (ECEC) sector to be paid fully by the Australian Government. This was a substantial increase to staff and a substantial cost to government of \$1.3 billion for the first year, escalating to around \$15 billion by the ninth year.

ACA met with both Minister Garrett and Minister Ellis on several occasions and with the office of The Hon. Bill Shorten MP and discussed this claim at length. We were advised that the Government had no funds to support the claim and there was considerable agreeable discussion that it was not the Government's position to pay wages and that the Fair Work Commission was the correct body to deal with a claim for wage increases.

ACA has not supported the United Voice claim as we felt it was causing dissension amongst the staff in the ECEC sector at a time when we were experiencing enormous changes due to the implementation of the Government's National Quality Framework, and based on the information we had gleaned from our discussions with the Members of Parliament that there were no funds available. The National ECEC Regulations 2011 require services to increase qualified staff including employment of an additional University trained Early Childhood Teacher by 1 January 2014.

During the past two years there has been considerable union activity at the services Australia wide increasing substantially since the announcement of the EYQF grant by the Prime



Minister. Many of our members have reported that this union activity has been intimidating to both themselves and their staff.

Our members around Australia have been advising us of the strong arm tactics of the United Voice Union organisers who have been telling members that they must have 60 per cent plus membership to engage with them to submit the Enterprise Agreement (See Appendix A for *Attached Statutory Declaration 17 May 2013*).

ACA is also concerned as to how United Voice has accessed personal information on approved providers and educators. We understand that information can be gathered under the National Law through ACECQA but home addresses should not be made available. The ACA President has had a photo of her home posted by a union organiser on the Big Steps Facebook page with disparaging comments and also on the same organiser's personal Facebook page *and* her personal email address advertised to the general union membership urging them to send her emails (see Appendix B for screenshots).

*ACA does not believe that personal attacks are appropriate and that actions such as this detract from the factual issues under debate.*

### **Clause 7 – Purposes of the Early Years Quality Fund Special Account**

*This clause sets out the purposes of the Fund. The purposes of the Fund is to provide funding to approved centre based long day care services which is to be used to pay remuneration to, or for other employment-related costs and expenses in relation to employees of those services. Additionally, or alternatively, the Fund can be used for providing professional development activities to employees which relate to their employment in the early childhood education and care sector.*

Requirements under the Early Years Quality Fund are:

*Funding will be approved through an application and assessment process using a defined set of eligibility criteria, including:*

- *a demonstrated commitment at the service to quality outcomes for children under the*



*National Quality Framework (NQF), including a detailed plan to meet NQF qualification requirements*

- *an agreement to utilise grant funds exclusively for wage increases, including detailed acquittal of funds*
- *a commitment to affordability for families through fee restraint limited to actual operating cost increases (and no increases as a result of wages arising from the operation of the Fund)*

*Funding will be conditional on wage increases being included in an enterprise bargaining agreement*

ACA does not have an issue with the eligibility criteria and despite statements made by other bodies to the contrary, ACA and its members support the NQF. Our members are conscientiously, albeit struggling with the red tape and enormity of change, striving to gain high quality results in the assessments as they are proud of their work and have a genuine passion for the children in their care.

All long day care services that are eligible to provide Child Care Benefit and Child Care Rebate to families already have a signed contract with the Australian Government which involves the allocation of billions of dollars each year. We then ask why is it necessary for a service to enter into an Enterprise Agreement when these contracts are obviously working satisfactorily between the service and the Government. There appears to be only one conclusion that can be drawn and that is to boost the union membership.

When the Prime Minister announced the \$300m grant fund, she stated that the grant would apply to “up to 40 per cent of the sector” on a “first in first served basis”. The grant would only apply to the long day care sector.

We understand that there are around 67,000 educators in the long day care sector. We now know that the amount of grant funding for the first year is \$135 m. Averaging the hourly rate at \$3 per hour and averaging the number of employees in a centre at 12 would make the average payment per service \$71,136 per annum resulting in a payment to 1,800 services Australia wide or 21,600 employees – around one third of the total long day care workforce.





This number will reduce as it is stated that incremental payments for higher qualifications and *on costs* and professional development for those who are approved for the funding will also be met by the grant funding. Calculations released by Senator Hanson Young reveal that it is more likely that only 27 per cent of the educators will receive the funding.

Not only do the educators who are considered eligible receive up to \$10,000+ additional grant money per annum, they can also receive fully paid professional development. In doing this the Government is rewarding some educators not on the quality of their provision of care but simply because all of the boxes were ticked including the Enterprise Agreement.

Educators with higher qualification and skills will be discriminated against.

This announcement has already caused outrage and division amongst educators in the early education and care sector. Educators are understandably angry as their colleagues in the long day care centre across the road may receive the grant whilst they receive nothing.

This funding will have a debilitating effect in regional areas. Long day care services (apart from inner city areas and a few demographic areas) are struggling with underutilisation at the present time due to economic pressures on families and the fact that the Child Care Benefit has devalued by 20 per cent over the past ten years. The Government has now extended the indexation freeze on Child Care Rebate for a further three years. The centre that doesn't receive the grant funding would need to increase fees to families of \$10+ per child per day to pay their educators the same pay rate. This will have a devastating effect on families and the economy. We question at this point, whether Government's competitive neutrality requirements are compromised.

We already know from the Productivity Commission Report 2011 that families begin to cut work hours or leave the workforce if fees rise even by a small percentage. The Government has refused to accept the report by the Productivity Commission that fees under the NQF will rise and that working mothers will leave the workforce. ACA has voiced this for several years and it has now come to fruition. The Government has chosen to ignore our pleas for common sense to prevail in this circumstance and again families will suffer. Even more harmful to the



sector is the threat that we will lose exceptional educators as the Government draws a line in the sand and rewards one small group of their colleagues in order to appease the union. These educators will leave because of disillusionment with government as the Government is not respecting all persons. Respect for all persons is how we expect children in our care to respond to each other yet when dealing with our educators, the Government feels that it is reasonable to treat the majority inequitably.

The Grant funding is unfair, inequitable and discriminatory. It has proven to be a huge boost to the United Voice Union as they openly state that their membership has grown from 10 per cent to 28 per cent in the two months since the announcement of the Fund. With an annual fee paid by educators of \$572 per annum, this is a huge increase in the United Voice's annual income. ACA is hearing from educators who had joined the union and feel very let down that this grant was accepted by the union as a win or as a "small step".

**Hansard Thursday 30<sup>th</sup> May 2013. EYQF Special Account Bill 2013 Second Reading Speech – Speaker Peter Garrett, MP.**

Minister Garrett states: (and from the Explanatory Memorandum)

*The Early Years Quality Fund will support the implementation of the NQF by assisting providers to offer educators higher wages consistent with changes in staff to child ratios and the increased qualification requirements of the NQF.*

This statement is misleading as it implies that all will receive the increase and does not indicate that it will be to **a minority** of providers to offer some educators higher wages consistent with changes in staff to child ratios and the increased qualification requirements of the NQF.

This appears to acknowledge that the NQF will increase costs of service provision and the rest of the sector will need to increase their fees for families to pay. This is an evidence of inequality for families.



## **Early Years Quality Fund**

*In bringing this bill here today, the government continues this record of achievement in early childhood through securing a professional workforce that will ensure higher quality education and care for Australian children.*

*To complement the vital work that this government has done to improve accessibility, affordability and quality of early childhood education and care, this bill establishes a \$300 million Early Years Quality Fund to support quality outcomes for children by assisting the early childhood services to attract and retain qualified hardworking professionals in the sector and reduce the numbers of educators leaving the sector overall.*

*The fund, which will operate for two years, will enable grants to be paid services to supplement wage increases of all educators and staff assisting in the provision of quality early childhood education and care.*

*The fund will ensure higher wages **across all classification scales**, providing an incentive for educators to further their careers by attaining higher qualifications.*

*This bill will be the difference between some of the best and brightest in the sector staying in their vitally important profession or leaving for higher wages in sectors such as retail or administration.*

The above statements from Minister Garrett do not indicate that it will only benefit a minority of educators. It also does not say it will be paid to a minority of services. The impression given is that it will be to ALL. It does not say that some of the best and brightest in the sector are staying in their vitally important profession and they are angry and disillusioned in a government that is rewarding some of their colleagues and turning their backs on them.

*The Early Years Quality Fund will assist with maintaining the affordability of early childhood education, along with the government's substantial financial assistance to families through childcare benefit and childcare rebate, while ensuring the high quality of education and care for children.*



Minister Garrett again links the Early Years Quality Fund with ALL children and ALL families. Most children in their vitally important early years will receive no benefit from the EYQF. If services are forced to increase their fees by \$10+ per day to compete with the few centres who will receive the funding, many of these children in their vitally important early years will be withdrawn from a quality program. Their families will reduce working hours or withdraw from the workforce entirely. The most worrying part is that children could be placed in unsafe and informal care.

In ACA's annual "What Parents Want" Survey conducted in April 2013, parents' responses were:

**In regards to the Early Years Quality Fund introduced by the Federal Government:**

- 82% (1,170) were unaware of the grant
- 77% (1,093) do not think that the grant is fair and equitable
- 85% (1,206) are *unsupportive or unsure* of any increase in childcare fees to cover the wages if the educators in their service are not approved to receive the funding

**Parents responded that if they found that they could not afford any increased cost in childcare fees as a result of government reforms, they would:**

Reduce the hours their child attend early learning centres	76% (906)
Withdraw their child altogether from the centre	63% (687)
Seek out alternative arrangements from within the family	72% (836)
Reduce other essential household expenditure	75% (844)
Delay having more children	61% (612)



Leave the paid workforce entirely	60% (673)
Place their child in unregulated care	26% (248)

*All long day care centres approved for childcare benefit can apply for the funding. Eligible services must demonstrate a commitment to improve quality outcomes for children, including workforce plans to attract and retain qualified staff.*

We understand that ALL long day care centres approved for childcare benefit can apply for the funding and that all eligible services must demonstrate a commitment to improve quality outcomes for children including workforce plans to attract and retain qualified staff.

Minister Garrett does allude to the fact that only a minority of services that apply will receive the funding. There is no mention that the funding will be granted on a “first in first served basis” as stated by the Prime Minister.

DEEWR stated when questioned in the Senate (5 June 2013) on the method of allocation that it could be a “first in first served” basis or it could be “against particular guidelines”. It is glaringly clear that there is still much to consider. DEEWR also stated that the Advisory Board of EYQF will “provide advice on criteria and if they want, can give advice on anything” when questioned on union membership being a pre requisite.

*But the government knows that this fund is the first step in the increased professional recognition of early childhood education and care workers. That is why the government also announced the establishment of the Pay Equity Unit in the Fair Work Commission. The Pay Equity Unit will undertake research and data collection to inform matters related to pay equity under the Fair Work Act, modern award reviews and annual minimum wage decisions.*

The Government is using taxpayer funds to create an inequity in pay throughout the education and care sector and *then* establishing a Pay Equity Unit to collect data to determine if there is inequity in pay throughout the sector. If this does occur, the full cost of the wage



increase will be handed on to families as after two years the funding stops, *thus negating* the Government's claim that "The Early Years Quality Fund will assist with maintaining the affordability of early childhood education".

In a letter from Peter Garrett AM MP, Minister for School Education, Early Childhood & Youth in a letter dated 1 May 2013 to Ms Gwynn Bridge, ACA President, he stated the following:

*"Importantly, the Government recognises that the Fund will not meet the needs of the entire sector and more needs to be done to ensure the long term sustainability of the early childhood workforce. To that end we are also establishing the Pay Equity Unit in the Fair Work Commission. The Pay Equity Unit will research pay equity matters across the spectrum of low paid sectors with a particular focus on early childhood as the first sector to be investigated. Research and evidence gathered by the Unit will then be provided to the relevant Fair Work Commissioners to assist with decisions around pay equity in low paid sectors."*

The private long day care sector contributes substantially to our economy through the payment of taxes and in providing the infrastructure for Australia to meet the demand for families with young children to return to the workforce and place their children in a quality education and care setting. It appears to our members that whilst we continue to meet the hurdles that are constantly raised in the ECEC sector, the Government fails to reward or acknowledge the dedication and effort of the private approved providers and educators. We say this as our members are reporting that they are being told by union organisers that only those services with above 60 per cent union membership and have a union Enterprise Agreement will receive the funding.

*The Early Years Quality Fund will give a much needed wage increase to our professional, hardworking qualified early childhood educators, ensuring that they not only feel valued but that their value to the Australian community is reflected in their pay cheques.*





ACA is saddened that Minister Garrett's speech in the above paragraph deliberately omits the truth i.e. a *minority of professional, hardworking educators*. We feel for our educators as they read this and understand that it is more than likely not them that the Minister is referring to. They do not feel valued by the Government and the Australian community have not had the exactitudes of this Bill spelled out to them in a factual manner.

From reading this speech, one does not get the impression that it is a divisive instrument without understanding fully the underlying concepts; instead it infers that the Government is providing this wonderful benefit to all educators and that the families will not have to delve into their own pay checks as a result of this.

*The fund continues the government's commitment to economic growth and jobs, supporting parents to remain in the workforce, increasing skills across the workforce and building a productive future for our children.*

Yet again in the very last sentence of Minister Garrett's speech, the facts are omitted. Families are now disillusioned as they realise that their child's educator will not receive the funding, the Government is not valuing all educators, the Government is not increasing skills across the whole workforce and the Government is not building a productive future for *all* of our children through the disbursement of this fund.

### **The Right to work (Explanatory Memorandum)**

*The Fund is to be used to increase the remuneration of eligible employees, including these employees' ongoing-costs, thereby promoting just and favourable conditions of work, including fair wages. It will also be used to attract and retain a skilled and professional workforce by providing professional development activities to employees in connection with their employment and by supporting employees to further their careers by attaining higher qualifications and attracting greater levels of pay linked to their qualifications.*

*The measures contained in the Bill promote the right to work by providing opportunities for increased remuneration and support for professional development for eligible employees of approved long day care services.*



This shows absolute disregard for more than 60 per cent of dedicated educators that the Government chose to ignore through the allocation of the \$300m in this fund.

DEEWR stated to the Senate Committee (5 June 2013) that it really wasn't an issue that some educators would receive higher pay through the Government funding as already there were different pay rates throughout the sector with some services paying more than others and that some of the lower paid staff might be brought up to the wages of the already highly paid staff.

In an ideal world that could happen, but it appears that this world is less than ideal and it may very well be that those already receiving above award payments (Community Sector who pay no taxes and receive funding grants) may again be the recipients of the additional pay increases and if not pay increases, benefits such as paid professional development. It is sad, personally knowing thousands of educators Australia wide, how this is affecting them.

Our position is that if the Government wishes to make a grant to show educators that they are valued and worthy of reward, \$1 per hour should be given to each and every educator and not just to a chosen few who happen to have their union Enterprise Agreements ready to lodge to be amongst the first to get the small jar of funding.

Should the Government feel strongly against rewarding all educators in this manner, we ask that this legislation be held over until such time as discussions with a wide range of approved providers and educators are given the opportunity to have their voices heard.

ACA believes that this matter should not be debated or rushed through Parliament until the full criteria of the guidelines for the allocation of funds and the administration of the EYQF are established and available for debate.

It is evident that the money is intended for those services with high union membership. The makeup of the board of the Early Years Quality Fund in most instances represents a group with self-interest. DEEWR stated (5 June 2013) that the private sector was represented by





two large providers. ACA suggests that both of these providers could be classified as self interest groups and ACA asks who will be there to determine the outcomes for the small providers, whether they be inner city, rural, particularly remote and regional? ACA believes that any group represented on the board should not be applying for the grant for their own services.

### **Human Rights implications (Explanatory memorandum)**

*The Bill promotes the right to work which includes the right to the enjoyment of just and favourable conditions. The right to work and the rights in work are contained in Articles 6 and 7 of ICESCR*

*Article 7 sets out the obligations to recognise the right of everyone to the enjoyment of just and favourable conditions of work – including fair wages and a decent living for workers*

ACA fails to understand how the Bill in its current form meets “the enjoyment of just and favourable conditions” for ALL educators in equal positions, with equal qualifications in this sector. It is even more difficult to comprehend that it is the Government who is not recognising the “right of everyone in the same circumstances” by creating this pay inequity. Educators who will not receive any funding may in many instances provide a higher level of education and care than those who do.

### **Rights of the child**

*Article 18(3) of the CRC also provides for all appropriate measures to be taken to ensure that children of working parents have the right to benefit from child care. To the extent this right is engaged, the measures in the Bill promote the right as the children of working parents will benefit from having access to increased quality of care.*

Again the reading of this infers that all children of working parents will benefit from this Fund when in fact only a small percentage of children of working families will be in services where educators will receive the grant funding. Where is the evidence that determines that by paying an additional \$3 - \$6 per hour educators will provide superior education and care? As



stated before, educators who will not receive any funding may in many instances provide a higher level of education and care.

DEEWR comments (5 June 2013) indicate absolute confusion in the Department that is writing the criteria for the establishment of the Fund.

The following are comments from DEEWR with respect to the \$3 per hour increase:

1. Funding targeting Certificate III and above to raise professionalism in the sector and make the sector more attractive
2. \$3.00 Certificate III and proportional increase to retain relativity between the scales for qualifications above Certificate III
3. It will be paid to unqualified staff working towards Certificate III
4. All workers covered by the award across the scale will receive a pay increase – workers below 3.1 or Certificate III
5. Increase professionalism - aim is towards particularly bolstering the qualified staff

Our concern is that as so many educators are angry about this inequality at a time when the sector must engage more educators to meet the 2014 regulations, these disenfranchised educators may leave the sector.

### **Right to Education**

*Article 13 of the ICESR provides for the recognition of the right of everyone to education. To the extent that measures in the Bill engage the right to education, the right is promoted. The incentive for child care workers to obtain higher qualification will likely have a positive effect not only on the quality of care children receive, but also on the educational outcomes of the children in care. Furthermore, it is intended that in some circumstances, funding will be used to assist employees by providing professional development activities, thereby improving certain eligible employee's own access to education opportunities.*

*To the extent the right to education is engaged, it is positively engaged and promoted as there will be positive educational outcomes and improved access to education, for both employees working in early childhood education and care services and the children in those services.*



The Early Years Quality Fund 2013 distribution does not support the “right of everyone to education”. If families are forced to remove their children from an early education and care program because of rising fees as a result of the unfair distribution of this fund, those children will have been discriminated against and their safety may be compromised. **Educators and families will be the clear losers.**

### 3. SUMMARY

ACA views this Bill as

- divisive and unfair towards educators
- interfering with competition
- not respecting all educators as equal
- not respecting all children as equal
- not respecting all families as equal
- being fast tracked by government without full criteria being established and published before debate
- causing division in the long day care sector

ACA asks that government reconsiders this ill-conceived and rushed Bill and acknowledges one of the following logical conclusions:

1. Rescind the Bill as it stands; or
2. Allocate the funding to every educator in the industry as an act of government goodwill towards the early childhood education and care sector, without union involvement.

We submit this to the Committee in good faith and with concern for the sector. We will provide any additional information or assistance if required to ensure that an error is not compounded by pushing this Bill through without due recognition of the facts that we and many of our colleagues present.