



12 June 2013

51 Walker Street,
North Sydney NSW 2060
Australia

ABN 76 369 958 788

Tel: 02 9466 5566
Fax: 02 9466 5599

Committee Secretary
House of Representatives Standing Committee on
Education and Employment
PO Box 6021
Parliament House

Email: ee.reps@aph.gov.au

Dear Sir / Madam

Re. Inquiry into the *Early Years Quality Fund Special Account Bill 2013*

We make this submission to the Committee's inquiry into the *Early Years Quality Fund Special Account Bill 2013*.

Ai Group represents industries with around 440,000 businesses employing approximately 2.4 million people. Ai Group and its affiliates have around 60,000 members and employ in excess of 1.25 million employees in an expanding range of sectors including: manufacturing, engineering, construction, automotive, food, transport, information technology, telecommunications, aviation, labour hire, printing, defence, mining equipment and supplies, and other industries.

Employers have a strong and direct interest in ensuring their employees are able to attend work and can remain in the workforce after taking parental leave. Employers also have a strong and direct interest in ensuring that participation in the workforce is increased to address skill shortages and Australia's ageing population. The access of employees to affordable childcare is vital if these objectives are to be achieved.

The question needs to be asked whether or not it is affordable for the community to devote \$300 million to:

'provide funding to approved centre based long day care services, to be used exclusively for paying remuneration, and other employment-related costs and expenses, in relation to employees in the early childhood education and care sector'.¹

Answering this question involves choosing between numerous competing funding priorities at a time when there are significant Budgetary restraints. Ai Group does not express a view on this issue. However, Ai Group expresses a strong view on the proposal to make funding conditional upon day care centres having an enterprise agreement. This proposal is unfair and inappropriate.

¹ *Early Years Quality Fund Special Account Bill 2013*, section 7.

According to the latest ABS *Employee Earnings and Hours, Australia* (6306.0) survey, in May 2012 the methods of wage setting for employees were:

Collective agreement	42.0%
Individual arrangement	38.7%
Award only	16.1%

Even though the above statistics show that most (58%) Australian employees are not engaged under an enterprise agreement, the result is heavily influenced by the large number of employees in the public sector and those engaged by large private sector businesses. Businesses in the public sector and large private sector businesses are far more likely to have an enterprise agreement than small and medium sized enterprises (SMEs). Many childcare operators are SMEs.

The following table is extracted from the abovementioned ABS report. It shows that collective agreements are by far the least common method of wage setting for businesses with up to 49 employees.

	Award only	Collective agreement	Individual arrangement	All methods of setting pay
NUMBER OF EMPLOYEES ('000)				
Under 20 employees	590.6	101.5	1,473.8	2,165.9
20 - 49 employees	247.0	119.3	689.3	1,055.6
50 - 99 employees	158.8	225.2	362.6	746.6
100 - 999 employees	362.1	1,329.2	858.1	2,549.4
1 000 and over employees	185.7	2,258.3	330.5	2,774.5
Total	1,544.1	4,033.6	3,714.3	9,292.0

The imposition of a requirement that a childcare centre have a formal enterprise agreement before it can access the funding would have the following negative effects on childcare centres, with consequent adverse effects on parents and the businesses which employ the parents:

- The requirement would remove the ability of a childcare centre to freely choose whether an enterprise agreement suits its business;
- A childcare centre would feel coerced to make an enterprise agreement regardless of whether the business is happy with its existing pay-setting arrangements;
- The employees of a childcare centre would feel coerced to make an enterprise agreement regardless of whether the majority of employees of the centre support the negotiation of a collective agreement;
- The requirement may lead to a childcare centre breaching section 344 of the *Fair Work Act 2009* which prohibits an employer from exerting undue influence or pressure on an employee to make an enterprise agreement;
- Enterprise agreements typically reduce the ability of an employer to pay employees different salaries based on individual performance – a pay-setting system which many employees strongly support;

- If a childcare centre decided not to have an enterprise agreement, it would experience greater difficulties in attracting and retaining staff because centres with an enterprise agreement would be able to pay higher rates of pay due to the funding;
- If the employees in a childcare centre were not willing to enter into an enterprise agreement (say, because they prefer the existing pay-setting arrangements), the employer would experience greater difficulties in attracting and retaining staff;
- If a childcare centre decided not to have an enterprise agreement it may need to raise its prices to attract and retain staff given the higher rates of pay offered by centres which receive the funding, creating hardship for parents;
- The requirement would undoubtedly lead to unions pursuing industrial campaigns for improved wages and conditions in the childcare industry (not limited to the wage increases funded by the Government);
- The requirement would undoubtedly increase workplace disharmony and disputation in the childcare industry; and
- Concerns have been expressed to Ai Group by employers in the child care industry about the complications which are likely to arise when the funding is exhausted. Childcare centres may not be able to afford to continue to pay the higher wage rates without increasing prices.

The *Fair Work Act 2009* outlaws the taking of adverse action against a person because the person has or has not exercised a workplace right (sections 340 and 341), which includes the right to make or not make an enterprise agreement. The Act also outlaws action taken against another person with intent to coerce the other person to exercise or not exercise a workplace right (section 343). The requirement that a childcare centre must make an enterprise agreement to access Government funding is inconsistent with the spirit of these provisions in the Act, because it would subject childcare centres to adverse outcomes if they decide not to make an enterprise agreement, and because they would feel pressured to make an enterprise agreement.

We would be happy to provide any further information that the Committee may require.

Yours sincerely

Innes Willox
 Chief Executive
 Australian Industry Group