

Submission s.156—4 yearly review of modern awards

**4 yearly review of modern awards—Children’s Services Award 2010 and Educational Services
(Teachers) Award 2010—Substantive Issues**

(AM2018/18 and AM2018/20)

14 March 2019

- [1] This submission is made in response to Directions issued on 11 December 2018 and revised on 7 March 2019 and relates to the *Children’s Services Award 2010* and the *Educational Services (Teachers) Award 2010* (outlined in Statement [2018] FWC 7505).
- [2] We are pursuing two substantive claims common to the *Children’s Services Award 2010* and the *Educational Services (Teachers) Award 2010*:
- a. an allowance for the educational leader; and
 - b. an allowance for the responsible person(s) in an early childhood education and care setting.
- [3] Peer reviewed academic research and documentary materials provide the evidentiary base for this submission.
- [4] The substantive claims being pursued are similar to the claims being lodged by United Voice.

Background to proposed substantive changes

- [1] Major reforms to the early childhood education and care sector began in 2007¹ following an OECD report² which highlighted Australia’s relatively poor performance against a range of indicators in early childhood education. In response, the Australian Government introduced the National Quality Framework (NQF) as part of the National Quality Agenda which was designed as a nationwide systematic approach to improve the overall quality of early childhood education and care in Australia.
- [5] Following the introduction of the NQF, the nature of work in early childhood education and care changed dramatically with increased administration, regulation and accountability.³

¹ Tamara Cumming, Jennifer Sumsion and Sandra Wong, “Rethinking early childhood workforce sustainability in the context of Australia’s early childhood education and care reforms,” *International Journal of Child Care and Education Policy* 9, no. 1 (2015): 2.

² Organisation for Economic Co-operation and Development (OECD), *Starting strong II: Early childhood education and care*. (2006). <http://www.oecd-ilibrary.org>

³ Cumming, Sumsion and Wong, op. cit.

- [6] As part of the reforms two new job roles were created; specifically, the role of the educational leader and the responsible person.
- [7] As the *Children's Services Award 2010* and the *Educational Services (Teachers) Award 2010* predate the NQF (which was implemented from 2012), the roles of educational leader and responsible person in early childhood settings are not recognised within these awards.

Proposed substantive change 1

Insertion of an educational leadership allowance for employees with educational leadership responsibilities in early childhood education and care settings.

- [8] The *Education and Care Services National Regulations*⁴ mandate that every early childhood education and care setting in Australia appoints an educational leader:

118 Educational leader

The approved provider of an education and care service must designate, in writing, a suitably qualified and experienced educator, co-ordinator or other individual as educational leader at the service to lead the development and implementation of educational programs in the service.

Note. A compliance direction may be issued for failure to comply with this regulation.

- [9] Regulation 148 of the *Education and Care Services National Regulations* requires the staff record to include the name of the person designated as the educational leader in accordance with Regulation 118.
- [10] The role of educational leader is also specified in and assessed against the National Quality Standard which provides a benchmark for quality in early childhood services:

It is important to note here that these Australian reforms positioned the role of ECEL [early childhood educational leaders] as separate from that of service manager/staff line manager. In this sense the development of the role of ECEL was clearly influenced by the idea of distributive leadership, an approach to leadership particularly popular in school education because of its demonstrated positive impact on student learning outcomes...⁵

⁴ Available at <https://www.legislation.nsw.gov.au/#/view/regulation/2011/653/full>

⁵ Margaret Sims, Manjula Waniganayake and Fay Hadley, "Educational leadership: An evolving role in Australian early childhood settings," *Educational Management Administration & Leadership* 46, no. 6 (2018): 960-979.

[11] Educational leaders are not required to hold a specific qualification yet the qualification of the educational leader determines which Award is applicable to the employee. For example, an employee with a Certificate III qualification would be covered by the *Children's Services Award 2010* while an employee with a 4 year (or equivalent) Bachelor of Teaching degree would be paid under the *Educational Services (Teachers) Award 2010*. Educational leaders may hold various qualifications. Waniganayake and Stipanovic⁶ state that:

Although it was acknowledged that these educational leaders needed to have 'suitable qualifications' and be 'experienced' in having worked in EC settings previously, no specific details about these qualifications or experiences were defined by the government. It was nevertheless, an important acknowledgement that those employed as educational leaders had achieved formal preparation in undertaking the roles and responsibilities of this new position.

The role of the educational leader in early childhood education and care settings

[12] According to the Australian Children's Education and Care Quality Authority (ACECQA)⁷, the independent national authority for early childhood education and care in Australia:

The role of the educational leader is primarily to:

- collaborate with educators and provide curriculum direction and guidance
- support educators to effectively implement the cycle of planning to enhance programs and practices
- lead the development and implementation of an effective educational program in the service
- ensure that children's learning and development are guided by the learning outcomes of the approved learning frameworks.

The educational leader also has a significant role in:

- guiding and developing educators and families' understandings about play and leisure based learning, and the significance of the early years in the education continuum for children
- building the knowledge, skills and professionalism of educators
- building a culture of professional inquiry with educators, coordinators and staff members to develop professional knowledge, reflect on practice and generate new ideas.

⁶ Manjula Waniganayake and Suzie Stipanovic, "Advancing Leadership Capacity: Preparation of Early Childhood Leaders in Australia Through a Coursework Masters Degree," *Journal of Early Childhood Education Research* 5, no. 2 (2016): 268-288.

⁷ Australian Children's Education & Care Quality Authority (ACECQA), *The role of the Educational Leader* (2018). https://www.acecqa.gov.au/sites/default/files/2018-05/QA7_TheRoleOfTheEducationalLeader.pdf

[13] In practice, the role of educational leader is complex. It variously involves working with children, families and colleagues and having the sufficient skills, capabilities and knowledge to do so effectively.⁸

[14] Fleet, Soper, Semann and Madden's⁹ research confirms that educational leaders perceive their role as multifaceted. Educational leaders:

- participate in a leadership team
- mentor and train staff
- implement professional development
- engage in best practice be a role model
- develop a learning culture
- inspire and motivate staff
- demonstrate sound knowledge of National Quality Framework (NQF) and National Quality Standard (NQS)
- assist staff with research
- develop partnerships with community members
- maintain and model expectations ; support quality documentation. ...
- find resources for staff support
- ensure policy and practice is current
- communicate with staff/management about sector and centre developments
- advocate for the rights of the child and the early childhood sector
- build effective relationships with children, families and staff
- develop a learning and questioning culture
- provide updates and insights to the team from research
- develop curriculum and evaluation
- develop professional networks
- communicate with and educate families (i.e. importance of early years/child development/curriculum)
- conduct staff appraisals
- demonstrate and encourage reflective practice
- assist staff to manage change
- utilise the strengths of the team
- encourage and support educators.

⁸ Waniganayake and Stipanovic, op. cit. p. 269.

⁹ p.34 in Alma Fleet, Rod Soper, Anthony Semann and Lorraine Madden, "The role of the educational leader: Perceptions and expectations in a period of change," *Australasian Journal of Early Childhood* 40, no. 3 (2015): 29.

[15] Protractive descriptions of the role of an early childhood educational leader are a result of the inherently dynamic nature of working in an early childhood setting:

leadership goes hand-in-hand with the expectation of discretionary decision-making authority... discretionary power is necessary as the situations in which ECEs [early childhood educational leaders] have to practice are complex and best practice cannot be pre-determined in a one-size-fits-all approach...¹⁰

[16] Educational leaders are challenged by ongoing changes within the sector, limited time and resources and competing priorities.¹¹ For many educational leaders this responsibility is in addition to their direct work with children with their duties being interrelated yet distinct.¹²

The work of educational leaders in early childhood settings is comparable to the work of educational leaders in schools

[17] Educational leadership in both early childhood settings and schools is positively associated with teaching and learning outcomes.¹³

[18] Educational leaders in early childhood education and care settings do not receive equal remuneration to educational leaders in school settings as this role is not acknowledged within the *Children's Services Award 2010* or the *Educational Services (Teachers) Award 2010*.

[19] Educational leadership in schools is currently recognised in clause 15.2 of the *Educational Services (Teachers) Award 2010* and attracts an allowance that is based on the number of students in the school where the educational leader is employed and the level of responsibility the employee undertakes. However, this clause is not applicable to educational leaders in early childhood settings.

[20] The lack of recognition for early childhood educational leaders may be attributed to an historical divide between early childhood education and school-based education with children attending prior-to-school settings traditionally considered to need 'care' rather than an education.¹⁴ Teaching is now recognised as being "one profession"¹⁵ meaning that teachers are teachers whether they work within schools or prior-to-school settings. State and territory based

¹⁰ Sims, Waniganayake and Hadley, op. cit. p.963.

¹¹ Joce Nuttall, Louise Thomas and Linda Henderson, "Formative interventions in leadership development in early childhood education: The potential of double stimulation," *Journal of Early Childhood Research* 16, no. 1 (2018): 80-91; Elizabeth Rouse and Gail Spradbury, "The role of the educational leader in long day care – how do they perceive their role?," *Early Child Development and Care* 186, no. 3 (2016): 497-508.

¹² *ibid.*

¹³ Australian Institute for Teaching and School Leadership (AITSL), *One Teaching Profession: Teacher Registration in Australia* (September 2018), <https://www.aitsl.edu.au/docs/default-source/national-review-of-teacher-registration/report/one-teaching-profession---teacher-registration-in-australia.pdf>

¹⁴ Productivity Commission, *Childcare and early childhood learning*, (Inquiry report, No. 73), (Canberra: Commonwealth of Australia, 2014).

¹⁵ AITSL, op. cit.

teacher registration for early childhood teachers provides formal recognition of the professional status of early childhood teachers and the leadership roles these educators undertake.¹⁶

[21] The expectations for an educational leader in a school are specified in the *Australian Professional Standards for Teachers*. The following table provides a side-by-side comparison of the ACECQA¹⁷ description of the role of an educational leader in an early childhood setting with the role of an educational leader in a school as described in the *Australian Professional Standards for Teachers (Lead Teacher)*¹⁸.

Role of the educational leader in an early childhood setting	Role of an educational leader in a school
Collaborate with educators and provide curriculum direction and guidance	2.3 Lead colleagues to develop learning and teaching programs using comprehensive knowledge of curriculum, assessment and reporting requirements.
	6.3 Implement professional dialogue within the school or professional learning network(s) that is informed by feedback, analysis of current research and practice to improve the educational outcomes of students.
Support educators to effectively implement the cycle of planning to enhance programs and practices	2.2 Lead initiatives that utilise comprehensive content knowledge to improve the selection and sequencing of content into coherently organised learning and teaching programs.
Lead the development and implementation of an effective educational program in the service	3.2 Exhibit exemplary practice and lead colleagues to plan, implement and review the effectiveness of their learning and teaching programs to develop students' knowledge, understanding and skills.
Ensure that children's learning and development are guided by the learning outcomes of the approved learning frameworks.	1.1 Lead colleagues to select and develop teaching strategies to improve student learning using knowledge of the physical, social and intellectual development and characteristics of students.
guiding and developing educators and families' understandings about play and leisure based learning, and the significance of the early years in the education continuum for children	7.3 Identify, initiate and build on opportunities that engage parents/carers in both the progress of their children's learning and in the educational priorities of the school.

¹⁶ For more information see <https://www.acecqa.gov.au/qualifications/early-childhood-teacher-registration-and-accreditation>

¹⁷ ACECQA, op. cit.

¹⁸ The Australian Professional Standards for Teachers is available at <https://www.aitsl.edu.au/teach/standards>

	3.7 Initiate contextually relevant processes to establish programs that involve parents/carers in the education of their children and broader school priorities and activities.
Building the knowledge, skills and professionalism of educators	6.2 Initiate collaborative relationships to expand professional learning opportunities, engage in research, and provide quality opportunities and placements for pre-service teachers.
Building a culture of professional inquiry with educators, coordinators and staff members to develop professional knowledge, reflect on practice and generate new ideas.	7.4 Take a leadership role in professional and community networks and support the involvement of colleagues in external learning opportunities.
	6.4 Advocate, participate in and lead strategies to support high-quality professional learning opportunities for colleagues that focus on improved student learning.

[22] The work of educational leaders in early childhood education and care settings is of equal or comparable value to the work of educational leaders in school settings and this role should be remunerated. The omission of the role of educational leader in early childhood education and care settings in the *Children's Services Award 2010* and the *Educational Services (Teachers) Award 2010* is inconsistent with Modern Awards Objective 1(e) "the principle of equal remuneration for work of equal or comparable value".

Remunerating educational leaders in early childhood education and care

[23] Educational leadership requires significant effort and the overwhelming majority of early childhood educational leaders do not receive any remuneration for this job role.¹⁹

[24] Fleet et al.'s²⁰ survey of educational leaders found that 78.8% of educational leaders in the ACT and 86% of educational leaders in NSW did not receive supplementary pay. Further:

Of the NSW respondents who received supplementary pay, responses ranged from a \$65 allowance to a \$2000 annual payment. Some respondents reported receiving above award salaries; others spoke of having time allocated to the role... There was some implication that financial inequities had the potential for becoming an industrial issue.²¹

¹⁹ Fleet et al., op. cit.

²⁰ *ibid.*, p. 34.

²¹ Fleet et al., op. cit.

[25] This inequity is problematic due to the significant proportion of the early childhood workforce that is award reliant.²²

[26] Given there is only one educational leader per early childhood education and care centre, the role is often presented as a position of privilege which attracts professional and personal benefits.²³ However, intrinsic reward is not sufficient compensation:

Put simply, there are few, if any other occupations where staff are required to engage in work for which they are not formally qualified nor appropriately remunerated. This invisibility hides issues of inequity, which are connected to use of the generic term 'educator' for all those who engage in contact work with young children.²⁴

[27] Educational leaders hold a range of qualifications and are not being fairly or consistently remunerated for this work in early childhood education and care settings. In addition, access to professional development to support educational leaders in their role is costly. Waniganayake²⁵ notes, "an awareness of the complexities of modern leadership enactment with little or no financial remuneration can drive people away from taking on leadership roles or positions."

[28] Although the role of educational leader is beginning to be recognised within employment agreements, a universally applicable allowance through the *Children's Services Award* and the *Educational Services (Teachers) Award* is necessary to ensure employees in early childhood education and care settings receive fair remuneration.

[29] Being an educational leader permeates every aspect of an educator's practice when engaged in this role and therefore a percentage amount of the ordinary rate should be paid as an allowance. This extra payment would be commensurate with the employee's qualification, skill level and experience. The educational leadership allowance should be based on the number of places in the early childhood setting.

Proposed substantive change 2

²² Over 70% of early childhood educators are paid according to relevant awards. Productivity Commission 2014, op. cit., p. 319.

²³ See for example, <https://www.cela.org.au/wp-content/uploads/Resources/the-educational-leader.pdf>

²⁴ Susan Grieshaber and Linda J. Graham, "Equity and educators enacting the Australian early years learning framework." *Critical Studies in Education* 58, no. 1 (2017): 89-103.

²⁵ p.72 in Manjula Waniganayake, "Being and becoming early childhood leaders: Reflections on leadership studies in early childhood education and the future leadership research agenda," *Journal of Early Childhood Education Research* 3, no. 1 (2014): 65-81.

Insertion of a responsible person allowance for employees who are the designated responsible person in an early childhood education and care setting

- [30] The *Children's Services Award 2010* and the *Educational Services (Teachers) Award 2010* were introduced prior to the introduction of the *Education and Care Services National Law 2011* under which it is an offence to operate an education and care service without a 'responsible person' present.²⁶
- [31] Historically a co-ordinator or director would have generally assumed responsibility for the day-to-day operations of an early childhood education and care setting. This provides part of the rationale as to why the role of co-ordinator/director has dedicated classifications in the *Children's Services Award 2010*. There is also a director's allowance in the *Educational Services (Teachers) Award 2010*.
- [32] With the introduction of the NQF an additional tier of responsibility was introduced meaning that employees who are not co-ordinators or directors may be appointed as the 'responsible person' and therefore have additional responsibilities. As the title implies, the responsible person has responsibility for the daily operations of a setting at a given point in time.
- [33] The work of the responsible person in early childhood education and care settings is of comparable value to the work of co-ordinators or directors in early childhood education and care settings yet this role is not recognised within the *Children's Services Award 2010* or the *Educational Services (Teachers) Award 2010*. The omission of the role of responsible person is inconsistent with Modern Awards Objective 1(e) "the principle of equal remuneration for work of equal or comparable value".

The role of the responsible person in early childhood education and care settings

- [34] The responsible person is an employee who is physically present at an early childhood setting and who has formally consented to being placed in day-to-day charge "to ensure that there is consistency and continuity in practices."²⁷
- [35] The role of responsible person is a position of leadership. The responsible person must have sufficient knowledge, skills and understandings and an "ability to effectively supervise and manage an education and care service".²⁸

²⁶s.162, see

[http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/D38DBD79C4A26CCECA2582270002C054/\\$FILE/10-69aa012%20authorised.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/D38DBD79C4A26CCECA2582270002C054/$FILE/10-69aa012%20authorised.pdf)

²⁷ Community Early Learning Australia (CELA), *The Responsible Person*, <https://www.cela.org.au/wp-content/uploads/Resources/the-responsible-person.pdf>

²⁸ ACECQA, *Responsible Person Requirements for Approved Providers from October 2017*, <https://www.acecqa.gov.au/sites/default/files/2018-09/ResponsiblePersonRequirements.pdf>

[36] Although the role does not entail any additional legal responsibilities, the role requires additional duties to be performed.

[37] According to ACECQA²⁹:

Appointing a person in day-to-day charge enables you to have a responsible person at the centre based service at all times the service is educating and caring for children.

For example, they can be a point of contact for parents and staff in the absence of the nominated supervisor.

While ACECQA only provides an example of one aspect of the role of the responsible person, communicating with families and staff members is considered to be one of the most challenging and stressful aspects of an educator's work.³⁰

[38] The roles of both the responsible person and the director involve an employee taking responsibility for the day-to-day operations of the service. However, while the role of director is remunerated, the role of responsible person is not.

Remunerating the responsible person

[39] On average, centre directors work 33 hours per week.³¹ By definition, long day centres operate a minimum of 8 hours per day for a minimum of 48 weeks per year. Therefore, it is evident that there is a significant amount of time where an employee within a service, other than the centre director must be designated as the responsible person.

[40] Additional responsibilities should attract additional payments. A universally applicable allowance through the *Children's Services Award* and the *Educational Services (Teachers) Award* is necessary to ensure that employees who are determined to be the responsible person receive fair remuneration for their work.

[41] In settings where there are shift workers there may be more than one responsible person over the course of a work day. Therefore, an allowance should be paid as a percentage of the standard rate for the time which the employee is the designated responsible person (as recorded in the staff record) based on the number of places in the early childhood service.

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²⁹ *ibid.*

³⁰ Tamara Cumming, "Early childhood educators' well-being: An updated review of the literature," *Early Childhood Education Journal* 45, no. 5 (2017): 583-593.

³¹ Productivity Commission, *op. cit.*

14 March 2019