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Sent: Friday, 20 March 2020 4:16 PM

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Subject: 2013/6333 & AM2018/9 – Equal Remuneration Order / Application to Vary Modern Award - Statement of Agreed Facts

Dear Associate,

Re.: 2013/6333 & AM2018/9 – Equal Remuneration Order / Application to Vary Modern Award - Statement of Agreed Facts

As directed by the Full Bench on 5 September 2019, please find attached the *Statement of Agreed Facts* (in Word and PDF formats) as agreed to by the Independent Education of Australia (Applicant), the Australian Childcare Alliance and the Australian Federation of Employers and Industries. (Respondents).

The pdf version has the *Commonwealth's Aide Memoire re Role of the Commonwealth in the early childhood sector* attached as Annexure B.

The parties to this matter are copied into this email by way of service.

Regards,

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**IN THE FAIR WORK COMMISSION
AT SYDNEY**

MATTER(S): C2013/6333 & AM2018/9

INDEPENDENT EDUCATION UNION OF AUSTRALIA
APPLICANT

AUSTRALIAN CHILDCARE ALLIANCE
AUSTRALIAN FEDERATION OF EMPLOYERS AND INDUSTRIES
RESPONDENT(S)

STATEMENT OF AGREED FACTS

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The Parties

1. The Independent Education Union of Australia (IEU) is an organisation of employees registered under the *Fair Work (Registered Organisations) Act 2009* (Cth). It represents, relevantly, teachers in the private and catholic education sector, including teachers employed in early childhood education and care settings.
2. The Australian Childcare Alliance Inc. is the peak body in the early childhood education and care (**ECEC**) sector. It is a not-for-profit, member based and member funded organisation. It has a national membership base of approximately 2,500 members.
3. ACA is made up of constituent State organisations in New South Wales, Victoria, Queensland, South Australia and Western Australia.¹ The membership of each State body collectively represents over 3,000 ECEC Services, primarily private long day care operators.
4. The Australian Federation of Employers and Industries (**AFEI**) is a membership-based registered industrial organisation and State Peak Council of employers in NSW, representing employers across a number of industries, including employers in the

¹ Association of Quality Childcare Centres of NSW Inc; Australian Childcare Alliance Victoria; Childcare Queensland Inc; Childcare South Australia; Childcare Association of Western Australia.

early childhood sector, as well as industries which could be indirectly affected by a decision in one of these matters.

5. The AFEI has represented private-sector employers in the early childhood and related teaching industries over many years, including as a party in all significant proceedings (under its previous name, 'Employers First'), concerning NSW Early Childhood Teacher (ECT) awards,² and more recently, award modernisation proceedings and modern award review proceedings concerning the *Educational Services (Teachers) Award 2010* and the *Children's Services Award 2010*

Statistical Overview

6. Data describing the national education sector, including data describing parts of the sector affected by one or both of the claims before the Commission are summarised in text below. Tables setting out that data in numerical form are found in Annexure A.

Early Childhood Education and Care

7. The Early Childhood Education and Care sector consists of a range of services. The two applications before the Commission are in respect of teachers who work in centre-based services, which include long day care, preschools and kindergartens.
8. The sector is regulated by state and territory governments through regulatory authorities.
9. At 30 June 2019, there were 10,850 National Quality Framework (NQF) approved centre-based services. Of these:
 - (a) 7,744 were long day care centres;
 - (b) 3,106 were preschools.
10. Of the 7,744 long day care centres, 66% were privately operated for-profit operations. 27% were not for profit organisations, and 7% were government or school-run.
11. In respect of long day care centres, approximately:
 - (a) 40% were in New South Wales;
 - (b) 20% were in Victoria;
 - (c) 21% were in Queensland;
 - (d) 9% were in West Australia;
 - (e) 5% were in South Australia;

² Including: *Employers First and the NSW/ACT Independent Education Union and anor* [2002] NSWIRComm 113; *Teachers (Non-Government Preschools) (State) Award* [2001] NSWIRComm 335; and *Teachers (Non-Government Early Childhood Service Centres Other than Pre Schools) State Award, Re* [2006] NSWIRComm 4.

- (f) 2% were in Tasmania;
 - (g) 2% were in the Australian Capital Territory; and
 - (h) 1% were in the Northern Territory.
12. Of the 3,106 preschools/kindergartens, 2% were privately operated for profit, 60% were not-for profit, 22% were government run and a further 16% were operated by schools.
13. In respect of preschools/kindergartens, approximately:
- (a) 26% were in New South Wales;
 - (b) 39% were in Victoria;
 - (c) 16% were in Queensland;
 - (d) 1% were in West Australia;
 - (e) 13% were in South Australia;
 - (f) 0% were in Tasmania;
 - (g) 3% were in the Australian Capital Territory; and
 - (h) 2% were in the Northern Territory.

Primary and Secondary Schools

14. As at 2018, there were 9,477 Primary and Secondary schools in Australia (including schools for students with special needs). Of these:
- (a) 70% were government schools;
 - (b) 18% were Catholic systemic schools; and
 - (c) 11% were other independent schools.

Employment of teachers

15. ABS data records that as at August 2019, there were approximately 488,000 teachers employed in Australia. Of this cohort, approximately 10% were employed as early childhood teachers (see Table 1 of Annexure A).
16. That data records that as at August 2019 (see Table 1 of Annexure A):
- (a) 99% of all early childhood teachers were female, as were 95% of all child care centre managers;
 - (b) 86% of all primary school teachers were female; and
 - (c) 58% of all secondary school teachers were female.
17. According to customised data provided by the ABS sourced from the Survey of Employee Earnings and Hours, May 2016 (as contained in Exhibit 76 - Document 103):

- (a) Early childhood teachers' average hourly cash earnings were \$38.90 and average weekly cash earnings were \$861.70;
- (b) Primary school teachers' average hourly cash earnings were \$45.90 and average weekly cash earnings were \$1,305.80;
- (c) Secondary school teachers' average hourly cash earnings were \$48.70 and average weekly cash earnings were \$1,532.40.
- (d) This data is derived from a customised data request made by the IEU to the ABS. The ABS provided 3 caveats to this data with the release of this data.³

Student enrolments and demographics

18. In 2019, 825,432 children attended NQF-approved ECEC services. Of that, approximately:
- (a) 34% were in New South Wales;
 - (b) 25% were in Victoria;
 - (c) 22% were in Queensland;
 - (d) 8% were in West Australia;
 - (e) 6% were in South Australia;
 - (f) 2% were in Tasmania;
 - (g) 2% were in the Australian Capital Territory; and
 - (h) 1% were in the Northern Territory.
19. In 2018, 3,893,834 students attended primary and secondary schools. Of that number, approximately:
- (a) 66% attended government schools;
 - (b) 20% attended Catholic systemic schools; and
 - (c) 14% attended other independent schools.

³ *Caveat: (1) As this data is based on information relating to a sample of employers and employees for each year, rather than a full enumeration, they are subject to sample variability. That is, they may vary from the estimates that would have been produced if the information had been obtained from all employers and all employees. The figures produced at this fine level of disaggregation show volatility due to the sample design. (2) The Survey of Employee Earnings and Hours was not designed as a time series so caution should be exercised when comparing data between different years. (3) Release of data is subject to confidentiality rules. ACA and AFE have concerns with the data sample size for early childhood teachers and the inclusion of some managerial employees in the engineering occupations selected for Ex 73 Doc 103. The ABS has not expressly stated such concerns about the supplied data, and as such the IEUA does not share these concerns.*

Teacher training and regulation

Teacher training

20. Since 2011 there has been a nationally consistent approach to teacher training. All teachers in training nationally are required to complete a four-year (previously a three year) specific university degree, or a two-year (previously a one year) postgraduate teaching degree in addition to a relevant undergraduate degree (see AITSL, *Accreditation of initial teacher education programs in Australia - Standards and Procedures*, [Exhibit 76, Doc.: 265](#) p.K2454). Some States already had such requirements. For example, Victoria and NSW introduced the higher requirements in 2001 and 2004 respectively.
21. In 2011, the Council of Australian Governments Education Council endorsed national university course accreditation standards, superintended by the Australian Institute of Teaching and School Leadership which included quality assurance standards. State and territory teacher regulatory authorities continue to have legislative authority for the accreditation of initial teacher education programs.
22. In 2015, the Council of Australian Governments Education Council endorsed consistent entry requirements into teaching qualifications, including literacy and numeracy standards. In addition, requirements for strengthened partnerships for the delivery of professional experience, and assessment of graduates with a focus on school readiness were introduced.

Pre APST registration arrangements

23. All jurisdictions regulate the teaching profession by mandating registration of all teachers. This has evolved at a different pace across the country. Queensland and South Australia were the first jurisdictions to introduce mandatory registration for teachers in the mid-late 1970s. South Australia introduced registration for ECTs at the same time. Victoria, through the Victorian Institute of Teachers first registered teachers in 2001 (ECTs since 2015). In New South Wales, teacher registration was first introduced in 2004 for primary and secondary school teachers and early childhood teachers in 2016. Western Australia and the Northern Territory introduced teacher registration in 2004. ECTs have been registered in Western Australia since 2012. The Australian Capital Territory implemented teacher registration with the establishment of the Teacher Quality Institute in 2011.

Australian Professional Standards for Teachers

24. The National Framework for Teacher Registration (the **Framework**) was agreed by all Education Ministers in 2011. Part of the Framework was to set out the Australian Professional Standards for Teachers (**Teacher Standards**) be the basis of registration requirements across Australia.

25. AITSL has said that: Teacher Standards provide a foundation to support teachers and leaders, school and early childhood systems, regulators, education authorities and governments alike; and their purpose is to guide and strengthen the quality of teaching, while also providing a framework for career progression and ongoing high-quality professional learning.⁴

Details of the APST

26. The Australian Professional Standards for Teachers (the APST) consists of seven interconnected standards which outline what teachers should know and be able to do. These are grouped into three domains of teaching; Professional Knowledge, Professional Practice and Professional Engagement. In practice, teaching draws on aspects of all three domains.
27. Within each Standard focus areas provide further illustration of teaching knowledge, practice and professional engagement. These are then separated into Descriptors at four professional career stages: Graduate, Proficient, Highly Accomplished and Lead.
28. The three domains of teaching and the Standards that are grouped with each of them are:

Professional Knowledge

- (a) Standard 1. Know students and how they learn
- (b) Standard 2. Know the content and how to teach it

Professional Practice

- (c) Standard 3. Plan for and implement effective teaching and learning
- (d) Standard 4. Create and maintain supportive and safe learning environments
- (e) Standard 5. Assess, provide feedback and report on student learning

Professional Engagement

- (f) Standard 6. Engage in professional learning
- (g) Standard 7. Engage professionally with colleagues, parents/carers and the community

Maintaining registration

29. To maintain registration in line with the National Framework for Teacher Registration (the Framework), teachers must renew every five years at a minimum. South Australia has opted for a shorter 3 year renewal period whilst Victoria and the ACT have annual registration cycles.

⁴ AITSL (2018), *One Teaching Profession: Teacher Registration in Australia*, [Exhibit 76, Doc.: 214](#) p. K0148

30. The current Framework prescribes at a minimum, a declaration that:
- (a) suitability is maintained;
 - (b) recency of professional practice requirements have been met (100 days over 5 years, or equivalent);
 - (c) proficiency against the Teacher Standards has been maintained; and
 - (d) hours of professional learning, referenced to the Teacher Standards, can be demonstrated (100 hours over 5 years, or equivalent).
31. During the registration renewal cycle other measures also ensure that teacher suitability is met. Real-time data alerts from other agencies (e.g. police) ensure that teacher regulatory authorities have current data to inform an individual's suitability to teach.

Application to ECTs

32. The 2011 Framework did not address early childhood teachers. Since the agreement of the Framework, jurisdictions have extended teacher registration to include early childhood teachers as follows:
- (a) In South Australia, all early childhood teachers must be registered regardless of setting;
 - (b) In New South Wales, Western Australia and Victoria, all early childhood teachers in NQF approved services must be registered;
 - (c) In Queensland, the ACT, the Northern Territory and Tasmania, early childhood teachers in school-attached services must be registered, with voluntary registration available in out-of-school settings including long day care in Queensland.
 - (d) AITSL recommended in 2018 that registration of early childhood teachers be required in all employment settings and the remaining jurisdictions where this is not the case are moving to implement this recommendation.

Curriculum requirements

The Early Years Learning Framework

33. The approved curriculum for long day care centres and preschools/kindergartens is *Belonging, Being and Becoming: The Early Years Learning Framework for Australia (EYLF)*. It can be found at [Exhibit 76, Document 84](#). It was introduced in 2009. This document may complement, supplement or replace individual State and Territory frameworks. The exact relationship will be determined by each jurisdiction.
34. Since 2012 ECEC services have been required to provide an educational program based on the EYLF under the relevant provisions of the *National Law* (s.168) and the *National Regulations* (r.254) – see paragraph 61 below.

35. The EYLF comprises three inter-related elements: Principles, Practice and Learning Outcomes. All three elements are fundamental to early childhood pedagogy and curriculum decision-making. The emphasis in the EYLF is on the planned or intentional aspects of the curriculum.
36. The five Principles of the EYLF are:
 - (a) Secure, respectful and reciprocal relationships;
 - (b) Partnerships;
 - (c) High expectations and equity;
 - (d) Respect for diversity; and
 - (e) Ongoing learning and reflective practice.
37. The EYLF contains five learning outcomes. These are:
 - (a) Outcome 1: Children have a strong sense of identity;
 - (b) Outcome 2: Children are connected with and contribute to their world;
 - (c) Outcome 3: Children have a strong sense of wellbeing;
 - (d) Outcome 4: Children are confident and involved learners; and
 - (e) Outcome 5: Children are effective communicators.

National Curriculum (primary and secondary)

38. The Australian Curriculum, implemented in 2011, is the first national curriculum in Australian history.
39. The Australian Curriculum is aligned with the Early Years Learning Framework. It builds on the five EYLF learning outcomes.⁵
40. The Australian Curriculum addresses three aspects in each Learning Area:
 - (a) Curriculum content-discipline-based knowledge, skills and understanding
 - (b) General capabilities-knowledge, skills, behaviours and dispositions that can be developed and applied across the curriculum
 - (c) Cross-curriculum priorities-contemporary issues about which young Australians should learn.
41. The Curriculum content, presented as content descriptions, specifies the knowledge, understanding and skills that young people are expected to learn across the years of schooling Foundation to Year 10 (F-10) and what teachers are to teach. The achievement standards describe what students are typically able to understand and able to do. Across F-10 the set of achievement standards describes a broad sequence

⁵ ECA/ACARA (2011), Foundations for learning: Relationships between the EYLF and Australian Curriculum, [Exhibit 76, Doc.: 91](#), pp.C1677-1678, 1686

of expected learning. The Australian Curriculum is designed to ensure students develop the knowledge and understanding on which the major disciplines are based.

42. While the Australian Curriculum is focused on individual learning areas, it also emphasises seven general capabilities:
- (a) Literacy;
 - (b) Numeracy;
 - (c) Information communication technology (ICT) competence;
 - (d) Critical and creative thinking;
 - (e) Ethical behavior;
 - (f) Personal and social competence; and
 - (g) Intercultural understanding.

Mandatory teacher/student ratios in Early Childhood Centres

43. Pursuant to the National Laws and Regulations, from 1 January 2014:
- (a) Services providing care to less than 25 children must ensure an early childhood teacher is in attendance at least 20 per cent of operating hours.
 - (b) Services providing care to 25 or more children on any given day must ensure an early childhood teacher is in attendance for at least:
 - (i) six hours on that day (for a service that operates for 50 or more hours per week)
 - (ii) 60 per cent of operating hours (for a service that operates for less than 50 hours)

A service may comply with these requirements by engaging a full-time equivalent early childhood teacher.

44. Further, from 1 January 2020:
- (a) Services providing care to between 60 and 80 children on any given day must ensure a second early childhood teacher is in attendance for at least:
 - (i) three hours on that day (for a service that operates for 50 or more hours per week)
 - (ii) 30 per cent of operating hours (for a service that operates for less than 50 hours)

A service may comply with these requirements by engaging a second early childhood teacher for half of full-time equivalent hours. An alternative arrangement to meet these requirements is to employ or engage a full-time

or full-time equivalent early childhood teacher, and a second equivalent early childhood teacher or suitably qualified person.⁶

- (b) Services providing care to more than 80 children on any given day must ensure a second early childhood teacher is in attendance for at least:
 - (i) six hours on that day (for a service that operates for 50 or more hours per week)
 - (ii) 60 per cent of operating hours (for a service that operates for less than 50 hours)

A service may comply with these requirements by engaging a second full-time equivalent early childhood teacher. An alternative arrangement to meet these requirements is to employ or engage a full-time or full-time equivalent early childhood teacher, and a second equivalent early childhood teacher or suitably qualified person.

- 45. Jurisdiction based standards higher than those in the National Laws and Regulations / NQF with respect to ECT qualifications ratios are:
 - (a) A second teacher for services in New South Wales caring for more than 40 children, with an additional teacher for every 20 children thereafter (up to four teachers).
 - (b) Western Australia requires one teacher for every 30 children in a 'pre kindergarten programme or kindergarten programme provided by a school'.
 - (c) In South Australian preschools, the requirement for half of educators to have at least diploma qualification and half to have at least a certificate III (regulation 126) has been replaced with the requirement that:
 - (i) the first and second educators required to meet the staff ratio for preschool aged children in a government preschool (other than a 'prescribed preschool') must be early childhood teachers
 - (ii) the first and third educators required to meet the staff ratio for preschool aged children in a 'prescribed preschool' must be early childhood teachers

⁶ In October 2018, ACECQA determined the following qualifications are required for a 'suitably qualified person': (i) an individual who is 'actively working towards' (see Regulation 10 of the National Regulations) an approved early childhood teaching qualification AND has completed at least 50 per cent of the qualification or holds an approved early childhood education and care diploma OR (ii) an individual who is registered (accredited in New South Wales) as a primary or secondary school teacher in Australia AND holds an ACECQA approved early childhood education and care diploma (or higher approved qualification). These qualifications are published on the ACECQA approved [qualifications list](https://www.acecqa.gov.au/qualifications/nqf-approved): <https://www.acecqa.gov.au/qualifications/nqf-approved>

where a 'prescribed preschool' is a preschool provided by a school on the site of a school, or a rural preschool, or a preschool with fewer than 16 children.

Regulation and funding of the ECEC Sector

Regulation

The Quality Improvement and Accreditation System (QIAS)

46. The QIAS was the first national regulatory system applied to early childhood education and care sector. The QIAS:
 - (a) was first introduced in 1994;
 - (b) applied to long day care centres only and was compulsory in order to receive government funding, and as a consequence most for-profit long day care centres applied to be accredited.
47. Initially, the QIAS contained 52 Principles of Quality Care. It was restructured in 2000 to contain 35 Principles arranged under ten Quality Areas. In 2006, it was further altered to contain 33 Principles under seven Quality areas.
48. Services would be rated as either:
 - (a) Unsatisfactory,
 - (b) Satisfactory,
 - (c) Good Quality; or
 - (d) High Quality,with a rating of 'good' in 20 specific principles and basic or higher in others required to achieve accreditation.

The National Quality Framework

49. The NQF came into effect on 1 January 2012. It is the first national regulatory system applying to all ECEC services, including preschools/kindergartens.
50. The NQF was the result of an agreement between all Australian governments to work together to provide better educational and developmental outcomes for children. Its purpose was to improve education and care across the ECEC sector.
51. The NQF is summarised at ACECQA (2018), *Guide to the National Quality Framework (February 2018)*, [Exhibit 76, Doc.: 140](#).
52. The NQF consists of:
 - (a) The [Education and Care Service National Law Act 2010](#) (**National Law**); and
 - (b) The [Education and Care Services National Regulations](#) (**National Regulations**).
53. The National Law and Regulations:

- (a) Provide for a regulatory authority in each state and territory which is responsible for the approval, monitoring and quality assessment of services in their state or territory;
- (b) Provide for a national body – the Australian Children’s Education and Care Quality Authority (ACECQA) - which guides the implementation of the NQF and works with regulatory authorities;
- (c) Require services to comply with the National Quality Standards;
- (d) Introduce an assessment and quality rating process linked to accreditation.

54. In addition, the National Regulations prescribe:

- (a) Minimum staff to child requirements, mandating the minimum number of staff that must be directly working with children based on how many children are present at any given time: r.13, 123 and pursuant to the table below:

Over 36 months up to and including preschool age	1:11	ACT, NT, QLD, VIC
	1:10	NSW
	1:10 for centre-based services other than a preschool 1:10 for disadvantaged preschools 1:11 for preschools other than a disadvantaged preschool	SA
	1:10 2:25 for children attending a preschool program	TAS
	1:10	WA

- (b) Minimum qualification requirements for staff counted toward the above ratios, with as a general proposition 50% required to have at least a diploma qualification and 50% required to have at least a Certificate III: r.126; and
- (c) Minimum numbers of qualified ECTs that must be accessible to or in attendance at services, again depending on the number of children present: r.11, r.130-135.

55. Registration is not a requirement for ECTs under the National Quality Framework (NQF) but as noted above, it is a requirement under some state and territory legislation. To work as an ECT, a person needs to meet the requirements under the NQF by:
- (a) holding an approved early childhood teaching qualification;
 - (b) be ‘actively working towards’ an approved qualification;
 - (c) holding a formerly approved qualification that was commenced before 1 January 2012;
 - (d) or holding a qualification that ACECQA has determined to be equivalent to an approved ECT qualification. More information on the requirements to work as an ECT under the NQF is available from the ACECQA website under [Early childhood teaching qualifications](#). NQF approved qualifications include a range of Graduate Certificates, Diplomas, Graduate Diplomas, 3 and 4 year Bachelors degrees.
56. The National Quality Standard is described in the *Guide To The National Quality Framework (February 2018)* [[Exhibit 76, Doc. 140](#), pp.J0087 – J0313] It includes seven Quality Areas, which are broken down into standards and then specific elements. Quality Area 1 – Educational Program and Practice – is broken down as follows:

	Standard	Element
1.1	Program	
1.1.1		Approved learning framework
1.1.2		Child-centred
1.1.3		Program learning opportunities
1.2	Practice	
1.2.1		Intentional teaching
1.2.2		Responsive teaching and scaffolding
1.2.3		Child directed learning
1.3	Assessment and Planning	
1.3.1		Assessment and planning cycle
1.3.2		Critical reflection
1.3.3		Information for families

57. In addition, each Element has an associated descriptor. For example, Element 1.3.1 Assessment and planning cycle has the following Descriptor: *“Each child’s learning*

and development is assessed or evaluated as part of an ongoing cycle of observation, analysing learning, documentation, planning, implementation and reflection.”

58. The National Quality Standards are linked to the EYLF, except in Victoria where the Victorian Early Years Learning and Development Framework applies, and Queensland where the Queensland Kindergarten Learning Guideline applies.
59. Services are assessed and rated against the NQS by the state or territory regulatory authority. All services, regardless of rating, are currently required by the National Regulations to have a Quality Improvement Plan in place for each service
60. The rating levels under the National Law and Regulations are:
 - (a) Excellent (the criteria for this rating level is determined by ACECQA);
 - (b) Exceeding National Quality Standard;
 - (c) Meeting National Quality Standard;
 - (d) Working Towards National Quality Standard; and
 - (e) Significant Improvement Required.
61. A service’s rating is published by ACECQA and is publicly available.

Funding

62. An ‘aide memoire’ produced by the Commonwealth is Annexure B to this document and sets out the current Commonwealth funding for ECEC services.
63. Figure 1 (below) extracted from the Productivity Commission’s *Report on Government Services – 2018* gives a basic overview of scope of the funding arrangements for ECEC services from both the Commonwealth and State Governments.

64.

Figure 1. Summary of ECEC service funding by Australian, State and Territory governments, 2016-17.

Table 3.2 Summary of ECEC service funding by Australian, State and Territory governments, 2016-17

	NSW	Vic	Qld	WA	SA	Tas ^a	ACT ^b	NT	Aus Gov
Funded child care services, for service types:									
Long day care (LDC)	✓			✓	✓			✓	✓
Family day care				✓				✓	✓
OSHC	✓		✓	✓					✓
Vacation care	✓		✓	✓		✓			✓
Occasional care	✓	✓	✓	✓	✓	✓			✓
3 year old kindergarten services								✓	
In home care									✓
Budget Based Funded			✓		✓				✓
Funded preschool services/programs, in:									
Local government/community preschools	✓	✓	✓	✓				✓	
For profit LDC	✓	✓	✓					✓	
Not-for-profit LDC	✓	✓	✓		✓			✓	
Government school	✓	✓	✓	✓	✓	✓	✓	✓	
Non-government school	✓	✓	✓	✓	✓	✓		✓	
✓	Government provides funding to at least one of these services								
	Government does not provide funding to any of these services								

^a In Tasmania, some child care services may receive funding under an annual, small capital grants (minor infrastructure) program. These services are not included in this table unless they also receive recurrent funding. ^b In the ACT, child care services and preschools outside the government sector may receive support through capital grants, rental subsidies, and funding through budget initiatives. These services are not included in this table unless they also receive recurrent funding.

Source: Australian, State and Territory governments (unpublished).

65.

Source: Productivity Commission (2018), [Exhibit 76, Doc.: 231 Report on Government Services - 2018 - Volume B: Child care, Education and Training \[RoGS 2018\]](#) Table 3.2 pp. K0431. Where Figure 1 shows that funding is provided, the funding amounts differ depending on the State and whether the preschool service is provided by local government/community preschool, for profit long day care, not-for-profit long day care or other service.

66.

States can determine funding conditions. Some, such as NSW, QLD and Vic require that preschool is delivered by an ECT.

67.

The Commonwealth's funding contribution through the National Partnership on Universal Access to Early Childhood Education supports states and territories to increase participation rates in preschool and ensure national consistency in the number of hours available to a preschool (or kindergarten in some States) program in the year before school.

68. Outlined below in more detail are the various funding arrangements by State. Note: it is not possible to clearly distinguish Australian Government contributions under the UANP within State's overall expenditure on preschool.
69. The Australian Government is providing funding through the National Partnership until the end of December 2020.

New South Wales

70. In New South Wales, preschool funding is provided by the State Government to preschools and long day care centres. Under the *Start Strong* program, (see Exhibit 76. Doc.173) the NSW Government has committed to ensuring that all children in New South Wales can participate in 600 hours of quality preschool education in the year before school, no matter where they live or what their circumstances are.

Start Strong - Preschool

71. Start Strong aims to make 600 hours of preschool participation in the two years before school more affordable by reducing fees for children, with priority given to reducing fees for children in the year before school, and children aged three years and above from low income and Aboriginal families, and children with disability and additional needs.
72. To be eligible for grants under this program as a centre-based preschool, service providers must meet all of the following criteria:
 - (a) be a not-for-profit, community-based preschool
 - (b) be an approved early childhood education and care service under the National Law and Regulations
 - (c) deliver an early childhood education program designed by a degree qualified early childhood teacher in accordance with The Early Years Learning Framework (providing a structured, play-based early childhood education) under the National Partnership Agreement on Early Childhood Education comply with the Terms and Conditions of the Early Childhood Education Grants Program.

Start Strong – Long Day Care

73. Under the Start Strong Long Day Care (LDC) program, long day care services can receive additional funding to support children aged four to five. The funding is being continued in 2019 - 2020 to help increase access to early childhood education in the year before entering school.
74. To be considered eligible under the Start Strong LDC program, the Approved Provider's service must:
 - (a) Be listed on the Australian Government's Child Care Subsidy System (CCSS) and regulated under the NQF

- (b) Have service approval to operate as a centre based service under the Education and Care Services National Law Act 2010 and have checked the long day care Nature of Care field under Service Details on the National Quality Agenda IT System (NQAITS)
- (c) Deliver an early childhood education program to children four and five years old, in their year before school, for 600 hours, that is:
 - (i) Taught by teachers holding an approved early childhood teaching qualification
 - (ii) Using the Early Years Learning Framework
 - (iii) Be operating and reporting through CCSS between August 2018 and May 2019;
 - (iv) Not be receiving funding under the NSW State Government Early Childhood Education Long Day Care Grants Program; and

Complete the preschool indicator of the CCSS between August 2018 and May 2019 for the ABS 'National Early Childhood Education and Care Collection'. Long day care services are required to report against preschool programs. The 'preschool indicator' of the CCSS applies to long day care services.

75. The Start Strong funding can only be spent on:

- (a) purchasing resources;
- (b) developing an early childhood education program based on the Early Years Learning Framework, or
- (c) developing staff, including upgrading qualifications from a diploma to a four year degree.

Queensland

- 76. A copy of the Queensland Government Kindergarten Funding Scheme: Funding Requirements, Department of Education (Queensland), revised January 2018 is found at Exhibit 76 Doc.163.
- 77. In order to be eligible for funding, a kindergarten (or preschool) or a long day care centre must provide a learning program delivered by a qualified early childhood teacher for children in the year before they start school, for at least 600 hours per year (Exhibit 76 Doc.163 p.J1311). This is normally delivered as 15 hours per week for 40 weeks.
- 78. At (p.J1315) of the document it states that the “per child standard funding” is specifically provided to “support and enhance the delivery of the approved kindergarten learning program, such as, the ongoing purchase of quality and age-appropriate resources specifically for the kindergarten-age cohort.”

79. The funding may also be used “to provide improved conditions for the early childhood teacher delivering the kindergarten learning program, such as payment of significantly above award wages or the provision of additional paid annual leave” (p.J1315)
80. Funding cannot be used to simply fund award wages. Wages and/or conditions must be above the minimum required in the award for funding to be used.
81. The remote area subsidy “must be used to attract and retain qualified early childhood teachers in remote areas” (see p.J1316).
82. It is a condition of the Queensland Government Kindergarten Funding Scheme that the qualified early childhood teacher must deliver all of the 15 hours learning program each week, except for a period when the teacher is at lunch.

Victoria

83. Victorian early childhood services are entitled to receive additional funding from the Victorian Government (see Website: Victoria - Kindergarten Funding Rates, Exhibit 76, Doc 169). To receive this funding, it is a core requirement that a service must provide a kindergarten program that is planned and delivered by a qualified teacher, who is registered with the Victorian Institute of Teaching. (see *Victorian Kindergarten Funding Guide* (Exhibit 76 Doc.170) An early childhood teacher is expected to plan and deliver a preschool curriculum in accordance with the *Early Years Learning Framework* and the *Victorian Early Years Learning and Development Framework* (VEYLDF), against the National Quality Standards and the Quality Improvement Plan (VEYLDF - Exhibit 76 Doc.87).

Western Australia, South Australia, Tasmania and ACT

84. In Western Australia and Tasmania most service providers that offer a preschool program delivered by a qualified preschool teacher are government preschools. Where there are non-government preschools, these are almost all attached to non-government schools (see ABS, 42400DO001_2016 *Preschool Education, Australia, 2016* - Appendix 1 -Table A2, Exhibit 76, Doc.: 28).
85. The funding that applies to government preschools in Western Australia and the ACT does not extend to long day care (whether private or not-for-profit) in these States.
86. South Australian long day care (including not-for-profit) have access to funding (approx. \$1520). However State government run preschools are largely free for families to attend and therefore most families attend those services rather than long day care services for ‘preschool’ to avoid any fees.
87. Tasmanian long day care centres (both private and not-for-profit) do not generally receive government funding for preschool delivery .

Annexure A – Statistical Annexure

Teachers

Table 1 - Employed persons by Occupation unit group of main job by sex (ANZSCO) – August 2019

ANZSCO	Description	Employed ('000)		
		Male	Female	Total
241	School Teachers			
2410	2410 School Teachers (not further defined)	16.7	38.9	55.5
2411	2411 Early Childhood (Pre-primary School) Teachers	0.6	43.9	44.4
2412	2412 Primary School Teachers	23.2	145.3	168.5
2413	2413 Middle School Teachers	0.6	0.0	0.6
2414	2414 Secondary School Teachers	64.5	89.9	154.4
2415	2415 Special Education Teachers	3.3	21.2	24.5
134	Education, Health and Welfare Services Managers			
1341	Child Care Centre Managers	0.7	14.1	14.8
1343	School Principals	10.4	14.2	24.6

Source: Updated data for Exhibit 135 – see also *ABS 6291.0.55.003 - Labour Force, Australia, Detailed, Quarterly, August 2019* Table EQ08 – link to [ABS page](#)

Table 2 - Number of Teaching Staff by Sex - Government Schools, States and Territories, 2018

	NSW	Vic.	Qld	SA	WA	Tas.	NT	ACT	Total
Male	15312	14036	10687	3871	5449	1309	588	878	52130
Female	50632	37199	34176	10303	17346	3564	1900	2682	157802
Total	65944	51235	44863	14174	22795	4873	2488	3560	209932

Source: *ABS 4221.0 Schools, Australia 2018*, Table 50a – link to [ABS page](#) – updates some data in contained [Exhibit 76 - Document 241](#)

Table 3 - Number of Teaching Staff by Sex - Catholic Schools, States and Territories, 2018

	NSW	Vic.	Qld	SA	WA	Tas.	NT	ACT	Total
Male	5113	4778	3111	1108	1618	383	120	401	16632
Female	15373	13555	8473	2628	4115	902	320	948	46314
Total	20486	18333	11584	3736	5733	1285	440	1349	62946

Source: *ABS 4221.0 Schools, Australia 2018*, Table 50a – link to [ABS page](#) – updates some data in contained [Exhibit 76 - Document 241](#)

Table 4 - Number of Teaching Staff by Sex - Independent Schools, States and Territories, 2018

	NSW	Vic.	Qld	SA	WA	Tas.	NT	ACT	Total
Male	5363	5187	3383	1480	2066	387	193	277	18336
Female	11113	10400	6722	2955	4418	687	386	638	37319
Total	16476	15587	10105	4435	6484	1074	579	915	55655

Source: ABS 4221.0 Schools, Australia 2018, Table 50a – link to [ABS page](#) – updates some data in contained [Exhibit 76 - Document 241](#)

Table 5 - Number of Teaching Staff by Sex - All Schools, States and Territories, 2018

	NSW	Vic.	Qld	SA	WA	Tas.	NT	ACT	Total
Male	25788	24001	17181	6459	9133	2079	901	1556	87098
Female	77118	61154	49371	15886	25879	5153	2606	4268	241435
Total	102906	85155	66552	22345	35012	7232	3507	5824	328533

Source: ABS 4221.0 Schools, Australia 2018, Table 50a – link to [ABS page](#) – updates some data in contained [Exhibit 76 - Document 241](#)

Table 6: Teaching Staff (FTE) by Sector and Affiliation, 2018

Sector & School Level	FTE
Government - Primary	106474.5
Government - Secondary	78983.5
Government - Total	185458.0
Catholic - Primary	25217.4
Catholic - Secondary	29293.3
Catholic - Total	54510.7
Independent - Primary	18859.7
Independent - Secondary	29754.6
Independent - Total	48614.3
Total - Primary	150551.6
Total - Secondary	138031.4
Total - All Levels	288583.0

Source: ABS 4221.0 Schools, Australia 2018, Table 51a – link to [ABS page](#) – related to data in contained [Exhibit 76 - Document 241](#)

Students

School Students

Table 7. - Number of School Students (full-time and part-time) - 2018

Affiliation	Males	Females	Persons
Government	1,319,178	1,238,991	2,558,169
Catholic	385,508	380,227	765,735
Independent	285,042	284,888	569,930
Total	1,989,728	1,904,106	3,893,834

Source: ABS 4221.0 Schools, Australia 2018, Table 90a – link to [ABS page](#) – updates some data in contained [Exhibit 76 - Document 242](#)

Children using ECEC services

Table 8 - Children who are attending Australian Government CCB approved child care services, by age group (0–5)

Age	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Aust
0 yo	8 346	7 247	7 269	2 584	1 678	628	630	296	28 657
1 yo	40 129	33 727	28 816	12 183	7 796	2 600	3 305	1 216	129 548
2 yo	58 702	44 267	38 737	15 971	10 236	3 155	3 940	1 407	176 039
3 yo	67 751	48 141	43 635	16 919	11 681	3 550	4 303	1 553	197 119
4 yo	64 034	41 334	40 328	12 555	10 374	3 100	3 634	1 264	176 293
5 yo	40 396	28 842	26 742	8 819	7 445	2 134	2 702	904	117 776
0–5	279 358	203 558	185 527	69 031	49 210	15 167	18 514	6 640	825 432

Source: Extract from Productivity Commission (2019), *Report on Government Services 2019, Part B, Chapter 3, Early childhood education and care* Table 3A.15. Updates data found in [Exhibit 76, Doc.: 231 Report on Government Services - 2018 - Volume B: Child care, Education and Training \[RoGS 2018\]](#) Table 3A.11pp. K0490.

Schools

Table 9 - Number of Schools (Inc. special schools) - 2018

Affiliation	Number
Government	6,646
Catholic	1,753
Independent	1,078
Total	9,477

Source: ABS 4221.0 Schools, Australia 2018, Table 90a – link to [ABS page](#) – updates some data in contained [Exhibit 76 - Document 242](#)

ECEC Services & Providers

Table 10: Number of Centre Based ECEC services by service sub-type and jurisdiction (as at 30 June 2019)

Jurisdiction	Long Day Care	Preschool / Kindergarten	Total	Total as a % National
ACT	156	92	248	2%
NSW	3130	796	3926	36%
NT	88	73	161	1%
QLD	1598	518	2116	20%
SA	395	407	802	7%
TAS	124	0	124	1%
VIC	1573	1197	2770	26%
WA	680	23	703	6%
National	7744	3106	10850	

Source: ACECQA, NQF Snapshot Q2 2019 ([Link](#)) Table 1, p.7; updates [Exhibit 126](#) NQF Snapshot Q1, 2019.

Table 11: Number of services by service sub-type and provider management type (as at 30 June 2019)

Sector sub-type by Provider Management Type	No of Services	% Sub Type	% Total
Long Day Care (LDC)			
LDC - Private for Profit	5108	66%	47%
LDC - Private not for profit community managed	984	13%	9%
LDC - Private not for profit other organisations	1107	14%	10%
LDC - State/Territory and Local Government managed	342	4%	3%
LDC - State/Territory government schools	7	0%	0%
LDC - Catholic schools	38	0%	0%
LDC - Independent schools	154	2%	1%
LDC - Other	4	0%	0%
LDC - Sub Total	7744	100%	71%
Preschool / Kindergarten			
PSK - Private for Profit	67	2%	1%
PSK - Private not for profit community managed	1531	49%	14%
PSK - Private not for profit other organisations	327	11%	3%
PSK - State/Territory and Local Government managed	694	22%	6%
PSK - State/Territory government schools	283	9%	3%
PSK - Catholic schools	23	1%	0%
PSK - Independent schools	181	6%	2%
PSK - Other	0	0%	0%
PSK - Sub Total	3106	100%	29%
TOTAL	10850		100%

Source: Extracted from ACECQA, National Quality Standard Data, as at 30 June 2019 ([Link](#)); updates [Exhibit 126](#) NQF Snapshot Q1, 2019.

Annexure B –Aide Memoire re Role of the Commonwealth in the early childhood sector

Aide Memoire

Role of the Commonwealth in the early childhood sector

Background

The primary role of the Australian Government in the early childhood sector is to provide financial assistance to families, mainly as subsidies through the child care system.

The Commonwealth administers the child care system through the Family Assistance Law (FAL), including:

- *A New Tax System (Family Assistance) Act 1999* (referred to as the Family Assistance Act)
- *A New Tax System (Family Assistance) (Administration) Act 1999* (referred to as the Family Assistance Administration Act)
- *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Act 2017*
- *Child Care Subsidy Minister's Rules 2017*
- *Child Care Subsidy Secretary's Rules 2017*
- *Child Care Subsidy (What Constitutes a Session of Care) Determination 2018*
- *Child Care Subsidy (Transition of approved child care services) Determination 2018*
- *Family Assistance (Immunisation and Vaccination) (Education) Determination 2018* and
- *Family Assistance (Public Interest Certificate Guidelines) (Education) Determination 2018*.

The Department of Education's December quarter 2018 administrative data for services approved to receive the Child Care Subsidy shows the centre-based day care sector is comprised of approximately 7,826 services delivered by around 4,450 providers. Approximately 69 % of these are private for-profit providers, with the remaining 31 % community and private not-for profit providers with a small component school-based and state, territory, or local government run. The vast majority of providers run only a single service (83%) or 2-4 services (14%) with only 47 providers running 11 or more services. These numbers do not include Preschools and Kindergartens, not eligible for the Child Care Subsidy, that may also be impacted by this application.

The Child Care Subsidy – how it works

The Commonwealth provides early childhood funding through fee assistance to families through the Child Care Subsidy. The Child Care Subsidy (commonly referred to as CCS) is the main payment that assists most families with the costs of child care. CCS is paid directly to providers in most cases, to be passed on to families as a fee reduction. Noting that Services that solely deliver preschool and kindergarten cannot be approved to receive CCS on behalf of families.

Aide Memoire

There are three main factors that determine if, and how much, CCS is paid to a parent to reduce their fees:

- An individual's eligibility for CCS (including the activity test)
- Types of child care and sessions of care covered by CCS (including hours of care and the fees charged)
- An individual's entitlement to CCS (amount of CCS payments based on household income)

The Commonwealth subsidises a proportion of fees charged to parents of up to 85 per cent, depending on combined family income, of hourly fees or the relevant hourly rate cap, whichever is lower.

Combined family income 2019–20	Subsidy per cent of the actual fee charged or relevant hourly rate cap, whichever is lower
Up to \$68,163 [^]	85 per cent
More than \$68,163 [^] to below \$173,163 [^]	Decreasing to 50 per cent*
\$173,163 [^] to below \$252,453 [^]	50 per cent
\$252,453 [^] to below \$342,453 [^]	Decreasing to 20 per cent*
\$342,453 [^] to below \$352,453 [^]	20 per cent
\$352,453 [^] or more	0 per cent*

* The Subsidy rate decreases by 1% for every additional \$3,000 of combined family income.

Hourly rate caps

Hourly rate caps are the upper limit on the amount the Australian Government will subsidise approved child care. Combined with the family's Child Care Subsidy percentage, the rate caps are used to calculate the amount of subsidy per hour each family is entitled to receive. Where a provider charges at or less than the hourly rate cap, families will receive their applicable percentage of the

Aide Memoire

actual fee charged. Where a provider charges equal to or more than the hourly cap, families will receive their applicable percentage of the hourly rate cap.

The hourly rate cap that applies to children attending centre-based day care in 2019/20 is \$11.98. Where a service charges above this rate, the portion above will not be subsidised by the Commonwealth and will be borne entirely by the parent.

Annual Subsidy Cap

Some families also have an annual subsidy cap. Families with an adjusted taxable income of \$188,163 or less have no annual cap on the subsidy they can receive. For families with combined income of more than \$188,163 to less than \$352,453, the annual subsidy cap for 2019-20 is \$10,373 per child, per year (indexed by CPI annually).

Fee increases and the Child Care Subsidy

Currently, the impact of any fee increases on parents depends on the subsidy amount to which the family is entitled, the hourly fee charged by the service and the increase proposed.

For example, where a service increases their fees, but their hourly fee remains below the \$11.98 per hour subsidy cap, then the Commonwealth will continue to subsidise a proportion of the fees charged to parents up to 85 per cent of hourly fees.

However, where a fee increase means that the hourly fee exceeds the hourly subsidy cap of \$11.98 per hour, then the families will receive their applicable percentage up to the hourly rate cap and be required to pay the difference beyond that.

This will mean that parents of children in services charging higher fees are more likely to bear a greater proportion of the cost than those currently using lower fee services. In particular, if a service is already charging above the hourly subsidy cap, then any further increase will have to be paid entirely by the family, with no subsidy from the Commonwealth.

In cases where the family is subject to the annual rate cap, where an increase in fees means that the total amount of subsidy received for a child in one year is above \$10,373, then the amount above this cap will be paid entirely by the parent, irrespective of whether or not the hourly fees charged were below the hourly cap.

Aide Memoire

Note: The average hourly rate (as at latest available data December 2018) for centre-based care was \$9.80 per hour with the average weekly hours for a child in centre-based care per child being 30.9 hours.

Further information on the Child Care Package can be found at:

<https://docs.education.gov.au/node/38911>