

**INQUIRY INTO CHILDREN (EDUCATION AND CARE
SERVICES NATIONAL LAW APPLICATION)
AMENDMENT BILL 2025**

Organisation: Early Childhood Australia
Date Received: 25 September 2025



Early Childhood Australia
A voice for young children

**OUR
VISION:
EVERY
YOUNG
CHILD IS
THRIVING
AND
LEARNING**

Inquiry into the Children (Education and Care Services National Law Application) Amendment Bill 2025

Submission

Early Childhood Australia

September 2025

About us

Early Childhood Australia (ECA) is a not-for-profit, membership-based organisation that was first incorporated in 1938. We work at both the national and local levels, with active State and Territory Committees in each Australian jurisdiction and a National Board of Directors. Our membership includes early childhood professionals, services, schools and organisations that share a commitment to the rights and wellbeing of young children.

Our vision is that every young child is thriving and learning. To achieve this, we champion the rights of young children to thrive and learn at home, in the community, within early learning settings and through the early years of school. Our work builds the capacity of our society and the early childhood sector to realise the potential of every child during the critical early years from birth to the age of eight.

ECA acknowledges the unique place of Aboriginal and Torres Strait Islander peoples in our society, the past and current injustices and realities for them across Australia, and the enduring strength of their cultures and identities. We commit to being at the forefront of achieving a reconciled nation that values, respects and celebrates Aboriginal and Torres Strait Islander ways of knowing and being.

Find out more at: www.earlychildhoodaustralia.org.au

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Acknowledgement of Country

Early Childhood Australia acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land and community. We pay our respect to them and their cultures, and to the Elders both past and present.

1. Introduction

Early Childhood Australia (ECA) appreciates the opportunity to comment on the proposed amendments to the Children (Education and Care Services National Law Application) Act 2010 that modify the Children (Education and Care Services) National Law (NSW) (the **National Law**) and the Education and Care Services National Regulations (the **national regulations**), that seeks to:

- a) provide that protection of the rights and best interests of children is paramount in the provision and regulation of early childhood education and care, and
- b) improve the quality and performance of the early childhood education and care sector (the sector), and
- c) strengthen regulatory presence, intensity and efficacy in the sector, including through increased penalties, additional offences, and heightened monitoring and enforcement, and
- d) increase transparency, proactive publication and information sharing in the sector, and
- e) improve public confidence in the sector.

Strengthening children's safety, safeguarding and quality in early childhood settings is an imperative. ECA commends Australian governments for their shared, articulated commitment to address where shortcomings exist within current policy and regulatory arrangements.

ECA recognises that the Inquiry has identified a volume and seriousness to failings within parts of the early childhood sector, including systemic failures that have allowed unacceptable risks of harm to occur. Devastating stories of child harm, maltreatment and sexual abuse have been difficult for early childhood educators to reconcile with their professional values and ethics. ECA and its members feel deeply for the children and families affected and understand that the hurt and terrible breach of trust is enduring. Incidents of child harm and maltreatment should not occur, and we support improvements that ensure that early childhood services are safe, demonstrate respect for children's rights and best interests throughout their operational activities, and provide high quality early childhood experiences and environments that allow every child to thrive.

Given the shortness of the turnaround of the Inquiry and the detail of the Amended Bill, we cannot comprehensively assess and respond to the detail of every proposed change to the legislation, we also have not had an opportunity to consult with our members or the sector more broadly. Because of that we can only provide commentary on some of the key changes and offer support for the broader objective of strengthening quality and safety.

We would like to have additional time to consult with ECA members to provide more detailed commentary, informed by early childhood colleagues and advocates from across the NSW early childhood sector. ECA's NSW Committee is active and engaged with regional networks across New South Wales. If given the opportunity, Early Childhood Australia would consult with our NSW members around the breadth of the legislation and provide a response informed by our diverse membership from across provider and service types (including long day care, preschool, mobile preschool, family day care, in home care and the early years of school), VET and university providers, early childhood policy and advocacy leads, as well as colleagues from other disciplines who work with children and families.

2. Scale of the Challenge

The size of the early childhood sector across NSW needs to be understood as a contextual factor in uplifting quality and safety. There are more than 6,000 services (comprising 5,978 centre-based services [including both long day care and outside school hours care] and 128 family day care services). There are over 80,000 people employed in the early childhood sector in educator, teacher, leader and supporting roles, providing early childhood education and care to more than 500,000 children before school in New South Wales,^{1 2} it is clear that a systematic response is required if we are to see a strengthening of children's safety and quality across the many different provider and service types, and geographies.

We have heard from within the sector that where there is churn in service ownership, quality is undermined. So too where we see oversupply, the viability of services is impacted, which again has a direct impact on quality – too many services competing for a finite number of children and a stretched workforce can result in low occupancy and staffing shortages across a region, making it difficult for anyone to operate a high-quality service. In regional, rural and remote communities, challenges of workforce shortages, high-cost housing and variable enrolments can cause additional complexity.

The role of a system steward, such as an Early Childhood Commission, is needed to provide oversight on issues of supply/demand and systemic issues that impact on quality such as location and investment in quality infrastructure. There is also scope to renegotiate who can be an approved provider as we move towards a universal system – ensuring that only those willing to give paramount consideration to the best interest of children remain in the system. ECA has developed a set of proposed provider commitments that would operationalise that paramount consideration (see below) and could be taken up by government as part of the reform agenda.

It is our view that measures proposed in the legislation can be part of the potential solution but we also need enduring investment in the capability uplift of the early childhood professional workforce. For early childhood services establishing and maintaining a durable culture of safety is impactful on children's everyday experience. It is through high quality, principled and ethical practice, underpinned with robust, systematic policy and procedures, that better enable early childhood environments with an embedded culture of safety. Children's safety is everyone's business. It simply cannot be left to chance. It must be visible and tangible, and it requires a high level of vigilance every day through all provider and service activities. High expectations that privilege children's safety and quality are integral. We know that a reporting culture is important, and indeed a positive and informed reporting culture is a protective factor for children's safety and quality.

Australian Governments and the early childhood sector have a shared commitment to build a universal system of early childhood education and care, in which every child – regardless of location, household income or individual needs – can access high quality early learning. Recent coverage of quality failings and safety breaches have amplified the need to ensure that sector growth does not

¹ NSW Government. (2024, September 26). ECEC in NSW. <https://education.nsw.gov.au/early-childhood-education/about-us/ecec-in-nsw>

² Australian Children's Education and Care Quality Authority (ACECQA). (2025). NQF Snapshots Q2 2025. <https://www.acecqa.gov.au/sites/default/files/2025-08/NQFSnapshotQ22025.pdf>

compromise the quality of services or the safeguards that ensure children are safe and thriving in early childhood settings.

In a paper written to inform how we might achieve this renegotiation of who provides early childhood education and care in a mixed or hybrid sector where many of the providers are for-profit, Professor Paul Leseman recommends creating a social market with an overarching social mission, goals and required corporate responsibility, collaborative network behaviour and professional performance.³ Essentially, this means changing who can operate in the market to ensure only organisations or companies that commit to values-based governance, transparency and a genuine commitment to quality (including capped or moderate profit taking) are given a social license to operate subsidised service delivery.

3. Response to Specific Amendments

Schedule 1[5]–[8]

(a) provide that protection of the rights and best interests of children must be the paramount consideration in giving effect to the National Law, and that those rights and interests prevail over the interests of approved providers and any other duties owed by persons with management or control of education and care services,

Early Childhood Australia is highly supportive of the paramountcy of children's rights and best interests underpinning policy, practice, and everyday operations from governance structures, whether they be corporate boardrooms or parent committees, and right across service delivery and provision. Protections should be afforded to children, their rights, interests, safety, learning, development and wellbeing. Aspirations that Australian governments, the Australian people, communities and families have for Australia's children both now in the present, and for their futures, requires vigilance and commitment to children's safety and quality

The Independent Review into the NSW Early Childhood Education and Care Regulatory Authority (June, 2025) included recommendations to insert into National Law a new 'paramount consideration' provision to apply to all entities in the Early Childhood Education and Care (ECEC) sector including providers, services, their employees and other individuals working in the sector to ensure that the protection of the rights and best interests of children is their paramount consideration in decision making.⁴ A piece of work that ECA has undertaken is the drafting of proposed provider commitments as a starting point for consideration by Australian governments and the sector. The draft provider commitments seek to articulate and illustrate demonstrable actions that providers could undertake to ensure that children's safety, rights and best interests are privileged at every level in the provision, delivery and operation of early childhood services.

We suggest that provider commitments could be adopted, either voluntarily or perhaps as a mechanism by Australian governments to animate the paramountcy of children's safety, rights and best interests, regardless of governance structure, provider or service type. As we move from a

³ Leseman, P. (2021). *Governing a privatised marketized 'hybrid' ECEC system: Risks and opportunities of a social market approach to educational governance*. Utrecht University for Goodstart Thought Leaders.

⁴ Wheeler, C. (2025). *Early childhood education and care regulation in NSW independent review*. [Independent review into the NSW Early Childhood Education and Care Regulatory Authority](#)

market to a system, with greater government investment, and likely funding surety, it would be reasonable for governments to have higher expectations of providers and their obligations.

Provider commitments could include:

1. Demonstrate continuous quality improvement – beyond minimum compliance requirements noting the structural, process and systems elements that make up the National Quality Framework (NQF), ensuring that both operators and Nominated Supervisors complete training on the NQF.
2. Ensure there are experts in early childhood development and education on our governing body and across our senior executive team, so that all decisions are informed by an understanding of children's best interests.
3. Limit profit or surplus to no more than 9% of revenue to ensure that investment back into service quality and the workforce are not compromised (look to UK as an example, rate subject to Australian research, including the Service Delivery Price research underway).
4. Embed Child Safe Principles and Standards across all service settings – including fostering a culture of reporting at all levels of the organisation from governance to service delivery.
5. Embed ethical practice across our services and education teams, equipping them to act in an ethical way when unanticipated or complex situations arise and holding them accountable for their decisions.
6. Invest in ongoing professional learning for our educators, teachers and service leaders (at or above a benchmark of salaries expenditure).
7. Recognise and reward good practice that strengthens children's wellbeing, development and learning outcomes, builds family confidence and contributes to the positive reputation of the early childhood sector.
8. Ensure practices prioritise safety and quality considering staff qualifications and experience, leadership capability within the centre, and ratios responsive to meeting the needs of children – beyond minimal legal requirements when appropriate.
9. Provide active guidance and supervision for trainees and students on placement to ensure they have effective on the job training and support to develop their knowledge and skills – excluding them from educator-to-child ratio calculations until they are competent.
10. Accept responsibility for the services we provide and hold other providers accountable – contributing to a sector that is reputable and builds public confidence

Schedule 1[5]–[8]

(u) expand the protections from reprisal (also known as serious detrimental action), the avenues for legal relief available to persons who make disclosures to the Regulatory Authority, the scope of protected disclosures, and the definition of **serious detrimental action**

Ensuring a culture of reporting is an important protective factor for children. ECA recognises the courage of early childhood professionals who have spoken out for children and families, bringing into the light where serious failings have occurred, and children's safety and wellbeing has been compromised and/or devastated. Whistle blower protections are welcome. ECA understands that there is vulnerability in cohorts of the early childhood workforce, and that a capability uplift in terms of ensuring children's safety is entirely needed, including knowing and understanding practice that keeps children safe, and recognising practice that places children at risk. This may be services

operating out of ratio, trainees or student educators being made to assume responsibilities beyond their knowledge and skills, poor rostering and/or supervision practices. Our early childhood workforce are at the frontline of children's safety and safeguarding, and as such, it is imperative that we recognise the value and commitment of ethical and principled early childhood professionals in the sector in keeping children safe.

Schedule 1[5]–[8]

(c) extend the functions and powers of the New South Wales Early Childhood Education and Care Regulatory Authority (the **Regulatory Authority**) to related entities of approved providers,

The work of the regulatory authority is critical in ensuring safety and quality, and responsiveness where children's safety and quality is compromised. ECA has long supported better resourcing of the important work of the regulatory authority. Our preference has been for regular touch points by the regulator with early childhood services across provider and service types to better capture everyday practice. Quality assessment should become a more ongoing, continuous process rather than a single point in time and there is an opportunity to deploy more sophisticated technology to support this.

Principled and ethical providers are no less than children and families deserve, and as employers for the early childhood professionals who provide early childhood education and care. We are supportive of better enabling the regulatory authority to prevent bad actors, and related entities, from entering and/or re-entering into the provision of early childhood education and care. We understand that presently it is difficult for regulatory authorities to act responsively and to keep up with persistent activity by bad actors seeking to enter or re-enter into the sector. Empowering the regulatory authority to move with greater agility and responsiveness is an important safeguard for children and families.

Schedule 1[5]–[8]

(m) expand the scope of prescribed information to be displayed, and notified to the Regulatory Authority, by approved providers

Publication of reliable data for families is important and there needs to be an ease in how families can access timely, reliable information from a trusted authority. ECA has heard from high quality early childhood services frustrated by families accessing information through other means that provide less reliability (such as through apps) and that do not draw upon, or build confidence in, the National Quality Standard. We would suggest that making timely and current information accessible around the quality of the service to families is imperative. Families need to be able to trust in the quality rating of early childhood services and the currency of these ratings. We have heard anecdotally where services have been transitioned into new ownership, where leaders within the service have moved on, or other changes that impact quality, that these are likely not reflected in the rating, and the rating then becomes 'borrowed' from when the last significant contact with the regulatory authority occurred.

Schedule 1[5]–[8]

(p) set out the information that the Regulatory Authority may publish about enforcement action taken, or being taken, under the National Law, provide protections from liability for certain

persons for publication of the information, and make other amendments relating to disclosure and confidentiality,

With regards to greater transparency and visibility of compliance action, ECA is supportive of timely reporting of compliance action. Where we caution is around where the privacy of children and families may be compromised. We would suggest again that the paramountcy of children's safety, rights and best interests should also guide decisions around the breadth and depth of data released into the public domain – that data released should not do further harm to children and families.

And we would also caution around naming early childhood professionals who should be entitled to due process. This certainly does not suggest however that where educators, teachers, leaders and support staff may be deemed as a risk to children that they should be allowed to remain, more that there is balance between the privacy of the individual and what is in the public interest, and the best interests of children.

4. Conclusion

In conclusion, ECA is grateful for the opportunity to contribute to the Parliamentary Inquiry and for the commitment to children and families that has enabled this Inquiry. Our vision of every young child thriving and learning guides us in all that we do. We understand the extraordinary privilege it is to work with children and families in early childhood settings.

ECA, our New South Wales Committee and Regional Networks are keen and able to work with the New South Wales Government and the sector to positively contribute to keeping children safe and enabling them to thrive in early childhood settings. We strongly encourage the NSW Government to work with the sector to ensure changes are well-conceived and effectively address, but do not exacerbate, current vulnerabilities in the delivery and regulation of quality early childhood education and care. A genuine concern of ECA is for the retention of experienced educators and leaders. We have heard anecdotally of a growing sense of disillusionment from some who feel devastated by the emerging reports, but also commentary around the profession. ECA would argue that by working with the sector recognises the early childhood profession and enduring commitment of knowledgeable and expert early childhood professionals and goes some way to ensuring that changes are effective, and address the many different provider and service types, without being unnecessarily burdensome.

With the breadth of the amendments, the shortness of the timeline for interested parties to get across the detail, and limited consultation with the early childhood sector, ECA feels that careful consideration of potential unintended consequences would be wise.