



# Response to the National Child Safety Review Consultation Regulation Impact Statement

**Submission**

**June 2025**

A Joint Submission by:



**Community Child Care Association**



**Community Early Learning Australia**

## About Us



### Community Child Care Association

From a small beginning, Community Child Care (CCC) has grown significantly, and is now the peak body in Victoria for community-owned education and care, supporting long day care, outside school hours care (OSHC), kindergarten, family day care and occasional care educators, teachers, leaders, coordinators and directors. CCC's vision and purpose are underpinned by the belief that all children deserve the best possible start in life, regardless of their circumstances. Our vision is for excellent early childhood and outside school hours education and care for all and our purpose is to lead, support and advocate for accessible high-quality opportunities for children and families.

As a trusted sector leader, CCC provides leadership and advocacy, works with governments toward improvement in the sector and supports services with membership, quality professional development and consultancies. CCC equips and supports early childhood and outside school hours care services, educators and their communities with the skills and confidence to deliver high quality inclusive education and care services.

CCC's advocacy helps to enable and strengthen the development and retention of Victoria's community-owned education and care sector.

#### Contact

Julie Price  
Community Child Care Association  
Phone: 9486 3455  
[jprice@cccinc.org.au](mailto:jprice@cccinc.org.au)  
[www.cccinc.org.au](http://www.cccinc.org.au)

## Community Early Learning Australia

Community Early Learning Australia™ (CELA) is the voice for Australia's early education and care sector. As a peak body, our vision is for all of Australia's children to have access to quality early education, regardless of economic circumstance or where they live.

CELA supports over 1,800 members employing more than 27,000 educators and teachers nationally. Our members include community-managed not-for-profit, government, and privately owned small providers, delivering preschool, long day care, outside school hours care, and family day care services.

Our Mission is to:

Deliver effective and expert support for our members, enabling them to deliver quality early education and care for all Australia's children.

Influence policy makers and government by amplifying the voices of community based and small providers.

Promote the value and importance of community-based early education.

### Contact

Michele Carnegie  
Community Early Learning Association  
[michelecarnegie@cela.org.au](mailto:michelecarnegie@cela.org.au)

[www.cela.org.au](http://www.cela.org.au)

# Contents

<b>About Us</b> .....	<b>2</b>
Community Child Care Association.....	2
Community Early Learning Australia.....	3
<b>Introduction</b> .....	<b>5</b>
<b>Executive summary</b> .....	<b>6</b>
<b>Response to recommendations</b> .....	<b>7</b>
Management of digital devices.....	7
Child safety training .....	10
4.1 Introducing mandatory child safety training .....	10
Responding to educator and staff conduct .....	13
5.1 Making inappropriate conduct an offence.....	14
5.2 Enhancing Regulatory Authorities' ability to share information with approved providers.....	14
5.3 Expansion of regulatory responses to educator and staff member conduct.....	14
Working with children checks.....	17
6.1 Requiring an approved WWCC prior to commencing paid or volunteer work at an education and care service.....	17
6.2 Requiring approved providers and Regulatory Authorities to be notified about changes in WWCC status.....	17
Improving the safety of the physical service environment .....	17
Additional Recommendations.....	18
8.1 Effective identification, monitoring and regulation of 'related providers' .....	18
8.2 Extending the limitation period for commencing proceedings under the National Law .....	19
8.3 Information sharing provisions for recruitment agencies .....	20
References.....	21

## Introduction

CCC and CELA welcome the opportunity to respond to the Review of Child Safety Arrangements under the National Quality Framework (CSR). As a part of this review the Consultation Regulation Impact Statement (CRIS) was provided to stakeholders to consider the impact for people, business and community organisations in the education and care sector.

CCC and CELA are driven by a mission to ensure that every child can experience the benefits of high-quality education and care and that children's rights to safety and wellbeing are paramount in any decisions concerning their education and care environments. We welcome government action to broaden the scope of children's safety protected under regulation.

This consultation opportunity comes as a time where children's safety is high on the agenda of community concerns. Recent media releases and programs including an ABC 4 Corners report 'Betrayal of Trust' in March 2025, illustrate that the absence of substantive regulatory safeguards has left children and their families at risk. A key driver, it has been argued, is the lowering of safety provisions due to cost cutting by large corporate providers that prioritise profit over children's outcomes and their safety. Maltreatment and safety issues can occur anywhere, anytime by anybody, but we know children in non-profit centres are more likely to be receiving the highest quality care. We need to ensure at all times in all places, that safety is always put before profit.

The community managed and not-for profit sector is an efficient provider of high-quality education and care, particularly in areas of greatest need. As the two leading peaks in the community managed and not-for-profit sector we welcome the opportunity to support regulatory reform. Our critical reflections on the proposed policy options for reform are based on our deep level of experience and knowledge of evidence. This will strengthen the evidence base which will inform impactful and necessary changes to drive an urgent uplift in quality and safety across the sector.

The education and care sector has a track record of supporting successful large-scale national reforms. We are ready for the next phase of reform to achieve better outcomes for children.

## Executive summary

The proposed regulatory changes will help shift the focus of education and care to ensure that children's rights and needs are at the heart and set a clear course for action.

*Child safety must be prioritised over any potential funding and regulatory challenges for governments or administrative and change management issues for sector stakeholders. Children's health and safety has lifelong impacts that outstrip the costs of setting up a system that prevents harm, provides remediation and protects children through a system of robust safeguards.*

We need a system where the provision of safe environments is a shared responsibility by funding agencies, early education and care providers, employers and educators. We see all parties as *invested stakeholders*. As such, funding and regulatory systems must influence and enable providers to deliver services that support high quality outcomes for children.

**A safe system is based on high quality, but quality does not happen by chance. It is based on:**

- ▶ a well-structured, funded and coordinated national system that puts children's needs first
- ▶ a provider market that prioritises quality over profit, with good governance and educational leadership informed by expert pedagogy
- ▶ higher than minimum staff ratio's that provides supervision and care at a level that is appropriate to needs of children
- ▶ a stable workforce that results in high retention of staff and low use of temp staff and waivers, ensuring children can maintain consistent attachments with educators and teachers
- ▶ a qualified, experienced workforce with paid access to ongoing professional development
- ▶ a National Quality System with effective assessment, rating and compliance levers.

The achievement of this will require:

- ▶ effective National Cabinet collaboration
- ▶ establishment of an independent ECEC Commission
- ▶ a balanced sector that provides quality, access and choice for families.

These factors should be present in all government funded education and care services. This is the basis for delivering the full benefits of early childhood education and care for children, families and our broader community.

Regulatory and non-regulatory reforms stemming from this process must be supported by coordinated state and federal government implementation to ensure state regulators can apply these reforms consistently, particularly assessment, rating and enforcement requirements.

The thresholds for compliance, non-compliance and criminal conduct need to be clear and unambiguous. Without this, there is a risk that the consequences to instances of maltreatment and neglect won't be in line with community expectations. Children and their families, educators, providers and funding bodies will have clearer understanding about processes and responsibilities if the regulatory expectations are balanced and clear.

CCC and CELA are broadly supportive of the key findings and recommendations as outlined in this document.

# Response to recommendations

## Management of digital devices

### 3.1 Managing the use of digital devices

CCC and CELA support the principle of restricting personal devices to improve child safety. **We support Options 2 and 3.**

We consulted with members to inform our response to the National Model Code for early childhood education and care: Taking images or videos of children while providing early childhood education and care. The feedback and information we collected for our response is included in this section.

#### **Current practice**

Consultation with member services confirm that most services currently have some level of restriction or protocols around the usage of personal electronic devices in services.

In most cases, services either provide devices to all staff who are required to take images or recordings of children for the documentation of child learning. Otherwise, staff are not permitted to have personal devices while engaged in the care and education of children.

However, there are still a number of services where staff are not provided with service issued devices due to the size of the service and cost of providing such devices. Some services provided devices, but not in sufficient numbers to ensure access when needed.

It was broadly accepted that personal devices should not be in the possession of staff during the provision of care and education to children, however there were consistent examples of exemptions to this and ways in which they were managed.

The use of personal devices for health monitoring (for example insulin levels) as well as in cases of family emergency were reported. These circumstances did involve the staff member getting express permission from management and often a discussion about how the device was stored and used throughout the day.

Generally, in the case of family emergency, family members were encouraged to contact the service directly or the staff member was able to leave their personal device with management to allow them to be notified.

The use of personal devices during excursions was another common exception. Services reported that there may not be sufficient mobile devices to ensure contact while children and staff are away from the service, and that personal devices were sometime used.

As discussed above, those services where personal devices are sometime used reported that cost was the main barrier to providing sufficient numbers of service issued devices to cover all circumstances.

Sufficient time for staff to complete planning and documentation within work hours was also identified as impacting the management of usage and distribution of images and videos of children. Over a quarter of respondents to our consultation survey reported that there was not sufficient planning time provided to ensure all programming and documentation could be completed in work hours on the premises. This can create circumstances where staff are transferring documents and images to use personal devices at home, or taking service issued devices to private residents where their usage cannot be monitored.

Preschools and kindergartens reported that completing documentation during the holiday break periods at home was a common practice. While CCC and CELA do not want to create restrictions on flexible work practices, **we recommend the regulatory provisions include specific references to managing remote access to images and recordings of children, as well as encouraging the provision of sufficient planning/non-contact time in work hours.**

### **Sector impact of proposed regulatory changes**

CCC and CELA member services strongly agree that options 2 and 3 will improve quality and safety for children in ECEC services. However, the regulatory provisions will have an impact on services including additional costs, changes to operations and the creation of new resources for staff and families.

The most significant impact will be the time necessary to communicate with staff, families and third parties about their obligations. Many services will also have additional financial costs including the purchasing of new equipment, IT and storage facilities. As mentioned above, for some, the additional cost is prohibitive, especially in areas where there is little capacity to pass on these costs to families through fees.

Services have also reflected on the additional management responsibility including the monitoring of device usage by staff in the service, and the need to develop new policies and procedures.

### **Sector support for implementation:**

Services reported a range of supports that are needed to deliver the new code including:

- Support for services to update policies and procedures.
- Financial grants for services to purchase necessary devices and IT programs.
- Funding to support time for staff training and professional development on child safe practices.
- Training for providers on the details of the code including practical examples.
- Materials to support communication with families on policies and appropriate use of service platforms where images of children may be shared.
- Independent and objective information on available ECEC IT platforms including their privacy and management settings in relation to obligations under the new Code.

The exceptions for special circumstances for keeping personal devices as outlined in the National Model Code and Guidelines are sufficiently comprehensive. **We recommend that they should be made explicit in information for families and educators.**

**We recommend providing guidance to services on how to manage parents' expectations for regular photos of their children and appropriate online use of these images.**

### **OSHC specific considerations**

OSHC respondents noted that programming, planning and documentation, as well as access to staff office facilities are different for providers of school aged care. For example, some OSHC services are delivered by single educators where having access to a mobile phone is important for emergencies and safety considerations. In many OSHC services, educators do not have an allocated office space in which to store personal devices or have someone to alert educators if an emergency phone call occurs. However, **the protection of privacy and safety of school aged children could be improved with a consistent code which applies for OSHC services.**

### **FDC specific considerations**

FDC members were not part of the initial consultation we had. However, our experience supporting FDC schemes and educators provides us with some level of insight. FDC services are operated by a single educator in a majority of settings. Devices are used for families to sign in and out of the service, handle documentation and for educational planning and documentation. Tax deductions are available for

educators for purchase and maintenance of business-related devices, so some FDC educators already have separate devices for their business use. Because FDC educators are a single educator model in most circumstances, having access to a mobile phone is important for emergency and safety considerations. However, having access to a separate non-personal device for programming, planning and documentation is one way around separating work-related information creation and gathering, from personal use. **The protection of privacy and safety of children could be improved with a consistent code which applies for FDC services.**

#### **Access by families and other third parties**

The proposed changes focuses appropriately on the responsibilities of the Provider to ensure appropriate security and usage of images and recordings of children. However, there are many cases in which third parties including families, training providers, IT platforms and contractors may also take or have access to images and recordings of children.

In some cases, services have reported images that were uploaded to internal family communication platforms being uploaded by families to social media without permission. Communication with parents on the service policies, including the distribution and sharing of images of children at the service are vital.

Students on placement or being observed by training providers may also be required to record images of children. It is appropriate for services to have clear public policies in relation to the collection, storage and usage of images of children, as is included in the code. However, **we suggest that further work is done to identify how the standards outlined in the code could be extended to third parties who regularly interact with the ECEC sector including training providers, IT platform providers and others.**

The new regulatory provisions must be clear about what is reasonably in the control of directly employed staff and providers and what is the responsibility of others who may interact with the service.

#### **Further considerations**

For single educator models including FDC, OSHC and some small ECEC services in regional and remote locations having a separate designated mobile phone is an ideal solution.

**Further considerations in the proposed regulations is needed around restricting use of social media platforms on designated work devices.** The *Online Safety Amendment (Social Media Minimum Age) Act 2024* introduces a mandatory minimum age of 16 for accounts on certain social media platforms, forming one part of a broader strategy to create safer digital spaces for everyone. It is not unreasonable to regulate use of devices for education and care services to similarly restrict use of the same social media platforms, ensuring that children are not being *used in* these platforms as much as the *Social Media Minimum Age Act 2024* restricts children *using* these platforms.

## Child safety training

### 4.1 Introducing mandatory child safety training

**CCC and CELA agree with options 3 and 4** to amend section 162A of the National Law to require the completion of child protection training by;

- nominated supervisors, persons in day-to-day charge and FDC coordinators,
- and staff who work with children, including FDC educators, volunteers and students.

We also **agree with option 5**, to amend Regulation 84 so that all staff and volunteers, whether or not they work with children, must be made aware of the existence and application of the current child protection law and any obligations that the person may have under that law.

We also **agree with Option 6**, to make child safety training mandatory. We strongly recommend extending the requirement to include mandatory training of child safety, not just child protection, as this is critically important to lifting the knowledge and awareness across the sector.

- ▶ Expand the requirement for annual mandatory training to both child protection and child safety training for the whole service team including people with governance responsibilities.
  - Staff working with children must undergo comprehensive refresher training every 12 months, and whenever significant changes are made to the child protection law or reporting requirements.
  - Content for training must be prescribed and standardised, including a minimum of 6 hours (can be delivered 3x2 hours) delivered by an approved training organisation, with suitably experienced and qualified facilitators.
  - Establish a system for identifying and tracking individuals who require mandatory training or retraining.
  - Establish mechanisms to monitor the effectiveness of mandatory training.
- ▶ Training must be aligned to quality ECEC practice and include:
  - modules on inappropriate discipline, adult self-regulation, and positive behaviour guidance strategies to reduce the use of punitive or outdated practices
  - legislation, processes and protocols that must be followed in the relevant jurisdiction and align with a service's policies and procedures.
- ▶ Remove barriers for services complying with mandatory training requirements including:
  - the cost of implementing these requirements into broader service delivery price and funding models
  - additional support needs of services operating in communities with high needs
  - access to funding for paid time to release staff for training (during work or after hours).

Approved Providers in some jurisdictions are required to show they know their obligations and usually complete *child protection* training and provide a certificate to apply for provider approval. We have observed inconsistent leadership practices on ensuring that child safety is embedded in the culture and processes of services. In services where approved providers, co-ordinators and managers have a shared understanding of child safety along with their staff, we observe better management around the structural necessities to make sure it is possible. We also see a higher level of understanding about the resourcing needs and how support teams facilitate safe environments.

Services in jurisdictions that mandate *child protection* training currently ensure that their staff complete child protection training. However facilitation of paid time to complete training is not recognised in national award instruments.

There is no mandate for *child safety* training more broadly and it is up to services to ensure staff are aware of the National Quality Standards. Education and care staff are not required to undertake regular, whole team training that can result in child-safe culture in services. High quality, whole team training is required to help ECEC professionals gain the knowledge and skills necessary to identify, respond to and prevent child abuse and neglect. Without adequate training, key indicators of harm, abuse, neglect and inappropriate conduct of other staff members may go unreported.

Auxiliary staff such as people who work in administration, support workers such as allied health professionals and those who facilitate education and care incursions are outside of the scope of current child protection training requirements.

### **Sector impact of regulatory changes**

We recommend making the requirement for child protection training nationally consistent, applicable to a wider scope of people in education and care services, and ensuring consistency across the sectors. This would ensure consistent knowledge across the sector and strengthen the safety and protection of all children in Australia.

In legislating options 3, 4, 5 and 6 this would extend services providers' responsibilities to ensure that volunteers and students are also trained. **We recommend expanding the requirement for mandatory training to both child protection and child safety training for frontline, administrative and non-contact staff through a network of approved training providers to ensure services have access to quality training that produces the required outcomes in staff.**

### **Agency staff should also be included in mandatory child safety training.**

Some services, particularly in regional and remote areas have constraints on their availability to undertake training due to issues with workforce supply and providing backfill. They may need to facilitate staff to attend training after hours which would require additional out of hours pay. In other circumstances services may be able to organise backfill but may struggle with covering the costs associated with this. Some services may also have other cost constraints including transportation of staff, or costs associated with paying for trainer's transportation. **We recommend that services can access funding support for paid time and backfill to release staff for training. We also recommend that there is scope to identify further barriers for services complying.**

Many students obtaining their qualifications are required to complete mandatory training before they complete their practicum requirements. In some jurisdictions these are provided free by the relevant state Department of Education. **For the emerging workforce we recommend the supply of mandatory training during the course of obtaining their qualifications (separately dated) as this would take some of the burden off services.**

### **Further considerations**

The burden of cost should not fall on the shoulders of educators. This would be unreasonably restrictive, particularly for employees at the minimum wage and with caring responsibilities. For Casual Educator Agencies, the costs and assurance that their staff have obtained the minimum mandatory training requirements should be covered by the agency.

We agree with that mandatory training includes clearly defined units of competency and the delivery of training by approved Registered Training Organisations. The quality of child safety and child protection training is essential to reduce the risk of 'tick and flick' low quality training.

- ▶ Provide guidance and support for services to implement quality and safety reforms by:
  - supporting services leaders to deliver ongoing coaching and reflection for staff, for example recognising positive engagement with tools such as the Child Safe Standards self-assessment
  - embed the National Child Safe Principles and Standard 1 through reflective practice that places children's voices at the centre of service improvement (CELA, 2024a).
  - establishing communities of practice and localised systems of support that reinforce training outcomes with peer-led reflection, practice sharing and leadership development.
  
- ▶ Support services to embed child safe practices including:
  - prioritising the rights of children to be heard, protected and respected, as the foundation for delivering high quality education and care (CELA, 2024c)
  - using participatory approaches to ask children regularly how they feel, reinforcing agency and contribution (CELA, 2024a)
  - ensuring staff understand their obligations under the Model Code for Taking Images, including obtaining informed consent and avoiding any practices that compromise children's dignity (CELA, 2024b)
  - ensuring behaviour guidance practices are underpinned by trauma informed connection seeking approaches rather than compliance based models (CELA, 2024d; CELA, 2023a)
  - supporting families facing vulnerability through proactive, strengths-based partnerships that are responsive and coordinated (CELA, 2024e).

## Responding to educator and staff conduct

This section includes a list of conduct that has been deemed inappropriate with the caveat that this is not wholly comprehensive and other behaviours or actions may also be deemed inappropriate. These include:

- a child sexual offence;
- sexual misconduct committed in relation to, or in the presence of a child, including verbal discussions, flirtatious gestures and comments;
- inappropriate verbal interactions, that is, conversations with, or comments to children or conversations in the presence of children in relation to sexuality or sexual contact, including excessive flattering, conversations of a sexual nature, making sexual jokes or evoking children's curiosity about sexuality;
- ill-treatment of a child;
- neglect of a child;
- physical or verbal violence (including threats) committed in relation to, or in the presence of a child;
- behaviour that is likely to cause emotional or psychological harm to a child;
- any form of inappropriate physical contact. For example, unwarranted, invasive, or unnecessary for the child's age and developmental stage, such as kissing, massage, 'tickling games', inappropriate touching).
- any form of inappropriate online contact or online harm. For example, exposing children to sexual or violent content inappropriate for their age and stage of development, and technology-facilitated abuse.
- correspondence, communication of a personal nature or capturing of images of children via any medium (phone, text message, social media, within apps, internet postings) unrelated to the staff members role or endorsed communication channels;
- manipulating or coercing a child emotionally to meet the educator's personal needs or to create inappropriate dependencies; and
- grooming, being any form of conduct, online or offline, that facilitates child sexual abuse. For example, making a child feel special through favouritism or special privileges and rewards or receiving / giving gifts of an inappropriate nature.

**We recommend that there is more clarity on the threshold of what is considered 'ill-treatment of a child' and 'neglect of a child'.** The Victorian Commission for Children and Young People, for example, has specified that 'significant neglect' includes supervisory, physical, education and emotional neglect (Commission for Children and Young People, Victoria, 2025). There are risks to educators if there is too wide an interpretation or if the threshold for harm is unclear.

The options of non-regulatory and regulatory changes provided in sections 5.1, 5.2 and 5.3 address the ways in which enforceable actions require change at the staff level, the approved provider and nominated supervisor level and at the level of the powers given to the regulatory authority.

## 5.1 Making inappropriate conduct an offence

**CCC and CELA recommend that Options 2 and 3 are enacted.**

Option 2 is a non-regulatory option to provide resources to approved providers to look at ways they can address safe behaviours within employment contracts, policies and procedures and their code of conduct.

The changes to National Law as proposed in Option 3, to make inappropriate conduct an offence applicable to approved providers, nominated supervisors, educators, other staff members, volunteers and FDC educators. This option lays out the responsibility for the approved provider to ensure that no child is subjected to any forms of inappropriate conduct. It also lays out the responsibility for staff not to subject any child to any form of inappropriate conduct. This is a necessary and important step to protect children from harm.

This will enable regulatory bodies and enforce service providers to take more serious action when a person working with children has been observed conducting behaviour that poses a risk to children. We **recommend that there are provisions to ensure educators have right to privacy and due process**. However, **we also recommend that there be a specified timeline for suspensions and clear thresholds for consideration of the severity of the offence, their history of conduct and appropriate sanctions**.

## 5.2 Enhancing Regulatory Authorities' ability to share information with approved providers

**CCC and CELA recommend that Options 3 and 4 are enacted.** We recommend that this is accompanied with an awareness campaign for educators and service providers about the new process.

Option 3 amends section 272 to allow the Regulatory Authority to proactively share information about a prohibited person or suspended FDC educator with their current approved provider. The regulatory changes will better equip service providers with the necessary information to mitigate risk of harm to children.

Option 4 amends the National Law to allow a Regulatory Authority to share information about a person's enforceable undertaking with their approved provider without request.

Proactive sharing of information about a prohibited person or a suspended FDC educator or a person with a current enforceable undertaking will support services to take the necessary precautions or implement strategies to ensure children are safe. This will also mean that if the regulatory options for 5.3 are enacted that services can take preventative measures to support staff that may be suspended by another service, or for other reasons may require additional risk management needs in place. Currently this information is not able to be shared without the approved provider making a request to the Regulatory Authority or ACECQA and without direct consent from the person who is subject to the enforceable undertaking. There are also different processes for obtaining information in different jurisdictions, and a nationally consistent process and centralised database would be more effective in identifying people with prohibitions, suspensions or enforceable undertakings.

## 5.3 Expansion of regulatory responses to educator and staff member conduct

We recommend that options 2,3,4 and 5 are enacted. This will give greater assurance to families, support the professional recognition of the early childhood education and care workforce and support the regulatory bodies to act in accordance with community expectations.

We recommend the enactment of option 3. **We recommend that the time of suspension be linked to the time that it takes for the staff member to demonstrate change in their awareness, knowledge, and skill in ensuring appropriate conduct and safe environments.** As outlined below for Option 5, the minimum period should be one month. For more complex upskilling this may be longer. There should be consideration given to services in regional and remote areas where suspending a staff member may result in room closure. In this situation, there may need to be funding for expedited coaching and mentoring conducted virtually.

In all instances of suspension staff members should be assured that their privacy is maintained. They should also be given access to psychological supports and resources to protect their wellbeing.

The threshold of suspension should include the provision that proof has been clearly substantiated. Consideration must be given to ensure that this enactment cannot be used as a tool for service providers to engage in workplace harassment, where the staff members find their job so difficult they are forced to resign. Therefore, we recommend that it is important for all options to be enacted simultaneously so that there are responsibilities for both parties to move towards reinstatement, growth and development.

Option 4 proposes to amend the National Law to enable the Regulatory Authority to impose a supervision order on approved providers, applicable when a member of their staff or volunteer has contravened National Law. We believe this would compel approved providers to ensure that they provide clear expectations about behaviour with children. It would also increase their legislative obligations to provide evidence about the steps they are taking to address inappropriate behaviour including the development of a supervision plan for the relevant staff member.

**We recommend that there is also an enhanced ability for regulators and licencing agencies to reject approvals for new and expanded services if an approved provider or their overarching entity is subject to repeated supervision orders.**

Option 5 proposes to amend the National Law to enable the Regulatory Authority to impose mandatory training/re-training for staff members if they have contravened the National Law but do not pose an unacceptable risk of harm to children. **We recommend that this not default to the mandatory safety training, but instead compel an approved provider and staff member to engage in training that is more specific to their contravention or more in-depth and impactful.** A staff member who has contravened National Law has demonstrated that their engagement in the mandatory child safety training is insufficient to ensure their appropriate conduct. The training needs to be more impactful. Coaching and mentoring or in-depth evidence-informed training programs are examples of professional learning opportunities that deliver greater impact.

The time that it takes for services to request and obtain mentoring and coaching sessions for an educator would be on average 3 and a half weeks. This would enable the training organisation to facilitate a customised plan to support the specific circumstance, administer the mentoring and coaching, evaluate its effectiveness and report back to the service. Considering this, **we recommend a minimum period of suspension to be one month.**

**We recommend that costs be shared by all invested stakeholders.** The burden of responsibility for instances where staff conduct has been found to be unacceptable should be borne equally by the provider and the staff member. Both parties are invested stakeholders in ensuring positive outcomes. This would ensure that providers are cognisant of the importance of supporting staff with the structural supports that reduce risk. The costs of training should be borne equally by the service provider and the educator, as the full cost of coaching and mentoring would be difficult for educators to afford. The balance of responsibility should be shared equally between the service provider and the educator.

**We recommend that the Federal Government provide funding for the development of mentoring and coaching packages.** This would bring the

Department of Education in as an invested stakeholder and lower the cost of the professional education program for services and educators. This might look like grants made available to RTOs or specific programs designed by the Department of Education, piloted and upscaled nationally. The professional education needs to be delivered in a way that ensures the individual's privacy but is impactfully uplift educator's ability to ensure appropriate conduct and safe environments for all children.

### **Issues for implementation**

There are a range of issues currently impacting the sector which increase the complexity around employing suitable persons and which increase the risk of unsuitable persons being employed to work with children or in services.

CCC recently conducted a survey of services which showed that the three most frequent issues they are currently experiencing are 'increased paperwork to meet legal obligations', 'lack of professional recognition for educators' and 'inability to recruit suitably qualified educators'.

These issues increase the risk of employing staff who do not meet the ideal standards of quality and experience. Our team, who work closely with services, observe that services with new employees need to provide a greater degree of onboarding. In particular, new graduates and staff from other governance models of education and care have a lack of practical understanding about child safety and child protection. Services overcome this through induction, coaching, mentoring and training. The mandatory training only gives new staff the basics about the child protection reporting and the process. Further, when contexts change within services, such as a change in child and family vulnerability, or when staff change services, then staff need to be supported to re-evaluate how they ensure safe environments. Ensuring that that all services prioritise care and safety, requires this additional investment, however currently, only the minimum levels of child protection awareness is regulated.

Ideally, regulation changes will improve the professional recognition of educators and support the growth and quality of the pool of applicants in the sector.

## Working with children checks

### 6.1 Requiring an approved WWCC prior to commencing paid or volunteer work at an education and care service

**CCC and CELA recommend that options 2 and 3 are enacted.**

Option 2 provides the non-regulatory intervention of providing guidance about best practice approaches including the confirmation of a WWCC record in staff file prior to working in a service (all staff and volunteers) and to check the WWCC status every 6 months (in jurisdictions where approved providers are not already notified by the relevant WWCC agency).

Option 3 is a regulatory intervention to amend jurisdiction specific National Regulation provisions for WA, the ACT and NT that an approved provider of an education and care service must ensure that staff, students, and volunteers of that service hold a valid WWCC before they can be engaged/commence their roles. In addition, a jurisdiction specific National Regulation amendment in NSW will clarify this same requirement beyond doubt.

This combination is our preferred approach as it would ensure national consistency, lifting all services up to the same standards and expectations.

We have found that having a universal approach of ensuring that all staff, volunteers and students hold a current WWCC does not impact workforce shortages, delays to starting or the additional costs of temporary staffing, if this expectation is embedded into the initial recruitment process. For example, if applicants are required to show evidence of a current WWCC. We have also been told that it is helpful when students are enrolling in qualifications that would lead them to work in early education and care services that the process for obtaining a WWCC is begun upon their enrolment. It is usual practice that staff apply for a new WWCC at the stage where they are due to expire in 6 months. These suggestions may be included in the resources that provide guidance about best practice.

### 6.2 Requiring approved providers and Regulatory Authorities to be notified about changes in WWCC status

**CCC and CELA recommend that options 2 and 3 are enacted.**

Option 2 provides guidance about WWCC and teacher registration/accreditation notification requirements and the importance of these screening checks alongside child safety training.

Option 3 provides two amendments to National Regulations and National Law. The first part of the amendment (A) is a new requirement for all centre-based staff and FDC educators to notify their approved provider of a change in WWCC or teacher registration/accreditation status (in NSW, TAS, ACT and NT only). The second part (B) is a new requirement for approved providers to notify the Regulatory Authority of a change in WWCC or teacher registration/accreditation status for all staff with penalties/offences for non-compliance, (in all jurisdictions except QLD and WA. Also, an exemption in SA in instances where changes to WWCC status is directly communicated to the Regulatory Authority).

**We recommend that the wording for Option 3 part A) be changed to 'all staff working in approved services' rather than 'centre-based staff and FDC educators'. This would ensure that other service types are included such as OSHC, Occasional Care and Vacation Care providers.**

## Improving the safety of the physical service environment

CCC and CELA agree that option 2 should be enacted to ensure that providers have clear guidelines to support them to identify and mitigate child safety risks in the physical environment.

We believe that in extraordinary circumstances there should be temporary or permanent waivers available for services, however, there needs to be stricter approved arrangements to ensure adequate supervision. This would include above minimum recommended staffing. It may also include safe alternatives including CCTV, mirrors and modifications such as installation of windows, rather than more expensive structural modifications.

For some services where the cost of modifications is very high, especially in areas of high demand permanent waivers rather than temporary waivers may be more appropriate.

**Rather than removing the ability for services to apply for waivers, we recommend that there be stronger consequences put into place when services with waivers for Regulation 115 are not complied with including suspension of the service. We also recommend that the approval of waivers for environment include a site visit from the Regulatory Authority.**

## Additional Recommendations

### 8.1 Effective identification, monitoring and regulation of 'related providers'

CCC and CELA recommend that options 2 and 3A and 3B are enacted.

Option 2 will ensure that clear guidance is provided to the sector and families about the approved providers who are being operated by a single controlling entity. This will support families to make informed decisions about the care of their children. This will also support the workforce with transparency about the operating structures they would prefer to work with or avoid.

Option 3A is a legislative amendment which will add a definition of related providers. Enacting this option will give a greater degree of transparency to Regulatory Authorities, so they can efficiently and effectively identify and monitor related providers. **We recommend that this amendment include greater powers for the regulatory authorities to take compliance and enforcement action at the related provider level. We recommend also that it be a regulatory requirement that providers disclose that they are related.** Enacting the option 3B would create a legislative amendment to require an approved provider to give notice of acquisition to the Regulatory Authority when ownership is transferred. This is necessary to ensure that any changes are brought to the attention of the Regulatory Authority.

The current framework that guides reporting about governance and management structures in the early education and OSHC system only allows stakeholders to see the approved provider of a service. The marketisation of early education services means that for-profit services are seen as an asset that can be traded and bought. There is no regulatory restrictions around phoenixing, or moving services between subsidiary companies. Publicly, it might look like there is new management of a failed, suspended or closed service, but the same management problems would still exist. We are concerned for families, the safety of children and we are also concerned for staff that have worked unknowingly in services where this has happened. Further, we are concerned for children, families and staff that have shifted to different services in the hope of improvements and unknowingly moved into services owned by the company they've had poor experiences with.

**We recommend that same information about the overarching entity is made transparent to the general public through the National Quality Standard quarterly reporting, Starting Blocks and other government reporting on early education and OSHC services.**

**We recommend that the Australian Government support the growth of high quality not-for-profit services.** Only not-for-profit governance treats early education and care as a service that delivers education and care for children in Australia as opposed to a profit generating asset.

Our data shows that tenure in the for-profit sector is driving lower staff retention in the sector taken as a whole. Staff retention and experience is a key factor in improving safety for children.

The comparison between the 2021 National Early Childhood Education and Care Workforce Census and the 2021 Trends in Community Child Care Services Survey (TICCSS) demonstrate the stark differences between the profiles of tenure stability in TICCSS respondents' not-for-profit services, compared with the overall sector.



(a) Data are from the National ECEC Workforce Census 2021<sup>1</sup>

(b) Data are from the Trends in Community Child Care Survey (TICCS) 2021<sup>2</sup>

## 8.2 Extending the limitation period for commencing proceedings under the National Law

CCC and CELA agree that Option 2 is enacted. This will amend section 284 of the National Law so that the limitation period commences two years from the date that the alleged offence comes to the notice of the Regulatory Authority of each jurisdiction.

We believe that this will provide a deterrent for unsuitable individuals from breaching National Law. It will provide justice for children and families who experience maltreatment and the long-term consequences to their health and lives. These

<sup>1</sup> Australian Government Department of Education (2022). 2021 Early Childhood Education and Care National Workforce Census National tables. <https://www.education.gov.au/early-childhood/resources/2021-early-childhood-education-and-care-national-workforce-census-state-and-regional-data-table>

<sup>2</sup> Warrilow, P., Graham, N., Robertson, C. (2021). *Not-for-profit Education and Care: High quality, accessible and resilient*. Australian Community Children's Services. <https://ausccs.org.au/wp-content/uploads/2022/03/TICCSS-Report-2020-Wave-6-v12012022.pdf>

changes are also bringing the regulations to align with child abuse offences under other regulatory schemes.

We think this will have a positive effect for families' feelings of safety with the system. This will also have a positive effect on the morale of early education and care staff as it increases the level of professionalism and expectations about the standard of care.

### 8.3 Information sharing provisions for recruitment agencies

#### **CCC and CELA recommend enacting Option 2, 3, 4 and 5.**

Option 2 is a non-regulatory option to create guidance about the need for services to keep staff records of agency personnel.

Option 3 to 5 are regulatory changes. Option 3 means that recruitment agencies would have the same obligations as employers by amending the National Law to include them also. Option 4 means that, just like the proactive sharing with approved services, the Regulatory Authority will be able to share information about an agency educator with that person's recruitment agency. Option 5 means that it will be an offence for persons applying for work in an agency to provide misleading information about their prohibition notice.

This suite of regulatory amendments will bring the recruitment agencies in line with the expectations that the National Law has on approved providers.

**In the case that any other kind of entity is created to provide early education and care and OSHC staff and not also be an approved provider they should also be included under National Law.**

## References

- Australian Government Department of Education (2022). 2021 Early Childhood Education and Care National Workforce Census National tables.  
<https://www.education.gov.au/early-childhood/resources/2024-early-childhood-education-and-care-national-workforce-census-national-tables>
- CELA (2024a). Reflections on Implementing the Child Safe Standards.  
<https://www.cela.org.au/publications/amplify!-blog/aug-2024/reflections-implementing-child-safe-standards>
- CELA (2024b). Understanding the New Model Code for Taking Images.  
<https://www.cela.org.au/publications/amplify!-blog/jul-2024/understanding-the-new-model-code-for-taking-images>
- CELA (2024c). What Are Children's Rights in Early Education?  
<https://www.cela.org.au/publications/amplify!-blog/sep-2024/what-are-childrens-rights-early-education>
- CELA (2024d). The Role of Behaviour Guidance in Early Education.  
<https://www.cela.org.au/publications/amplify!-blog/dec-2024/the-role-of-behaviour-guidance-in-early-education>
- CELA (2024e). How to Support Vulnerable Children and Families.  
<https://www.cela.org.au/publications/amplify!-blog/november-2024/how-to-support-vulnerable-children-families>
- Commission for Children and Young People, Victoria (2025). Reportable Conduct Scheme information sheets, Information Sheet 11, *Significant neglect under the Reportable Conduct Scheme*. <https://ccyp.vic.gov.au/resources/reportable-conduct-scheme/reportable-conduct-scheme-information-sheets/#TOC-12>
- Warrilow, P., Graham, N., Robertson, C. (2021) Not-for-profit Education and Care: High quality, accessible and resilient, Australian Community Children's Services.  
<https://ausccs.org.au/wp-content/uploads/2022/03/TICCSS-Report-2020-Wave-6-v12012022.pdf>