

27 May 2019

Mr Scott Firman
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KPMG
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Dear Mr Firman,

**Re: Submission to the Review of the
Australian Children's Education and Care Authority (ACECQA)**

Firstly, I would like to thank you for the opportunity for the Australian Childcare Alliance (ACA) NSW to make a submission towards the Commonwealth Government's Review of the Australian Children's Education and Care Authority (ACECQA).

Our submission is fundamentally from a New South Wales perspective, and wherever possible is contrasted against our understandings of the regulatory experiences in all other Australian jurisdictions.

General Overview

ACA NSW's overarching concerns are as follows:

- (a) that the Review of ACECQA should be harmonised with the Review of the National Quality Framework (NQF), alongside the review of the performances of all Regulatory Authorities (RAs) and ultimately measured against the aspired outcomes of education, safety, health and well-being of children as well as the operational performances and sustainability of all services during the period 2012-2019;
- (b) that the Review of ACECQA is itself challenging given its powers (and lack thereof) are defined by the Education Council and its Letters of Expectations during the period 2012-2019;
- (c) that ACECQA is severely constrained by the Education Council in its ability to achieve a nationally consistent National Law and National Regulations through the Education Council and RAs;
- (d) that despite the training of all RAs' assessors, ACECQA appears to have in effect further fuelled inconsistent assessments and ratings results across the jurisdictions without any possibility of redress;
- (e) that ACECQA has not been successful in influencing reliable quality labour supply to support the needs of the Early Childhood Education and Care sector; and
- (f) that ACECQA's need to clarify the National Quality Framework has grown significantly due to the at times lack of clarity and absence of empirical measures of compliance.

Notwithstanding the Federal Coalition Government's decision in 2018 to cease funding ACECQA by 30 June 2020, ACA NSW believes a national authority can still serve a useful function for the sector. However, we would argue that such an entity would require its role and powers to be significantly revised in order to enable meaningful relevance and effectiveness than when ACECQA was first introduced in 2012.

The anticipated absence of ACECQA or an appropriate national authority will ultimately have negative effects on Australia's overall performance especially when compared to the Organisation for Economic Co-operation and Development (OECD).

Re-establishing Relevance and Effectiveness

Despite the constitutional and legal separation of powers and responsibilities between the Commonwealth and State/Territory Governments, the Education Council and ACECQA were tasked to unite disparate and varying standards in order to achieve a nationally consistent quality early childhood education and care standards and framework. Ironically, ACECQA's predecessor, the National Childcare Accreditation Council (NCAC) which ended in late 2011 arguably achieved more consistent outcomes nationally.

Regrettably, there has not been consensus reached by the Education Council to date to ensure a nationally consistent standards and framework, let alone experiences by approved providers, educators and teachers. Consequently, greater operational burdens are carried in some jurisdictions compared to others, without any substantive evidence of better overall outcomes.

The Education Council and ACECQA must reconsider how consensus as well as their powers and responsibilities can be leveraged so that all children aged 0-5 years old measurably benefit equally and consistently regardless of jurisdictions.

ACA NSW strongly suggest that one possible re-arrangement is for ACECQA to centrally assume all assessment and rating responsibilities, so that RAs can return to providing compliance officers and support officers.

Achieving Consistent Outcomes

Notwithstanding the National Law being 165 pages long, the National Regulations span some 177 pages, the original Guide to the National Quality Framework in 2013 was 414 pages. Yet by February 2018, the Guide had expanded by 53.6% to 636 pages.

Although a number of leaders argue that quality can be achieved in numerous ways, such flexibilities are being described as being at times too subjective, thereby compelling regulators to describe what is/are best practice(s), usually not being definitively clear.

The Education Council and ACECQA ought to reconsider re-introducing "black-and-white" standards and requirements such that services and assessors can confidently comply to "Meeting" and "Exceeding" ratings. This would in turn shrink the Guide to succinctly carry 1-2 pages per Quality Element.

The Education Council and ACECQA ought also to consider how, after training the various RAs' assessors, such assessors can themselves be appropriately recruited and rated in a timely fashion and their qualifications and ratings openly communicated so that services themselves can have their confidence restored when being assessed and rated. This is especially so since the introduction of the "streamlined" National Quality Standards in February 2018 brought significantly enough different rating outcomes in its first 12 months.

Public Lack of Awareness, Understanding and Appreciation of Quality Ratings

Persistent government and non-government surveys confirm that parents generally have no resonance with the quality rating system, preferring instead word-of-mouth-recommendations, personal relationships and evaluations, as well as fee affordability as the key points of decision-making.

Moreover, the "streamlined" National Quality Standards introduced since February 2018 has now given rise to at least three classes of every ratings of "Working Towards", "Meeting", "Exceeding" and "Excellent". This is because of those who still have not yet been re-rated, those who were re-rated from February 2018 but became "victims" of the transition, and those since.

Parents would now rightly be even more confused as to how to interpret the same ratings and have to take into consideration the meanings of for example "Exceeding" pre February 2018, "Exceeding" soon after February 2018, and "Exceeding" after February 2018.

Workforce Strategy

An area of significant concern of the sector is its ability to hire a quality workforce to at the very least comply with the National Law and National Regulations.

The Education Council, ACECQA and the Regulatory Authorities appear to have been unable to exert adequate influence to ensure a reliable supply of quality job-ready educators and teachers. The inadequacy of such supply therefore puts at risk the minimum compliance with staff:children ratios, the operational costs as services compete for a smaller pool of quality staff, and ultimately early childhood education and care affordability.

Although Australian services overwhelmingly prefer recruiting domestically, they also have for many years been recruiting individuals with overseas qualifications due to local labour shortages. Once found, such potential overseas recruits then have their qualifications assessed by ACECQA (on a per application basis) for their compatibility with Australian qualifications. If deemed compatible, these overseas staff can then be included in ratios. ACA NSW therefore asks ACECQA to automatically recognise those overseas qualifications when assessed so that they are automatically recognised for all Australian services to consider.

National Quality Agenda IT System (NQA ITS)

ACECQA hosts and maintains the NQA ITS for the benefit of all RAs as well as the public.

Interestingly, there is a continuing legal requirement for every service to report attendance records of all children in their care every week to the Federal Government. Yet, the Federal Government is still unable to compile the data received such that aggregated reports of average occupancy levels across at least at postcode-basis.

ACA NSW would strongly suggest that the NQA ITS would be the ideal platform to host such occupancy level data so as to properly inform the market and regulatory policy decision makers.

Additionally, the NQA ITS hosts all breach information recorded by all RAs and their resolved outcomes (if available) of every service. Yet, such information is not dynamically available to the respective approved providers. As such, this does not facilitate natural justice, complete accountability and transparency by all parties. ACA NSW urges for the future NQA ITS to be expanded to enable approved providers to gain access to their own breach-related information.

Specific Reform Requested for Out-of-School-Hours-Care (OSHC)

One of the unintended consequences of inclusion under law and regulations is OSHC. It is now broadly agreed that applying educational expectations for 0-5-year-olds in long daycare cannot be applied for children 6-12-years-old in OSHC. Yet, RAs are often (wrongly) compelled to regulate OSHC services similarly to other types of early childhood education and care services because of the law and regulations.

Another example is how at least one Regulatory Authority is imposing additional staffing requirements in the transportation of OSHC-enrolled children yet the same state regulator does not impose the same or similar standards for the same reasons on themselves for the same age cohort of children in primary schools.

Another Industry's Model for Consideration

ACA NSW would strongly ask that the Australian Council of Healthcare Standards (ACHS) model be considered as part of the review of ACECQA. In particular the ACHS' distinctive role that is different to the state regulators whereby ACHS provides a consistent assessment and rating system across Australia, thereby allowing the state regulators to conduct spot-checks and ongoing support.

Moreover, ACHS provides well defined in advance timeframes (for example 2 years in advance) for when hospitals are to be reassessed, and an additional six months after assessment to enable hospitals to ensure they are returned to a regulatory-compliant state of service. This model encourages continuous improvement and compliance to agreed standards instead of a combative culture.

We welcome the opportunity to engage further with you should you require any further information and/or clarification.

Thank you in anticipation.

Yours sincerely,



Chiang Lim
CEO