



## Gender Undervaluation – Priority Awards (AM2024/19, AM2024/20, AM2024/21, AM2024/22, AM2024/23)

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**Priority Award(s):**

- Aboriginal and Torres Strait Islander Health Workers and Practitioners and Aboriginal Community Controlled Health Services Award 2020*
- Children’s Services Award 2010*
- Health Professionals and Support Services Award 2020*
- Pharmacy Industry Award 2020*
- Social, Community, Home Care and Disability Services Industry Award 2010*

**Signature:**

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**Date:** 25 September 2024



## **Gender Undervaluation – Priority Awards AM2024/23 Children’s Services Award 2010**

**Early Learning Association Australia  
Submission**

**25 September 2024**

### **Introduction**

1. This submission is filed by the Early Learning Association Australia (**ELAA**). ELAA is a peak body and employer association representing over 1350 early childhood education and care services principally located in Victoria.
2. This submission is in respect to matter, AM2024/23, for the *Children’s Services Award 2010* which provides coverage to educators in early childhood education and care (for the occupation of Child Carer).
3. This submission will address the questions from the Expert Panel in the context of centre-based day care services, which are representative of the approved care type delivered by our association’s members. Centre based care is defined by the Australian Children’s Education and Care Quality Authority (ACECQA) as long day care (childcare centres) and/or kindergarten/preschools (which provides an education program to children preschool aged or younger).<sup>1</sup>
4. We respond to the questions set out in the statement and directions issued by the Expert Panel ([2024] FWCFB 291) as follows:

### **Response to Issues:**

#### **Matter 1: Having regard to the findings contained in the Stage 1 and Stage 2 reports, has the work to which the classifications apply been historically undervalued because of assumptions based on gender?**

5. ELAA considers that the work of early childhood educators (child carers) to which the classifications apply have been historically undervalued because of assumptions based on gender.
6. The early childhood education and care (ECEC) sector is one of the most highly feminised occupations in Australia, with over 96 per cent of the workforce identified as female.<sup>2</sup> Historical gendered assumptions about the nature and value of the work of educators persist.<sup>3</sup> We assert that there is a difference between the perception of feminine traits around caring for young children, and technical skills in male dominated industries, similar to the stereotypes and cultural norms referenced in the *Stage 3 Aged Care decision*.<sup>4</sup> These

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<sup>1</sup> Australian Children’s Education and Care Quality Authority (ACECQA), ‘Qualifications for Centre-Based Services with Children Preschool Age or Under’, 2024.

<sup>2</sup> Cortis, N., Naidoo, Y., Wong, M. and Bradbury, B. ‘Gender-based Occupational Segregation: A National Data Profile.’ Sydney: UNSW Social Policy Research Centre, 2023.

<sup>3</sup> Fair Work Commission, ‘Annual wage review 2023-24: Stage 2 report: Gender pay equity research’, 4 April 2024.

<sup>4</sup> [2024] FWCFB 150.



assumptions have led to a highly gender segregated workforce which receives relatively low rates of pay compared to other sectors.

7. Low rates of pay and the highly demanding and complex nature of the work have driven current workforce shortages, with the ECEC sector experiencing unprecedented rates of attrition and challenges in recruiting new educators to the workforce.<sup>5</sup> The impact of workforce shortages in the sector limit both children's access to high-quality early childhood education, as well as their parent's ability to return to work, to the detriment of the Australian economy.
8. Further to this, the 'invisible' skills required by early childhood educators have historically been overlooked, meaning that the high levels of autonomy, sophisticated interpersonal and adaptive skillsets, and leadership capabilities required are not well recognised within current classifications. We have expanded on the nature of these 'invisible' skills in our response to matter 3 below.
9. We note that the outcomes of earlier work value cases for this sector were decided based on a different set of assumptions. Since the amendments made in the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth) (**SJBP Act**), the Fair Work Commission (the Commission) has been required to place greater emphasis on gender equity, including by eliminating gender-based undervaluation of work, which was added to the modern awards objective in section 134(1). Therefore, we assert that these outcomes should not be used as precedent for determining work value outcomes at present. Section 157(2B) of the *Fair Work Act 2009* outlines the Commission's consideration of work value reasons must: be free of assumptions based on gender; and include consideration of whether historically the work has been undervalued because of assumptions based on gender.
10. Based on this, and the findings outlined in Stage 1 and Stage 2 reports, we view that the classifications in the *Children's Services Award 2010* should be adjusted to reflect the complexity of the skills required of early childhood educators, which has been so far overlooked due to entrenched assumptions based on gender which continue to drive inequality.

**Matter 2: Would variations to the minimum wage rates prescribed for the classifications:**

- a. **be justified by work value reasons within the meaning of s 157(2A) of the Fair Work Act 2009 (Cth) (FW Act)?**
  - b. **be necessary to achieve the modern awards objective in s 134(1) of the FW Act?**
  - c. **be necessary to achieve the minimum wage's objective in s 284(1) of the FW Act?**
11. The list of issues in the 24 June Statement and Directions<sup>6</sup> include whether variations to minimum wages in the relevant modern awards would be necessary to meet the work value reasons within the meaning of 157(2A) of the *Fair Work Act 2009* (Cth) (**FW Act**).

***157 FWC may vary etc. modern awards if necessary to achieve modern awards objective.***

*(2A) Work value reasons are reasons justifying the amount that employees should be paid for doing a particular kind of work, being reasons related to any of the following:*

- (a) the nature of the work.*
- (b) the level of skill or responsibility involved in doing the work.*
- (c) the conditions under which the work is done*

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<sup>5</sup> Australian Childcare Alliance, '2023 Survey Feedback: Capping enrolments due to staff shortages', 2023.

<sup>6</sup> [2024] FWCFB 291.



12. Variations to the minimum rates of pay for the classification stream of *Children's Services Employee (CSE)* in accordance with clause 14.1 of the *Children's Services Award 2010*, are imperative to address the undervaluation of the work performed by an early childhood educator. This submission emphasises the importance of recognising the 'invisible' work value, which includes the nature of the work performed as an early childhood educator (child carer), the significant level of responsibility involved in educating and caring for young children, and the physically and emotionally challenging conditions of the work performed.
13. As further context for the Expert Panel, the minimum rates pursuant to clause 14 of the *Children's Services Award 2010* (as amended in PR774011) for the classifications of **Children's Services Employee (CSE)** are provided in **Appendix A**.

### ***The nature of the work***

14. ECEC is highly regulated, and centre-based early childhood services are governed by the National Quality Framework (NQF). The NQF consists of the *Education and Care Services National Law 2010*<sup>7</sup> (**National Law**), the *Education and Care Services National Regulations 2011*<sup>8</sup> (**National Regulations**), and the National Quality Standard (NQS)<sup>9</sup> which sets seven quality standards to support the conditions in which children can learn and develop.
15. The National Regulations outline the operational requirements for education and care services, covering aspects such as minimum qualifications for educators, staff-to-child ratios, health and safety management, administration of medication, record-keeping, and incident reporting. Educators must undergo relevant training to fulfill their duties and responsibilities and ensure that they carry out their work in line with their regulatory requirements and to meet their obligations under the Child Safe Standards.
16. Educators must possess a working knowledge and sound understanding of child learning and development to apply the Early Years Learning Framework (EYLF) and appropriately differentiate the teaching program. This knowledge plays an essential role in the planning of learning activities, ensuring adequate nutrition, and supporting children's independence and self-help skills, as well as in the early identification of potential developmental concerns or delays. Furthermore, this foundational knowledge and proficiency are imperative for educators to demonstrate a child-centred approach in their interactions with families, their observations of children's learning and development, and the relevant documentation they are required to keep that supports children's health, safety, wellbeing, and learning.
17. Based on the sophistication of the technical and theoretical knowledge, and the requirement to apply this in the context of a highly regulated environment, we assert that a variation to pay classifications contained within the award is justified on the basis of the nature of the work in the ECEC sector.

### ***The level of skill or responsibility involved in doing the work***

18. Educators exercise significant levels of responsibility throughout their day in maintaining the health, safety, and wellbeing of all children in their care. Principal among these responsibilities are the requirements to act in accordance with Child Safe Standards. Every educator working within an ECEC service has responsibilities under these standards, regardless of their qualification, role, or level of experience. Educators need to maintain a strong understanding of the standards, implement these accordingly, and know how to act where they have concerns regarding children's safety.

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<sup>7</sup> Education and Care Services National Law Act 2010 (Victoria), 22 November 2023.

<sup>8</sup> Education and Care Services National Regulations (New South Wales). 10 May 2024.

<sup>9</sup> Australian Children's Education & Care Quality Authority (ACECQA). 'National Quality Standard', 2024.



19. Maintaining children's health, safety and wellbeing requires educators to exercise active supervision and always adhere to educator-child ratios. These activities require skills in communication, situational awareness, and the capacity to make decisions in a dynamic and fast paced environment.
20. The high level of skill required of educators is such that employers expect educators to engage in regular and recurrent professional learning to keep a current understanding of policies, laws, regulations, and frameworks. For instance, educators are required to complete annual training courses on Child Safe Standards, food handling, first aid, anaphylaxis management and emergency asthma training as stipulated under the National Regulations.<sup>10</sup>
21. Leaders within ECEC services, such as room leaders, Educational Leaders, Assistant Directors and Directors, are required to exercise sophisticated skills in managing people, interpersonal dynamics, coaching and mentoring.<sup>11</sup> In addition to skills in managing people and teams, leaders in ECEC are required to have extensive skills in organisational administration and processes, such as understanding and implementing accounting software packages, managing payroll, using tools to generate invoices to families, as well as applying the Child Care Subsidy. They are required to develop, implement, and manage complex rostering arrangements to ensure the service maintains appropriate child-staff ratios and the required qualifications mix amongst staff that meet regulatory requirements and that employees receive their entitlements to overtime, breaks and programming time, for instance. They also hold high levels of accountability for ensuring their service and all staff meet and maintain Child Safe Standards and can face litigation if they fail to do so.

### ***The conditions under which the work is done***

22. Early childhood educators work within highly dynamic environments, which are inherently relational. The relational nature of the work means that educators are expected to engage in significant emotional labour in their interactions with children, families, and colleagues. The extent of this emotional labour puts significant strain on educator wellbeing at times, particularly for educators working with cohorts of children experiencing high levels of vulnerability. Educators report a significant impact on their own health and wellbeing in relation to working with children with behavioural challenges, as well as engaging with families experiencing complexity. These challenges have led to high levels of stress and burnout reported amongst the workforce.<sup>12</sup>
23. Early childhood educators are required to engage in physical labour, which includes working outdoors in various weather conditions, lifting, and transporting children, handling heavy equipment, and engaging in significant physical activity throughout the day. The repetitive manual handling involved in the occupation can lead to muscular injuries and have a negative impact on physical wellbeing. Educators also frequently report contracting illnesses from direct interaction with children, particularly respiratory diseases. Moreover, carrying out their duties in diverse weather conditions throughout the year is also physically demanding.
24. As well as the emotional and physical conditions required by the work of early childhood educators, educators work in conditions in which they can take limited rest breaks, and these breaks must be taken at specific times to ensure educator-child ratios are adhered to. The lack of frequent breaks from working directly with children can further impact educator wellbeing over time.
25. Similarly, the *Aged Care Decision – Stage 3*, recognised the nature of the work, the levels of responsibility and skills demonstrated by employees in aged care settings, as well as the conditions under which work was done to support an adjustment to pay classifications based on historical undervaluing of 'invisible' skills.

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<sup>10</sup> Jobs and Skills Australia, *The Future of the Early Childhood Education Profession, Capacity Study*, 3 September 2024, 108.

<sup>11</sup> Douglass, A. L. *Leadership for quality early childhood education and care*, 2019.

<sup>12</sup> Jones, C., Johnstone, M., Hadley, F., & Waniganayake, M. Early childhood educators' workplace well-being: It's everyone's right! *Australasian Journal of Early Childhood*, 45(4) (2019), 322-335.



26. Early childhood educators are expected to perform their duties within a highly regulated environment, demonstrate high levels of responsibility and skill, and carry out their work within conditions that impact their emotional and physical wellbeing. We note that varying the award rates is therefore imperative in recognition of this work, and its historical undervaluation due to gendered assumptions around care.

***The modern awards objective (section 134(1)) of the FW Act***

27. The issues in the 24 June Statement and Directions<sup>13</sup> further include a question of whether variations to minimum wages in the relevant modern awards would be necessary to satisfy the Fair Work Commission's (**Commission**) *modern awards objective* pursuant to section 134(1) the *Fair Work Act 2009* (Cth) (**FW Act**).

***134 The modern awards objective***

***What is the modern awards objective?***

- (1) *The FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:*
- (a) relative living standards and the needs of the low paid; and*
  - (aa) the need to improve access to secure work across the economy; and*
  - (ab) the need to achieve gender equality in the workplace by ensuring equal remuneration for work of equal or comparable value, eliminating gender-based undervaluation of work and providing workplace conditions that facilitate women's full economic participation; and*
  - (b) the need to encourage collective bargaining; and*
  - (c) the need to promote social inclusion through increased workforce participation; and*
  - (d) the need to promote flexible modern work practices and the efficient and productive performance of work; and*
    - (da) the need to provide additional remuneration for:*
      - (i) employees working overtime; or*
      - (ii) employees working unsocial, irregular, or unpredictable hours; or*
      - (iii) employees working on weekends or public holidays; or*
      - (iv) employees working shifts; and*
    - (f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and*
    - (g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and*
    - (h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance, and competitiveness of the national economy.*

28. This submission considers that the following principles within the modern awards objective will be met by a variation (increase) to minimum wages under the *Children's Services Award 2010* as aligned with outcomes in the *Stage 3 Aged Care decision*.

***Eliminating gender-based undervaluation of work (ss. 134(1) (ab))***

29. In the context of ECEC, we give emphasis to sub-section 134(1) (ab) which provides that the Commission must consider 'the need to achieve gender equality in the workplace by ensuring equal remuneration for work

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<sup>13</sup> [2024] FWCFB 291





of equal or comparable value, eliminating gender-based undervaluation of work and providing workplace conditions that facilitate women’s full economic participation’.

30. In response to matter 1, we have detailed the historical undervaluation of the work of early childhood educators due to historical assumptions based on gender. These assumptions have placed lesser value on the work involved in caring for young children, and disregarded the sophisticated skillsets required of educators, the high levels of responsibility, and the challenges experienced within working conditions.
31. We assert that variations in the pay rates within the award are necessary to fairly remunerate early childhood educators, the majority of whom are women. Addressing this pay inequity will support women’s full economic participation by recognising the value of their work within the ECEC sector.

***The likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden (ss. 134(1)(f))***

32. Due to the comparatively low wages in ECEC, workforce shortages remain a considerable cost and operating factor for employers. A September 2023 report conducted by Jobs and Skills Australia found that to meet the projected national population growth and participation in the workforce, the ECEC workforce will need an additional 52,000 early childhood educators between 2024 and 2035.<sup>14</sup>
33. Insufficient wages create an environment where employers cannot reasonably attract or retain educators to deliver on government policy objectives within the sector. Specific policy commitments by State Governments such as expanding preschool/kindergarten access to 30 hours for four-year-old children in Victoria and New South Wales, and access to 15 hours of preschool/kindergarten for three-year-old children in Victoria, New South Wales, South Australia, and the Australian Capital Territory<sup>15</sup> have further increased the need for employers to attract and retain early childhood educators within the sector.
34. Due to the necessary educator-child ratios, workforce shortages have meant that whole services, or individual rooms within services, are forced to close for periods of time where there are no educators available to fulfil child-educator ratio requirements. This causes considerable disruption to children’s learning and development, and to families who are forced to seek alternative care arrangements.
35. Workforce shortages have also compelled employers to fill positions by any means necessary, which may mean employing individuals who do not have appropriate experience. The lack of suitably experienced educators causes a significant impost on employers to create opportunities for professional learning to compensate for their lack of skill and experience.<sup>16</sup> It also places a significant burden on experienced educators to support the learning of their peers, and to take additional responsibility to ensure safe and developmentally appropriate programs for children in their care.
36. Additionally, employers are forced to rely on casual staffing arrangements where a position cannot be filled. Casual staffing arrangements are often at a significant cost to the employer and are not ideally suited to ECEC, where children rely on strong relationships with consistent educators to support their learning and development. This is also disruptive for families when they need to communicate about the needs of their children or get feedback about their children’s learning and development.
37. For employers, low wages further exacerbate the flow of their workforce to other similar occupations that are more highly recognised or with more favourable earnings, such as either primary education or to other occupations within the care and community sector. Between the financial years of 2017-18 to 2020-21, for the occupation of Child Care Worker, 10.4 per cent left the sector to more highly remunerated and qualified

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<sup>14</sup> Jobs and Skills Australia, 2024. The Future of the Early Childhood Education Profession. Capacity Study. 81

<sup>15</sup> Ibid. 119.

<sup>16</sup> Australian Childcare Alliance. 2023 Survey Feedback: Capping enrolments due to staff shortages. 2023.



positions, such as Primary School teacher, while a small proportion (2.5 per cent) moved to Out of School Hours Care (OSHC), and another 2.1 per cent moved to work in aged or disability care.<sup>17</sup>

38. Uniquely, workforce shortages in ECEC have flow-on effects to other industries and employers across the economy. When services are unable to staff rooms or operate for the hours that meet the needs of their community, families are unable to secure places for their children on the days/times needed to meet employment obligations and may reduce their work hours or delay their return to work.<sup>18</sup>
39. It is therefore for the Expert Panel to consider that increases in wages universally across the Care and Community sector (in the form of increases to modern award wages) create a 'level playing field' and stem workforce flows to other occupations.

### ***The minimum wages' objective (section 284(1)) of the FW Act***

40. The amendments made in the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth) (**SJBP Act**), have subsequently placed greater emphasis on gender equity which is also included within the overarching minimum wages' objective.
41. ECEC is a highly award-reliant sector, whereby a majority of education or care-based roles (including that of a child carer/early childhood educator) are covered by a modern award (or in some cases, an enterprise agreement) and are therefore significantly affected by adjustments to modern award minimum wages. A September 2024 Report conducted by Jobs and Skills Australia, determined that 70.1 per cent of child carers (by occupation) were paid minimum award rates, while 11.7 per cent of child carers were paid on a collective agreement.<sup>19</sup>
42. It is noted in this submission that the need to achieve gender pay equity pursuant to sub-section 248(1) (aa) cannot be fully realised without a recognition of the low-paid highly feminised workforce in modern award minimum wages. As such, any variation to the minimum wage rates prescribed for the classifications within the priority awards in the care and community sector, including early childhood and care is necessary to achieve this objective.

### **Matter 3: Does the work of employees under any of the classifications involve the exercise of 'invisible' skills (including gender-related Indigenous cultural skills) and/or caring work of the nature described in paragraphs [156(1)] and [172]– [173] and elsewhere in the *Stage 3 Aged Care decision*?**

43. Early childhood educators under the Children's Services Employee (CSE) classifications exercise considerable 'invisible' skills (including gender-related Indigenous cultural skills) and caring work as described in paragraphs [156(1)] and [172]– [173] and elsewhere in the *Stage 3 Aged Care decision*.
44. The work of early childhood educators is incredibly broad, requires significant levels of 'code switching' and occurs in unpredictable and dynamic work environments. On a daily basis, educators engage in tasks that involve:
  - a. **Educational programming and practice** – educators develop and implement learning programs for children. This involves meeting each child's individual developmental needs and supporting them to learn increasingly sophisticated skills. This requires significant skills in observing children, assessing their developmental trajectories, and making judgements about the relevant

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<sup>17</sup> Jobs and Skills Australia, 2024. *The Future of the Early Childhood Education Profession. Capacity Study*, 90

<sup>18</sup> KPMG. 2020. *The Child Care Subsidy: Options for increasing support for caregivers who want to work*.

<sup>19</sup> Jobs and Skills Australia, 2024. *The Future of the Early Childhood Education Profession. Capacity Study*, 7.





strategies to support further development. Given the contextual and individualised strategies needed, these are not routine tasks that are part of consistent processes – they require considerable judgement, autonomous decision-making, and application of theoretical knowledge.

- b. **Developing and sustaining relationships with children, families, and the community** – educators interact with children and families on a regular basis, which require sophisticated interpersonal skills to navigate these interactions, support and sustain positive relationships. In practice, this involves recognising and helping regulate children’s emotions through to engaging a family in a conversation to raise concerns about a potential developmental delay in their child’s development. This requires sophisticated interpersonal skills, the ability to de-escalate conflict / navigate heightened sensitivities, and often requires intercultural communication.
- c. **Compliance with legal requirements** – there are numerous legislative obligations and compliance requirements service leaders and staff are required to uphold, and high levels of accountability for all educators. As part of the National Regulations, in the event a child has an incident, injury, trauma, or illness while attending the service, the early childhood educator who is actively engaging in education and care of the child is required to complete an *incident, injury and trauma record* (incident report). Further, should a serious incident<sup>20</sup> occur in relation to a child, the Nominated Supervisor of a service is required to submit a report to their state regulatory authority within a designated timeframe.
- d. **Maintaining the safety and compliance of the physical environment** – educators are responsible for children’s health and safety while attending the service and are required to routinely engage in activities under direct supervision. Educators must also implement routines that keep children safe from harm and proactively manage potential / unanticipated risks. In practice, this may include reporting a potential hazard (for example, new equipment, excursions, outings, and sleep hazards) before an incident occurs in a risk assessment.
- e. **Professional engagement with colleagues and other professionals, such as allied health professionals** – educators work in teams within the workplace, as well as other professionals who work externally and consult with them on a case-by-case basis. This requires sophisticated interpersonal skills to engage in collaborative work, as well as coordinating and delegating tasks and duties to best support children’s learning.
- f. **Administration duties** – educators engage several administrative tasks throughout the day to support educational programming, as well as health and safety. This may include writing newsletters and communications to families, checking sufficient supplies, restocking, arranging and contributing to the service’s Quality Improvement Plan (QIP). Educators are also required to participate in professional learning activities, such as annually renewed first aid training, child protection training, and other regulatory training concurrent with updates to relevant legislation.

45. The tasks outlined above are examples of skills exercised in female-dominated industries<sup>21</sup> and occupations which have historically been treated as merely feminine traits and not representative of work value in the traditional, narrowly defined sense, viewing the work of educators as lesser work value than ‘hard’ tasks and skills performed in male-dominated occupations.<sup>22</sup>
46. Furthermore, educators demonstrate the skills of interpersonal and contextual awareness through working in multidisciplinary teams and fostering relationships with families, verbal and non-verbal communication with

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<sup>20</sup> Australian Children’s Education and Care Quality Authority (ACECQA). 2024.

<sup>21</sup> Workplace Gender Equality Agency. 2019.

<sup>22</sup> [2024] FWCFB 150.



children, families and the community, emotion management in responding to different stakeholder groups and dynamic workflow coordination involving managing multiple competing demands within a team and working efficiently to support positive outcomes for children. In previous work value cases brought to the Commission, these skills were effectively disregarded by the simplistic use of the masculinised C10 benchmark as the basis for the award pay structures for Personal Care Workers (PCW), Home Care Workers (HCW) and Assistants in Nursing (AIN). This represents a continuation of the history we have earlier outlined of treating the skills exercised in female-dominated industries and occupations as merely feminine traits and not representative of work value in the traditional, narrowly defined sense.

47. First Nations educators also demonstrate additional Indigenous cultural skills in their work to support connection to culture, language, and explicitly teach cultural knowledge. Their skills are also applied in building relationships between their service and the community, often playing a significant ‘both ways’ role bridging community expectations and service operations.<sup>23</sup>
48. This mischaracterisation and disregard of ‘invisible’ skills lies, as was stated in the *Stage 1 report*<sup>24</sup>, ‘at the heart of the gendered undervaluation of work.’ The result is that, even leaving aside the issue of changes in work value, the starting point award rates for direct care employees were not properly set in the first place.

**Matter 4: Is the benchmark rate identified in paragraph [170] of the *Stage 3 Aged Care decision* appropriate to apply to any of the classifications for which a Certificate III qualification or equivalent is required?**

49. For the purposes of an appropriate comparison to the benchmark rate as identified in in paragraph [170] of the Stage 3 Decision<sup>25</sup> we consider that **Children’s Services Award (CSE) Level 3, pay point 3.1** (on commencement) to be a suitable comparison pay level to appropriately recognise the value of the work of a Certificate III Educator, considering their exercise of ‘invisible’ skills as described above.
50. We also consider it appropriate that each pay point thereafter in the Certificate III (or equivalent wage scale to (Level 3, pay points 3.2 and 3.3) be adjusted based on consummate industry experience (as per the progression rules detailed in clause 14.2 of the award).
51. As a comparison, the benchmark rate for a Certificate III qualified PCW (classification aged care employee - Direct care - level 4 (B.2.4) in the Aged Care Award 2010 (Aged Care Award), is appropriate and comparable for a Children’s Services Employee (CSE) Level 3 (pay points 3.1- 3.3).
52. To guide the Expert Panel, we detail the application of the classifications in Schedule B of the *Children’s Services Award 2010* and how they relate to equivalent classifications within the *Aged Care Award 2010* and the *Social, Community, Home Care and Disability Services Industry Award 2010* in **Appendix B**.

**Matter 5: Is the benchmark rate identified in paragraph [204] of the *Stage 3 Aged Care decision* appropriate to apply to any of the classifications for which an undergraduate degree qualification or equivalent is required?**

53. As it pertains to this submission, the requirement for an undergraduate qualification does not have a direct comparator under the *Children’s Services Award 2010*.

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<sup>23</sup> ANU Reporter. *Caring for people, culture, and Country: unpacking the value of Indigenous women’s work*, 2024.

<sup>24</sup> Cortis, N., Naidoo, Y., Wong, M. and Bradbury, B. *Gender-based Occupational Segregation: A National Data Profile*. Sydney: UNSW Social Policy Research Centre, 2023.

<sup>25</sup> [2024] FWCFB 150.



54. It can be ascertained that there is some comparison with a Level 6 – Director classification where an employee under this classification has a relevant degree, a 3-or 4-year Early Childhood Education qualification or a Diploma in Children's Services. However, an undergraduate degree is not a requirement to be appointed as the Director of an ECEC service and as such classified as a Level 6 Children's Services Employee (CSE). Instead, relevant working experience takes precedence to ensure the employee can demonstrate the required leadership and management skills.
55. A more accurate comparison with a Registered Nurse (RN) classification as stipulated in paragraph [204] can be made with that of a qualified early childhood teacher (ECT) who is employed within an ECEC setting to deliver a funded kindergarten or preschool program. Early childhood teachers require a three—or four-year undergraduate teaching qualification, are employed within an early childhood education setting to deliver a kindergarten education or preschool program and are classified under the *Educational Services (Teachers) Award 2020* [MA000077].

**Matter 6: To the extent that any adjustment to the existing classification structure in any of the awards is required, what are appropriate terms (including classification descriptors and minimum wage rates) for a new or modified classification structure?**

In the paragraphs below, we detail our reasoning for our proposed changes in classification structure (schedule B) of the Children's Services Award.

**Children's Services Employee (CSE) Levels 1 and 2**

56. The use of classifications Levels 1 or 2 does not reflect the National Quality Framework (NQF) requirement that all educators working directly with children must either hold an AQF Certificate III qualification **or** be enrolled and *actively working towards*<sup>26</sup> a nationally recognised qualification as approved by the Australian Children's Education and Care Quality Authority (ACECQA).
57. In the paragraphs below, we detail the two proposed uses of the Level 2 classification in a modified classification structure: for employees actively working towards classification and for employees engaged in a formal training agreement with their employer.
58. Further, we propose an increase in the wages for levels 1 and 2 to reflect the work value of the work these employees are expected to perform; that is, they work directly with children, which is similarly complex to the work of qualified educators, and these positions are counted as part of educator to child ratios under the National Regulations. The current wage rate for level 2 does not reflect the work value of the role performed, where educators working towards a qualification are expected to supervise and support children's learning in a similar way to qualified educators and, therefore, require the exercise of "invisible" skills in the performance of their work.

***Educators who are 'Actively working towards' a certificate III qualification***

59. We propose modifying the classification descriptors of Children's Services Employee Level 2 to remove the requirement for an AQF Certificate II qualification. Certificate II qualifications are not permitted to be

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<sup>26</sup> Australian Children's Education and Care Quality Authority (ACECQA). 'Educator to child ratios.' 2024



counted towards child-to-educator ratios in centre-based care services, as per Regulation 126 of the *Education and Care National Regulations 2011* (**National Regulations**).

60. We propose to introduce a reference in this descriptor of CSE Level 2 to include an employee being enrolled in and *actively working towards*<sup>27</sup> completion of a Certificate III in Early Childhood Education and Care or another equivalent qualification. Actively working towards a qualification is defined in Regulation 10 of the National Regulations as below.

**10 Meaning of actively working towards a qualification**

*For the purposes of these Regulations, an educator is **actively working towards** a qualification if the educator—*

*(a) is enrolled in the course for the qualification; and*

*(b) provides the approved provider with documentary evidence from the provider of the course that—*

*(i) the educator has commenced the course; and*

*(ii) the educator is making satisfactory progress towards completion of the course; and*

*(iii) the educator is meeting the requirements for maintaining the enrolment; and*

*(iv) in the case of an approved diploma level education and care qualification, the educator—*

*(A) holds an approved certificate III level education and care qualification; or*

*(B) has completed the units of study in an approved certificate III level education and care qualification determined by the National Authority; or*

*(C) has completed the percentage of total units of study required for completion of an approved early childhood teaching qualification determined by the National Authority.*

***Educators under a registered traineeship agreement (Certificate III or Diploma qualification)***

61. We further propose that a Level 2 classification should include employees engaged via a *traineeship agreement* (as defined under section 12 of the FW Act)<sup>28</sup> where they are working towards a recognised AQF Certificate III or equivalent qualification for ECEC. This modification would remove the current overlap between the descriptors of and the use of levels 1 and 2 in the *Children's Services Award 2010*, that is, employees engaged under a traineeship are paid under in accordance with the National Training Wage (Schedule E) in the *Miscellaneous Award 2020*<sup>29</sup> and those actively working towards a qualification who are not employed under a traineeship arrangement are classified at level 1 or 2 under the Children's Services Award.
62. In addition, employees engaged under a traineeship arrangement who are completing a Diploma qualification do not have a matching classification under the Miscellaneous Award. Therefore, we recommend removal of the reference to the Miscellaneous Award for determining wages for employees engaged under a Diploma or other traineeship agreement.

***Children's Services Employee Level 3 –Certificate III qualified (pay points 3.1 – 3.3)***

63. Level 3 (B.1.4) refers to an employee who has completed AQF Certificate III in Children's Services or an equivalent qualification or, alternatively, this employee will possess, in the opinion of the employer, sufficient knowledge or experience to perform the duties at this level.

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<sup>27</sup> Ibid.

<sup>28</sup> Fair Work Commission, 2024. *Children's Services Award 2010 [MA000120]*, 6

<sup>29</sup> Fair Work Commission. *Miscellaneous Award 2020 [MA000104]*. 2024. 52.



64. To remove ambiguity over the classification of employees working towards a recognised qualification, we suggest removing the following from the descriptor for Level 3: ‘or, alternatively, this employee will possess, in the opinion of the employer, sufficient knowledge or experience to perform the duties at this level’.<sup>30</sup>
65. We do not propose any other significant changes to the descriptors for the CSE Level 3.

#### ***Children’s Services Employee Level 3 – Diploma qualified (pay point 3.4)***

66. Adjustment in the classification structure for a Level 3.4 in the *Children’s Services Award 2010 (CSA)* is necessary and appropriate to recognise the skills and qualifications of a Diploma-qualified employee that are separate from the existing Children’s Services Employee Level 3.
67. An educator who is AQF Diploma qualified and recognised by their employer is classified at the single pay point of 3.4. It is our view that a pay point 3.4 is not equivalent to a AQF Certificate III qualification and should be classified at a higher classification and pay rate due to the qualification and therefore additional duties and responsibilities performed by employees with the higher qualification of a Diploma.
68. An employee with a Diploma qualification is commonly required by their employer to utilise their skills obtained within their qualification in the performance of their duties. Educators with a Diploma have their qualification counted towards child to educator ratios for ECEC<sup>31</sup>, and perform additional duties above those required under CSE Level 3 (certificate III educator), these include, and are not limited to:

- Recording observations of individual children or groups; documenting children’s learning and contributing to children’s records in keeping with regulatory requirements
- Preparing, implementing, and evaluating a developmentally appropriate program for individual children or small groups
- Working with individual children with particular needs
- Supervising students on placement
- Ensuring a safe environment is maintained for both staff and children
- Developing, implementing, and evaluating daily care routines
- Liaising with families

69. We propose a modified classification structure to remove the Level 3.4 (Diploma) from the Level 3 Certificate III classification to a revised Level 4 classification for a Diploma level employee (AQF Level 5) who possesses the qualification and demonstrates these advanced skills, however, is not responsible for leading a team.

#### ***Children’s Services Employee Level 4 – Room Leader (Diploma qualified)***

70. A Level 4 Children’s Services Employee refers to an educator who has completed a Diploma in Early Childhood Education and Care or equivalent and is ‘appointed as the person in charge of a group of children in the age range from birth to 12 years.’<sup>32</sup>
71. In a centre-based care setting, the room leader is an AQF Diploma qualified early childhood educator, responsible for leading a room with a group of children aged 0 to 5 years. Their duties include supervising other educators and implementing a quality education and care program in accordance with the approved

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<sup>30</sup> Fair Work Commission, *Children’s Services Award 2010 [MA000120]*, 2024. 57.

<sup>31</sup> Australian Children’s Education and Care Quality Authority (ACECQA). ‘Educator to child ratios’. 2024

<sup>32</sup> Fair Work Commission, *Children’s Services Award 2010 [MA000120]*, 2024. 66-67.





Early Years Learning Framework.<sup>33</sup> Room leaders must have a good understanding of the EYLF, NQS, and the National Regulations to ensure that their practices within the room align with these guidelines.

72. The indicative duties of a Level 4 Children's Services Employee (pay points 4.1 to 4.3) are outlined in the Classification Structure (B.1.6) in Schedule B of the *Children's Services Award 2010*.
73. As a result of a modified classification structure, the Diploma room leader classification who is responsible for leading a team would be elevated to a modified descriptor of CSE level 5 (for a room leader with a requisite qualification) and CSE Level 5A (an employee performing the role of room leader without a requisite qualification).

***Children's Services Employee Level 5 (Assistant Director, Children's Services Co-Ordinator, Family Day Care-Coordinator or Trainee Supervisor)***

74. A Children's Services Employee Level 5 applies to an employee who has completed an AQF Level V (Diploma in Early Childhood Education and Care) or equivalent and is appointed as an Assistant Director of an early learning service; a Children's Services Co-ordinator; a Family Day Care Co-ordinator; or a Family Day Care Trainee Supervisor.
75. A Level 5 employee in a centre-based day care service is a Diploma qualified employee who performs the role of Assistant Director. A Level 5 Employee, who is an Assistant Director is expected to work alongside the Centre Director and is responsible for the day-to-day management of the service in the absence of the Centre Director.
76. As a result of a modified proposed classification structure, the CSE Level 5 Employee classification who is responsible for leading a team would be elevated to a modified descriptor of CSE level 6 (with a requisite qualification) and CSE Level 6A (an employee performing the role of a Level 6 Employee without a requisite qualification).

***Children's Services Employee Level 6 (Centre Director)***

77. In a centre-based day care setting, the Centre Director/Centre Manager is responsible for the overall management of a long day care service. These responsibilities include management of employees, liaising with families and regulatory authority, maintaining budgets, rostering of staff, payroll and the management of accounts, professional leadership, meeting regulatory statutory requirements, managing incident reporting and responsibility for the Quality Improvement Plan.<sup>34</sup>
78. The Centre Director is also appointed as the Nominated Supervisor and Responsible Person<sup>35</sup> in accordance with Sections 161, 162 and 164 of the *Education and Care Services National Law Act 2010 (National Law)*.
79. As a result of a modified proposed classification structure, the leader classification who is responsible for leading a team would be elevated to a modified descriptor of CSE level 7 (with a requisite qualification) and CSE Level 7A (an employee performing the role of a Level 5 Employee without a requisite qualification).
80. Within the classification of a modified CSE Level 7 (presently CSE Level 6), we propose amendments to the Director pay levels (Director Level 1, Director Level 2, and Director Level 3) and introducing a new Director Level 4 as detailed in paragraphs 82 to 85 below.

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<sup>33</sup> Australian Children's Education & Care Quality Authority (ACECQA). 'Reporting requirements about children', 2024.

<sup>34</sup> Australian Children's Education & Care Quality Authority (ACECQA). 'Quality Improvement Plan', 2024.

<sup>35</sup> Australian Children's Education & Care Quality Authority (ACECQA). 'Quality Area 4: Staffing arrangements', 2024.





81. As a result of this proposed modification the classification of CSE Level 6, a Qualified Co-ordinator managing a standalone out-of-school hours care centre would be adjusted to pay points 7.1 to 7.3 (up to 59 children) and 7.4 to 7.6 (69 or more children).

***Proposed Director Level 4 (a service licenced for 100 or more places)***

82. There are increasing numbers of ECEC services with 100 or more approved places which have a greater degree of complexity for a Centre Director to manage. For instance, a Centre Director managing a service with more than 150 licenced places will have up to 75 employees, 10 to 15 direct reports, and 12 to 15 different programs. According to the ACECQA national service register, there are 3257 approved early childhood education and care services that are licenced for 100 or more approved places (children).<sup>36</sup>
83. It is therefore proposed that a new level of Director Level 4, with additional pay points 7.10 to 7.12 be introduced for services that are licenced for more than 100 approved places, to compensate for the additional workload and responsibilities involved with the size of the service.
84. As a result of this proposed change, the pay level of Director Level 3 would be amended to cover a Centre Director appointed to manage a service with 60 to 99 approved places (adjusted to pay points 7.7 to 7.9). A summary of these proposed changes to the Director Levels within this classification is included in **Appendix C** of this Submission.
85. A comparable minimum wage and classification can be aligned with Social and Community Services Employee Level 6 (B.6.1) in the Social and Community Services stream in the *Social, Community, Home Care and Disability Services Industry Award 2010*.<sup>37</sup> Specifically, the characteristics of this level include responsibility for decision making, supervising employees, exercising managerial responsibility, and operating under limited direction and reporting to a Committee or Management or Board.

**Proposed Modified Classification Structure and Descriptors**

86. A proposed modified classification structure (pursuant to clause 14.1) to assist the Expert Panel is contained in **Appendix C**.
87. A proposed modified classification schedule with descriptors (as per schedule B) is contained in **Appendix D** of this submission.
88. As the Children's Services Award and similar comparable awards are under review, we refer the matter of determining minimum wage rates to the Commission. We, however, recommend the Commission consider increases not based on a percentage amount above the award, but rather a dollar amount. Providing increases based on percentages of an already low wage further increases the difference in dollar outcomes for the lowest paid workers. Continued use of percentage increases further increases the gap between the lower paid classifications and higher classifications and in the longer term will only exacerbate the gender pay gap.

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<sup>36</sup> Australian Children's Education & Care Quality Authority (ACECQA). 'National registers', 2024.

<sup>37</sup> Fair Work Commission. 'Social, Community, Home Care and Disability Services Industry Award 2010 [MA000100]. 2024,



**Matter 7: To the extent that any increases to the minimum rates for any classifications are justified by work value reasons in order to remedy gender undervaluation, what is an appropriate implementation timetable for such increases having regard to funding and related issues?**

89. We recommend that the Expert Panel consider an appropriate implementation timetable to be in line with an established timeframe by the Commission for ease of implementation, such as the schedule (as determined) for the *2025-2026 Annual Wage Review*.
90. There are, however, relevant funding and related issues in the early childhood education and care sector for the Children's Services Award for the Expert Panel to consider, which are detailed below:
- a. The release on 18 September 2024 of the **Productivity Commission's *Final Inquiry Report*** into early childhood education and care<sup>38</sup> and any implications of its findings and recommendations for the relevant funding models in ECEC.
  - b. The Australian Government's recently announced ***Early Childhood Education and Care (ECEC) Worker Retention Payment*** grant<sup>39</sup>, a wage factor for long day care providers, with further additions being made in July 2026, but not in state or territory-funded kindergartens/preschools. The grant will be available to providers of Commonwealth child-care subsidy (CCS)-funded service providers. This grant will commence in December 2024 and will provide wages of 15 per cent above the *Children's Services Award 2010* for eligible early childhood educators for a two-year funding period. We note that amounts provided within the grant are subject to Commonwealth Government policy and are not indicative of a proposed outcome of a gender-undervaluation review.
  - c. Within preschools/kindergartens, funding arrangements are set by each state or territory government under the National Preschool Reform Agreement.<sup>40</sup> Within the Victorian context, funding for kindergartens is set for a period of a calendar year and is distributed directly to service providers (approved providers) in the form of per capita and associated funding.
91. We also ask the Expert Panel to consider similar and applicable industrial instruments which cover state-funded kindergartens/preschools which will be indirectly or directly affected by variations to minimum wages within the *Children's Services Award 2010*. These include as follows within the Victorian context:
- a. State-based awards reference public sector modern awards which employ educators (child carers) in preschool/kindergarten settings in government schools and local councils. These awards include the *Victorian Government Schools - Early Childhood - Award 2016* [MA000152]<sup>41</sup> and the *Victorian Local Government (Early Childhood Education Employees) Award 2016* [MA000150]<sup>42</sup>. It is proposed that any variation to minimum wages to the Children's Services Award (as a priority award) is also considered for comparable public sector reference awards for consistency of wages and conditions at an occupation level.

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<sup>38</sup> Australian Government Productivity Commission. 2024. A path to universal early childhood education and care Inquiry report. 18 September.

<sup>39</sup> Australian Government Department of Education. 2024. Early childhood wages.

<sup>40</sup> Australian Government Department of Education. 2024. Preschool Reform Agreement.

<sup>41</sup> Fair Work Commission. 2024. Victorian Government Schools - Early Childhood - Award 2016 [MA000152]

<sup>42</sup> Fair Work Commission. 2024. Victorian Local Government (Early Childhood Education Employees) Award 2016 [MA000150].



- b. Multi-enterprise agreements in operation within the community, not-for-profit early education sector have the *Children's Services Award 2010* as an underpinning award. These include the single-interest agreement; the *Victorian Early Childhood Teachers and Educators Agreement 2020 (VECTEA)* (PR730986), which covers educators employed in state-funded kindergarten/preschools including kindergarten education programs delivered in long day care environment. The role of unions within the Victorian context has achieved considerable wage outcomes for early childhood teachers in kindergarten/preschools that are aligned with the conditions within primary education and that are co-funded by the Victorian Government.

**Matter 8: Should the equal remuneration order (PR525485) applicable to social and community service employees under the *Social, Community, Home Care and Disability Services Industry Award 2010* be revoked consequent upon appropriate variations to the classification structure and minimum wage rates in that award?**

92. Given the *Social, Community, Home Care and Disability Services Industry Award 2010* does not apply in centre-based early childhood education and care settings, we do not have any commentary to provide on this matter.



## Appendix A: Children’s Services Award 2010 [MA000120]

*Minimum wages (clause 14), as varied in PR774011<sup>43</sup>*

### Children’s Services Employee (CSE) Classifications: 1 July 2024

Classification		Minimum weekly rate	Minimum hourly rate
<b>Children’s Services Employee</b>		\$	\$
Level 1.1	On commencement	910.90	23.97
Level 2.1	On commencement	944.00	24.84
Level 2.2	After 1 year*	975.00	25.66
Level 3A.1**	On commencement	1016.40	26.75
Level 3A.2**	After 1 year	1032.30	27.17
Level 3.1	On commencement	1032.30	27.17
Level 3.2	After 1 year*	1067.90	28.10
Level 3.3	After 2 years*	1101.50	28.99
Level 3.4 (Diploma)		1162.40	30.59
Level 4A.1	On commencement	1101.50	28.99
Level 4A.2	After 1 year*	1116.90	29.39
Level 4A.3	After 2 years*	1132.10	29.79
Level 4A.4	After 3 years*	1148.00	30.21
Level 4A.5	After 4 years*	1163.30	30.61
Level 4.1	On commencement	1216.00	32.00
Level 4.2	After 1 year*	1234.60	32.49
Level 4.3	After 2 years*	1253.00	32.97
Level 5A.1	On commencement	1271.60	33.46
Level 5A.2	After 1 year*	1290.00	33.95
Level 5A.3	After 2 years*	1308.30	34.43
Level 5.1	On commencement	1271.60	33.46
Level 5.2	After 1 year*	1290.00	33.95
Level 5.3	After 2 years*	1308.30	34.43
Level 5.4***		1313.00	34.55
Level 6A.1	On commencement	1466.30	38.59
Level 6A.2	After 1 year*	1484.60	39.07
Level 6A.3	After 2 years*	1502.80	39.55
<b>Children’s Services Employee—Director</b>			
Level 6.1	On commencement	1466.30	38.59
Level 6.2	After 1 year*	1484.60	39.07
Level 6.3	After 2 years*	1502.80	39.55
Level 6.4	On commencement	1558.90	41.02
Level 6.5	After 1 year*	1573.20	41.40
Level 6.6	After 2 years*	1592.00	41.89
Level 6.7	On commencement	1611.00	42.39
Level 6.8	After 1 year *	1629.40	42.88
Level 6.9	After 2 years*	1647.80	43.36

<sup>43</sup> Fair Work Commission. Annual Wage Review 2023–24 Determination. 2024. PR774011.



## Appendix B: Comparable Modern Award Classifications to Children's Services Employee Level 3 (Certificate III qualified)

### Aged Care Award 2010 [MA000018] – Personal Care Worker Level 3

#### *B.2.4 Aged care employee—direct care—level 4*

1. In paragraph 170 of the Stage 3 Decision<sup>44</sup> it is stipulated that the appropriate benchmark rate for a Certificate III qualified Personal Care Worker (PCW) is \$1223.90 per week. A Level 3 Personal Care Worker with a Certificate III qualification falls within the classification of aged care employee—direct care—level 4 as per the *Aged Care Award 2010 (Aged Care Award)*.
2. When comparing the minimum qualification requirements for early childhood education and care, educators working with children must either hold an approved Certificate III qualification, currently designated as the *Certificate III in Early Childhood Education and Care*<sup>45</sup> or are *actively working towards* the certification as defined in Regulation 10 of the National Regulations.<sup>46</sup>
3. In addition to the minimum qualification requirements, the limited level of supervision and task-orientated approach under the **Direct Care Level 4 Employee** under the Aged Care Award can be said to be reasonably comparable to a **Children's Services Employee (CSE) Level 3** (pay points 3.1 to 3.3 under the Children's Services Award 2010 (CSE)). Specifically, both classifications require prioritisation of tasks within established policies, guidelines, and procedures. In an early childhood setting this will be regular, structured expectations such as recording observations, undertaking active supervision of children, and engaging and communicating with families within established guidelines. All educators are accountable for children's health, safety and wellbeing and are required to act in accordance with the regulations and frameworks that guide their work.

#### *B.2.4 Aged care employee—direct care—level 4<sup>47</sup>*

*An employee at this level:*

- *is capable of prioritising work within established policies, guidelines, and procedures.*
- *is responsible for work performed with a medium level of accountability or discretion.*
- *works under limited supervision, either individually or in a team.*
- *possesses good communication, interpersonal and/or arithmetic skills.*
- *requires specific on-the-job training, may require formal qualifications and/or relevant skills training or experience; and*
- *in the case of a personal care worker, holds a relevant Certificate 3 qualification (or possesses equivalent knowledge and skills) and uses the skills and knowledge gained from that qualification in the performance of their work*

*Indicative tasks performed at this level are:*

*Personal care*

*Personal care worker grade 3*

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<sup>44</sup> [2024] FWCFB 150, paragraph 170.

<sup>45</sup> Australian Government. Training.Gov.Au. CHC30121 - Certificate III in Early Childhood Education and Care. 2021.

<sup>46</sup> Education and Care Services National Regulations 2011, 2024. Regulation 10.

<sup>47</sup> Fair Work Commission. 2024. Aged Care Award 2010 [MA000018], 64.



## Social, Community, Home Care and Disability Services Industry Award 2010 [MA000100]

### *Home Care Employee Stream - Home Care Employee Level 3 – Aged Care*

4. Level 3 Home care workers (HCW) who work in aged care under the Home Care Employee stream in the *Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS)*, are equivalent in skills and minimum qualification requirements to a minimum Certificate III qualified educator in centre-based care.
5. The classification for a *Level 3 Home Care Employee* (home care worker) is detailed below.

#### ***E.3 Home care employee level 3***

*A position in this level has the following characteristics:*

##### ***E.3.1 Accountability and extent of authority***

*Employees perform work under general supervision. Employees in this level have contact with the public or other employees which involves explanations of specific procedures and practices. Employees in this level are accountable for the quality, quantity, and timeliness of their own work in so far as available resources permit, and for the care of assets entrusted to them.*

##### ***E.3.2 Judgment and decision-making***

*These positions require personal judgment. The nature of work is usually specialised with procedures well understood and clearly documented. The particular tasks to be performed will involve selection from a range of techniques, systems, equipment, methods, or processes.*

##### ***E.3.3 Specialist knowledge and skills***

*Indicative but not exclusive tasks include: computer and other office skills; maintain mail register and records; sort, process and record invoices and correspondence; prepare meals and special functions; provide input into meal planning; order foodstuffs and commodities; liaise with dieticians on special needs; schedule work programs on a routine and regular basis; co-ordinate and direct the work of support staff including maintenance (no more than four); oversee the provision of domestic services; provide personal care to clients with particular emphasis on those requiring extra help due to specific physical problems or frailty; schedule maintenance work programs on a routine and regular basis; plan, develop, and co-ordinate diversional therapy programs and carry out general maintenance falling within the scope of trades skills.*

##### ***E.3.4 Interpersonal skills***

*Positions in this level require skills in oral and written communication with clients, other employees, and members of the public.*

##### ***E.3.5 Qualifications and experience***

*Indicative but not exclusive of the qualifications required in this level is an accredited qualification to the position at the level of Certificate 3 and/or knowledge and skills gained through on-the-job training commensurate with the requirements of the work in this level.*

6. As a key comparator, outlined in the indicative duties in E.3.5., a minimum qualification (as indicative) is a Certificate III or equivalent.
7. A focus on accountability, judgement and decision-making is also a key component within this classification which also has alignment with the role of an educator within early childhood education and care. Specifically, educators are accountable for the health, safety, and wellbeing of the children in their care. Under the National Law, all educators are individually liable to uphold children's safety and face monetary fines or other repercussions if they fail to do so. Within the daily routines of educating and caring for children, educators are required to interpret learning frameworks and apply them in their





interactions with children to extend their learning and development. This requires in depth understanding of theoretical frameworks, and the ability to implement these in highly dynamic environments. While established guidelines exist, educators need to make decisions throughout the day about how and when to implement particular approaches and strategies to support learning, and ways in which to communicate with families to support positive relationships.

8. Further, this qualification also requires additional interpersonal skills, which are commonly required in early childhood education and care, such as when interactions with families become complex.
9. It is therefore proposed that the minimum weekly rate of \$1223.90 per week as outlined in paragraph [170] of the *Stage 3 Aged Care decision*<sup>48</sup>, a **Home Care Employee Level 3 – Aged Care** is equivalent to the classification of Children’s Services Employee, Level 3.1 under the Children’s Services Award.
10. It is also noted that the Family Day Care stream within SCHADS does not provide coverage to family day care educators performing care to children, instead it has administrative functions, and is not a comparable classification for the purposes of this submission.
11. To assist the Expert Panel, the below comparison table (on page 21) is proposed for the Children’s Services Employee (CSE) levels to the levels to the *Aged Care Award 2010* (Personal Care Worker) and the Home Care Stream (Home Care Worker) of the *Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS)* with reference to Australian Qualifications Framework (AQF)<sup>49</sup>

**Comparison Table – Classifications in Comparable Modern Awards (Care and Community Sector)**

	Children's Services Award 2010 [MA000120]	Aged Care Award 2010 [MA000018]	Social, Community, Home Care and Disability Services Industry Award 2010 [MA000100]
AQF Level	<i>Award Stream and Classification Level</i>		
	Children’s Services Employees (CSE)	Aged Care Employees (Direct Care)	Home Care Employees - Aged Care
AQF Level 2 (Certificate II)	<b>CSE level 2</b> <i>Inclusive of trainees and ‘actively working towards’<sup>50</sup> employees</i>	<b>Direct care employee level 3</b>	<b>Home care employee level 3 – aged care</b>
AQF Level 3 (Certificate III)	<b>CSE level 3, pay points 3.1 – 3.3.</b> <i>Certificate III qualified educator</i>	<b>Direct care employee level 4</b> <i>(Personal Care Worker Grade 3)</i>	<b>Home care employee Level 3 – aged care</b>

<sup>48</sup> [2024] FWCFB 150.

<sup>49</sup> Australian Government Department of Education. *Australian Qualifications Framework*. Second edition, 2013.

<sup>50</sup> *Education and Care Services National Regulations 2011*, 2024. Regulation 10.



	Children's Services Award 2010 [MA000120]	Aged Care Award 2010 [MA000018]	Social, Community, Home Care and Disability Services Industry Award 2010 [MA000100]
AQF Level 5 (Diploma)	<b>CSE level 3, pay point 3.4.</b> <i>Diploma qualified educator</i>	<b>Direct care employee level 5</b> ( <i>Personal Care Worker Grade 4</i> )	<b>Home care employee level 4</b> – aged care
	<b>CSE Level 4</b> <i>room leader, Diploma qualified.</i>	<b>Direct care employee level 7</b> ( <i>Personal Care Worker Grade 5</i> )	
	<b>CSE Level 5</b> <i>Assistant Director</i>	<i>Not specified</i>	<b>Home care employee level 5</b> - aged care
AQF Level 6 (Advanced Diploma)	<b>CSE Level 6</b> <i>Centre Director</i>		<i>Not specified</i>



## Appendix C: Proposed Modified Classification Structure Children's Services Award [MA000120]

Classification and Pay Point	Appointment
<b>Support Workers</b>	
Level 1.1	On commencement
Level 2.1	On commencement
Level 2.2	After 1 year*
Level 3.1	On commencement
<b>Children's Services Employees (CSE)</b>	
<b>Levels 1 and 2</b> – Unqualified educator or trainee, or employee enrolled in and actively working towards an approved certificate III qualification.	
Level 1.1 ( <i>unqualified only</i> )	On commencement
Level 2.1 ( <i>working towards qualification, including trainees under a training agreement</i> )	On commencement
Level 2.2	After 1 year*
<b>Level 3</b> – Certificate III qualified educator	
Level 3A.1**	On commencement
Level 3A.2**	After 1 year
Level 3.1	On commencement
Level 3.2	After 1 year*
Level 3.3	After 2 years*
<b>Level 4</b> – Diploma qualified educator	
Level 4.1	On commencement
Level 4.2	After 1 year*
Level 4.3	After 2 years*
<b>Level 5</b> – Room Leader (Diploma qualified) or equivalent	
Level 5A.1	On commencement
Level 5A.2	After 1 year*
Level 5A.3	After 2 years*
Level 5A.4	After 3 years*
Level 5A.5	After 4 years*
Level 5.1	On commencement
Level 5.2	After 1 year*
Level 5.3	After 2 years*
<b>Level 6</b> – Assistant Director or as determined	
Level 6A.1	On commencement
Level 6A.2	After 1 year*
Level 6A.3	After 2 years*
Level 6.1	On commencement
Level 6.2	After 1 year*
Level 6.3	After 2 years*
Level 6.4***	



Classification and Pay Point	Appointment
<b>Level 7 – Centre Director</b>	
Level 7A.1	On commencement
Level 7A.2	After 1 year*
Level 7A.3	After 2 years*
<b><i>Director Level 1 (up to 39 licenced places)</i></b>	
Level 7.1	On commencement
Level 7.2	After 1 year*
Level 7.3	After 2 years*
<b><i>Director Level 2 (40 to 59 licenced places)</i></b>	
Level 7.4	On commencement
Level 7.5	After 1 year*
Level 7.6	After 2 years*
<b><i>Director Level 3 (60 to 99 licenced places)</i></b>	
Level 7.7	On commencement
Level 7.8	After 1 year *
Level 7.9	After 2 years*
<b><i>Director Level 4 (100 or more licenced places)</i></b>	
Level 7.10	On commencement
Level 7.11	After 1 year *
Level 7.12	After 2 years*

\*Reference to a year or years of service is to service in the industry.

\*\*Former Western Australian 'E' worker classification.

\*\*\*An Assistant Director who holds an Advanced Diploma (AQF 6/3 year qualified) must be paid no less than Level 6.4.



## **Appendix D: Proposed Classification Schedule Descriptors**

### **Children's Services Award [MA000120]**

#### **Schedule B —Classification Schedule**

All employees will be classified by the employer into one of the levels contained in this Schedule in accordance with the employee's skills, responsibilities, qualifications, experience in the industry and duties.

Progression within a level is subject to the provisions of clause 14.2. Employees moving from one classification level to another will commence on the 1st year of service rate of the higher level.

#### **Children's Services Employees (CSE)**

##### **Level 1 (*modified level 1 descriptors*)**

This is an employee who has no formal qualifications but is able to perform work within the scope of this level. The employee will work under direct supervision in a team environment and will receive guidance and direction at all times. The employee will receive structured and regular on-the-job training to perform the duties expected at this level. Normally an employee at this level will not be left alone with a group of children.

##### **Indicative duties**

- Learning and implementing the policies, procedures, and routines of the service.
- Learning how to establish relationships and interact with children.
- Learning the basic skills required to work in this environment with children.
- Giving each child individual attention and comfort as required.
- Basic duties including food preparation, cleaning, and gardening.

##### **Progression**

A Level 1 employee will progress to the next level after a period of one year or earlier if the employer considers the employee capable of performing the work at the next level or if the employee performs work at the next level.

##### **Level 2 (*modified level 2 descriptors*)**

This is an employee who is enrolled in and actively working towards completion of a recognised qualification, or in the opinion of the employer has sufficient knowledge and experience to perform the work within the scope of this level. An employee at this level has limited knowledge and experience in children's services and is expected to take limited responsibility for their own work. This level includes employees engaged under a formal traineeship arrangement under a law of a State or Territory relating to the training of employees.

##### **Indicative duties**

- Assist in the implementation of the children's program under supervision.
- Actively support children's learning through engagement with children and their families
- Assist in the implementation of daily care routines.
- Develop awareness of and assist in maintenance of the health and safety of the children in care.
- Give each child individual attention and comfort as required.
- Understand and work according to the centre or service's policies and procedures.
- Demonstrate knowledge of hygienic handling of food and equipment.



### **Level 3A (no proposed changes)**

Such an employee would be an 'E' Worker as previously classified under the *Child Care (Long Day Care) WA Award 2005* as CSE Level 2.

### **Level 3 – Certificate III qualified employee (modified to remove pay point 3.4)**

This is an employee who has completed AQF Certificate III in Early Childhood Education and Care or an equivalent qualification or, alternatively, this employee will possess, in the opinion of the employer, sufficient knowledge or experience to perform the duties at this level. An employee appointed at this level will also undertake the same duties and perform the same tasks as a CSE Level 2.

#### **Indicative duties**

- Assist in the preparation, implementation, and evaluation of developmentally appropriate programs for individual children or groups.
- Record observations of individual children or groups for program planning purposes for qualified staff.
- Under direction, work with individual children with particular needs.
- Assist in the direction of untrained staff.
- Undertake and implement the requirements of quality assurance.
- Work in accordance with food safety regulations.

#### **Progression**

Subject to this award, an employee at this level is entitled to progression to Level 3.3.

### **Level 4 – Diploma qualified employee (modified from current level 4 Award descriptors)**

An employee at this level who has completed an AQF Diploma in Children's Services or equivalent (e.g., Certificate IV in Out of School Hours Care) and who demonstrates the application of skills and knowledge acquired beyond the competencies required for AQF Certificate III in the ongoing performance of their work.

An employee at this level will also take on the same duties and perform the same tasks as a CSE Level 3. Such an employee would also include an 'E' Worker as previously classified under the *Child Care (Long Day Care) WA Award 2005* as a CSE Level 3. Any dispute concerning an employee's entitlement to be paid at a Level 4 may be dealt with in accordance with clause 9 (dispute resolution), which may require the employee to demonstrate that they utilise skills and knowledge above those prescribed for Level 3 but below those prescribed for Level 5 (room leader).

#### **Indicative additional duties:**

- Record observations of individual children or groups; document children's learning and contribute to children's records in keeping with regulatory requirements.
- Prepare, implement, and evaluate a developmentally appropriate program for individual children or small groups.
- Work with individual children with particular needs.
- May supervise of students on placement.
- Ensure a safe environment is maintained for both staff and children.
- Develop, implement, and evaluate daily care routines.
- Liaise with families.





### **Progression**

Subject to this award, an employee at this level is entitled to progression to Level 4.3.

### **Level 5A (*modified from existing level 4A*)**

This is an employee who has not obtained the qualifications required for a Level 5 employee who performs the same duties as a Level 5 employee (room leader).

### **Level 5 – Room leader (Diploma qualified) (*modified from existing level 4 descriptors*)**

This is an employee who has completed a Diploma in Children’s Services or equivalent (e.g., Certificate IV in Out of School Hours Care) as recognised by licensing authorities and is appointed as the person in charge of a group of children in the age range from birth to 12 years or an employee who is appointed as an Authorised Supervisor (as defined in the *Children and Young Persons (Care and Protection) Act 1998* (NSW)).

An employee at this level will also take on the same duties and perform the same tasks as a CSE Level 4.

### **Indicative duties**

- Responsible, in consultation with the Assistant Director/Director for ensuring the preparation, implementation and evaluation of a developmentally appropriate program for one or more groups of children in accordance with the approved Early Years Learning Framework<sup>51</sup>.
- Lead a group of educators to prepare, implement and evaluate a developmentally appropriate program for one or more groups of children.
- Responsible to the Assistant Director/Director for the supervision of students on placement.
- Responsible for ensuring a safe environment is maintained for both staff and children.
- Responsible for ensuring that records are maintained accurately for each child in their care.
- Develop, implement, and evaluate daily care routines.
- Ensure that the centre or service’s policies and procedures are adhered to.
- Primary contact for families/guardians and children’s support network (such as primary schools, health professionals and protective services)
- Work with families and support workers (including allied health) to provide an inclusive educational program for children in their care with additional needs.
- Must demonstrate a good understanding of the Early Years Learning Framework (EYLF), National Quality Standards (NQS), and the National Regulations to ensure that their practices and the practices of educators in the room align with these requirements.

### **Progression**

Subject to this award, an employee at this level is entitled to progression to Level 5.3

### **Level 6A (*modified from existing level 5A*)**

This is an employee who has not obtained the qualification required for a Level 6 employee who performs the same duties as a Level 6 employee.

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<sup>51</sup> Australian Children’s Education & Care Quality Authority (ACECQA). 2024.



### **Level 6 (modified from existing level 5 descriptors)**

This is an employee who has completed an AQF Level V Diploma in Children's Services or equivalent and is appointed as:

- an Assistant Director of a service.
- a Children's Services Co-Ordinator.
- a Family Day Care Co-Ordinator.
- a Family Day Care Trainee Supervisor; or
- a School Age Care Co-Ordinator.

An **Assistant Director** (Level 6) will also take on the same duties and perform the same tasks as a CSE Level 5.

### **Indicative duties**

- Co-ordinate and direct the activities of employees engaged in the implementation and evaluation of developmentally appropriate programs.
- Contribute, through the Director, to the development of the centre or service's policies.
- Co-ordinate centre or service operations including Occupational Health and Safety, program planning, staff training.
- Responsible for the day-to-day management of the centre or service in the temporary absence of the Director and for management and compliance with licensing and all statutory and quality assurance issues.
- Generally, supervise all employees within the service.

A **Children's Service Co-ordinator** undertakes additional responsibilities including:

- coordinating the activities of more than one group.
- supervising staff, trainees, and students on placement; and
- assisting in administrative functions.

A **Family Day Care Co-ordinator** undertakes the following indicative duties:

- arranges, administers, and monitors a number of Family Day Care placements.
- responsible for the direction, supervision, and training of a number of family based childcare workers.
- implements licensing regulations and accreditation requirements for family day care.
- assists in recruiting and approving the registration of family based childcare workers in accordance with the scheme's policies and licensing regulations.
- documents, interprets, and uses information about children.
- assists family based childcare workers to develop care routines for children.
- communicates effectively with family based childcare workers, children, parents, and families.
- applies well-developed theoretical knowledge to the care situations with respect to cultural diversity, gender issues and scheme philosophy.
- responsible for the quality of their own work and the work of others; and
- ensures that records are maintained and up to date.

A **Family Day Care Trainee Supervisor** undertakes the following indicative duties:

- provides support and guidance to family based childcare workers undertaking the AQF Certificate III Traineeship.



- undertakes supervision visits for the purpose of on-the-job workplace assessment.
- organises training assistance such as additional resources, in-service sessions and study groups as required; and
- contributes to the development of the scheme's policies.

An **unqualified Co-ordinator** who co-ordinates and manages a standalone out-of-school hours care and/or vacation care centre may undertake the following:

- develop and/or oversee programs and ensure they offer a balance of flexibility, variety, safety, and fun.
- supervise the programs/activities and ensure each staff member is fulfilling their relevant duties and responsibilities.
- carry out administrative tasks including fee collection and receipting, banking, staff pay, etc.
- administer first aid when appropriate and ensure that injured children receive appropriate medical attention.
- work positively with parents and/or committees; and
- understand and work in accordance with the centre or service's policies.

#### **Level 7A (*modified from existing level 6A*)**

This is an employee who has not obtained the qualification required for a Level 7 Employee who performs the same duties as a Level 7 Employee.

#### **Level 7—Centre Director (*modified from existing Level 6 descriptors*)**

A Centre Director is an employee who holds a relevant Degree or a 3 or 4 year Early Childhood Education qualification, or an AQF Advanced Diploma, or a Diploma in Children's Services, or a Diploma in Out-of-Hours Care; or is otherwise a person possessing such experience, or holding such qualifications deemed by the employer or the relevant legislation to be appropriate or required for the position, and who is appointed as the director of a service.

#### **Indicative duties**

- Responsible for the overall management and administration of the service.
- Supervise the implementation of developmentally appropriate programs for children.
- Recruit staff in accordance with relevant regulations.
- Maintain day-to-day accounts and handle all administrative matters.
- Ensure that the centre or service adheres to all relevant regulations and statutory requirements.
- Ensure that the centre or service meets or exceeds quality assurance requirements.
- Liaise with families and outside agencies.
- Formulate and evaluate annual budgets.
- Liaise with management committees as appropriate.
- Provide professional leadership and development to staff.
- Develop and maintain policies and procedures for the centre or service.

#### **Director Level 1**

A Director Level 1 is an employee appointed as the Director of a service licensed for up to 39 children or a Family Day Care service of no more than 30 family based childcare workers and is paid at the Level 7.1 to 7.3 salary range.



### **Director Level 2**

A Director Level 2 is an employee appointed as the Director of a service licensed for between 40 and 59 children or a Family Day Care service with between 31 and 60 family based childcare workers and is paid at the Level 7.4 to 7.6 salary range.

### **Director Level 3**

A Director Level 3 is an employee appointed as the Director of a service licensed for 60 to 99 children or a Family Day Care service with more 60 family based childcare workers and is paid at the Level 7.7 to 7.9 salary range.

### **Director Level 4 (*New pay level*)**

A Director Level 4 is an employee appointed as the Director of a service licensed for 100 or more children and is paid at the Level 7.10 to 7.12 salary range.

### **Qualified Co-ordinator**

This is also the level for a qualified Co-ordinator who co-ordinates and manages a standalone out-of-school hours care and/or vacation care centre and has successfully completed a post-secondary course of at least two years in Early Childhood Studies or an equivalent qualification. A Co-ordinator appointed to co-ordinate the activities of a service licensed to accommodate up to 59 children will be paid at the salary range Level 7.1 to 7.3. A Co-ordinator appointed to co-ordinate the activities of a service licensed to accommodate 60 or more children will be paid at the salary range Level 7.4 to 7.6.

### **Support Worker Classifications (*no proposed changes*)**

#### **Level 1**

This is an untrained, unqualified employee. Employees at this level will work under supervision with guidance and direction.

#### **Indicative duties**

Assisting a qualified cook and/or basic food preparation and/or duties of a kitchen hand.

- Laundry work.
- Cleaning.
- Gardening.
- Driving.
- Maintenance (non-trade).
- Administrative duties.

#### **Progression**

An employee will progress to Children's Services Support Employee (CSSE) Level 2 after 12 months, or earlier if the employee is performing the duties of a children's Services support employee Level 2.

#### **Level 2**

An employee at this level will possess skills, training, and experience above that of a CSSE Level 1 and below that of a CSSE level 3. An employee at this level works under routine supervision and exercises discretion consistent with their skills and experience.



### **Indicative duties**

- Assisting a qualified cook and/or basic food preparation and/or duties of a kitchen hand.
- Laundry work.
- Cleaning.
- Gardening.
- Driving.
- Maintenance (non-trade).
- Administrative duties.

### **Level 3**

An employee at this level possesses an AQF Certificate III or equivalent skills and performs work at that level as required by the employer.



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