

Senate Education and Employment References Committee Inquiry into the quality and safety of Australia's ECEC system

Submission of the United Workers' Union

10 October 2025

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Acknowledgement to Country

The United Workers' Union is a national trade union. We acknowledge and respect the continuing spirit, culture and contribution of Traditional Custodians on the lands where we work, and pay respects to Elders – past, present and emerging. We extend our respects to Traditional Custodians of all the places that United Workers' Union members live and work around the country.

About the United Workers' Union

United Workers' Union ('UWU') is a powerful new union with 150,000 workers across the country from more than 45 industries and all walks of life, standing together to make a difference. Our work reaches millions of people every single day of their lives. We feed you, educate you, provide care for you, keep your communities safe and get you the goods you need. Without us, everything stops. We are proud of the work we do– our early childhood educators are shaping the future of the nation one child at a time; supermarket logistics members pack food for your local supermarket and farms workers put food on Australian dinner tables; hospitality members serve you a drink on your night off; aged care members provide quality care for our elderly and cleaning and security members ensure the spaces you work, travel and educate yourself in are safe and clean.

Introduction

United Workers' Union welcomes the opportunity to contribute to the Senate Education and Employment References Committee's Inquiry into *Quality and Safety in Australia's early childhood education and care (ECEC) system*. Early childhood educators have been sounding the alarm about the state of the sector for years. The vast majority of educators go above and beyond in their duties every day, to ensure children receive the best possible education and care. Recent media reports on the mistreatment of children in the sector are devastating for educators, and through our union we will continue to fight for vital changes just like we have been doing for all these years.¹ We won't stop, because the safety of children is too important.

UWU members want to see an ECEC sector that both values the workforce and focuses on delivering high quality ECEC for the benefit of Australian children, where children are not only safe but thrive. Private for-profit providers in the sector are prioritising profits at the expense of high-quality early education and are putting educators and children at risk with unsafe staffing practices. Government funding through the Child Care Subsidy (CCS) is being extracted out of the sector through profits, executive salaries and exorbitant rents

charged by corporate landlords attracted to the “*happy hunting ground*”² of a government-funded sector.

The Australian Government has the opportunity to implement key policies that would be transformative for the sector, but there are also immediate steps that the Government should be taking to improve child safety. Staffing in the sector has been in crisis for years; the workforce crisis caused by a mass exodus of educators due to high workloads and poor wages has been ongoing. Staffing levels within services are in dire need of government attention and action, too, facilitated by staffing loopholes that are technically compliant but ultimately risk the safety of children in centre-based day care (CBDC).

Recommendations

UWU educators make the following recommendations to the Inquiry:

1. The Australian Government should implement UWU’s safer staffing action plan (refer to Appendix 1). To ensure children are in safe, supportive environments, it is necessary that:
 - a. Ratios must be met in every room, and the ‘under-the-roof’ loophole must be closed.
 - b. Staffing waivers can only be used as a last resort and are strictly time limited.
 - c. Every child with additional needs, whether diagnosed or not, is fully supported through additional staffing and other required resources.
 - d. The same best practice ratios apply across all states and territories.
 - e. Educators have the time and resources to focus on children – educators shouldn’t have to undertake additional duties such as cleaning the centre or be overburdened with excessive administrative tasks.
 - f. Training is high quality – an immediate review of training providers should take place, and substandard providers should lose their registration.
 - g. All educators have access to ongoing high-quality training and professional development.
2. The Australian Government should implement national reform on staffing waivers. They must be only for exceptional circumstances and strictly time limited.

3. The Australian Government should create the role of a child safety and quality officer in every centre. This officer should have the information and skills to raise safety concerns, and the power to hold providers accountable on staffing. Child safety and quality officers must have access to training and strong protections from reprisal so they can support educators without fear.
4. The Australian Government should implement better reporting pathways for ECEC workers and families, and accountability and transparency for regulators. Families, educators and the public should know whether services or providers have staffing waivers in place, the proportion of trainees in their centre, if there is a reliance on agency workers to meet minimum ratio requirements, and if there has been any current or historic compliance action taken by the regulator against the service or provider.
5. The Australian Government should increase transparency requirements of providers to disclose the structure of their operations, and requirements to disclose on acquisitions and transfers of ownership. This is an issue raised by the National Child Safety Review and would improve transparency and compliance in the sector.
6. A world-class, high-quality early learning education system is a public and universal one that directly employs and professionally pays educators. Governments must aim higher than a 'stewardship role' in early learning; they should be central in providing it. Early learning should be the very first stage of the public education system in Australia.
 - a. Early childhood educators across the country implore the Australian Government to investigate short-, medium- and long-term policy reforms to realise this vision. As a first step, State and Federal Governments in all jurisdictions must develop and trial publicly run, fit-for-purpose long day care (LDC) centres that directly employ educators as a first shift towards public early learning provision. Where possible, these centres should be co-located with schools, and initially targeted in low socio-economic areas.

We note that commitments were made at the State and Federal Education Ministers' meeting in August 2025 to implement a National Educator Register, and we also note the commitment to mandatory national child safety training to be developed and rolled out from 2026.³ UWU welcomes these reforms, and we are pleased to see Governments adopting

policies that UWU members strongly support and have recommended for the improved safety of the sector.

UWU's response to the Terms of Reference

The quality and safety of Australia's early childhood education and care system, with particular reference to:

- a) The health and safety of children in childcare services across the country;*
- b) The effectiveness of Australia's childcare regulatory system, including the performance and resourcing of state and territory regulators and the Australian Children's Education and Care Quality Authority, in maintaining and improving quality;*
- c) Early learning providers' compliance with quality standards and legislative requirements, including compliance with workplace laws and regulations;*

Reform is required on staffing waivers

Staffing loopholes contribute to child safety incidents, educator burnout and chronic understaffing in ECEC services. These loopholes must be closed to improve safety and quality in the sector, including reform to staffing waivers and 'under-the-roof' ratios.

Clear evidence of the ongoing staffing crisis in the ECEC sector is seen in the uptick in staffing waivers in ECEC across the country over the last decade. Even as the proportion of services across the country with a staffing waiver has decreased from its peak in 2022-23, these waivers continue to be at unacceptable levels for child safety and quality of early education. Public data from the Australian Children's Education and Care Quality Authority (ACECQA) on waivers in long day care (LDC) goes back to 2019. Six years ago, in Q2 2019 the proportion of services with a staffing waiver nationally was 7.8%, and data from the second quarter of 2025 shows that currently a shocking 12.4% of LDC services have waivers in place.⁴ Western Australia (WA) (21.2%), South Australia (SA) (18.5%) and New South Wales (NSW) (16.5%) are the poorest performing states with the proportion of LDC operating with staffing waivers.⁵

These figures point to an unsettling and disappointing acceptance in ECEC over the last decade that staffing waivers are a 'normal' part of doing business. This can be seen in the change in the proportions of all services, nationally with a staffing waiver. The waiver rate is more than double what it was ten years ago. In the first quarter of 2015 the waiver rate was

3.3%, while in the second quarter of 2025 it is 7.4%.⁶ Whilst it is an improvement from a high of 10% in 2023, this should still be considered unacceptable.

The Australian Government has the opportunity to implement national reform on staffing waivers, setting a standard for safe staffing levels in ECEC. Staffing waivers should only be a last resort and strictly time limited.

Closing staffing loopholes

A recent survey conducted by UWU in June and July 2025 (Quality and Safety Census) of more than 3000 early childhood educators has found 77% of educators say their centre is operating below minimum staffing requirements at least weekly. Alarming, 42% say it is happening daily.

Almost three-quarters of educators (72%) said understaffing led to an increase in children hurting themselves or others, and 64% said it meant children who need additional support were not being provided that support. There are also impacts on the quality of early learning that can be delivered by educators. Three quarters of respondents said understaffing meant children were left without emotional support, and 69% said education standards were compromised by a failure to meet minimum staffing levels.

More than half (53%) of workers said for-profit providers either placed a low priority on quality education, safety and care of children, or did not consider it at all.

There are very clear, immediate risks to child safety if ratios are not being met in the day-to-day operations of a LDC service. There are systemic issues in the ECEC sector that mean it is extremely difficult for educators to deliver high quality early learning and care. Providers will use 'under-the-roof ratios' to move educators between rooms, and even count educators not on the floor, towards their minimum staffing requirements. This puts immense pressure on those educators in the room to supervise, deliver early learning, complete documentation and paperwork requirements, even clean. Overwhelmingly, educators agreed or strongly agreed that under-the-roof ratios compromise education and care for children (91%) and compromise the safety and wellbeing of children (93%). While providers using 'under-the-roof' ratios are technically compliant with staffing regulations, it is contributing to child safety risks and educator stress and burn out.

Educators from across the country have shared their stories on the impact of 'under-the-roof' ratios on their ability to supervise children and provide high quality early learning, and have submitted their stories to ACECQA to inform its rapid assessment of supervision practices.⁷ Their stories highlight that the use of 'under-the-roof' ratios contributes to unsafe

environments for children, and prevents educators from engaging with children and being able to provide high quality early learning. One Victorian educator told us:

“Children are being placed in risky situations while their parents believe they are receiving quality education and care. If it wasn’t the wrong thing to do then parents would be fully made aware of the misuse of the under the roof ratios. It’s clearly wrong, unsafe and downright dodgy.”

Another educator from New South Wales said:

“As an early childhood educator, I see every day how under-the-roof ratios fail children and educators. On paper, they meet regulations, but in reality, they leave rooms understaffed, disrupt relationships, and increase burn out trying to cover gaps. Ending under-the-roof ratios would ensure fairness, stability, and quality education for every child.”

A Western Australian educator said:

“My centre is multilevel. This means one educator can be left upstairs with 14 children, while another is counted downstairs to ‘make up the numbers’. On paper it looks compliant. In reality, it’s unsafe, isolating, and unfair. Children deserve genuine supervision and connection, not a numbers game. Educators deserve support, not impossible expectations.”

The Australian Government can take immediate action and close the loophole of ‘under-the-roof’ ratios in ECEC services. *To enact these changes additional staffing in services is required.* These measures would have an immediate impact on improving child safety.

Reforming the Inclusion Support Program would promote inclusive practices in ECEC services and improve child safety

A fully funded and accessible Inclusion Support Program (ISP) matters for inclusion and child safety. However, the current program is not meeting the needs of children, nor is it supporting educators to deliver safe, high quality ECEC.

As noted by the Productivity Commission in its 2024 report on ECEC, the ISP is predominantly used as a form of support for children with a disability.⁸ The ISP’s scope has become more limited over time despite the intention of the program being one of broad inclusivity for culturally and linguistically diverse children, children with disability, mental health, trauma and other forms of support that children might need in ECEC.⁹ Educators are reporting that formal diagnosis of young children in their centres is a significant barrier to a

service receiving funding for additional educators through the ISP. This is supported by the findings of the Commonwealth Department of Education's Review into the ISP conducted in 2023.¹⁰ It may take years for a child to receive a diagnosis due to a combination of factors; the child may be too young to receive a diagnosis, the parents may be hesitant to pursue a formal diagnosis for their child, and if parents are going through the public system it may take years due to specialists' waitlists. Often, by the time a child has received a diagnosis, they are the age to begin schooling. This is not to mention additional barriers for families in regional and rural Australia, or First Nations families in remote communities. A holistic view of a child's circumstances means there might be more than one type of support that is needed – family circumstances are complex. If there is no diagnosis and no support through the ISP, and if providers are not able or willing to cover the additional cost of inclusion support, the extra work falls on educators. This is happening far too often.

Compounding these problems, wait times for the ISP have blown out as applications have increased, and services are waiting weeks if not months for funding. The workforce crisis (and the use of 'under-the-roof' ratios) has also created acute problems where ISP educators are used in centres to cover breaks of other staff, and to meet ratio in the room, negating the support an extra educator would provide. This is not fair on the educators nor the child that needs and deserves support.

The ISP must be fully funded to support educators to deliver inclusive early education and care for all children, regardless of whether they have a formal diagnosis. This may be through additional educators, or other required resources. This will reduce the workload burden on educators in the sector, and support child safety by reducing burn-out, churn and increasing staffing levels in services.

Reporting pathways must be clear and transparent

Educators must feel empowered and educated so that they can confidently report incidents relating to child safety without fear. Those reporting mechanisms must be clear, accessible and transparent. In the Quality and Safety Census, more than half of educators did not feel comfortable raising issues of concern at their centre. When they did raise concerns, two-thirds felt unheard. Yet it is often only through the reports of ECEC workers themselves that problems and abuses in the sector have come to light, because regulators have been unresponsive at times. Educators have reported a lack of clarity on reporting in services, and worse, have been discouraged from reporting by management or have reported to the regulator and not heard back.

Trust in the reporting process in the sector can be strengthened by increased transparency and accountability of regulators. Families and educators should be able to have access to information on (current or historic) compliance or enforcement action taken against the service or provider, the use of waivers, if staffing ratios are being met consistently, staff turnover rates, reliance on agency or casual staff and the percentage of trainees in the workforce.

Families and educators should feel confident that services are operating as per the National Law, regulations and the National Quality Framework (NQF). Greater transparency and accountability would drive improvements across the sector.

Educators are well placed, as they are working in services every day, to be able to report breaches and child safety incidents, yet they are not empowered to do so.

In response to educators feeling unheard by their employer and the regulator, Uwu launched the EarlyEd Quality Check (EEQC) online tool in August 2025.¹¹ It is designed by educators, for educators, and is a way for workers to publicly share the issues occurring in their centre. As of 9 October 2025, there are over 1,000 reports made by educators, overwhelmingly about staffing (592), but educators are able to make reports of underpayments and other issues.

One educator working at a for-profit service made this report through the EEQC:

“This service is consistently understaffed and at times does not meet minimum ratios. Understaffing often results in educators not receiving mandatory lunch breaks, with rest breaks forgone completely.

Educators are not consistently provided with suitable programming time, leading to burnout, declining mental and physical health, and unpaid work being completed in personal time. Those who struggle to maintain their workload under these conditions face reprimand from management. Staffing is reduced wherever possible as a cost-saving measure, with decisions prioritising profits and lower wages over educator wellbeing and child safety.

As a result, children have at times been left unattended, been involved in serious physical altercations, and suffered injury due to lack of supervision by inexperienced or insufficient staff. In some cases, management has failed to enact refusal of care procedures for children posing imminent risk to their peers, and services often lack appropriate resources for early intervention and support.

Children's physical and emotional needs are consistently being unmet due to inadequate staffing arrangements and lack of systemic support."

Another educator reported:

"Educators are given a big paperwork load. They are rarely given planning time. Many staff do it at home and it has become the expectation. No study time is given to trainees. It's very clear image and profit are this company's number one priority. Staff often have to work overtime so we can continue to meet ratios but staff are not paid for the overtime.

Ratios are not always met. We run at capacity but have the minimal number of staff on per day. I think the problem is the company rather than the staff in the centre."

There must be clear, accessible avenues for educators to report safety incidents and breaches, and that reform in this area is urgently required. UWU recommends the creation of a child safety and quality officer to support and empower educators to report to the regulator, as detailed below.

Child safety and quality officer

Educators are the experts on the ground and need to be empowered with information and support to be able to act effectively on safety. The best funded regulator cannot be in every service every day. There are 18,000 services, over 7,000 providers and almost 1,500 services that have yet to be visited.¹² Educators do not have access to easy, clear pathways to report, and at worst have been discouraged by management to do so or never heard back from the regulator.

To support educators to report, and encourage a culture in services of child safety, UWU recommends a child safety and quality officer in every centre, with the information and skills to hold providers accountable on staffing. Child safety and quality officers must have access to training and strong protections from reprisal so they can support educators without fear. Educators are uniquely placed to work with providers, regulators and governments to provide real-time monitoring of safety issues, raise the alarm when providers fall short, and take action to help make children safer. In the short time that the EEQC tool has been available to educators to report, the number of incidents reported and the serious nature of those incidents (particularly understaffing), underscores that the role of a child safety and quality officer is sorely needed to support and empower educators.

To succeed in the role of child safety and quality officer, educators need:

1. Training in safety and staffing regulations, and complaints processes.
2. Training in advocacy and support skills, by a body wholly independent of any employer with proven expertise and experience in industrial relations and representation in similar situations.
3. Strong protection from reprisal so they can support educators without fear.
4. Access to information about staffing levels, use of “under-the-roof” ratios, the composition of the workforce (numbers of employees who are permanent, casual, and agency casual), turnover, training, and professional development.
5. Clear enforcement mechanisms to ensure safe staffing levels are met.

A child safety and quality officer will support other educators to act. They will not act on behalf of other educators, nor will they make judgements about the validity of complaints. This role would not supersede or replace current obligations all educators have to keep children safe.

The Inquiry’s Terms of Reference:

- d) *The impact of childcare providers’ employment practices on quality and safety;*
- e) *The role of worker compensation and pay on childcare quality and safety;*

Permanent staff make the difference

Reducing churn and casualisation is not just a workforce issue; it’s a safety issue. Educators are burnt out by the stress of excessive workload demands, paperwork, and understaffing. Ongoing early learning and care delivered by a stable workforce means educators are more likely to notice potential child safety issues. A stable workforce is also an indicator of high quality ECEC. Reducing burn out, and therefore workforce churn in the sector, will improve safety and quality outcomes.

In services where there is a high turnover of staff, or worker shortages, casual agency staff are used by providers to fill the gaps. Yet these educators do not have the relationships with the children and families in the service in the same way permanent staff do. It is a dangerous cycle, whereby lack of permanent staff increases workloads, leading to dangerous incidents, which in turn create additional paperwork which detracts from time that educators could be spending educating and caring for children.

Erin Harper et al. at Sydney University have published a study researching workload demands and contact and non-contact time for early childhood teachers and educators. They found:

“Educators wish for both more contact time and non-contact time, indicating that there is simply too much work to be done, both with and away from children. It is concerning that more educators reported undertaking non-contact work in a typical week, than those who reported receiving paid time for non-contact work. This indicates that some educators are either not receiving paid time to undertake their non-contact duties or perhaps are not contracted to undertake non-contact work but take on that workload anyway.”¹³

Excessive paperwork demands take time away from children, impacting educators’ ability to supervise children in their room. Working conditions do not reflect the responsibilities and regulatory requirements of these roles, either. Educators spend hours of unpaid overtime completing paperwork, recording, and planning educational and care activities, as well as updating parents on their child’s development. Poor interpretation of the *Children’s Services Award* by many service providers has meant it is common for planning time (2 hours per week) to only be allocated to the Room Leader.

This does not change the workload – rather it pushes critical planning and other documenting work into the time educators should be spending with children in the room, or into unpaid time. Educators are expected to plan a week’s worth of learning for every child in their care that adheres to the NQF, so that it is age appropriate, and reflects the pedagogical approach of the LDC service. This is alongside other documentation requirements and the ‘daily updates’ for parents.

Additionally, educators are asked to complete other administrative tasks and cleaning, which further restrict the level of supervision educators can provide in the room. Educators shouldn’t be cleaning the service, because they should be engaging with the children, delivering early learning and supervising those in their care.

One educator told us:

“Documentation is reducing quality interactions with children. We are so busy worrying about documenting the learning, that we aren’t in the moment. Documentation is being created to ‘please’ families rather than being used as a tool to inform ongoing practice. We need to get back to the purpose of documentation.”

Another educator said:

“The expectations to work in your own time puts a lot of stress and anxiety on educators. Parents have expectations that their children will receive some form of portfolio because they are told that by the service providers (SP). The SP puts the blame on the educator without conceding that they do not provide enough time for this work to be done.”

An educator who has recently left the sector said:

“The legal requirements of documentation is not the issue, it’s the pressure directors and management have on educators to document. Documentation is now to keep families “happy” with daily photos rather than to document the children’s learning journey. Daily stories are pointless, and a waste of time.”

Reducing churn and staff turnover in the sector, as well as reducing casualisation, is critically important for the quality of early childhood education provided by a service. It is equally important for child safety.

Safety, pay and conditions of workers in the ECEC sector

UWU welcomed the Federal Labor Government’s moves in its first term to stabilise educator turnover in the sector by funding a 15 per cent pay increase. In 2023 UWU ECEC members fought for and won the first ever first ever supported bargaining authorisation for the sector. The *Early Childhood Education and Care Multi-Employer Agreement 2024-2026* covered 64 employers and gave over 12,000 employees access to the 15% pay increase.¹⁴ As of 30 September 2025, this has increased to 508 employers and over 45,900 employees as per the Fair Work Commission’s decision on the latest tranche of applications.¹⁵ UWU is aware of additional providers who are applying to be covered. Similarly, the *Goodstart Early Learning Enterprise Agreement 2024* (for the largest ECEC provider in Australia), negotiated with the UWU, covers over 15,500 employees and also gives them access to the 15% pay increase.

For a long time, UWU educators have advocated for an increase to wages in the *Children’s Services Award*. In April 2025 educators had a victory, with the FWC finding that the work of educators under the *Children’s Services Award* has long been undervalued and that educators should receive a pay increase. The FWC is now in the process of determining transitional arrangements and the implementation timeline.

While low wages are not the only problem in the ECEC sector, attraction and retention of staff to meet the current workforce shortages in the sector is nigh on impossible without improved wages. As discussed above, staff turnover is a serious issue in the context of child safety and the quality of early childhood education delivered in services.

Improved pay and conditions reward educators for pursuing a career in ECEC and promotes the professionalisation of the workforce. Access to ongoing professional development is an important factor in ensuring high quality, best practice early learning is delivered in Australian services. Improving access to professional development would lift the quality of early learning delivered, empower workers through developing their skills and encourage them to remain in the sector. Yet, educators are currently paying out of their own pocket or not being provided access to professional development altogether. This is despite educators calling out for it, recognising its importance in developing their practice and skills, supporting children's emotional development and aiding an understanding how children learn at a young age. Over 40% of educators in the Quality and Safety Census reported never receiving professional development training through their employer. ECEC providers should be investing in their workforce, yet private for-profit providers are spending significantly less as a proportion of revenue on their staff than not-for-profit and government providers. This is only one of many poor outcomes of a system that prioritises profit over safety and quality, while private investors, shareholders and executives reap the benefits of a government-funded sector.

The Inquiry's Terms of Reference:

- f) The role of private for-profit incentives and their impact on childcare quality and safety;*
- g) Transparency within the early childhood education and care system, including access to information and data;*
- h) The suitability and flexibility of the funding of early education and care across Australia;*

Profits in the early childhood sector

According to the Productivity Commission's most recent Report on Government Services, total Federal, State and Territory Government funding was \$18.2 billion in 2023-24, up

17.4% on 2022-23 (including recurrent i.e. ongoing funding through the CCS and preschool programs, and capital expenditure).¹⁶

The scale of government funding flowing to a predominantly for-profit sector is deeply concerning. Stock market investors and foreign investment funds are key players in Australian ECEC. Stories of floats, mergers and acquisitions in the sector permeate the financial press. CEOs pocket eyewatering salaries and owners enjoy windfall profits as companies change hands regularly. Amid the murky dealings of private equity funds, multimillion dollar transfer payments to overseas headquarters can be identified while no tax is paid in Australia.¹⁷ The sale of Guardian Early Learning by its private equity owners Partners Group (once again reported to be on the market after being postponed due to the Productivity Commission and ACCC inquiries) is expected to reach \$1 billion.¹⁸

The Centre for International Corporate Tax Accountability and Research (CICTAR) has also highlighted the extraction of government funding through rents charged by ECEC property landlords. CICTAR estimates \$2.7b in rent is extracted from the early learning sector each year.¹⁹ Opaque corporate structures, such as trusts, used by these landlords to obscure their business models and financial information, coupled with ratchet clauses and the responsibility of maintenance and repairs pushed onto ECEC providers means the ECEC property sector is becoming “increasingly predatory”.²⁰ This is likely to impact the quality of early learning in the sector, where “non-profits are pushed out of certain markets while for-profit providers expand rapidly”.²¹

All this government funding should be going to improved quality ECEC, unfortunately there is every indication that the opposite is the case. Private interests have no requirement to invest their profits in the interests of children’s learning, to the detriment of child safety and educational outcomes.

Case study – Genius Childcare

Genius Childcare operated approximately 39 centres nationwide with approximately 850 educators and staff employed across those services. Darren Misquitta was the sole director of the ECEC provider and the centres were owned through two entities in a corporate group, Vertical 4 Pty Ltd and Abacus 49 Pty Ltd.

In 2023 one Genius company, Genius (Collins) Pty Ltd, was wound up in a court-ordered liquidation.²² The creditor was claiming \$9 million in unpaid rent and other charges. The creditor accused Darren Misquitta of failing to supply key financial records to the liquidator.

A winding up order was made against another company, Misquitta Childcare Property Pty Ltd in January 2024. ASIC filed to deregister the parent company DK Andaras Pty Ltd on 25 June 2024 and was placed under external administration at the end of 2024. Horizontal 1 Pty Ltd, another Genius entity, was also placed under external administration at the end of 2024, owing \$9.6 million. At the same time, towards the end of 2024, the corporate structure changed, and Abacus 49 Pty Ltd and Vertical 4 Pty Ltd had been renamed and were moved under a new parent company.

Union members had raised concerns about unpaid superannuation back to 2023 (although there are claims of wage underpayments going back to 2016), and in 2024 UWW filed in the Federal Circuit Court to claim compensation for unpaid superannuation, late wage payments and financial penalties for breaches of the Fair Work Act, seeking an estimated total of \$7 million in unpaid superannuation. A hearing is scheduled for 17 October 2025.

Over the last 12 months, more Genius centres around the country have closed; for failing to pay rent, for unsafe conditions in the services, and mass resignations of educators who have been left with no wages to pay rent, fuel or grocery expenses. Some educators are owed approximately a months' worth of wages, parents have been left without a centre to send their children, and more landlords are claiming they are owed months in unpaid rent. Prior to being placed under administration, educators raised concerns with Genius about late payments of superannuation and wages, and they were assured the issues would be fixed and payments would occur on time in the future. Instead, the late payments continued, or educators were not paid at all.

By March 2025, 25 Genius centres were placed under the control of administrators and Darren Misquitta was rumoured to have left the country. Administrators have struggled to find a buyer for the services, with public reports emerging of financial mismanagement by Misquitta, including Genius companies trading whilst insolvent, possibly for years, and incurring massive debts.²³ Misquitta has since filed for personal bankruptcy and plead guilty to dealing with property reasonably suspected of being the proceeds of crime.²⁴ Whilst Finexia, a Gold Coast-based finance group and creditor of Genius, has been providing funding to keep some services open, there is likely to be no alternative for Genius employees than to try to recover a portion of what they are owed through the Fair Entitlements Guarantee scheme.

Genius' unusual business deals with other ECEC providers have attracted media scrutiny. One such deal includes taking over 17 underperforming centres from G8 in 2024 and receiving \$26 million. Questions have been raised about the details of the deal and G8's oversight and due diligence (or lack thereof) in its transaction with Misquitta, especially in

relation to Genius entities that may have already been trading whilst insolvent.²⁵ Genius also held a 35% stake in ASX-listed Mayfield Childcare, in a complex arrangement that saw services sold to Mayfield in exchange for the shares.²⁶ Misquitta has close business ties with former Mayfield Childcare CEO Ashok Naveinithiran, who runs Steps Learning and acquired six Genius centres in March 2025 as well as establishing an “incubator agreement” with Mayfield in January 2025.²⁷

Regulation of private for-profit providers

The Big Steps ‘Unsafe and Non-Compliant’ report revealed that for-profits were the worst-performing type of service when it comes to ensuring quality education and care for Australian children.²⁸ Reporting from March 2025 by the ABC has highlighted that safety and quality issues continue to be an issue, particularly in the for-profit sector.²⁹ Given this, there should be increased transparency requirements on providers to disclose the structure of their operations, and requirements to disclose on acquisitions and transfers of ownership.

The National Child Safety Review has also taken note of the opaque corporate structures that can hide ownership or control of multiple services. The National Child Safety Review’s Consultation Regulatory Impact Statement (CRIS) makes the comment that:

“[t]here is a risk that Regulatory Authorities cannot effectively monitor compliance with the NQF when there is an increasing number of services operating under different providers approved under the NQF that are held by the same entity”³⁰

There are 7,215 approved providers in the sector, and 79% of those are approved to only operate one service.³¹ However, the proportion of large providers (25+ services) is growing, as is the proportion of private for-profit providers, with large providers operating 36% of services.³² There are cases where it is not immediately clear to a layperson (or even to people with knowledge of the sector) that there are ownership or person with management or control (PMC) connections between an ostensibly single service to a larger group of services.

The ECEC sector needs a national approach to both regulation and funding. The current model allows profit to take precedence over quality and safety. Regulators should be well-resourced and proactive in pursuit of non-compliance in the sector.

UWU recommends a strong, nationally consistent penalty regime. There should be no second or third chances – mandatory action must follow serious breaches. There must be

timely assessment of new services, and regular reassessments at mandated intervals. Victoria currently has the highest average across all states and territories of years between ratings for services rated 'Working Towards NQS'; of between 4-5 years.³³ Other states and territories, however, are not far behind. Delays in assessments for services 'Working Towards NQS' in NSW, QLD, WA and the ACT are all between 3-4 years.³⁴ Approximately, one in ten services have never been assessed, and this is estimated to be one in six in WA.³⁵ The Productivity Commission took the view that more than three years between assessments was too long, and asserted that increasing the frequency of assessments, particularly for those services rated as 'Working Towards NQS' as a "powerful tool to increase the quality of education and care that children receive".³⁶

Appropriate people with knowledge of the sector, the NQF, National Law and regulations should be conducting assessments and reviews, visiting centres, and promoting child safety.

Public provision of ECEC is the solution

Publicly provided ECEC can deliver high quality early learning and care, provide direct, permanent jobs and ensure that all government funding is tied to delivering that service. Government and not-for-profit operated services are safer and of higher quality than private for-profit services, as found in UWU's 2021 safety report. They are less likely to have a staffing waiver in place. UWU has called for greater public provision of early childhood education. Some states are already on their way; the Victorian Government is following through on its commitment to build and operate 50 LDC services in 'childcare deserts' across the state. Public provision of ECEC improves accessibility for all families and improves the quality of early childhood education through direct employment with secure jobs for educators. Public provision would enable the Federal Government to take a direct role in addressing the workforce issues outlined above and more effectively plan for the sector's future, including the capacity of the ECEC workforce as demand for services continue to increase.

Conclusion

Educators have been calling for reform in the early childhood education and care sector for years. They feel passionate about their work and want every child in their care to feel safe and have the benefit of access to high quality early learning.

There are immediate changes that can be made at a national level to improve the safety and quality of early learning and care in the sector. Integral to improving child safety in the sector is a focus on safe staffing levels.

The long-term vision of the sector should be focused on safety and quality, and this would necessitate a shift away from the current profit-driven market of ECEC, towards a system that is child-focused and recognises the invaluable contribution our educators make to the future of Australia. Public provision of ECEC is the solution to the problems the sector faces, and we would urge the Australian Government to implement policies to realise that vision.

For more information on this submission, please contact Kim Chibnall, Research Analyst, at Kimberley.chibnall@unitedworkers.org.au.

Yours sincerely,

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