LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 3

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

Report 54

3

October 2025

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Portfolio Committee No. 3 - Education

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

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

October 2025

Chair: Ms Abigail Boyd MLC

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Terms of reference

1. That the Children (Education and Care Services National Law Application) Amendment Bill 2025 be referred to Portfolio Committee No. 3 - Education for inquiry and report.

2. The committee report by 13 October 2025.

3. That, in conducting the inquiry, Portfolio Committee No. 3 – Education invite submissions only from selected stakeholders, and that the report comprise only of the transcript of the hearing.

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 16 September 2025.[1]

[1] *Minutes,* NSW Legislative Council, 16 September 2025, item 11.

Committee details

Committee members

Ms Abigail Boyd MLC	The Greens	*Chair*
Hon Rachel Merton MLC	Liberal Party	*Deputy Chair*
Hon Mark Buttigieg MLC	Australian Labor Party	
Hon Anthony D'Adam MLC	Australian Labor Party	
Hon Tania Mihailuk MLC	Independent	
Hon Sarah Mitchell MLC	The Nationals	
Hon Emily Suvaal MLC	Australian Labor Party	

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Emily Whittingstall, Senior Council Officer
James Ryan, Council Officer
Emma Rogerson, Director

Chair's foreword

On 16 September 2025, the Legislative Council referred the Children (Education and Care Services National Law Application) Amendment Bill 2025 to Portfolio Committee No. 3 – Education for inquiry and report by 13 October 2025.

Despite a shortened timeline for review of the bill, to meet the terms of the resolution of the house, the inquiry received nine submissions and heard from 15 witnesses during a public hearing.

During the inquiry, stakeholders raised a number of concerns about the drafting of the bill and the manner in which it was introduced. Some noted the significance of New South Wales seeking to deviate from the National Law and noted that the passing of the bill could undermine the ongoing process of states and territories working together to agree on changes to the National Law. Further, many stakeholders were concerned that they had not been consulted on a draft bill before it was introduced. Although many aspects of the bill were welcomed by stakeholders, issues were raised about a number of proposed provisions having unintended consequences and amendments to the bill were proposed and discussed.

Answers to questions on notice and supplementary questions, along with the hearing transcript, are available on the committee's website. The committee thanks stakeholders for their valuable contributions to this inquiry, particularly given the short timeline.

I encourage all members to review the evidence gathered during this inquiry and read the Legislative Review Committee's Digest No. 35/58 – 16 September 2025 which also considers the bill.

The committee thanks the secretariat for their hard work in delivering an inquiry into this legislation in a very tight timeframe.

The committee has recommended that the Legislative Council proceed to debate the Children (Education and Care Services National Law Application) Amendment Bill 2025 and that the concerns identified by stakeholders as set out in submissions and during the hearing be addressed during debate in the House.

Ms Abigail Boyd MLC
Committee Chair

Recommendations

Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 16 September 2025.

The committee received 9 submissions.

The committee held one public hearing on 26 September 2025 at Parliament House in Sydney.

The committee received answers to questions and supplementary questions from the following:

- KU Children's Services
- NSW Department of Education
- Early Childcare Australia

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Chapter 1 Overview

1.1 The Children (Education and Care Services National Law Application) Amendment Bill 2025 (hereafter, the bill) was introduced in the Legislative Assembly by the Hon. Steve Whan MP, Minister for Minister for Skills, TAFE and Tertiary Education on 10 September 2025.

1.2 The objects of the bill, as set out in its explanatory note is as follows:

> [T]o make amendments to the *Children (Education and Care Services National Law Application) Act 2010* that modify the *Children (Education and Care Services) National Law (NSW)* (the ***National Law***) and the *Education and Care Services National Regulations* (the **national regulations**), following the Early Childhood Education and Care Regulation in NSW Independent Review, to—
>
> (a) provide that protection of the rights and best interests of children is paramount in the provision and regulation of early childhood education and care, and
>
> (b) improve the quality and performance of the early childhood education and care sector (the sector), and
>
> (c) strengthen regulatory presence, intensity and efficacy in the sector, including through increased penalties, additional offences, and heightened monitoring and enforcement, and
>
> (d) increase transparency, proactive publication and information sharing in the sector, and
>
> (e) improve public confidence in the sector.[2]

1.3 On 16 September 2025, the Legislative Council agreed to refer the bill to Portfolio Committee No. 3 – Education for inquiry and report by 13 October 2025.

1.4 The referral stipulated that:

- the committee invite submissions only from selected stakeholders
- the report comprise only of the transcript of the hearing.

1.5 Appendix 4 provides a copy of the transcript from the committee's hearing held on 26 September 2025.

Committee comment

1.6 The committee notes the submissions and evidence received from stakeholders in response to the bill. Accordingly, the committee supports the bill proceeding to debate and that the concerns identified by stakeholders as set out in submissions and during the hearing be addressed during debate in the House.

[2] Children (Education and Care Services National Law Application) Amendment Bill 2025, Explanatory note

Recommendation 1

That the Legislative Council proceed to debate the Children (Education and Care Services National Law Application) Amendment Bill 2025, and that the concerns identified by stakeholders as set out in submissions and during the hearing be addressed during debate in the House.

Appendix 1 Submissions

No.	Author
1	Honorary Associate Professor Linda Newman
2	Community Early Learning Australia
3	Early Childhood Australia
4	Independent Education Union of Australia NSW ACT Branch
5	Australian Childcare Alliance (ACA) NSW
6	Office of the Children's Guardian
7	Family Day Care
8	Joint NFP Submission (KU Children's Services, Gowrie NSW, SDN Children Services, Big Fat Smile, and Goodstart Early Learning)
9	Early Learning and Care Council of Australia

Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Friday 26 September 2025 **Macquarie Room** **Parliament House, Sydney**	Ms Christine Legg	Chief Executive Officer, KU Children's Services
	Ms Lisa Gibson	General Manager – Performance Improvement, Goodstart Early Learning
	Ms Kay Turner	Chief Executive Officer, SDN Children's Services Group
	Ms Kim Bertino	Chief Executive Officer, Big Fat Smile
	Mr Chiang Lim	Chief Executive Officer, Australian Childcare Alliance
	Ms Samantha Page	Chief Executive Officer, Early Childhood Australia
	Ms Elizabeth Death	Chief Executive Officer, Early Learning and Care Council of Australia
	Honorary Associate Professor Linda Newman	School of Education, The University of Newcastle
	Ms Carol Matthews	Secretary, Independent Education Union of Australia
	Ms Lisa James	Early Childhood Organiser, Independent Education Union of Australia
	Mr Murat Dizdar	Secretary, NSW Department of Education
	Ms Mel McCabe	Chief Operating Officer, NSW Department of Education
	Mr Kristian Holz	A/Executive Director, Regulatory Reform
	Ms Zoë Robinson	NSW Advocate for Children and Young People
	Mr Chris Wheeler	Consultant, Chris Wheeler Consulting

Appendix 3 Minutes

Minutes no. 33
Wednesday 17 September 2025
Portfolio Committee No. 3 - Education
Members' Lounge, Parliament House at 6.32 pm

1. Members present

Ms Boyd, *Chair*
Ms Merton, *Deputy Chair*
Mr D'Adam
Mr Donnelly (substituting for Mr Buttigieg)
Ms Mihailuk
Mrs Mitchell
Ms Suvaal

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

2.1 Terms of reference

The committee noted the following terms of reference referred by the House on 16 September 2025:

1. That:
   a. the provisions of the Children (Education and Care Services National Law Application) Amendment Bill 2025 be referred to Portfolio Committee No. 3 - Education for inquiry and report,

   b. the bill stand referred to the committee on receipt of the message from the Legislative Assembly forwarding the bill, the bill being read a first time and the statement of public interest being tabled, and

   c. the committee report by 13 October 2025.

2. That, in conducting the inquiry, Portfolio Committee No. 3 – Education invite submissions only from selected stakeholders, and that the report comprise only of the transcript of the hearing.

2.2 Proposed timeline

Resolved, on the motion of Mr D'Adam: That the committee adopt the following timeline for the administration of the inquiry:

- 25 September 2025 – closing date for submissions (1 week)
- 26 September 2025 –
  - hearing in Macquarie Room from 9.00 am to 1.00 pm, with a deliberative meeting from 8.45 am to 9.00 am
  - witnesses be invited to appear as part of the following four panels: Peak organisations, Academics, Unions and the Government
  - authors of submission 129 to the inquiry into the early childhood education and care sector KU Children's Services (KU Children Services, Gowrie NSW, Goodstart Early Learning, SDN Children's Services Group, Big Fat Smile) be invited to give evidence as part of the peak organisations panel
  - the Government panel be held from 12.00 pm to 1.00 pm, with the sequence of questions to alternate between government, opposition and crossbench members
  - Mr Chris Wheeler be invited to give evidence as part of the Government panel
- 1-3 October 2025 – circulation of Chair's draft report

- 7-9 October 2025 – report deliberative
- 13 October 2025 – report tabling.

2.3 Submissions

Resolved, on the motion of Mrs Mitchell: That:

- the submission portal not be opened on the inquiry webpage
- submissions not be accepted from anyone except those stakeholders nominated by members.

2.4 Stakeholder list

Resolved, on the motion of Mr D'Adam: That:

- the following stakeholders be invited to make a submission and/or appear as a witness at the hearing:
    - Office of the Children's Guardian NSW
    - NSW Department of Education – Early Childhood Education & Care Regulatory Authority
    - Office of the Advocate for Children and Young People
    - Australian Childcare Alliance
    - Early Childhood Educators Union
    - Early Learning Association Australia
    - Independent Education Union of Australia (IEUA)
    - United Services Union (USU)
    - United Workers Union (UWU)
    - Public Service Association NSW
    - Community Early Learning Australia (CELA)
    - Early Childhood Australia (ECA)
    - Early Childhood Intervention Australia (NSW/ACT chapter)
    - Early Learning and Care Council of Australia (ELACCA)
    - Professor Emerita Gabrielle Meagher, Macquarie University and Work and Family Policy
    - Professor Marianne Fenech, The University of Sydney
    - Honorary Associate Professor Linda Newman, School of Education, The University of Newcastle
    - Family Day Care Australia
    - Mr Chris Wheeler
    - KU Children Services
    - Gowrie NSW
    - Goodstart Early Learning
    - SDN Children's Services Group
    - Big Fat Smile
- the secretariat provide committee members with an update of which witnesses have agreed to appear at the hearing by 5.00 pm on Friday 19 September 2025.

2.5 Post-hearing responses

Resolved, on the motion of Mrs Mitchell: That transcript corrections, clarifications to evidence and additional information be provided within 48 hours of the receipt of the transcript by the witness.

2.6 Chair's draft report

Resolved, on the motion of Mrs Mitchell: That:

- the Chair's report be circulated to members less than 7 days prior to the deliberative
- the committee's report for the inquiry comprise only of a transcript from the hearing and witness, submissions and minutes appendices.

3. Adjournment

The committee adjourned at 6.55 pm until Tuesday 23 September, Macquarie Room, Parliament House (public hearing - Early childhood education and care sector in New South Wales).

Beverly Duffy
Committee Clerk

Draft minutes no. 34
Tuesday 23 September 2025
Portfolio Committee No. 3 – Education
Macquarie Room, Parliament House, Sydney at 8.46 am

1. Members present

Ms Boyd, *Chair*
Ms Merton, *Deputy Chair*
Mr D'Adam
Ms Mihailuk (via teleconference)
Mrs Mitchell (via videoconference)
Mr Murphy
Ms Suvaal (via teleconference)

2. Previous minutes

Resolved, on the motion of Mr D'Adam: That draft minutes nos. 29 and 30 be confirmed.

3. Correspondence

…

4. Inquiry into the early childhood education and care sector in New South Wales

…

5. Inquiry into Budget Estimates 2025-2026

…

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

6.1 Public hearing details – Friday 26 September 2025

Resolved, on the motion of Mr D'Adam: That the committee:

- adopt the hearing schedule as amended by:
    - including a morning tea break from 10.30 am to 10.45 am
    - reducing the Academics panel to 30 minutes, from 10.45 am to 11.15 am
- during the 12 pm to 1 pm session, have the sequence of questions to be asked to alternate between opposition, crossbench and government members, in that order, with equal time allocated to each (as per the resolution establishing the committee).

7. Adjournment

The committee adjourned at 4.41 pm, until Friday 26 September 2025 (public hearing – Inquiry into the Children (Education and Care Services National Law Application) Amendment Bill 2025).

Kara McKee
Committee Clerk

Minutes no. 35
Friday 26 September 2025
Portfolio Committee No. 3 - Education
Macquarie Room, Parliament House, Sydney at 8.45 am

1. Members present
Ms Boyd, *Chair*
Ms Merton, *Deputy Chair*
Mr Donnelly (substituting for Mr Buttigieg)
Mr D'Adam (via videoconference)
Ms Mihailuk
Mrs Mitchell
Ms Suvaal (via videoconference)

2. Previous minutes
Resolved, on the motion of Mr Donnelly: That draft minutes no. 33 be confirmed.

3. Correspondence
The committee noted the following items of correspondence:

Received

- 19 September 2025 – Email from Ms Cassandra Woodfield, Senior Executive Assistant to the Acting Children's Guardian to the secretariat, declining the committee's invitation to give evidence and advising that a submission from the Office of the Children's Guardian will be prepared by 25 September 2025
- 19 September 2025 – Email from Dr Marianne Fenech, Professor, Faculty of Arts and Social Sciences, University of Sydney to the secretariat, declining the committee's invitation to make a submission or give evidence at the hearing due to other work obligations
- 21 September 2025 – Email from Dr Karina Davis, Chief Executive Officer, Early Learning Association Australia to the secretariat, declining the committee's invitation to make a submission or give evidence at the hearing due to the timeframes for the inquiry
- 22 September 2025 – Email from Professor Gabrielle Meagher, Macquarie University to the secretariat, declining the committee's invitation to make a submission and give evidence at the hearing due to a personal matter
- 22 September 2025 – Email from Ms Kate Tran, NSW Family Daycare Association, to the secretariat, declining the committee's invitation to give evidence due to conflicting work obligations
- 24 September 2025 – Email from Ms Yvonne Kean AM, Chief Executive Officer (Reimagine Australia – formerly Early Childhood Intervention Australia to the secretariat, declining the committee's invitation to give evidence due to current funding constraints
- 25 September 2025 – Email from Ms Natalie Dabarera, National Research Coordinator – Strategic Power, United Workers Union to the secretariat, declining the committee's invitation to give evidence after further consideration
- 25 September 2025 – Email from Ms Siobhan Callinan, Industrial Manager, Education, Public Service Association of NSW, advising that representatives from Public Service Association of NSW will no longer be attending the hearing.

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

4.1 Public submissions

The committee noted that the following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no. 1.

Resolved, on the motion of Ms Mihailuk: That the committee authorise the publication of submission nos. 2, 3, and 4.

4.2 Public hearing

Sequence of questions

Resolved, on the motion of Mr Donnelly: That the allocation of questions to be asked at the hearing be left in the hands of the Chair, with the exception of the final panel, in which the sequence of questions to be asked at the hearing is to alternate between opposition, crossbench and government members, in that order, with equal time allocated to each.

Changes to hearing schedule

Resolved, on the motion of Mrs Mitchell: That the hearing schedule be amended as follows:

- No morning tea break
- Honorary Associate Professor Linda Newman appear from 10.30 am until 11.00 am
- Ms Carol Matthews and Ms Lisa James, of the Independent Education Union of Australia appear from 11.00 am until 11.30 am
- the government panel, including the Mr Chris Wheeler, Chris Wheeler Consulting and the Advocate for Children and Young people appear from 11.30 am until 12.30 pm.

Witnesses, the public, and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Ms Christine Legg, Chief Executive Officer, KU Children's Services
- Ms Lisa Gibson, General Manager – Performance Improvement, Goodstart Early Learning
- Ms Kay Turner, Chief Executive Officer, SDN Children's Services Group
- Ms Kim Bertino, Chief Executive Officer, Big Fat Smile.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Chiang Lim, Chief Executive Officer, Australian Childcare Alliance
- Ms Samantha Page, Chief Executive Officer, Early Childhood Australia
- Ms Elizabeth Death, Chief Executive Officer, Early Learning and Care Council of Australia.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Honorary Associate Professor Linda Newman, School of Education, The University of Newcastle (via videoconference).

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Carol Matthews, Secretary, Independent Education Union of Australia
- Ms Lisa James, Early Childhood Organiser, Independent Education Union of Australia.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Murat Dizdar, Secretary, NSW Department of Education
- Ms Mel McCabe, Chief Operating Officer, NSW Department of Education
- Mr Kristian Holz, A/Executive Director, Regulatory Reform
- Ms Zoë Robinson, NSW Advocate for Children and Young People
- Mr Chris Wheeler, Consultant, Chris Wheeler Consulting.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 12.31 pm. The public and the media withdrew.

5. Adjournment

The committee adjourned at 12.35pm, *sine die*.

Emily Whittingstall
Committee Clerk

Draft minutes no. 36
Wednesday 8 October 2025
Portfolio Committee No. 3 – Education
Via videoconference at 9.00 am

1. Members present

Ms Boyd, *Chair*
Mr D'Adam
Ms Mihailuk
Mrs Overall (substituting for Mrs Mitchell)
Mr Primrose (substituting for Mr Buttigieg)
Ms Suvaal

2. Previous minutes

Resolved, on the motion of Ms Suvaal: That draft minutes no. 35 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 1 October 2025 – Email from Ms Kim Bertino, Chief Executive Officer, Big Fat Smile to committee, providing additional information to the inquiry into the Children (Education and Care Services National Law Application) Amendment Bill 2025
- 7 October 2025 – Email from Mr Chiang Lim, Chief Executive Officer, Australian Childcare Alliance, providing additional information to the to the inquiry into the Children (Education and Care Services National Law Application) Amendment Bill 2025
- 7 October 2025 – Email from Mr Chiang Lim, Chief Executive Officer, Australian Childcare Alliance, providing further additional information to the to the inquiry into the Children (Education and Care Services National Law Application) Amendment Bill 2025.

Resolved, on the motion of Mr D'Adam: That the committee authorise publication of the following:

- the attachment to correspondence from Ms Kim Bertino, Chief Executive Officer, Big Fat Smile providing additional information to the committee
- the correspondence and attachments to correspondence from Mr Chiang Lim, Chief Executive Officer, Australian Childcare Alliance providing additional information to the committee.

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

4.1 Public submissions

The committee noted that the following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no. 7.

4.2 Answers to questions on notice and supplementary questions

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from KU Services Children's, received 2 October 2025
- answers to supplementary questions from Department of Education, received 3 October 2025.

4.3 Consideration of Chair's draft report

The committee considered the Chair's draft report, entitled 'Children (Education and Care Services National Law Application) Amendment Bill 2025'.

Resolved, on the motion of Mr D'Adam: That:

The draft report be the report of the committee and that the committee present the report to the House

The transcripts of evidence, submissions, correspondence and answers to questions taken on notice and supplementary questions relating to the inquiry be tabled in the House with the report

Upon tabling, all unpublished attachments to submissions be kept confidential by the committee

Upon tabling, all unpublished transcripts of evidence submissions, correspondence and answers to questions taken on notice and supplementary questions related to the inquiry be published by the committee, except for those documents kept confidential by resolution of the committee

The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling

The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee

The secretariat is tabling the report at 10.30 am, Monday 13 October 2025.

The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

5. Adjournment

The committee adjourned at 9.02 am until Tuesday 28 October 2025 (public hearing - Early childhood education and care sector in New South Wales).

Emma Rogerson
Committee Clerk

Appendix 4 Transcript of evidence 26 September 2025

A copy of the transcript of evidence from the hearing on 26 September 2025 is available on the inquiry webpage, as well as on the following pages.

REPORT ON PROCEEDINGS BEFORE

PORTFOLIO COMMITTEE NO. 3 – EDUCATION

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

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Friday 26 September 2025

The Committee met at 9:00.

PRESENT

Ms Abigail Boyd (Chair)

The Hon. Greg Donnelly
The Hon. Rachel Merton (Deputy Chair)
The Hon. Tania Mihailuk
The Hon. Sarah Mitchell

PRESENT VIA VIDEOCONFERENCE

The Hon. Anthony D'Adam

The CHAIR: Welcome to the hearing of the Committee's inquiry into the Children (Education and Care Services National Law Application) Amendment Bill 2025. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respect to any Aboriginal and Torres Strait Islander people joining us today or watching us online. My name is Abigail Boyd and I am the Chair of the Committee.

I ask everyone in the room to please turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside of their evidence at the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of these procedures.

Ms LISA GIBSON, General Manager – Performance Improvement, Goodstart Early Learning, sworn and examined

Ms CHRISTINE LEGG, Chief Executive Officer, KU Children's Services, affirmed and examined

Ms KAY TURNER, Chief Executive Officer, SDN Children's Services, affirmed and examined

Ms KIM BERTINO, Chief Executive Officer, Big Fat Smile, affirmed and examined

The CHAIR: I welcome our first panel of witnesses. Thank you so much for taking time to give evidence, particularly on such short notice. Would any of you like to commence with a short opening statement?

CHRISTINE LEGG: We thank the Committee for giving us the opportunity to talk with you today. We're here representing KU Children's Services, SDN Children's Services, Goodstart Early Learning and Big Fat Smile. We're appearing together today and we wanted to make a joint statement to the Committee. We are still assessing the provisions of this very detailed bill, and will provide a formal written submission to the Committee next week. We represent the State's largest not-for-profit providers of early childhood education and care, with collectively more than 300 years of operational experience, operating more than 310 services, employing over 6,500 staff and caring for tens of thousands of children each day.

Some 99.7 per cent of our services are assessed as meeting or exceeding the NQS, and 53 per cent are assessed as exceeding well above the sector average. As not-for-profit providers, every dollar we receive is reinvested into our services, providing high-quality, safe and inclusive learning environments and programs for children. Over many years, we have invested in our workforce to improve quality and embed a strong child safeguarding culture. None of us are perfect, and with thousands of employees and tens of thousands of children in our care, incidents do happen. We report these promptly. We reflect on what happened, we learn and we constantly improve our systems.

The job of developing and embedding a child safe workplace culture and building safe, quality learning environments is never-ending, and there's always room to improve. The sector welcomes the focus that the State and Federal governments have given this year to improving child safety. There are reforms that were outlined by the royal commission over a decade ago that we have long called for that are now beginning to be actioned, including a national educators register, a national Working with Children Check system and a national reportable conduct system. It took a while, but it is very welcome all the same.

We have been calling for better funded regulators with a stronger stewardship role to ensure that national quality and safety standards are met across the sector, and that workforce and supply is being managed to best achieve that. That remains a work in progress. As a key next step, we welcome the outcome of the August meeting of the education Ministers agreeing to a fast-tracked work program to improve child safety in early childhood. We encourage the New South Wales Government to take a leadership role in that forum and to continue to work proactively with other States and the Commonwealth to enact those reforms at a national and a State level, and to advocate for further agreed actions to raise the bar on quality and safety.

Acting nationally is important because we are part of a cooperative national system of early childhood education and care. Some 70 per cent of funding for early childhood education and care in New South Wales comes from the Commonwealth. Quality regulation is reflected in the internationally acclaimed National Quality Framework that underpins our system, with an objective that ensures all Australia's children can access quality early learning. Many of us advocated for a national quality framework for a long time, and it is important that it continue. The National Quality Framework is reflected as a national law agreed to by education Ministers and then replicated into State law. State laws also reflect some legacy State commitments, such as the higher ratios of bachelor-qualified teachers in New South Wales services.

The National Quality Framework and the national law are living documents that have been reviewed, refined and improved constantly over the last 15 years. The initiatives agreed to by the education Ministers last month following the National Child Safety Review will improve that further. Proposals to amend the national law typically follow a period of consultation with the sector through a regulatory impact statement process. This is best practice legislative development that ensures unintended consequences of reform options are identified and addressed, and the best option is enacted. Our preferred position remains that New South Wales early childhood education overall continues to be part of the national scheme and that the national law continues to be refined and then reflected in State law. Improvements to the national law should be subject to a proper review process, including consultation with the sector, which will have to implement the changes.

Even if the intention of the New South Wales Parliament is to do good by going beyond the national law, the risk is that by deviating from it, the national regulatory scheme is effectively undermined. That is a significant

consequence of this legislation, which we would caution the Parliament against. Education Ministers have agreed to an expedited process, led by Victoria, to fast-track the implementation of agreed amendments to the national law. We would strongly encourage the New South Wales Parliament to remain part of that process and maintain consistency with the national law. We would also encourage education Ministers to ensure there is adequate consultation with the sector, even as part of the expedited legislative process. We recognise there's a sense of urgency to these issues and we will respond to a proper consultation process promptly. That would be preferable to legislation being developed with no consultation at all, as this package has been.

In light of the significant work now underway across jurisdictions to address significant quality and safety concerns across the sector and New South Wales's ongoing parliamentary inquiry, the rationale for prematurely rushing this bill without consultation is unclear. Engaging more thoroughly with providers and stakeholders—not only in New South Wales but nationally—will undoubtedly produce better outcomes for children, families, the sector and the regulator itself. We recommend that the Committee recommend that the bill be laid on the table for three months, until the result of the review of the provisions of the national law commissioned by the education Ministers is complete and that the department undertakes a proper round of consultations with the sector on the detailed provisions of the bill.

We think a pause to get it right and maintain as far as possible consistency with the national law would serve the best interests of children in our services and of the educators who care for them. We're still working through the other provisions of the bill. As I said before, we will provide written comments to the Committee next week. My colleagues here will provide high-level concerns before we proceed to questions. I'm now going to hand over to my colleague Ms Turner.

KAY TURNER: Thanks, Chris. I want to reiterate to the Committee that we are collectively strongly committed to improving the safety and quality of early learning. We share the Government's concern that reform is needed so that standards are met. Having said that, while we support the direction of the reform and the changes that have already been agreed to nationally, we have a number of concerns with the regulatory regime that would be enacted in this bill. As well as diverging from the other jurisdictions and the national law, we have concerns that the bill also leaves significant detail to ministerial regulation-making powers, including regulations that may carry custodial penalties, which would appear to breach fundamental legislative principles. We note that the New South Wales Legislation Review Committee has raised serious concerns about the bill. We encourage the Committee to act on those concerns.

We are concerned to allow the Minister to set guidelines and make things mandatory for authorised officers to implement these guidelines. Removing rights for review places extraordinary powers in the Executive. Given our experience with inconsistency between authorised officers, this approach is of some concern to us. Other elements where we have concern, noting that we've had very little time to delve into the detail, are things such as the publishing of information when there are investigations still underway, because this could have an unintentional consequence of unfairly and prematurely damaging educators and providers while an investigation is still continuing. We have some concerns about the suspension or revoking of the quality standard of a service while an investigation is still underway and not finalised. As we do about the removal of review rights, we recommend that this needs to be carefully considered and limited as far as possible, while also ensuring that persons who are trying to game the system are not able to use the regulations to stay in the system.

We are concerned about the tripling of penalties. We acknowledge that this has been agreed to nationally. We agree that penalties need to be different and be applied, but we note that in the bill, the penalties don't make clear the differences and the proportionality between administrative breaches, which are important but are not to the degree of serious child harm. We would recommend to the Committee that consideration be given to proportionality about how those penalties would be applied in New South Wales. That sense of proportionality, at the moment, isn't reflected in the bill. We'd hope that the national legislative package will articulate those. We encourage New South Wales to wait until that work is done.

We can understand what the Government is trying to achieve. A proper regulatory impact assessment process would assist to come up with alternative approaches to best achieve that outcome while minimising any unintended consequences, including the consequences of an unclear definition of "inappropriate conduct". We would recommend that the New South Wales Government needs to clearly define "inappropriate conduct" so that the penalties stated in the bill can be applied and it is clear to providers, educators and families alike where they will be held accountable and penalised. We'd urge the Government to pause and reflect on the best way of achieving tougher penalties and a compliance framework that supports the best outcome for children. I'll now pass to Ms Gibson.

LISA GIBSON: Our CEO, Dr Ros Baxter, sends her apologies. She's currently on leave with her family. We support the objective of making the safety, rights and best interests of children the paramount consideration

under the national law. Done properly, this will clarify decision-making for both providers and our teams and services. The education Ministers have agreed to make much-needed change. The issues are complex, and there's a need for immediate action. We stand ready to engage with the process. This important reform needs to be carefully thought through. For example, how will it impact on employers' responsibilities under the Fair Work Act? The Commonwealth must be part of that legislative response. This is why we urge a considered approach by New South Wales.

By going early, New South Wales risks putting providers here trying to make the new State provision and finding themselves in breach of their obligations under the Fair Work Act. To avoid this, and potentially other unintended consequences, we recommend reforms on both sets of laws to be considered together. We strongly support increasing protections for whistleblowers and embedding child safe recruitment practices and mandatory child safe training. Our note of caution is simply that building workforce capability takes time and comes with significant costs. Training is important; it is also costly. Centre-based services do not have the option of increasing fees to fund it because of the fee cap under the Federal worker retention payment. This is why a national approach is needed.

As we understand it, the bill may impose on our workforce processes, heavy fines and public disclosures that do not apply to employees in similar State school settings. The regulatory risk that this creates could make it harder to attract and retain staff as they come to understand the extraordinary powers the bill appears to grant to regulators and authorised officers. We're particularly worried about the proposed fines for nominated supervisors. My colleague Ms Turner has already noted that the increased fine regime, which targets individual educators, needs to be carefully considered. I am concerned our ability to attract and retain staff could become a lot harder if they face a prospect of $34,000 fines for breaching offences as vaguely worded as "inappropriate conduct".

The onerous responsibility this bill places on nominated supervisors also needs to be unpacked. For an extra $20,000 or $30,000 a year for taking a leadership role in a service, many good educators might become reluctant to do so given the risk of heavy fines for absolute offences that this bill creates. The impact of narrowing review rights and the substantial powers being given to authorised officers and regulatory bodies on educators' work needs to be carefully considered. There is often considerable subjectivity and inconsistency between regulatory authorised officers on what they will and won't treat as a breach within our services. The legal liabilities will be far more onerous than that faced by educators in our school settings. We risk losing more good people from early childhood education to schools or elsewhere. For this reason, we urge consultation with the sector and with our workforce on the details of the bill.

The national process to clarify what constitutes "unacceptable conduct" should also be allowed to run its course to create a workable definition that educators can understand and work within. We have waited a very long time for these vital reforms. We urge the Committee to advise the Government and its advisers to take a little more time to get them right in the interests of children, families and the vast majority of educators and early childhood teachers within our settings who come each and every day committed to improving the lives of children and the trajectory of their learning. We would appreciate the opportunity if, towards the end, my colleague Kim Bertino could summarise our thoughts. We thank the Committee for this opportunity and this important work. We welcome your questions.

The CHAIR: I do appreciate it wasn't necessarily a short opening statement. Given that we didn't have a submission from you because of the time constraints, it was actually incredibly useful to hear you set out all of the issues in one go. Thank you very much. You have covered a lot of the questions I was going to ask. I know that the Minister has access to the early childhood education advisory group—the ECAG. At least three of your organisations are on that advisory group. Is that right, or is it four?

CHRISTINE LEGG: All three.

The CHAIR: Everybody except for SDN.

KAY TURNER: Correct.

The CHAIR: Were you consulted on the bill as part of that ECAG process?

CHRISTINE LEGG: It didn't actually come to the main ECAG. If it did, I wasn't there. It certainly wasn't in the minutes. There was a special meeting convened to have a look at it; however, I was unavailable to attend.

The CHAIR: Do you know when that was held?

CHRISTINE LEGG: Can I take that on notice so I can give you the date?

The CHAIR: Sure. I'm just wondering whether there was any backwards and forwards with the sector at all or if there was—

CHRISTINE LEGG: No.

The CHAIR: You don't know. That's all right.

The Hon. SARAH MITCHELL: Do you know if it was prior to the bill being introduced into the Parliament? I'm happy if you need to take that on notice.

CHRISTINE LEGG: Can we just take it on notice?

The Hon. SARAH MITCHELL: Yes, sure.

CHRISTINE LEGG: Just so that we're accurate.

The CHAIR: It's a 55-page bill. I have taken quite a while to review it as well because you have that and then you have to also have the national law, the regulations and everything else on a different screen and you're trying to piece it together. What time frame would you imagine? If this did get passed, how long would it take to implement do you think? Do you have any kind of ballpark idea of the extent of resources required to implement it within the sector?

KIM BERTINO: As we've said, we need to unpack the bill a little bit more in detail to actually understand and operationalise the requirements that we would need to undertake. I think that we have some concerns about perhaps the unintended consequences of elements of the bill, particularly, as we've discussed, around workforce and the impact that the penalties would have on our ability to recruit and retain people in key leadership roles. We experienced some of that during COVID when there was a lot of pressure on services to stay open to be able to manage the nuances of the pandemic. We saw people like our nominated supervisors step away from those leadership roles. We are somewhat concerned about the impact of the proportionality of the penalties linked to the roles and responsibilities.

The CHAIR: You spoke in your opening statement about that sort of undermining of the national scheme. I guess the counter to that is that New South Wales has always had some differences in the way that it has applied the national law. The one that I would hate to see us get rid of is the ratios and having a higher ratio here. What would you say to a response from the Government that it is all going too slow, this is urgent, and New South Wales can't wait, and we need to lead by pushing ahead and making these reforms ourselves? What's your counterargument to that?

KIM BERTINO: We note that the Government has already committed another $55 million to boost the regulatory authority—the frontline staff. We believe that is going to give a renewed focus on compliance visits. The additional compliance visit data is already starting to appear on the ACECQA website, and the national educator register commences in February next year. They're elements that we believe are actually going to have a positive impact on child safety and wellbeing in early education and care services. Given that there's already momentum underway to improve child safety, we're thinking a three-month pause to the bill would reflect a consistent national law and I guess proper consultation around the bill. KU is 130 years old and SDN is 120. From a sector perspective, we're well placed to work with government to be able to identify the best possible legislation that can protect children, because ultimately that's what we're here for, and to make sure that children have the best experience that they can when they're in an early childhood education and care service, and the best teaching and learning that they can have to set them up for their transition to school.

The CHAIR: I guess in this area the problems are so many. The different things that we've been finding in our inquiry where there's all of these different factors that are leading to the issues we're seeing and that sort of complex interaction between things means that there is a capacity for unintended consequences to occur. One of the ones that has been put to me, for example, is that if you were living close to a border and you were trying to recruit staff, particularly nominated supervisors, in New South Wales and these additional fines on supervisors and educators was to be put in place, that might lead to a bit of a talent drain to other States. Is that something that you think as well?

CHRISTINE LEGG: We would agree with that. I think the biggest risk, though, is losing early childhood staff in the early childhood sector to the school sector, particularly with 100 preschools that the department is in the middle of developing. We're not opposed to fines and penalties, but I do think they need to be thought through, and we would still like to see a nationally consistent approach, particularly for providers who actually operate across different jurisdictions.

LISA GIBSON: And that's our current experience. We have centres on the border of Albury-Wodonga. We have centres up in Tweed Heads. There was a time our Tweed Heads centre used to be under our Queensland State, but given the difference in regulations and the law, and essentially the way authorised officers enact that within our State, it was important that we brought that centre, Tweed Heads, into our State. We do currently have that, where educators potentially could go between Albury-Wodonga, but totally different jurisdictions.

Essentially, we're not suggesting we don't want this; we're just suggesting that we would like a national, consistent approach to be able to support organisations like us that are national providers.

The CHAIR: The other thing that's been put to me is that a lot of the powers that are being made explicit or being bumped up in this bill already exist in some form, particularly when it comes to—and I know that the ACECQA review pointed this out—conditions that can be placed on services by regulators. That is commonly done. I did a little search this morning on the ACECQA database. There are plenty of centres that have conditions attached to them. That condition power can be used to do things like order people to publish information or all sorts of things. Do you think that reticence within the regulator to actually use the powers it has would be solved by this bill? How do you see that playing out?

CHRISTINE LEGG: I think the idea of fines makes it really black and white. But I think if we use the analogy of driving fines, there's a particular fine for a particular offence, and at the moment we're not seeing that detail. There's a very big difference—there's a breach of the regs if you don't have something up on your noticeboard. Now that's an administrative breach, but it's still a breach. But then, on the other hand, at the other end of the continuum, we have children being seriously harmed. What we're saying is we're not opposed to the penalties, we're not opposed to the regulator getting more resources and having more people, but we'd just like to see those details so it's very clear to staff what the penalties are for the particular breach.

KAY TURNER: May I come in there too? With having breaches so broad and, at the moment, applied inconsistently and not clear, there's a risk already that nominated supervisors and staff can throw up their hands and go, "I don't understand. I've had a visit and this wasn't wrong, and now I've had someone else visit and now it is." The risk is that people go, "It is just too hard." It feels a little bit like a lottery of what an authorised officer might consider a breach and what isn't considered a breach. And so, coming from that experience on the ground, when the sector looks at these penalties, we are all applying that experience and are making assumptions that if that's how these are going to be applied then that is seriously problematic, because it is really unclear, not specified.

The language, for example, of "inappropriate conduct"—we can make assumptions that we can picture what inappropriate conduct is that impacts children, and we would have no argument there. But we know at the moment our current experience is that that can be applied for relatively minor instances that need to be dealt with with different kinds of sanctions that are really clear for educators so they know what not to do and what to do and when they will be sanctioned. Applying current experience to this legislation brings that concern, given the significance and size of the penalties.

LISA GIBSON: And just to be, essentially, a bit more explicit, we have a really good working relationship with the regulator. But as my colleagues have suggested, it does become inconsistent. I would urge that we ensure that there are resources and support to our authorised officers and our regulatory authority to ensure that there's consistency across enacting these regulations and the law because, essentially, just to be even more explicit, that is not our experience at the moment. We would urge you to ensure that there's additional support to ensure that consistency for our services.

The Hon. SARAH MITCHELL: Thank you all for appearing and for the incredible work that you do. It is very, very highly regarded in the sector and in the community. Some of my questions have been answered, but I want to go back to the consultation. I appreciate you've taken it on notice. There are some parts of this bill that come from recommendations in the review that Chris Wheeler did; others go beyond that. I appreciate you talked about a lack of consultation on the bill. In terms of the Wheeler review, was ECAG briefed on that? Was there advice given to you about those recommendations? Did that happen over the course of the last couple of months?

CHRISTINE LEGG: Yes, it was. We all received copies of it as well.

The Hon. SARAH MITCHELL: Was there any indication from Government that that would form the basis of any legislative change or was it not that explicit?

CHRISTINE LEGG: We assumed that it would.

The Hon. SARAH MITCHELL: With the issues around the funding for the regulator, there is a provision in the bill for a new regulatory authority fund, which says, effectively, that money from fees and monetary penalties would go into the fund. I wondered if you had a view on that and whether you think that would be a positive step or maybe one that could have some unintended consequences.

CHRISTINE LEGG: I would worry that if there were not enough penalties coming in, the actual unit wouldn't be able to operate. I would not like to see that dependent totally on the penalties coming in.

The Hon. SARAH MITCHELL: If anyone else wants to respond, feel free.

KIM BERTINO: I think that what Ms Legg has said, I'm supportive of that too. It feels that it's a bit compromising to link the penalty back to the regulator, who's actually applying the penalty. I guess that's a bit of a legal question that needs to be considered.

The Hon. SARAH MITCHELL: One of the other submissions we got from CELA, who weren't able to appear today, was along the lines of, if that fund was going to be introduced, whether that money should actually be better spent back into reinvesting in the sector education pieces, letting people understand more clearly what their requirements were and supporting staff. Do you think that would be a better approach with that fund, as opposed to using it to fund the regulator's operational costs?

KIM BERTINO: Absolutely.

CHRISTINE LEGG: I would absolutely agree with that.

KAY TURNER: With anything that is a potential conflict of interest, it's as much about perception as reality. With a new regulatory authority, it will need to have the trust of the sector that they will be acting fairly, and that will be about perception. I would strongly agree that the fund would be better invested. The sector needs that investment, and we want to have a posture of continuous improvement, not a set and forget. I think that would send a really important message.

CHRISTINE LEGG: If I could just add, since COVID the early childhood sector has been buffeted. We're used to change, but this is a major change. I do think professional development funding needs to be made available. We still have and we want new young people entering the sector. We can't assume that everybody is working at a particular level, so I think that funding of professional development is really important.

LISA GIBSON: Having worked in the sector for some time, we have seen a difference with our department and our regulatory authority. Essentially they are far more collaborative now than they were earlier on in my career. What we don't want this to do is move away from them being collaborative. Do you essentially know what I'm trying to say?

The Hon. SARAH MITCHELL: Yes.

LISA GIBSON: Yes, these fines seem really extreme. Essentially we don't want to lose that collaborative relationship and that supportive relationship with our authorised officers and our department.

The Hon. ANTHONY D'ADAM: Thank you for your attendance today. I suppose I want to go to the threshold question. You would accept that the sector has failed to protect child safety. There have been such appalling instances that have gotten widespread attention in the media. Obviously there's a sense of urgency in terms of the need to act to assure child safety and, I suppose, also to restore confidence in the sector. Firstly, do you accept that there is a sense of urgency. Obviously the Government is trying to move quickly in order to restore confidence in the sector. Perhaps if you could offer some comment about the question of urgency.

CHRISTINE LEGG: I'm happy to answer that. We would agree there is a sense of urgency, and the cases that have come to light are appalling. But I'd also have to say there are many good services out there offering really high quality in keeping children safe. At the moment, the whole sector is totally depleted. Their professionalism is at question because of a number of operators and staff who are doing the wrong thing by children. We would totally agree that there is a sense of urgency. We would just like to work with the Government through these details to make sure that the legislation that goes through will serve what we want it to do, but also stand the test of time and not turn more staff away from early childhood education and care who have devoted their lives to deliver the care and protection, and offering high-quality early education to children. We are at that crossroad at the moment. We know that families have lost faith; however, not in all organisations, just in some.

The Hon. ANTHONY D'ADAM: Can I ask about the Wheeler review? Perhaps you might be able to identify the areas of the Wheeler review that you have issues with, or that you disagree with. Are there any recommendations from Wheeler's review that you would object to?

CHRISTINE LEGG: Can we just take that on notice and maybe put it in our submission? I don't have it with me at the moment. We welcomed the Wheeler report. There are many good things in there, but there would be some things that, again, we'd say take some caution with it.

KIM BERTINO: I would just add to that that one of the things we made comment on was about fully funding the regulation to apply the National Quality Framework as it was intended when it was rolled out in 2012. What we see in New South Wales is there's been an expansion of services, so pressure on the regulator to be able to regulate those services, be able to undertake assessment of ratings across the full seven quality areas. That was what was intended when the National Quality Framework was introduced. What we're seeing now is that some services are having partial assessments—perhaps only two quality areas. For us, one of the key recommendations

that we would like to see is the boost in funding to allow the regulator to go back to being able to regulate services as previously done.

The Hon. ANTHONY D'ADAM: You've raised issues about the quantum of the fines and its possible impact. I suppose I wanted to put to you the notion that obviously we want child safety to be paramount, and that's the core and fundamental duty of everyone in the sector. Surely, the increase in the fines is a way of communicating that and making that front and centre for everyone in the sector from the front line to the management. Don't you think that's a reasonable proposition if we're going to communicate a message? Clearly, some in the sector haven't been placing child safety at the forefront of their operations and we've found ourselves in the situation that we're in. If we're going to prioritise child safety, don't we need to communicate that, and aren't fines a good way of saying, "This is very serious. Take this absolutely seriously. This needs to be our number one priority"?

CHRISTINE LEGG: We would totally agree, but I think what we're asking for is more definition and detail in those penalties and what they're for because there's a huge sliding scale of keeping children safe.

LISA GIBSON: Also, we absolutely support keeping children safe and I think all our organisations support keeping children safe. As I said in my opening statement, we just need to be mindful that we're not breaching the Fair Work Act. We have had some instances within our organisation where we've made decisions in the best interests of children and we've found ourselves before the commission. Essentially, what I suggest we do is ensure that both the Fair Work Act and this bill work hand in hand. Because, essentially, what we don't want to do is implement the bill and be in breach of the Fair Work Act because we haven't applied procedural fairness, or we've applied procedural fairness and then we're in breach of this bill.

The Hon. ANTHONY D'ADAM: You've raised the issue of the ambiguity around inappropriate conduct. I've looked at the definition. It's clearly premised on the notion of what a reasonable person would do in the circumstances. It's a pretty well-understood standard: If you think it's not quite right, then clearly you're at risk of breaching the law. Can you give us some examples of where you think there would be some ambiguity around the interpretation of the provision as it currently stands?

CHRISTINE LEGG: I think, again, it's going to be up to the person how they interpret what's reasonable. What I think is reasonable, somebody else may not think is reasonable. All we're asking for is really clear definitions. If I can give an example, in our child safety policies that we have within KU we make it very clear, "This is appropriate behaviour. This is totally inappropriate." It makes it very clear for people what they can't do. We're not asking the bill to go into that much detail, but I do think there have to be really clear definitions of it. As we've said, there is inconsistency from the authorised officers, and that's because they're human. And there will be differences between staff as to what they think is reasonable and what they think is unreasonable.

The Hon. ANTHONY D'ADAM: I might press you on that. Obviously you are experienced operators. Is there a specific example that you might be able to cite where a worker has done something that they think is reasonable and that the management and the regulator may interpret as unreasonable or inappropriate?

CHRISTINE LEGG: I can give you an example. People who work in early childhood really generally care about children, and they work very closely together. It takes a long time to build a culture where staff are trusted but also to really have that culture that children do come first. If I can give you some small examples that have happened in our organisation, an interaction with a child—say, for instance, the staff member raised their voice and shouted at a child. Now, I think that's totally inappropriate. When we talked to the staff, they said, "Oh, she was just having a bad day." From their perspective, she was just having a bad day and that's understandable. It's not understandable, from our point of view, in keeping children safe. That's the sort of thing we're talking about, just to make it very clear for everybody what is appropriate and what is not appropriate.

The Hon. TANIA MIHAILUK: We thank you for being here, and I appreciate some of you may be concerned about the timing in terms of the bill. I think there is a lot of urgency, and I think all of you would accept that. Each of you is a chief executive officer. You must have some legal assistance in your office. Do each of you rely on lawyers, or do you have legal people within your organisations that could perhaps have a quick look at the legislation? Your members pay for you guys to have those sorts of skills in your office. What I'm putting to you is that I think laying it on the table for three months is pretty unreasonable. I think there is a sense of urgency. You've got to think from the point of view of your parents as well. What we don't want is parents walking away from some of your centres, which I think would be the worst outcome for your staff and your management. It's not really so much a question: I put to you that if there's anything that you do have that you would like to suggest—I think one of you said you're still putting a submission in. Who was that, sorry?

CHRISTINE LEGG: We're putting in a joint one.

The Hon. TANIA MIHAILUK: Is that all four, or three?

CHRISTINE LEGG: All four.

The Hon. TANIA MIHAILUK: Then that's a great opportunity, if you can be very specific, because I think Parliament would like to get on with this in October. Certainly, from my point of view, I'd like to get on with it, and I imagine the Government would too. I'm just surprised about the fund issue. Does that really concern you, about the fund? Otherwise, if it doesn't come back to the to the regulatory arm, I think the Treasurer would be delighted to take it for something else! Does that really concern you?

CHRISTINE LEGG: I think it's reasonable that the income does go back. But I would not like to see the implementation of the regulations being a revenue raiser.

The Hon. TANIA MIHAILUK: I don't think it's written that way in the bill either. I think it's saying that if there's anything, it would be redirected back to the regulatory arm.

KIM BERTINO: It's potentially an opportunity, if the funds are used in a proactive way, to help build capacity and capability across the sector. We know that, at times, pre-service training isn't at the level that we would like it to be. We do know that when we employ teachers and educators, at times, they're not job ready. Being able to access professional development funding, to be able to continue to build that capacity and capability, would be a fantastic outcome for the sector. We know that when we've got really strong teachers and educators, who know what good practice is and who are looking at quality teaching and learning environments, part of that means that you see generally less noncompliance and breaches. Quality also means safe and educative environments for children.

The Hon. TANIA MIHAILUK: Obviously you've talked amongst yourselves in the lead-up. Did any of you talk to any of the unions prior to coming today?

LISA GIBSON: No, not at this point.

The Hon. TANIA MIHAILUK: It's just amongst yourselves at this point?

KAY TURNER: Correct.

The Hon. TANIA MIHAILUK: You will be doing a combined submission, you said, next week?

KIM BERTINO: Yes, we will.

The CHAIR: We are, unfortunately, out of time. I think I could go on for hours with you. You did flag at the beginning that Ms Bertino might want to say something before you go.

KIM BERTINO: I will be very quick, given that we have run out of time.

The Hon. TANIA MIHAILUK: Can I suggest that we not, Madam Chair? I note that it's 9.47 a.m.

The CHAIR: Could I ask instead that you table that, and then it will still be included in the transcript? Is that okay? Apologies for that.

The Hon. TANIA MIHAILUK: Sorry, we're just very time-poor today.

KIM BERTINO: Yes.

The CHAIR: Thanks very much. We really appreciate you being here. There is a short time frame for the returning of questions taken on notice and supplementary questions, but the Committee secretariat will be in touch. Thank you very much for your time.

(The witnesses withdrew.)

Mr CHIANG LIM, Chief Executive Office, Australian Childcare Alliance, sworn and affirmed

Ms SAMANTHA PAGE, Chief Executive Officer, Early Childhood Australia, before the Committee via videoconference, affirmed and examined

Ms ELIZABETH DEATH, Chief Executive Officer, Early Learning and Care Council of Australia, before the Committee via videoconference, affirmed and examined

The CHAIR: I will start with Mr Lim. Did you want to make a short opening statement?

CHIANG LIM: Yes, Chair, but my father would castigate me if I don't allow the ladies to go first.

The CHAIR: Fair enough. I will start with you, then, Ms Page. Would you like to make a short opening statement?

SAMANTHA PAGE: Good morning and thank you to the Chair, Deputy Chair and Committee members. We're very pleased to have the opportunity to speak to you today on behalf of Early Childhood Australia on the proposed amendments to the Children (Education and Care Services National Law Application) Act. Just very quickly on Early Childhood Australia, we are a not-for-profit national peak body representing the interests of young children from birth to the age of eight, and have always advocated for high-quality early childhood education and care. Our membership extends across the country, but the largest proportion of our members are in New South Wales. We have a very active New South Wales committee and regional networks right across the State, so we are really pleased to be able to speak to the Committee today.

We commend the priorities on strengthening children's safety, safeguarding and quality, and recognise that they are interconnected. We commend Australian governments, including the New South Wales Government, for their shared commitment to addressing shortcomings in current and regulatory arrangements. The inquiry in New South Wales has identified a volume and a seriousness of failings within parts of the early childhood sector, including systemic failures that have allowed unacceptable risks of harm to occur. The devastating stories of child harm, maltreatment and, in particular, sexual abuse have been difficult for early childhood educators to reconcile with their professional values and ethics. We feel very deeply for the children and families affected and understand that the hurt and the terrible breach of trust is enduring.

These sort of incidents just should not occur. On behalf of the profession, we want to ensure that all children are safe in every setting where they might attend, that services are demonstrating respect for children's rights and best interests throughout their operational activities and that every setting is providing high-quality early childhood experiences in which children can thrive and families can have confidence. Given the very short turnaround of this inquiry into the amendment bill, we have not been able to comprehensively assess and respond to the detail of every proposed change to the legislation, and we haven't been able to consult with our members who are involved in working in early childhood services.

Therefore, our commentary is very high level and on particular changes and the overall intent of the legislation rather than the details. We would join with others who have spoken to the Committee about it. We would like more time to consult. We would encourage further consultation with the sector. As you know, the early childhood sector is very large. There are over 6,000 services across New South Wales, over 80,000 educators and teachers employed in working directly with children and over 500,000 children attending services. So it is really important that we move with haste but also in a fully informed way in which people have been appropriately consulted.

Some of the systemic issues that we do think warrant changes to the legislation include addressing the mix of providers that are currently involved in the sector and some of the issues that undermine quality, including churn. So where service ownership is constantly changing over, that compromises quality. It makes it difficult for regulators to do their jobs. The other issue that's impacting on quality, as we recognise, is oversupply. The viability of services in an oversupply market is problematic. Services are competing for a limited workforce and a limited number of children and families. That results in low occupancy and poor quality across multiple services. We also recognise challenges, particularly in regional, rural and remote communities, but also in high-cost housing markets where there are chronic workforce shortages. We do have strategies to address that and a national workforce strategy, but we don't believe it has ever been fully resourced in order to address the workforce challenges.

We and others have called for the role of a system steward, such as an early childhood commission, to provide oversight on issues of supply and demand, and systemic issues that impact on quality, such as the location of services and the investment in quality infrastructure and a quality workforce. Anyone can build a childcare centre and, as long as they get approved and operate within a compliance regime, they can run early childhood services. We would not accept that in most other areas of professional activity, and we don't think that is the way

to deliver early childhood services in the future. As we move from what has been a free market to a universal system, we think stewardship is particularly important, but so too is a renegotiation about who is providing early childhood services. We particularly point to the work of Professor Paul Leseman on creating a social market in which government has much stronger controls over who is operating in the system, and those that are operating in the system need to ascribe to socially agreed goals, objectives and values.

We have done a little bit of work on this. We've included in our submission in terms of some of the things that might be required of a provider to demonstrate that the interests of children are given paramount consideration at every layer of decision-making. I'm happy to talk to that if the Committee is interested. In terms of the specifics of the amendments included in the bill, we support the overall intent. We think it's important to rebuild public confidence in the early childhood sector and to have a strong and appropriately resourced regulatory regime. We are somewhat concerned about whether the penalties will discourage people from reporting or identifying concerns. However, we also think penalties should be substantial. We just flag that as an issue that might warrant some further consultation. Overall, we support the intent of the bill and we're happy to speak to any of the detail.

The CHAIR: We're having trouble with Ms Death's technology again, so I will go to you, Mr Lim.

CHIANG LIM: Thank you for recognising the critical importance of early childhood education and care in New South Wales, and for inviting me to appear today on behalf of ACA New South Wales. Members of the ACA New South Wales operate over 1,600 small- to medium-sized, predominantly private and family-owned, long day care and out-of-school-hours care services. In principle, we support the bill. But, as our submission suggests—which I had some difficulty submitting last night—we are seeking more information from the New South Wales Government not only about the bill's proposed amendments to the national law for New South Wales but also in the context of envisaged further changes that will rebuild confidence among parents and families, and particularly among early childhood education and care services, educators and teachers.

We must continue to put children at the epicentre of everything our members do in their offerings. As such, it gives us no satisfaction to see our sector in its current state. It is completely indefensible that some have been hurt and harmed and two innocent lives have been lost in New South Wales in the last 14 years. Any one child at risk, harmed or worse is one child far too many. I thank this Committee most sincerely for scrutinising early childhood education and care for children under the current national law, national regulations and National Quality Standard as they apply in New South Wales.

Let me be clear that ACA NSW does not support the wholesale replacement of the National Quality Framework in New South Wales. In an important sector that is intrinsically reliant on skilled human beings across all governance settings, we must still recognise that every human being can still be fallible. Failures can and do occur across both private and not-for-profit services. That is why an effective and supportive system is essential. As hundreds of thousands of parents entrust us each day to educate and care for their children from birth to preschool, those children under our responsibility can bear the most negative impact from adult human failings. Nevertheless, we must remain intolerant of anyone and any entity that callously puts profits or surpluses above—or, worse, at the expense of—the best interests of every child.

This bill, the deliberations of this Committee and the other parliamentary inquiry of this Committee, as well as public discourse, rightly bring us all, including legislators and regulators, to a proverbial crossroads. Without bias, we must critically reflect in order to inform our future. Why has New South Wales achieved 92.6 per cent of services "meeting" or "exceeding" the National Quality Standard, yet has the worst results in school readiness since 2009, according to the Australian Early Development Census? If more than nine out of 10 New South Wales services have quarterly ratings of "meeting", "exceeding" or "excellent", then why has New South Wales had record numbers of confirmed noncompliances, so high that New South Wales eclipses the rest of the country combined for the past five years? Are we more focused on compliance actions, penalties and punitive actions after the fact, assuming they will be preventative? Shouldn't we instead anticipate risks and ensure that they never become a reality in the first place?

The former New South Wales deputy ombudsman himself highlighted this week that there are more than 1,000 pages of law, regulations and guidelines for services, educators and teachers just to do their jobs. Perhaps the legal and regulatory calibrations, as well as the sector's and the New South Wales Government's approach, must be adjusted such that they are focused on children's outcomes and supported by streamlined, transparent, clear, unambiguous, measurable and effective legal, regulatory and quality frameworks that overtly produce the long-term benefits of early childhood education and care. Perhaps, then, all New South Wales citizens will be proud of the New South Wales Government's Brighter Beginnings, which projected dividends of $13 for every $1 invested in early childhood education and care.

To paraphrase someone, "To us, as adults, children, especially those from birth to six years old, are the very living promises of better futures. Unless every child can reach their full potential, humanity never will." We

urge this Committee and the New South Wales Parliament to consider our submissions as a road map towards reforms that ensure that every child in New South Wales receives safe, high-quality early childhood education with demonstrable long-term benefits.

ELIZABETH DEATH: I'm here today representing the Early Learning and Care Council of Australia, which represents both not-for-profit and for-profit providers across our nation. We really welcome the opportunity to respond to the proposed amendments set out in the amendment bill. I want to acknowledge the intent of the legislation and reinforce Sam's sentiment around the sector and the challenges that we're facing at the moment. We are very concerned with the lack of any regulatory impact consultation to date, however.

Our members actively support legislative reform that strengthens safety, transparency and accountability across the sector. We especially welcome reform that focuses on the paramount importance of the child and their safety, wellbeing and development. That is at the centre of what we do. I wanted to reinforce that, importantly, qualified early childhood teachers and educators remain the single most critical guarantor of child safety. I pay tribute to our early childhood teachers and educators who are, overwhelmingly, skilled professionals who consistently demonstrate their commitment to the paramount importance of the child. I've worked within the sector for over 40 years. I can attest that early childhood education is not an easy career. It is far more challenging right now, as the whole profession feels like they have been tarnished by the acts of a few individuals. We really want to make sure that we protect the value, skill and safety of our dedicated workforce.

In relation to the legislation, the critical role of national consistency is what I'd like to highlight, both now and into the future. I don't think we can underestimate that. The national approach is necessary to ameliorate the risk of fragmentation across Australia and to maintain safety and quality at the heart of the national law and regulations. I note the urgency that was talked about previously—I share that urgency. However, I share that urgency on a nationally consistent approach. The recommendations from the independent review—the Wheeler review—primarily provide a really timely and sensible catalyst for legislative reform. We are concerned that the introduction of the bill at this time places New South Wales outside the current nationally consistent legislation and regulatory framework.

This happens at a time while considerable cross-jurisdiction work is underway to actually tighten and align the quality and safety provisions nationally. We are seeing jurisdictions who have sat slightly outside and who are now starting to align. I fear that we are stepping outside that if we're not working in lock step with the other States and Territories. We welcome the commitments from the August education Ministers meeting to pursue the expedited amendment process to the national law by Victoria by the end of 2025. That timeline is one that I think we should be aspiring to, if not before. It will fast-track the implementation of improved safety and quality measures.

It means that that national approach can draw on all relevant advice and input, whether it's the ACECQA review of child safety arrangements under the NQF or Victoria's Rapid Child Safety Review as well as the New South Wales Wheeler review. I think they all are very important pieces of this puzzle. If New South Wales does deviate from the National Quality Framework law and regulations, even for noble reasons, the bill may have unintended consequences—actually weakening the system nationally and not necessarily achieving the outcome you're hoping for. We need to make sure that we maintain that safety net for children. As we heard in the previous hearing, we have providers who operate across jurisdictions. It's very different to the education sector as a whole. The early childhood sector has providers that work across all jurisdictions. They have some that work only in one and some only work in another.

When I look at our sector across Australia, I see the importance of understanding each other and working together. In summary, if it were to progress, we'd recommend thorough engagement with other providers and stakeholders not only New South Wales but also nationally. It may slightly slow the process, but it will improve the legislation and any related regulation. It will also ensure there are no unintended outcomes. We are all aware that fast legislation does not mean good legislation. We need to make sure we are moving together. We look forward to providing a written submission to the inquiry shortly.

The CHAIR: Thank you, all. I do understand how short the time frame has been on this, and we really do appreciate the effort you've gone to to contribute.

The Hon. SARAH MITCHELL: Thank you all for your opening statements. I just want to go to the issue of consultation again, and I'm happy if you need to take it on notice. I'm just keen to understand when you were first briefed about what was in this bill and if there was any consultation prior to it being introduced into Parliament. I'm happy for all of you to respond if you're able to or take it on notice. I might start with Mr Lim.

CHIANG LIM: Ms Mitchell, as best as I can tell we were not consulted before the bill was presented to Parliament. We had a briefing after—I think it was about two days after—in which we actually submitted to the Department of Education I think about 23 questions with regard to the proposed bill.

SAMANTHA PAGE: I am not aware of consultation prior to being alerted to it and participating in this process. That said, I'm not located in New South Wales; I'm based in Canberra. Some of our members in New South Wales may have been aware of it before I was.

The Hon. SARAH MITCHELL: Could you maybe take that on notice and just see whether they were?

SAMANTHA PAGE: Sure.

ELIZABETH DEATH: We received an email that identified that the bill was going to be tabled. The only opportunity we had for a conversation about it came within a very short time frame, and most people that I'm aware of, and me included, could not attend. I was actually on a plane. We only received very short notice of that consultation discussion. So, no, I don't feel like we've had anywhere near the consultation that's required for the depth of this bill.

The Hon. SARAH MITCHELL: In the ECA's submission, Ms Page—I'd be interested in the views of the other panel members as well—you talked about some of the unintended consequences in terms of workforce and retaining quality staff. The panel before you also spoke about that. Again, I think everyone agrees with the intent of the bill and doing everything we can to keep children safe, but there are concerns that you might have high-quality staff not able to stay in the sector. Can you speak to that a little bit and what you're hearing from your members?

SAMANTHA PAGE: Yes, that is a concern in terms of some of the unintended consequences, including the publication of people's names and details. We're concerned about that. We're concerned about heavy penalties potentially discouraging people. I know there are whistleblower protections in the bill—I understand that—but I just think we want to be cautious and make sure that we're not inadvertently discouraging people from raising concerns, particularly outside the environment of the setting itself, with regulators for example. That was one of the provisions of the bill that we were suggesting warranted some further consultation and consideration.

The Hon. SARAH MITCHELL: Ms Death, did you want to add anything on that issue?

ELIZABETH DEATH: Certainly from internal data, I see an increase in vacancies across our sector in just the most recent months, since March. I think that we are at a point in time that is so critical. We know that the workforce, and the experienced workforce who can mentor the new staff coming into the sector, are the ones that we need to keep most. These are the ones I think we're at most risk of losing.

CHIANG LIM: Ms Mitchell, we don't take necessarily the fact that we may not have had sufficient consultation of the bill as a problem. As you well know when you were Minister, all of these issues have been ventilated ad infinitum for many, many years. The speed in which the bill has been presented, while perhaps incomplete still in our opinion, is welcomed, and in actual fact it actually proves the point of a resistance in New South Wales circles that we must always do something with national consistency. The fact that the bill exists shows that New South Wales is not held hostage to the rest of the country when it comes to trying to fix problems. If the rest of the country cannot get their act together, then New South Wales should lead. This bill is a good representation of that. It is not complete by any chance, but it is a good start and more needs to occur—still more.

The Hon. SARAH MITCHELL: But you don't have any concerns about staffing impacts or that element of it?

CHIANG LIM: We already have staffing issues now.

The Hon. SARAH MITCHELL: Not specifically related to this bill, though?

CHIANG LIM: Not necessarily. There may be consequences of this bill, yes, but sooner or later we will have to address those as well. But this system has been in place for 14 years, so speed is of the essence.

The CHAIR: Mr Lim, I understand that you've submitted some questions about the bill.

CHIANG LIM: And another 23 more to come.

The CHAIR: Great. I also have a number of questions. I wonder if you got any answers back and if you'd be able to share them.

CHIANG LIM: No.

The CHAIR: No, not yet?

CHIANG LIM: None. Having said that, we have confirmation from our lawyers with regard to the whistleblower protections. We, of course, have been overtly in favour of that. We've been calling for that for quite some time. We may be the only peak body that has been asking for that, particularly in light of what happened in Queensland. However, the whistleblower protections do not go far enough. Also, it does not have sufficient protections, in a legal and industrial way, for approved providers and the services themselves. It is very clear. I thought I had a copy of the legal response. I'm more than happy to share that with you.

The CHAIR: Yes, that would be very interesting.

The Hon. ANTHONY D'ADAM: Ms Death, I might go to you first. Mr Lim has just made an interesting observation about the perils of New South Wales waiting for the rest of the Commonwealth to act. I take from your contributions this morning that you think it's better for us to accept a lowest common denominator approach in terms of the Commonwealth rather than New South Wales leading and going forward. Mr Lim has said that many of these issues have been ventilated for a very long time. I invite you to comment about whether it's worth the risk to children's safety for New South Wales to wait for the rest of the Commonwealth to reach agreement.

ELIZABETH DEATH: I believe that, in fact, in Mr Lim's comments there, he was talking about the issues in Queensland that triggered this. I feel an immense responsibility to every child across Australia, and I think New South Wales has in the past led very well, particularly in the space of degree-qualified early childhood teachers going over and above the requirements of others. That was an intentional step from New South Wales very early on in the National Quality Framework development, with the aspiration that all other jurisdictions would meet that in the long term. But what I'm saying is not that we hold back, because I think there are some very important elements of this legislation.

I think we should be sharing that rather than breaking away from the National Quality Framework, because I think you can actually make a greater impact by working with the others and we've got a commitment at the moment from the education Ministers to fast-track. I'd love to see another special early childhood education Ministers meeting that would, again, fast-track it even more. That's the point that I'm making rather than "Let's sit back and wait for the next two years." That's not what I'm saying at all. I'm saying, yes, there's urgency but, yes, let's move in lock step.

The Hon. ANTHONY D'ADAM: How many months should we be waiting for the Commonwealth?

ELIZABETH DEATH: I think they've already made a commitment so far to have the first tranche, and they've got a number of others on the go at the same time, with rapid reviews. Those rapid reviews are in place. We should be considering all of those in this space.

The Hon. ANTHONY D'ADAM: We heard from other stakeholders earlier about the urgency of restoring confidence to the sector. But your submission is that it's still okay for us to wait even longer before we take any decisive action.

ELIZABETH DEATH: I don't think we're waiting. I think we're actually moving forward rather than waiting. We're moving with the others. Trust is something that's built not just through regulation; it's built through the sector engaging with government, the sector engaging with families. The front line is where the changes are happening and where we can make the biggest difference. If that front line is confused by different jurisdictions and different requirements, in my mind, that is problematic. We need to be working together.

The Hon. ANTHONY D'ADAM: Can I ask you about the Wheeler review? Are you supportive of the recommendations of the review?

ELIZABETH DEATH: I think there are a number of very positive recommendations, but I'd like it to be considered in keeping with the rapid review in Victoria. We've got the South Australian royal commission with some fabulous review recommendations as well. There are so many different reviews that we've had across our sector. It's about bringing it together rather than separating it and fragmenting it more. I'd love to see this move fast. I'd love to see the urgency being placed very front and centre for all education Ministers, but I'd like it to be done in lock step.

The Hon. ANTHONY D'ADAM: Mr Lim, I think in your earlier comments you made a suggestion that this bill was going to lead to the wholesale replacement of the National Quality Framework. Can you perhaps elaborate on that? Are you contending that the bill does that?

CHIANG LIM: No. I believe that there are some in the area of public discourse who would like that to happen—that we throw the baby out with the bathwater, proverbially. We don't agree with that. We see the bill as an incremental step to make a number of significant fixes. Can I contribute to the issue of New South Wales leading? While I'm sure the Deputy Premier and the Acting Minister for Education and Early Learning—and I'm sure also Ms Mitchell, who used to be a Minister too—would stridently advocate for New South Wales first, as a

migrant, the last time I checked, the Constitution requires education to be a State responsibility, not a national responsibility. So it is quite well and truly within the New South Wales government of the day to show leadership. And I think they have. The fact that this bill exists shows that it has. Not only that, I think the Government itself must have. I cannot believe the Acting Minister and the Deputy Premier would have gone without consulting their colleagues nationally. I think what has happened is New South Wales has pointed out what needs to occur, consensus may not have been achieved, and New South Wales could not wait.

The Hon. ANTHONY D'ADAM: I want to go to Ms Page. I think you made an observation about there being areas of oversupply. Can you perhaps speak to that rather unusual observation? I mean, the general discourse is that actually there are significant areas of undersupply and that oversupply is not actually a pervasive issue. Perhaps you could elaborate on that comment.

SAMANTHA PAGE: I'm very happy to do that. We have both: We have undersupply and oversupply. In fact, we have undersupply and oversupply within the same region in some situations, because we have an undersupply of places available for infants and an oversupply of places available for older children. That is because of the way the childcare subsidy operates. It doesn't accommodate the additional costs of younger children. The number of places that a lot of providers will make available for younger children is limited, so you can have both happening at the same time. What I was highlighting is the problem with a free market approach, where anybody can build an early childhood service anywhere at any time, is that we do end up with this very patchy mix of services, a very diverse range of service providers and no oversight in terms of what services are going into particular communities.

We can have one community that is desperately undersupplied, and just down the road, we can have too many services competing for a limited pool of children and families and workforce. That is putting stress on the system, particularly workforce, but also nobody is well placed to deliver quality when we have that dramatic mismatch between supply and demand. These are issues that go to the need for system stewardship, particularly as we build out a universal system and we move away from that free market approach to more of a planned approach, where we care about who the providers are, we care about where the services are going, and we make sure that all children have access to high-quality service provision.

The Hon. TANIA MIHAILUK: Thank you to all three of you for your contributions today. Maybe we can start with Mr Lim. I wish to clarify—you're all aware that the Wheeler inquiry was on foot, right? Was anyone surprised that there was going to be a report that would actually provide recommendations for the New South Wales Government to act swiftly? You were aware of it, Mr Lim?

CHIANG LIM: Of course.

The Hon. TANIA MIHAILUK: Is that the same with Ms Page and Ms Death?

SAMANTHA PAGE: Correct.

The Hon. TANIA MIHAILUK: Can I ask you to confirm that you are well and truly aware that the Wheeler inquiry was on foot when it was announced and that there would be significant recommendations being posed to the New South Wales Government to act?

SAMANTHA PAGE: Yes.

The Hon. TANIA MIHAILUK: All right. I think this is what the Government's done in proposing a bill. Rather than laying this on the table and waiting for the Commonwealth, I think there is an opportunity now, if all of you, as chief executive officers, could make suggestions. I thank Mr Lim, who's already made a submission and has noted that he is going to add some extra questions. There is an opportunity now to really give this Committee something to work with by any suggested amendments, for example. I'm sure many of you have access to legal advice, to lawyers—or yourselves as advocates could have a good look at the legislation. I just ask in your submissions or anything you want to table to the Committee that you perhaps make some specific recommendations you'd like to see amended in this particular legislation. Thank you.

CHIANG LIM: To give you an example, Ms Mihailuk, New South Wales isn't the first to lead. In fact, I'll give you a very practical live example that Victoria led, and the rest haven't followed yet. In the case of insurance, regulation 29 requires every service to actually have appropriate insurance. Victoria went further than that and stipulated that it had to have insurance, not just public liability per service but also child abuse insurance per service; yet anecdotal evidence suggests that may not be the case in New South Wales, let alone the rest of the country, and that there may be some approved providers out there that are using one insurance policy to cover multiple services.

Thankfully the New South Wales regulatory authority was alerted by us about this and did try to fix the policy that was published. We're very appreciative of Sharon Gudu, who did that for us. But the practice,

anecdotally, seems to suggest that it still happens. One of our points in the submission is, while we don't talk about rules per se, we talk about how you make sure that it actually does happen. Victoria's already led in some ways. Why hasn't New South Wales led in that sense? Maybe it's high time, for example, that New South Wales starts leading too. We are the premier State.

The CHAIR: Can I just clarify your point there? Because this bill—

CHIANG LIM: It does not talk about that.

The Hon. TANIA MIHAILUK: It does not, yes.

The CHAIR: This bill does exclude the ability for anyone to have insurance or professional insurance against liability under the laws.

CHIANG LIM: This is to do with appropriate public liability. This is insurance, right?

The CHAIR: This bill has a provision in it—

CHIANG LIM: Yes, but it doesn't, in the practice of it, in which Victoria leads the way. In the practice of it, it is guaranteed, basically, that every service has its own policy. We seem to be seeing that some services do not, and I've got an example right here.

The CHAIR: Okay, but a provision of this bill is that nobody can have insurance against liability under the national law. Are you supportive of that?

CHIANG LIM: No. It has to have. I mean, how do you protect children then, in that sense?

SAMANTHA PAGE: I think the bill goes to insurance against penalties to be paid. The insurance that Mr Lim is talking about is a different nature of insurance.

SAMANTHA PAGE: But I do think there are differences across States and Territories. I agree that New South Wales has led in terms of staffing, qualifications and the role of teachers within services, for example. I'd don't think any of us would disagree with some scope for difference across. It's more about whether any of the amendments in this bill would have an unintended consequence, would not give you the objective that you're trying to achieve. That's the piece that we would like a little bit more time to consider. It's not that we're objecting to them at all, and in our submission you can see that we are supportive both of the bill overall and the specific amendments. But we just want to make sure that there's nothing that would inadvertently cause a different outcome to the outcome you're wanting to achieve.

The CHAIR: I want to clarify the position. Putting to one side the concerns you have about New South Wales going alone, if we're just looking at this bill, I think you're all agreed that there are some really good things in here and some good intentions, but it's about getting the drafting right and making sure that those provisions don't have unintended consequences that you're asking for further consultation for. Is that correct?

The Hon. TANIA MIHAILUK: Well, hang on, are you actually asking—

The CHAIR: I'm asking if that's correct.

The Hon. TANIA MIHAILUK: I thought they were just happy to provide submissions. Is that right?

CHIANG LIM: No. From ACA's and our perspective, the bill is just a good first step. The independent New South Wales regulatory authority that's coming into the future is also a good first step. I think we're not asking the bigger questions. Is the overall system fit for purpose? Is it predictable? Does it work? The existing nine national laws that the regulatory authority already has, which the bill does not touch on—why haven't those nine specific laws within the national law been used consistently to regulate the sector?

The CHAIR: But do you have problems with any part of this bill or would you want it to just be put through?

CHIANG LIM: The questions about the current bill—there still needs to be more detail that's required, yes. But it does not go far enough, is what we're saying. And so our submission, which has finally been sent, outlines where are the gaps. We've been asking for these to be considered for many, many, many years.

The CHAIR: We are out of time, unfortunately. To the extent there were questions taken on notice or supplementary questions, the Committee secretariat will be in touch. I understand there's a shorter time frame for that. That concludes our time with you. Thank you very much for making yourselves available.

(The witnesses withdrew.)

Honorary Associate Professor LINDA NEWMAN, School of Education, the University of Newcastle, before the Committee via videoconference, affirmed and examined

The CHAIR: Thank you very much for your attendance today at such short notice. Do you want to begin with a short opening statement?

LINDA NEWMAN: Thank you for the opportunity to comment on the national law amendment bill 2025. This proposal, and planned changes to the Children (Education and Care Services National Law Application) Amendment Bill 2025, comes at a time in the history of the early childhood education and care sector when things must change. I've been able to hear some of the evidence this morning and it is very clear. It has come at a time when the general public have become aware of the importance of early childhood education and care. But, sadly, as revealed by the ABC television program *Four Corners*, not all centres have children's best interests at the forefront of their operations, with harms occurring to very young children at an alarming rate. It's gratifying to see that the New South Wales Government and the Federal Government have at last grasped the importance of children and their safety, and the role of the early childhood education and care sector.

Importantly, the on-the-ground users of the final amended legislation—early childhood educators—must be given the opportunity to consult on the final draft of the legislation before new law is formally adopted. Within this context, two primary matters are of concern to me. The first is the haste, and we've heard other people talk about that this morning—that's evident. While congratulating that, it's also something that we need to consider carefully in our discussions, as State and Federal governments attempt to make necessary changes and convince the public that they are addressing critical issues. Much of this work, including the law amendment proposal addressed here, is being done in the absence of input from the very people who work with the mandated regulations on a daily basis. These are the people who are governed by the law and, more importantly, know how the regulations do and do not play out on the floor—as we tend to say within the profession—since they work with children and families.

Secondly, while law changes are necessary, they're not enough. We are witnessing a top-down focus on change with emphasis on laws, rules, policies and practices that are governing, controlling and punitive. We are not yet seeing bottom-up changes to better prepare and support the people who do the work that is governed. While there is a lack of respect and recognition for early childhood educators—in the form of revised salary scales, improved professional preparation, ongoing supported professional learning, and supported, well-educated leadership—it is hard to see how policy and governance changes can produce the shifts in the quality of education and care that the citizenry of Australia needs, requires and is calling for.

Just to quickly preface what is to come, I remind members that this is an individual submission. I've been working in the early childhood sector for more than 40 years, across a range of roles. I have worked on the floor, as we say, governed by the previous versions of the regulation, but I do not currently do this. I'm a semi-retired early childhood teacher, lecturer and researcher. I'm not a lawyer and therefore cannot give a fully informed opinion on all the amended proposals. I also wish to point out that the amount of time made available, as we've heard already, made it difficult for full and careful consideration of the bill.

The CHAIR: When you appeared before our other inquiry, your experience as a teacher, as somebody who sat on boards of services and also as an academic makes you a very useful person to talk to about the impact of some of these things. Keeping in mind you're not a lawyer, just understanding the real-life impact of things is really useful. In that spirit, I want to speak with you particularly about the new proposed offence of inappropriate conduct. I view it as very well intentioned, but I worry about the wording. We had some questions earlier about where the problems could arise in people not understanding or having different ideas of what inappropriate conduct is.

I've spoken to educators who say that, in some contexts, tickling a baby's belly when you're changing their nappy could be completely innocent and, in other cases, knowing what you know about a particular educator, that could actually be a bit sinister, as an example. Can you give us some examples of where somebody might think something is potentially sexual or inappropriate and someone else might not, and what we could do to better define that range of behaviours?

LINDA NEWMAN: Yes. Bearing in mind that I'm very well aware that we can't have a five-page definition in a bill or law, some examples that come to mind and something that we need to keep in mind is that these things can be very subjective. They can have a cultural basis in that level of subjectivity, an experience basis, and a qualification and training basis. There are a lot of different things that can come into it. One example that jumps to mind for me was when I was in the position, for six years, of being responsible for the professional experience of student teachers who went out into the field.

Part of that role was that any students who had concerns for any reason when they were out in the field were to come back to me, talk those through and work out what we were to do about it. I heard all sorts of stories over those years and it actually led to my professional doctorate work in professional ethics. In this instance, some students came back from a centre that I didn't know, but I knew the organisation very well. It was a highly regarded organisation. They came back and told me that children were being tied up. Of course, I was horrified and surprised that that sort of a report would come from that organisation.

As part of my role, what I needed to do was to directly contact the organisation and find out the other side of the story. It turned out in that instance that they were using—I can't quite remember what they were called now—joey chairs or something. They were like a transportable high chair for young toddlers, so that they could sit on the normal small dining chairs that the children used to eat at the table. It was a like a cloth-type organisation that you put over the back of the chair, and then the child sat into the seat and had some safety straps around them. I suppose one interpretation was that they were being tied up, but the other was that they were being kept safe in that situation. We were able to work through that one fairly easily, but I just make the point that it is subjective.

Another thing that comes to mind, when you talk about tickling a child's belly, is that there's been some emphasis in certain quarters in recent years about the importance of rough-and-tumble play, for example. Often, this is focused on programs about dads and children, and encouraging men to engage in rough-and-tumble play with children to help them learn about appropriate ways of being able to say, "Stop, I don't like it anymore", and the other person involved in the play—the adult in this instance, or a bigger child—needs to be respectful of that instruction to stop. I can see that there can be lots and lots of ambiguities there. Kissing children—I've done some early childhood work on in another country, and one of the first things we noticed was that the educators were kissing the children left, right and centre, all over their faces and all over their bodies. At first we were shocked by that, but that was certainly appropriate in that culture.

The CHAIR: I think there's the definitional issue, but then also at the moment we have the offences in relation to failing to keep a child safe from harm. When it comes to liability on a nominated supervisor, the obligation on a nominated supervisor is to ensure that every reasonable precaution is taken to ensure that a child isn't subjected to harm. So, if there's an educator under their watch who has done the wrong thing and they have known about it but haven't actually taken the action that they needed to take, they can also be held liable. But under this new offence, it's actually saying that the nominated supervisor must simply ensure that every child isn't subjected to inappropriate conduct.

It doesn't have that step of taking reasonable precautions, and it's been pointed out to me that you could have a nominated supervisor who really just had absolutely no idea, had never seen anything, hadn't seen it happening. They could even have a casual educator being onboard that day, and it's happened, and then they would be held liable under this section when they could actually do nothing to prevent it. Do you think that goes too far? Should that be amended to be more in the lines of taking precautions? What does that taking precautions look like in the context of current offences? How could it play out?

LINDA NEWMAN: I think obviously somebody has to take responsibility, and this issue has actually been raised with me by people out in the field concerned about this. Somebody has to take responsibility. In a big organisation, the CEO is where the buck stops. One of the things that I think is necessary, but seems to be slipping away in the current climate, is the support of the whole team. So, yes, the person who has the legislative responsibility is the one where the buck stops. But that person is supported by a team. There needs to be measures taken so that there's excellent communication and excellent processes across the team, so that everybody knows what everybody else is doing. In that instance, then, I think maybe it's not too much—or it shouldn't be too much.

The CHAIR: What shouldn't be too much?

LINDA NEWMAN: That the nominated supervisor takes the responsibility.

The Hon. ANTHONY D'ADAM: Ms Newman, I'll start by asking whether you accept the Wheeler recommendation around paramountcy, that the absolute obligation of everyone in the sector is to give primacy to the safety of children. Is that something that you accept?

LINDA NEWMAN: Yes.

The Hon. ANTHONY D'ADAM: I go to the evidence you've provided around the question of inappropriate conduct. The framing of the provision is really about where we accept the balance of risk should sit. The provisions obviously have a reliance on what a reasonable person would accept. If there's some ambiguity, then the default is that the conduct should be avoided. Do you accept that that's a reasonable measure in light of the idea around the paramountcy of child safety? If you're in doubt, it might be inappropriate and you shouldn't do the conduct; a reasonable person should understand that that's the intent. If there's ambiguity, then the balance

of risk should be in favour of avoiding the conduct rather than allowing the risk with the potential that it might place children in harm. What do you say to that proposition?

LINDA NEWMAN: Yes, I do agree with you. Where the complicating factor comes in is the idea of the reasonable person. At the moment, in the context of a field where there is a huge shortage of full-time, regular early childhood educators—it's difficult to get people with experience. We have a massive range of qualifications. I don't know if it is in all organisations, but I know in many organisations we're increasingly seeing wonderful people come in who don't have English as a first language. So what I think we need to explore and work further with is—well, you can't ensure, but doing the best we can possibly to make sure that all people working with children in early childhood centres are appropriately prepared to be that reasonable person and have a full level of understanding. That's where, when I read the amendments, I was concerned about some of the wording. Ideally, the people who are working every day across the whole spectrum of certificate III educators through to degree-qualified teachers should know those regulations and laws and should be able to understand them. So that was my concern with some of the wording. Not particularly this one, but—

The Hon. ANTHONY D'ADAM: I accept that, but any kind of further weakening of that provision or any attempt to elaborate on it doesn't resolve the fundamental problem, which is the obligation on the providers to make sure that their staff understand their obligations. Ultimately, this question around the default—if you're in doubt, then don't do the conduct—should be the kind of guide, and it's not that complicated in terms of ordinary staff having to interpret their responsibilities day to day. Do you accept that that's the case?

LINDA NEWMAN: Yes. I'm not advocating for a weakening, but I would like to ensure that there's clarity so that the people who are working with it can understand.

The Hon. ANTHONY D'ADAM: What clarification would you make to that provision?

LINDA NEWMAN: I haven't attempted to do this myself, but I think it could be clarified with a few more words about what that actually means in practice—"What is inappropriate?" I won't attempt to do that now, but it could be made a little clearer.

The Hon. ANTHONY D'ADAM: Are you aware that there are also further initiatives around nationally agreed professional development to support the implementation of this change?

LINDA NEWMAN: No, I haven't heard about that. That's good.

The CHAIR: When we're talking about child safety, in our other inquiry there was a lot of evidence that there are structural factors that are leading to some places being statistically more or less safe than others. It has been put to me that this bill, although well intentioned, is very much about punishing wrongdoers rather than encouraging practices and structures that we know create a safer environment to begin with. Do you see anything in this bill that actually encourages existing practices of safety? Do you have any concerns that it will actually prevent some of those who are already doing the right thing from being able to continue to focus on that instead of being bogged down in a lot of these other changes?

LINDA NEWMAN: Possibly. People are—when I say "people", the small number of people that I've been able to speak to in the field and the experiences I've had—tired, morale is low. People are nervous about changes. The idea of working under CCTV surveillance and fines and other issues like that does make people nervous. I don't think it would negatively affect their practice necessarily, but it's not helping the self-image of the early childhood educators who feel that some of these initiatives are taking away from their views of themselves as trusted professionals. The issue of trust seems to come up. I'm not saying that shouldn't happen either, but it's a fraught, complex issue.

The Hon. TANIA MIHAILUK: There are cameras everywhere now. There are cameras on us.

The Hon. SARAH MITCHELL: Professor Newman, in your submission you talked a little bit about the powers of the regulatory authority expanding. You made a comment about the qualification of people who are going to do assessments and ratings. We had some evidence earlier about inconsistencies in terms of what a particular authorised officer will see as a breach versus another one. In terms of what's in the bill, is there any sort of further comment you could make around how that could be done in a way that is consistently applied and, in your experience, is best practice when it comes to that?

LINDA NEWMAN: I'm not aware of what sort of training those people have, but I am aware that some of the people who come out have diploma-level qualifications. I recall that in our last inquiry, my colleague Marianne Fenech made the point that they should be degree-qualified educators. I have heard quite a lot of stories of people being rated down on a particular area where the authorised officer hasn't necessarily understood the work that has been happening in the centre at a higher cognitive level of research or programming and practice.

If there was a suggestion to be made—and it may not be practicable at this point in time—I would advocate for the people who are coming out and doing that job to have, at least, a degree in early childhood education.

The Hon. SARAH MITCHELL: One of the other issues that we've had raised goes to issues around fines and penalties. Everyone agrees that when it comes to child safety, you need to have as much as possible to deter poor operators. There was some evidence earlier about more minor administrative breaches, but that hasn't been distinguished in the bill—not displaying a piece of paper versus doing something very serious to a child. In your professional opinion, do you think that there should be a bit of a distinction between those when it comes to breaches and then the penalties that are linked to them?

LINDA NEWMAN: Yes, I do think so. I can give you a recent example in my own experience where, in one of those big heavy rain storms we had a couple of weeks ago, an overhead gutter over a verandah sprung a leak. That centre was part of an organisation where they had to have applied for it to be fixed by an outside person. They couldn't just ring a plumber on the spot. The authorised officer came a couple of days later and said, "We're going to issue you with a notice because the gutter is leaking onto the verandah." They had done what they could to keep people away from it—put a bucket under it and all those sorts of things. They said, "We've applied to have it fixed, and they're going to be here in a couple of days." But, nevertheless, that went forward. I wouldn't like to see somebody fined for something like that.

The Hon. TANIA MIHAILUK: Professor Newman, obviously you've made it clear that you would like the bill to be written in a little bit more plain English. You do accept that the Parliamentary Counsel is doing its best to write it in a way that they need to legally. It still needs to be guided by the way the office of the Parliamentary Counsel needs to have legislation worded. I've seen your submission. Other than what you've suggested today, are there any other suggestions that you do want to make? Are you satisfied that we should still proceed with the bill as swiftly as possible? Do you agree with that?

LINDA NEWMAN: Yes, I do agree with that. I'm very pleased to see things happening quickly. My only concern is that in our haste we might make some mistakes.

The Hon. TANIA MIHAILUK: This is an opportunity now that we could make a few amendments, if necessary. If you do have any suggestions, please email the Committee. I think that would be great. I don't have anything else to add, thank you.

The CHAIR: I've just got one final question. How does it work on the ground when you get changes? As someone else said before, the national law is a living document. There have been changes made to it before. When those changes come through, what does that mean then for somebody who is maybe not one of those very large providers? If you've got someone who's only got a couple of services, what is the procedural burden on those services? Is there, perhaps, a request for a bit of funding to help implement new reforms, or anything like that, on behalf of those smaller players?

LINDA NEWMAN: One of the big issues, I think, is time. Of course, we can't create more time. To be able to provide any sort of professional learning development for staff in a centre who are working on split shifts and crossing over each other when they come in and out of the centre over a long day—it's finding that time. If there were some financial help to be able to bring in some casual staff members to give staff time to get together and undertake professional learning, that would be a very big help. It's very difficult to find the time to get people together. I'm doing some voluntary work at the moment where I'm mentoring some directors. A number of times the meetings are cancelled because the director has to "go on the floor", as we say, because they can't get enough casual staff members to cover ratios. Time is a really big problem. Any financial assistance to be able to have a few extra bodies around to help with that would certainly be wonderful.

The CHAIR: I've heard that from a lot of educators. They have to do all the development and training in the evening.

LINDA NEWMAN: In their own time in the evening or on Saturdays.

The CHAIR: In their own time?

LINDA NEWMAN: Yes.

The CHAIR: Should there be some sort of obligation put on providers to allow time for workers, but then for those smaller players, particularly not-for-profits, to maybe have a little bit of financial support in an ideal world?

LINDA NEWMAN: Yes. Not too many other professionals have to do professional learning and professional development in the way early childhood educators do. It's not being sent off for a weekend somewhere beautiful and given lovely catering and whatnot. It's squishing into a tiny little staffroom that doesn't

have enough room for them. If they're lucky, they might get a pizza slung at them at seven o'clock or eight o'clock at night to keep them going.

The CHAIR: That's incredibly useful on-the-ground experience and evidence for us. Thank you very much for your time, and, again, apologies for the very short turnaround in asking you to prepare and come along today, but it has been very useful for us. Thank you very much. The Committee secretariat will be in touch in relation to further questions and questions taken on notice.

(The witness withdrew.)

Ms CAROL MATTHEWS, NSW/ACT Branch Secretary, Independent Education Union of Australia, sworn and examined

Ms LISA JAMES, Early Childhood Organiser, Independent Education Union of Australia, affirmed and examined

The CHAIR: We now welcome our next witnesses 15 minutes earlier than they were scheduled. Thank you very much for accommodating the Committee's adjusted timing. Would you like to commence with a short opening statement?

CAROL MATTHEWS: First of all, can I thank the Committee for accommodating me at short notice. We obviously prepared this submission quite quickly, and Lisa had a lot to do with the writing of the submission. When I reviewed the submission and the bill, I was horrified, I have to say, as to the implications of the bill for our members. I just thought it was really important that I came down in person to talk about that. First of all, our union absolutely supports improving child safety. We don't have a problem with that, and there are quite a few measures in the bill, which we point out in our submission, that we support.

But the increase in penalties for nominated supervisors to $34,000, in most cases, we think, in a situation where there is strict liability—in other words, there is no requirement to prove any type of culpability—is simply unreasonable. A nominated supervisor is the supervisor even if they're on leave, absent from the service or otherwise not at the service. To suggest that someone could be liable for a fine of $34,000, which they would pay personally, if there was something that happened at the centre which was not their fault basically—that's the position we take. I'm obviously happy to talk more about the specific offences that we're concerned about.

We're also concerned about the disciplinary proceedings process. Our members already feel very uncomfortable when the regulatory authority investigates an allegation against them. Compared to the procedures in schools, where, if there's an allegation, there tends to be a very clear procedure—where it's never pleasant, but the members are clear about their rights and can be represented—our experience with regulatory authority investigations is that people feel they don't have a lot of rights, and they are very anxious about them. To suggest that an offence could be determined by an independent arbiter appointed by the Minister and that that person could award a fine of $34,000 against one of our members seems concerning.

It's also unclear what rights the employee would have in that circumstance. There's nothing in the bill that tells you what rights they have. Do they have the right to be represented by the union, by a lawyer? Do they have the right to see the evidence underlying the allegations? We're concerned about the expansion of the range of offences, the tripling of the size of the penalties and also the procedures that apply, which could lead to a person being fined. I notice even the PIN notices, the infringements, they can still be fined 50 per cent of the amount, a lot more than a traffic fine—so, $17,000 for a matter which seems to be dealt with administratively without any process. In summary, they're our concerns.

LISA JAMES: We support the overarching principle of ensuring the best interests and safety of children are paramount in all decisions. However, to effectively represent the rights, safety and best interests of young children attending early learning, it's imperative to address staffing levels. We consider that the ratios are just not adequate for teachers and educators to perform all of the required tasks during the day. A number of the proposed changes to the legislation carry increased compliance burdens that we are concerned will fall on teachers and educator-nominated supervisors, as they are responsible for the day-to-day running of the service.

The significant increases in fines for breaches of the national law for individuals who are nominated supervisors, who are teachers or educators, creates a substantial financial risk that is disproportionate to their income and capacity to pay and is likely to further exacerbate existing workplace shortages, high levels of stress and low morale. As some providers are companies, like G8, the company is responsible for the payment of a fine. A CEO remunerated on a $3 million package per annum is not personally liable to pay a fine. Perversely, a teacher or educator being paid as little as the award rate could personally be liable for fines of $32,400 per offence, and they can add multiple offences to a fine. In addition, the introduction of a significant number of new offences and substantially higher fines is likely to disproportionately affect not-for-profit providers, which operate on tight budgets and have limited financial reserves.

The CHAIR: If we could go first to that penalties issue, I think we can all agree that on one end of the scale, in the really large providers, the buck stops with the person at the top. Absolutely, let's fine them. It seems uncontroversial. Then we have a little bit more controversy when we come to community owned providers. I'd love to know what happens in a government preschool when the approved provider is, I think, probably the secretary. Is he getting fined? I don't know. We'll ask him later. And then, as we come down to an educator who has done the wrong thing, I think most people would expect that that fine should apply. I think we can get on

board with that, although subject to some of those review provisions et cetera, which you can talk about. But I just want you to focus on the nominated supervisor role, because I think that gets misunderstood. It's my understanding that they don't necessarily get a higher wage for that role.

LISA JAMES: No, there's no allowance in the awards for a nominated supervisor.

The CHAIR: So you don't get paid more when you're a nominated supervisor. We've heard evidence in our other inquiry that sometimes it can be someone who is 19. The big provider has nominated them and, unless they say no explicitly, they just become the nominated supervisor. Many of them feel obliged, otherwise they might lose their job. Is that your understanding? Who are we talking about here?

LISA JAMES: They do need to agree, but, yes, many of them do feel obliged. They don't have to have a bachelor degree or a diploma—some of them are even certificate IIIs and then they're put in that position.

The CHAIR: So they're not necessarily the people that have the power to do things like make sure that everybody has child protection training or the other training that's being mandated under here. Do you think that that should be something that really does attract liability for a nominated supervisor, as opposed to the actual approved provider and the companies?

LISA JAMES: Yes, I think that's a problem because in some of the for-profits, we see at the smaller ones that the owner will say they're the approved provider; they're the director of the service. But then they'll choose a teacher or an educator to be the nominated supervisor. That nominated supervisor is not in charge of employing additional staff or sometimes even interviewing the staff, and yet they're being held liable for the decisions that have been made.

The CHAIR: I don't know if you were listening when I was asking the previous witness about this new offence. At the moment, under the law, the nominated supervisor can be held responsible if they haven't taken all reasonable precautions to keep children safe—I think that's the wording—which can then be interpreted as, obviously, if they're not there or if they didn't know about it, then there can be some sort of leeway for them.

LISA JAMES: Yes, or they've gone through the policy in a staff meeting and explained and let people ask questions et cetera.

The CHAIR: As opposed to this provision, which says that if an educator is found to have engaged in inappropriate conduct, the nominated supervisor is just liable. Do you see that as a problem?

LISA JAMES: Yes, definitely. The nominated supervisor might explain the policies and tell everyone they need to complete child protection training. But they're not there and physically able to stop an employee from harming a child if that employee has the intention to do so. I think I mentioned the last time I was here, we've had teachers that are nominated supervisors who have felt, because there is such a turnaround in staff, they don't have any stable, qualified staffing. They haven't been able to take annual leave—one of them for three years because, she said, "When I'm not on the premises, I'm responsible for what these casuals are doing, and I'm not confident that they understand all the processes and that an incident is not going to happen when I'm not there."

The CHAIR: So, unamended, do you think that this bill would have consequences on workforce retention and attraction within the sector?

LISA JAMES: Certainly people like our teachers and our diplomas, I imagine, would be reluctant to take on a director or a nominated supervisor role. They might be willing to remain as teachers or educators in the room, but I don't—I mean, it's not likely they're going to want to take more senior leadership roles in the service.

The CHAIR: Were you consulted at all in relation to this bill?

LISA JAMES: No.

CAROL MATTHEWS: No.

The CHAIR: Are you aware of any of the unions being consulted?

CAROL MATTHEWS: No.

LISA JAMES: No.

The CHAIR: The department—or the Minister—has an advisory group, Early Childhood Advisory Group. They provided us with the names of the people on that group in the latest budget estimates. There are no unions or worker representatives on that group. Is that something that you've asked to join?

CAROL MATTHEWS: We didn't even know it existed. I meet with the Minister probably on about a quarterly basis, and I can raise issues with her at those meetings in relation to early childhood. Also, our union

has a seat on the pre-education Ministers consultations, which occur prior to those education Ministers meetings, but I had no idea there was an early childhood advisory group.

The CHAIR: What are the real-world consequences when legislation like this isn't subject to a consultation process, where parties such as yourself or workers are able to actually talk about the impacts on the ground?

CAROL MATTHEWS: I think it's really serious. Can I give quite a concrete example? Take an example where an educator did something which was contrary to the national law, which required reporting. It might be an assault on a child, pulling, pushing—whatever. Under these amendments, and indeed under the existing law, a nominated supervisor might be reluctant to report that matter because, as you've pointed out, the mere fact of the incident occurring also creates an offence for the reporting person, as it does for the approved provider. It just seems to be an anomalous provision.

Clearly the bill is intended to improve child safety and improve reporting of matters, but if I was a nominated supervisor I would be really nervous if, under the current wording of the bill—in most cases it's the nominated supervisor that must ensure something and, therefore, if there's a breach they clearly haven't ensured it—I was going to be reporting a matter which potentially would lead to me being fined $34,000 and my employer being fined anywhere between—I didn't really look at the fines for approved providers but many of those are over $100,000. It just seems to lack a thoughtful consideration of how those large penalties would operate in practice and what the consequences would be of those strict liability provisions.

The CHAIR: Those provisions could actually lead to, for perhaps understandable reasons at an individual level, a lack of reporting by setting up incentives to not report because you're so worried about the consequences not only on yourself but also on the entity that you're working for.

CAROL MATTHEWS: Yes. I think our members, qualified teachers, are really committed to reporting and transparency, but it is a very big burden to bear that when you report a matter, in accordance with a legal requirement, you are then potentially liable for these penalties and your employer is liable for the penalties.

The CHAIR: I've been looking at this and trying to compare it to something like the WHS Act where you've got a PCBU structure and, ultimately, the obligations and penalties sit with the PCBU but everybody has responsibilities and obligations as well. I guess a definition of a PCBU is more flexible. Do you think that that sort of structure or system that applies in work health and safety is really the kind of thing we should be getting at here where you've got that ultimate responsibility sitting with the people who make the decisions. Everyone still has an obligation to report and to do what they need to do, and I guess there is a more nuanced understanding of where liability should sit.

CAROL MATTHEWS: I don't really know. When you look at the model, obviously you can compare it with the WHS model. I'm not sure exactly how it should operate, but I agree with what Ms James just said, which is that it is ironic or unconscionable, really, that someone who is not responsible in some cases for staffing decisions or hiring and firing decisions, or decisions about the conduct of training, could be liable for a breach in those areas, whereas a person conducting a business under the WHS legislation would normally have all of that authority. In the childhood education space some of those roles are split between the approved provider and the nominated supervisor, so the nominated supervisor may not have the authority to make decisions which would keep children safe and help minimise the problem.

The CHAIR: So liability and responsibility need to sit alongside authority and control.

CAROL MATTHEWS: Absolutely. Can I also raise another peripheral issue—the issue about training. We of course support mandatory child protection training, but the bill doesn't make clear how often that has to be conducted. If a service is employing a casual, for example, how do they ensure that person has child protection training? Does it mean they have to train that person on every engagement or would there be some sort of register of child protection training? I don't know how a nominated supervisor or an employer can easily check the records of someone who, as a casual employee, might say, "I've done the training at my last employer." How is that enforced?

We think that issue needs to be looked at, but we also think it should be clearer how often the training needs to be conducted. Because as I read the bill, it just says there's a requirement to be trained. Does that mean once every five years? Whereas you could simply say, "The employer will conduct regular,"—say, annual—"child protection training and should take every effort to ensure that all employees are familiar with the principles, even if they haven't done that training once a year."

The Hon. SARAH MITCHELL: I was just going to ask about the training, and you did sort of answer my question a bit then. Ms Matthews, you also talk in your submission—and it might be better put to Ms James;

I'm happy for either/or—about the impact of volunteers. I'm thinking about the community preschool sector, where obviously you've got, quite often, parent involvement in running the governance side of things. They might be in and out of services, providing support. Do you have any particular concerns about how what's in this bill could impact your average mum or dad who's volunteering at their child's local preschool?

LISA JAMES: Yes, as in they would have to do the training before they're able to actually come. We used to get parents to come in and sing with the children, participate in music or do cooking experiences with the children from their cultures from home. You do have parents from culturally and linguistically diverse backgrounds. Explaining to them they have to do this training, how much of that training they're actually understanding, how they're going to access it, and are they paying for it—I know some of our members have told me that their employers told them they want to update their child protection training every year. The full course, with some providers, is $300, and they expect the employees to pay. Are we going to expect parents to pay that because they want to come and volunteer at the preschool?

The Hon. SARAH MITCHELL: So more clarity around what that actually means. And then, again, I'm thinking more about the local board, the governance side of things, which often will have parent or community people in that role. Do you see an impact for them with what's in this legislation? It's often hard to get people to fill that as well, which is another challenge.

LISA JAMES: It is, and technically they're the approved provider so, theoretically, the management committee would be held liable for fines as well, if somebody on the premises had not completed that training because they hadn't ensured that they had. And they are volunteers with, usually, full- or part-time jobs in addition to the role.

The Hon. SARAH MITCHELL: And that's not just for the child protection training; it's everything within this bill. Where there are increased penalties, that will come back to the parent or community volunteer who is on that preschool board.

LISA JAMES: Yes, if they're the approved provider. For most of those standalone community-based services, that is the case.

The Hon. ANTHONY D'ADAM: You've spoken about the issue around the fines and the liability. You would accept that in light of the reported events—the horrible instances that have appeared in the media around the mistreatment of children—there's obviously a sense that we need to take action that is proportionate to the heightened sense of risk that clearly is evident. You accept the recommendation from Wheeler around the paramountcy of child safety, I assume? I'll start with that question.

LISA JAMES: All right, I might answer that one. Look, I do in principle; I just don't know what it means. Are we saying that in a for-profit service—or a not-for-profit service, for that matter—in deciding, for example, whether to have an additional staff member in a room, because we raised some issues in relation to ratios in our submission, that, in making that decision, the paramount consideration is the interests of the child, so, yes, you must have an additional staff member. But that clearly doesn't mean that, because obviously there must be some discretion for a provider to work out what is actually required and to not provide—I don't really like this expression—the absolute maximum level of staffing, even though that would without doubt be in the best interests of the child. There is always a consideration of cost in making those decisions. In other words, we won't employ an extra person in this room. We might employ an extra person in the other room, or we may not employ an extra person at all because, although it would be helpful, we don't think we can afford it. I support the concept in theory, but I don't actually know how it applies in relation to a particular decision.

The Hon. ANTHONY D'ADAM: Clearly operators have to make an assessment of the relevant risk that they see in terms of the arrangements that they have operating in their service. That risk assessment will obviously be fine tuned, based on the various options that are available to them, including the financial constraints that they operate under. I wanted to come to the penalties question, because the framework, from my observation, is devolving the responsibility in such a way that all people involved in the sector, from the lowest to the highest, have to have a heightened sense of awareness of the potential risk.

I want to pose to you that the increased penalties at an individual level are really a device to ensure that, in making a calculation about when a person is placed under pressure to overlook a risk, they choose to actually say no, which is obviously the power that's left with any kind of participant in the system. They can look at a situation and say, "This presents a risk to children, and so I'm not prepared to do this because I have now a heightened level of liability. I've got a tangible reason to say no." That's a mechanism to empower that individual to say no to those who are potentially asking them to take unreasonable risks that put children's safety at risk. What do you say to that? Do you accept that that's part of the logic of the framework that is being put in place by this bill?

CAROL MATTHEWS: I would probably say that I don't really see it like that, if I can be blunt about it. It looks like the solution to child safety is fining people and to look like we're serious about child safety, we have to increase the fines. The fines are already $11,000, so why? These are people on low income. Sometimes they end up getting legal representation. For a person who is facing an offence under the current Act, the personal impact on them can be horrific. That's with an $11,000 fine. I'm not sure that the fines need to go to $34,000 to make people concentrate.

The Hon. ANTHONY D'ADAM: But do you accept that, in the choice that's being made between protecting children and the imposition on individual workers, the policy intent is really to fall on the side of greater vigilance for child safety rather than prioritising the potential difficulties that may be presented to an individual worker? Do you accept that that's the policy logic of this bill? It's saying that we're putting the interests of children first; the worker's interest, in terms of the financial impact of a fine, is a secondary consideration when you're giving paramountcy to the interests of child safety.

CAROL MATTHEWS: I would agree that it could be described in that way. But I think the issue is the example I gave earlier about how, in some areas, what happens under the bill is that it builds in a disincentive for reporting because of the way the strict liability offences are defined.

The Hon. ANTHONY D'ADAM: But aren't the fines higher for non-reporting? Isn't the penalty—that the risk is actually greater if you don't report, that you're exposed to even greater hazard from not reporting, as opposed to the risk that's presented by reporting?

CAROL MATTHEWS: I'm just trying to think where the risk of—I don't know, I'd have to have a look at the Act. I'm not sure whether reporting is dealt with under this Act. I think it might be dealt with under other legislation. I'd be very surprised if the fines are anything like this. For example, in a school, I have never heard of a person being fined for a failure to report. They may face disciplinary action. They wouldn't be fined, and they also wouldn't face a fine in the sort of circumstances—for example, children not adequately supervised. That has not been an approach in other sectors. I understand that it's a response to heightened community concern about child safety, which is absolutely justified. I understand that.

But I would say there needs to be much more consideration about how these operate in practice. What are the practical implications of the changes? It might be that the intention is that those fines would, in fact, not be imposed on people where an offence has occurred, because it's seen that the person is not liable, or it would be unfair to impose a penalty. But it seems to me that to construct legislation which gives an independent arbiter or the regulatory authority the discretion as to whether they would go after an employee in those circumstances is fundamentally unfair. Does the New South Wales Parliament seriously think that each of these offences justifies a penalty of $34,000? If the answer is no, it shouldn't be in the legislation. That would be my view, notwithstanding the fact that we support child safety.

The Hon. TANIA MIHAILUK: I think you made a point about the Working with Children Check notification in 24 hours—section 174AA. What was your concern with that? I'm assuming you're also concerned with 174AB, because the suggestion you make is that OCG should notify the regulator, as opposed to the approved provider.

CAROL MATTHEWS: Firstly, why wouldn't the OCG do it? Because it would—

The Hon. TANIA MIHAILUK: Yes, they might be cognisant of what they've issued to a particular staff member, but they may have—I'm just wondering if the staff member who's been issued this negative notice that notifies they're required to notify their provider, wouldn't it be then appropriate that the provider be cognisant of their duty as well?

CAROL MATTHEWS: I think the issue is the time frame. Let's take an example where a person may have moved house, or the contact details for the employee that the regulatory authority holds, or the OCG holds, may not be correct. The 24 hours doesn't seem to give a lot of room for error if there is a problem in that regard.

The Hon. TANIA MIHAILUK: It's the educator themselves or a staff member that has the main duty, right?

CAROL MATTHEWS: Yes.

The Hon. TANIA MIHAILUK: They've got to inform their provider. Is that the concern you have, rather than the provider having to inform?

CAROL MATTHEWS: It's really the time frame. The bill says you must—

The Hon. TANIA MIHAILUK: Aren't they notifying via email with these sorts of decisions, in the event?

CAROL MATTHEWS: It depends whether there's a current email. I mean, let's take an example where someone's been suspended. They may no longer have access to their work email. Now, the regulatory authority may have their work email, so that person never receives a notice. It's quite common—I would say very common—in circumstances where people are suspended from work that they no longer have access to work emails. If the email on file is that email, then they wouldn't receive—

The Hon. TANIA MIHAILUK: You're presuming that Working with Children Check has just that email and not any other emails. Is that the concern?

CAROL MATTHEWS: The Office of the Children's Guardian?

The Hon. TANIA MIHAILUK: Yes.

CAROL MATTHEWS: Yes, that is the concern. I don't know whether they maintain a register of people's emails. I mean, obviously if the—

The Hon. TANIA MIHAILUK: All right. It may be something that we can put to the Minister, but I would have assumed that the individual educator has already obtained a Working with Children Check prior to actually being employed with that particular provider, and the email that they provide to the OCG is probably independent of the email that they may have at that particular site. Wouldn't you assume that?

CAROL MATTHEWS: I don't know whether the OCG maintains email addresses for people. The Working with Children Check, as you would be aware—

The Hon. TANIA MIHAILUK: They would. As you initially apply for it, they would keep that email.

CAROL MATTHEWS: I don't know whether they would do that. You apply at the motor registry, so I don't know whether when you get a—I don't have one.

LISA JAMES: I have one. They last for five years. Theoretically, your contact details could change in that time. I am part of the NESA early childhood teacher accreditation group. They're often telling us to remind teachers to update their details because they've got incorrect employment details, incorrect phone numbers et cetera.

The Hon. TANIA MIHAILUK: It's something we can clarify with the Government, thanks.

The CHAIR: Unfortunately, that brings us to time. Thank you so much. I appreciate it was a short turnaround for you to review the bill and to give us the benefit of your thoughts. I'm really grateful for that and for everything that you do representing workers in our State.

(The witnesses withdrew.)

Ms MEL McCABE, Acting Chief Operating Officer, New South Wales Department of Education, affirmed and examined

Mr MURAT DIZDAR, Secretary, New South Wales Department of Education, affirmed and examined

Mr KRISTIAN HOLZ, Acting Executive Director, Regulatory Reform, New South Wales Department of Education, sworn and examined

Ms ZOË ROBINSON, Advocate for Children and Young People, affirmed and examined

Mr CHRIS WHEELER, Consultant, Chris Wheeler Consulting, affirmed and examined

The CHAIR: Thank you all for your attendance and for accommodating the earlier start time. Would any of you like to commence with a short opening statement?

MURAT DIZDAR: Can I begin by acknowledging that we're on the beautiful homelands of the Gadigal people, and I want to pay my respects to their Elders, past and present. Thank you to the Committee for the opportunity to engage on this important bill. The reforms in this bill respond to the findings of the independent review commissioned by the Deputy Premier and conducted by Chris Wheeler, who sits alongside us today. Mr Wheeler's final report concluded that the New South Wales regulatory authority's performance was constrained by the national law. The New South Wales Government's position is that the national law as it stands today protects wrongdoing from transparency. Penalties are insufficient, as are the tools available to the regulator to prevent harm and safeguard children.

In response, the proposed legislation before the Parliament and this Committee reflects the New South Wales Government's commitment to act decisively to ensure that the safety, protection and wellbeing of children are at the centre of every decision that all make. The bill is responsive to removing constraints and allows the regulator to proactively address operators that either are not up to scratch or are not fully committed to the provision of quality early childhood education and care. We have listened closely to the evidence through this Committee and the issues raised in Parliament. I'd like to briefly address a few of these key issues up-front to efficiently assist the Committee.

The first one I'd like to address is timeliness. There have been concerns expressed that the bill has been rushed. Certainly, there has been urgency. Media reports and the work of the Committee have shone a light on failures that must be addressed. Every parent, every community member, every early childhood educator and every stakeholder would agree that a solution was needed yesterday. We owe it to every child attending a service today and into the future to get this right now, with no further delays. There has been a lot of related work across the nation in this space.

As you might be aware, New South Wales contributed to the National Child Safety Review. At an officer level, we've provided the New South Wales perspective relating to a number of findings from Operation Tenterfield. We also provided input into the decision regulation impact statement consultation process, alongside other States and Territories. Though for all of this, and despite best intentions, we were disappointed to see that positions we believe needed to be implemented ended up being watered down. We accept that other jurisdictions may have a different view; they operate in different circumstances. We also accept that various parts of the sector may have a different view. They may well have different overriding motivations. But these concerns and these frustrations with the impediments in the national law have been mounting and have been prosecuted by New South Wales for some time.

The second issue I want to address is thoroughness and its importance. Mr Wheeler brings some 25 years of experience critically reviewing the efficiency and effectiveness of public service agencies, including regulators. His findings are comprehensive, and we are grateful for his ongoing involvement in shaping these reforms to deliver a more effective regulatory framework in New South Wales. A number of changes that are featured in this bill were discussed between jurisdictions, have been agreed to by education Ministers and respond to the National Child Safety Review.

However, we note that it is inevitable that negotiation of varying views does slow down the reform process. While we willingly participate, in the New South Wales context this has proved an unacceptable delay. Importantly, while we believe immediate action is needed in the interests of our littlest learners, it does not preclude further action. We take the work of this Committee seriously. We have not closed the door on further reform, either as recommended as a result of your deliberations or because of further reform work within the regulator, the ongoing and evolving views of Mr Wheeler or the views of the prospective commissioner for the regulator.

The third issue is paramountcy. I want to talk to its criticality as reflected in the bill. I reject any assertion that paramountcy is not too different to the current requirements of the national law. The bill makes the rights and best interests of children the paramount consideration whenever decisions are made or functions are exercised under the law. We know that in early learning in New South Wales, irrespective of your philosophical views on it, more than 60 per cent of services are for-profit. That's just a fact. So in 60 per cent of cases, there is a risk that the responsibilities of those running services could be reasonably interpreted as having to prioritise profit over safety.

This needs to be addressed urgently. What this bill will require is that every regulatory decision, approval, sanction or enforcement action must be tested against this paramountcy standard. It displaces competing duties, including competing corporate obligations. Providers cannot excuse unsafe practices on the grounds of profitability or commercial priorities. This principle is not standalone: It informs the whole scheme. It underpins the tougher guidelines, the new enforcement tools, the transparency measures and the regulator's enhanced powers.

The second last issue I want to address is transparency. There has also been conversation around the proposed transparency measures suggesting that they do not go far enough and that the regulator's internal risk ratings should be made public. I am absolutely all for transparency. Parents need to be able to easily know and understand what is going on in the services their children attend. I'd also say that for too long, constraints around issues such as publication transparency have prevented the regulator's actions being seen as different to others. That is not acceptable.

The last issue is our internal risk ratings. We have currently considered, Chair, your views and the Committee's around some of the public-facing assessment that helpfully brings together for parents what is known about a service or the compliance history and other matters that the bill proposes to make public. I think that the bill is rightfully cautious about the New South Wales regulator's internal ratings. We have heard that caution reinforced by Mr Wheeler at the hearing earlier this week. These ratings are operational tools to inform regulatory responses. They are about risk and how best to manage and act on it. As it stands, publishing them could be unfair to services and also misleading to families. It could also risk gaming of the system: services scurrying to paper over cracks when they know that the regulator is likely to visit, rather than focusing on genuine improvement.

There is also the real worry of services becoming overly complacent if they know they are considered low risk. Publishing that information has the potential to make children less safe, and all of us are determined to avoid that. Can I end by saying the objectives of this bill are clear: It's about safer children, stronger standards and faster, fairer and firmer regulation. A national framework allows for adaptation at a jurisdictional level. New South Wales needs to change its regulatory framework. This change is required now. Thank you again for the opportunity to attend. We look forward to your questions.

The CHAIR: Can I check if either of the non-department people would like to make an opening statement as well?

ZOË ROBINSON: I just wanted to put on record for clarity that I am here as the Advocate for Children and Young People, not as the lead of the Office for Youth.

The Hon. TANIA MIHAILUK: Sorry, not the—

ZOË ROBINSON: Not the lead of the Office for Youth. You might have missed that launch.

The CHAIR: Mr Wheeler, did you have anything additional that you wanted to say at this point?

CHRIS WHEELER: No, thank you.

The Hon. SARAH MITCHELL: Thank you all for being here. It's good to see you. Mr Holz, it's nice to see you at the table. You've done many hearings in the second row, so it's good for you to be here. No doubt you would have seen this morning some of the concern from key stakeholders about not being properly consulted on the bill before it was introduced. I appreciate some did take that on notice, but it appears there was limited consultation prior to the introduction of the bill into Parliament. Either Mr Dizdar or Mr Holz—I'm happy for whoever is best placed—could you speak through, from the Government's perspective, what you believe that consultation process looked like?

MURAT DIZDAR: I might get Mr Holz to give you some more detail here. We are part of an early childhood education advisory group at a national level. I can tell you who is on that group.

The Hon. SARAH MITCHELL: I'm more specifically interested in those who meet regularly with the Minister and yourself—the ECAG group in New South Wales—some of whom gave evidence this morning. Were they briefed about what was in the bill prior to it being introduced to Parliament? I guess that's my question.

MURAT DIZDAR: Mr Wheeler's work had a number of people that he spoke with and covered, as well as—

The Hon. SARAH MITCHELL: On this bill, though—that's what I'm interested in.

MURAT DIZDAR: As well as the ECAG group at a national level. A lot of these things go to things that are being agreed at a national level. Those bodies are represented at that ECAG group.

The Hon. SARAH MITCHELL: Mr Holz, in terms of this bill and New South Wales' main stakeholders—some who appeared before us this morning—when were they consulted on what was in the bill?

KRISTIAN HOLZ: There are probably two parts to that in the way of a response. The bill comprises a number of things, both in terms of responding to the work of Mr Wheeler, which had its own domain of consultation, and responding to the National Child Safety Review, which also involved consultation. In relation to the actual bill itself, there was no public consultation process specifically. I think in terms of the issues relating to ECAG and engagement with them, ECAG was issued an invitation for a briefing on the bill on 10 September. I think it was mentioned this morning.

It's my understanding there were some technical issues with the invitation and there were limited members that were able to attend. As a result of that, a further invitation was extended on 12 September. I attended that briefing and I briefed ECAG members on the twelfth and ran them through the bill. We had a general discussion about some queries that members had, and also we committed to engaging further with ECAG members around their queries, which they were invited to submit, as well as generally undertook to work with ECAG members more broadly in terms of implementation issues going forward.

The Hon. SARAH MITCHELL: But that consultation happened after the bill was introduced into Parliament?

KRISTIAN HOLZ: That's correct.

The Hon. SARAH MITCHELL: From your perspective, Ms Robinson, was there any attempt to consult with children or young people on this particular bill?

ZOË ROBINSON: Not that I'm aware of.

The Hon. SARAH MITCHELL: I wanted to go to some of the specifics in the bill. The issue around the ministerial and regulator directions and being able to sort of come in and provide more scope and authority of that, again there are some concerns about what that would look like and how that would be applied. Probably to you, Mr Holz, if you're best placed, what has been the catalyst for that and will that ministerial power or direction, or indeed from the regulator, be across the sector, individual services or a combination of both? Will there be any opportunity for that to be questioned? Is it through a regulatory response that if there are concerns about any of those powers or directions, the Parliament will have any oversight over that as well?

MURAT DIZDAR: I might get Mr Holz to add to this, but we covered a little bit of this at estimates as well. With the overriding paramountcy of child safety, we face probably unacceptable situations currently where in natural disasters—bushfires and floods—we put out an edict that all schools are to close in a particular geography but we can't do that for early childhood services, for example. That power doesn't exist. That would be an example where you might use that regulatory authority power or the Minister of the day might use that power. We indicated that it would be very judiciously and carefully utilised. It could be a whole-of-sector requirement and it could be like in the example I gave across a particular geography facing a particular situation. Mr Holz might add to it.

The CHAIR: Can I just clarify, are you talking about the emergency power when there are floods and things or are you talking about the other power?

The Hon. SARAH MITCHELL: I'm talking about more sort of this stuff about child protection training and other things in there that the Minister can then have that directive that is unchallenged. I think the Government has said that publicly. Notwithstanding the emergency services issue, when will that be used by the Minister for other purposes around child safety? What's the sort of check and balance around that?

KRISTIAN HOLZ: Yes, sure. Mrs Mitchell, you're talking about the kinds of circumstances that were flagged in which the directions power might be used?

The Hon. SARAH MITCHELL: Yes.

KRISTIAN HOLZ: There are two directions powers that are proposed in the bill: one for the responsible Minister and one also for the regulator. They are meant to be complementary, and I can kind of explain the two different elements to them. But they arose partly in thinking about things like responding to emergency sorts of

scenarios through to things that were being discussed within the national forum, things that were concerning around, for instance, if an unforeseen circumstance might've occurred, how might the regulator be able to promote child protection and safety. There were also some issues that were looked at that were responsive to Mr Wheeler's review. He talked about, for instance, the possibility of utilising conditions to effectively put some sort of responses in place. But they have some limitations. It was out of those sorts of analyses that those direction powers arose.

In relation to the ministerial power, there are two critical requirements that need to be satisfied. Firstly, the Minister can only use the direction power for the safety and wellbeing and in relation to risks concerning children. They must, before they exercise that power—the control, if you like, on the power—form a view on reasonable grounds that the direction is necessary to prevent an unacceptable risk to the safety of a child or children and also, in the case of the Minister, they can only exercise that direction power when they have consulted, received and considered any advice given by the regulatory authority.

The Hon. SARAH MITCHELL: Will those ministerial directives be published immediately? Will there be transparency around what has been determined by the Minister of the day?

KRISTIAN HOLZ: It will depend on the nature of the direction. For instance, if it was a broad, sector-wide direction, we would envisage broad publication requirements, and that's contemplated as well. It depends on the context.

The Hon. SARAH MITCHELL: But if, say, there was a particular service or provider that the Minister or the regulator had concerns about—my understanding of the bill is that it can go down to that granular level—and they said, "Our direction to you is that you need to do X, Y or Z"—it might be CCTV, it might be additional training—will the public and the community be able to know that the Minister has made a direction of that nature? How soon will that information be publicly available?

KRISTIAN HOLZ: It's not a specific requirement in the bill at that level or scale for it to be published. However, there would be other capacities in the bill for that to be determined. There might be, for instance, a public interest concern, so the Minister may, on their own motion, decide to avail the broader public of the exercise of those functions.

The Hon. SARAH MITCHELL: But they also may not. It's not a requirement.

KRISTIAN HOLZ: Well, because also, for the reasons that you mentioned, it might be used—and this would be an exceptional circumstance but, for instance—in a matter of a child protection or a compliance type concern there might be other countervailing reasons why it would be appropriate for those direction powers not to be made public. It would depend on the circumstances.

MURAT DIZDAR: Can I just add, in the main, the intent would be to have that information published. We're looking for more transparency. If it related to a specific service, it's going to those parents making decisions around that service. In the main, you'd find that the intent would be to publish.

The Hon. SARAH MITCHELL: I want to also go to the issue of more transparency around breaches, issues with services that might be being investigated for certain things. What is going to be the threshold or benchmark? There was some discussion again by the Government that things would be more readily on display for parents to be able to see breaches. The bill does not say specifically what that benchmark or threshold will be for what's reported and what's not. Can you provide any clarity around that?

KRISTIAN HOLZ: Yes. We've also discussed that in terms of the briefing, and it's a really good question. The short answer is that the regulatory authority will provide guidance around the form in terms of how that information will be made available. Bear in mind there are also other publication powers that the authority has insofar as the more publication that it will make on its website. But the short answer is we'll need to go through a process to work out exactly how to make sure we provide the right level of information, bearing in mind, as I say, the discussion we had, that there might be a lot of breaches.

We don't want to give families 10 pages or extensive detail. We want to give them meaningful information in terms of their compliance, performance and history and their commitment record, so that prospective parents or parents and guardians of children at a service can make informed decisions. But we'll go through a process. That's the kind of engagement that we'll have through, for instance, ECAG, to try to make sure that we get that balance right. What this bill does is provide the power to ensure that that level of information, once we resolve that, will be made available to parents, guardians and families in relation to those services.

The Hon. SARAH MITCHELL: I want to ask about the set-up of the regulatory authority fund. I note, Mr Wheeler, in recommendation 12 of your report you talk about funding of the RA to be indexed proportionate to the number of services. This question is to the department probably more so than you, Mr Wheeler. Did you

have any input on the idea of the fund or was the nexus of your recommendation more just that there should be adequate funding for the regulatory authority?

CHRIS WHEELER: My primary objective was there had to be adequate funding and that it needed to be relevant to the obligations being placed on the regulatory authority.

The Hon. SARAH MITCHELL: With the idea of the fund, which is new—again, the rationale from the department or the Government around the establishment of that—has any consideration been given to potentially, rather than using that money to fund the regulator, to fund it to better support uplift in the sector, which is something that some of the stakeholders have been speaking about?

MURAT DIZDAR: There are a couple of things—and Ms McCabe might add to this. We're working to help the Government set up the independent regulator by the end of the year. It's our intent to transfer all the positions and budget across for that. The Government has, subsequently to our last estimates hearing, announced an additional $55 million into the regulator, and that will go to some of the work Mr Wheeler undertook as well. In terms of the fund, having this sort of special deposit account fund without any sort of fines quota is not to circumvent any of the funding that already exists or the $55 million in additionality. But the regulator may be able to tap into what that looks like, with or without fines, so that it doesn't just go into general consolidated revenue and into what other priorities may look like. That's its intent. We're here at 2025. We've seen all of the evolving space. We want to lead the country in this space but to make sure it's well funded into longevity, and that special fund can also help the regulator, in that sense. That's its intent.

The Hon. SARAH MITCHELL: But the only money going into that fund will be from penalty notices, fines or infringements. Is that correct?

MURAT DIZDAR: It has its current budget, which will go from the department to that independent regulator.

The Hon. SARAH MITCHELL: Yes, but that's not the fund.

MURAT DIZDAR: No. Then it has the additional $55 million the Government has announced. At estimates, I indicated recently that the current budget of the regulator is about $50 million, with a workforce of about 450, 500—we can give you the exact numbers—that'll go directly across, and then there's this recent announcement by the Government of an additional $55 million. Then any of these fines—rather than go straight into consolidated revenue, the fund could help the regulator's work into the future.

The Hon. TANIA MIHAILUK: If I could begin probably with Mr Wheeler on a couple of issues. I raised with the previous panellist that, within their submission, they raised concerns about the WWCC requirement that an individual that receives a negative notice from the OCG under sections 174AA and 174AB is then required to, obviously, notify their approved provider. I think the issue that this particular union had was that the email that they might be notified by the OCG that they have received a negative notice—i.e., a disqualification or a suspension from their working check—would then be sent to an email that was no longer in service or in use.

I did put to them that WWCC is something they should already have prior to probably becoming an educator, and it is connected to their Service NSW account, and, as such, it would probably be more likely a private email that the individual has put forward. The other issue that they raised at that point was that the 24-hour notice wasn't sufficient. Can I just ask how you came to that view? I tend to think 24 hours is a good, round figure, but I'm just wondering how you came to that conclusion that it should be within 24 hours of notification. Or was that something the department did?

CHRIS WHEELER: I think that was something the department did. I didn't specify a time.

The Hon. TANIA MIHAILUK: Mr Dizdar might be able to respond to that, then.

MURAT DIZDAR: As we try to work through the entire reform package of enhancing child safety, we want these reports to come in quicker so they can be acted upon. If you put the average test out there, I think most New South Wales citizens would think that's an appropriate time period. I can comment for 100 public preschools I'm responsible for, which have our teachers and principals who are mandatory reporters. That has to be on the day of the incident. We tried to strike a balance from where we're at and where we need to be. When you're looking at enhancing child safety and putting that as paramountcy, we're of the view, and it was our recommendation, that 24 hours is a reasonable time to report an incident so that it can be looked into.

The Hon. TANIA MIHAILUK: I think we're in furious agreement. I just wanted to clarify that. It was one of the concerns. I also want to ask about concerns raised about the penalties. I'm sure you would have heard some of the previous panellists here this morning. I want to understand why you've chosen to penalise in certain

instances both the nominated supervisor and the operator themselves. Is there a reason? What led to that conclusion that it should be both?

MURAT DIZDAR: I might get Mr Wheeler to add to it and Mr Holz may be able to as well. The first thing I want to make clear is that the nation has agreed to triple the penalties. The penalties are insufficient. Something that I've also picked up and learned and been briefed on, Ms Mihailuk, that might be of interest to the Committee, is that this will bring these fines into line with, for example, the aged care and disability sectors where we've been way below what would happen in those sectors. We're not shying away from the fact that these penalties act as a deterrent across the sector, including for the services that I'm responsible for in public education. They're on not only an increase but also a graduated system. We're looking to also apply them to a lot more areas than the national law allows for.

It goes back to my earlier commentary around there's no one single thing that we're trying to pull off here. It's the package of reform to enhance child safety. If you accept the bill's intent, the nation's intent around child paramountcy, which I need no convincing of as an educator, then we respect Mr Wheeler's review. We respect the nation's work, then you look at all the pieces as a jigsaw that can help. Is it acceptable for a New South Wales citizen, as it stands, that the fines are less than a parking fine in some instances? You get more for a parking fine at the moment. These are not my words. It's the words of Mr Wheeler's report and the work of the National Child Safety Review, Tenterfield, that it needs overhaul. That's the intent here.

The Hon. TANIA MIHAILUK: Mr Dizdar, I agree with your response, but just to clarify regarding the nominated supervisor, that was a very real concern that was raised previously. I just want to check if there's any response to that—why both the operator and the nominated supervisor?

MURAT DIZDAR: I might get Mr Holz to speak first.

The Hon. TANIA MIHAILUK: If there is any research to back that up.

KRISTIAN HOLZ: I think a lot of that discussion came in relation to the new offence around inappropriate conduct. That particular offence was one of the recommendations arising from the National Child Safety Review. The fines that were being talked about were in terms of the maximum, so that's if you prosecute. There are also other kinds of fines in the system, so I'll just clarify that. But, specifically, in terms of inappropriate conduct, the discussion at national level was—and this is the offence that relates to grooming behaviours—that everybody in the system, every relevant person in the system, has a responsibility to play in terms of child protection. That's why in relation to those things there are functional responsibilities for each person in the system that's expected to play their part to try to ensure we maximise child safety.

The CHAIR: Just following up on that, I think the drafting is very different to other places in relation to nominated supervisors, so when it comes to ensuring against harm to children, a nominated supervisor's role is to take all reasonable precautions, or something along those lines. Here they just are liable, and they might not have even been there.

KRISTIAN HOLZ: I think the phrasing that's used in each of the offences for the persons is that they must ensure. It's a deliberative of proactive obligation for all of those.

The CHAIR: It not, though. It's not the same as the existing provision.

KRISTIAN HOLZ: No, and that formulation was reflecting the strength of the policy positioning that came out of the National Child Safety Review.

The CHAIR: Do you think that somebody who is a nominated supervisor, who might be on holiday or whatever—$34,000 for someone who earns $60,000 or $70,000, if they're lucky, is an appropriate fine for someone who wasn't even there?

KRISTIAN HOLZ: I don't like to talk in hypotheticals, but I would just say that that is in the context of a prosecution, and that would be in the circumstances of quite aggravated behaviour, I would expect.

The CHAIR: Is that a PIN-able offence?

KRISTIAN HOLZ: That particular offence, I don't believe it is.

The CHAIR: Okay. So that one would have to go to court.

KRISTIAN HOLZ: That's my understanding. I'll check that for you.

MURAT DIZDAR: Can I just also add that if a nominated supervisor is not there, or on holidays, there would have to be a nominated supervisor at the site.

The CHAIR: That's not actually true, but you can come back to me on notice if you want to give me evidence for that. That's not the evidence we've received from others.

MURAT DIZDAR: If a nominated supervisor is on their holiday break, it can't be that no-one's in charge of the service. Just like if—

The CHAIR: Apologies, Mr Dizdar. I don't want to waste my time arguing the point with you. We've had the evidence. If you've got a contrary view, please provide it on notice.

MURAT DIZDAR: Sure, I'm happy to come back.

The CHAIR: If I could come to you, Mr Wheeler, one of the really welcome bits of your review was in relation to the establishment of an independent regulator. It really fit in with some of the other reviews in that idea of having this sort of standalone regulator. I'm quite concerned that there are provisions in here that seem to actively make the regulator more within the control of government, particularly when it comes to these ministerial directions. Do you think that sort of all-encompassing power—where the Minister can tell the regulator what the policy should be, they can give them far more than just a statement of expectations and actually override some of their decisions, in effect, by issuing their own direction—is a step towards an independent regulator?

CHRIS WHEELER: There are a number of independent regulators that have very similar provisions. Regulators are supposed to be independent.

The CHAIR: Can you tell me an example?

CHRIS WHEELER: NRAR, the Natural Resources Access Regulator for water, has a provision. The Greyhound Racing Act has a provision. The Minister can issue a direction, but it also contains limitations. The Minister can't make decisions. You might be able to specify, maybe, a policy issue, but the discretion remains with the regulator.

The CHAIR: In this case, though, the provision specifically says that the Minister can't override a decision of the regulatory authority.

CHRIS WHEELER: Yes.

The CHAIR: However, it says, notwithstanding that, the Minister can still issue directions to individuals. What would happen if there was an inconsistent direction from the Minister and the regulator?

CHRIS WHEELER: That is something that is a theoretical possibility. I think if the regulator issued a direction and the Minister issued a different one, the regulator, I think, would be almost obliged to remove theirs. It's a bit like delegations. If you delegate a power, you can't direct how it will be exercised, but you can also exercise that power. So you've got a delegate that can exercise the power, and the position that delegated the power can also exercise it at the same time. It's not a unique situation that you might have two people with the power who make different decisions.

The CHAIR: Unfortunately, I don't have very much time, so I'm going to go a bit quickly, sorry. I don't know if you're aware of the OECD best practice guidelines for independent regulators.

CHRIS WHEELER: I have read them, yes indeed.

The CHAIR: They have a lot to say about this kind of encroachment, I guess, on a so-called independent regulator's authority, but also there's a provision in there which cautions very clearly against the establishment of an independent fund or a separate fund in which, basically, it's cost recovery through fines. With the best intentions, setting up any kind of a fund where fines go in and that can then be used to put on more inspectors or whatever it is can have these unintended consequences. Did you take that into consideration?

CHRIS WHEELER: Number one, while I agree with the idea of the fund, that wasn't something that I recommended. I'll just make that point. Number two, the idea that money from funds goes back to the organisation that levied the fine—that's all local councils. They get their money back. It doesn't go to consolidated revenue. There is another organisation—I can't remember which one it is now—which also gets the money back. This fund is going to be where the Parliament will be deciding what the budget is.

The CHAIR: I put it to you that a local council is a level of government more similar to the State Government, so that's fine. If the State Government as a whole fines, and that money goes back into general revenue, that's the equivalent of the councils. But what I'm asking you here is whether this fund and this ministerial direction power, together, when you look at something like the OECD guidelines, is actually making the regulator less independent under this bill than it would be otherwise.

CHRIS WHEELER: I can't see how the fund would do that.

The CHAIR: The ministerial directions and making policies.

CHRIS WHEELER: The ministerial direction is effectively about policies. You can't direct that there is a blanket implementation of a policy. It has to be a discretionary decision which cannot be dictated. For example, a delegation will say you have to act in accordance with the law and any policies of the organisation. Otherwise the decision is the delegate's. But the decision can also be made by the person who delegated that power. You'd have a similar situation here. The Minister delegates. In other situations where a Minister delegates a power, it doesn't prevent the Minister exercising that power.

The CHAIR: I think we have a different idea of independence.

The Hon. ANTHONY D'ADAM: I want to first go to Mr Holz. Could you perhaps elaborate on the distinction between penalty notices and prosecutions?

KRISTIAN HOLZ: Yes. Just before I do, I might just clarify for the Chair that the offence in relation to inappropriate conduct we were discussing is not a PIN-able offence under the proposals. A new feature in the bill is what we call a graduated compliance and enforcement regime. The way in which the bill is constructed and the way in which the national law is constructed is that it sets a maximum penalty amount for the offence. That, in all instances, has been and continues to be, under these changes, the maximum offence that a court could award in the context of a prosecution. That's the construct that the bill uses.

Where PINs are available—and there were limited circumstances which have been expanded by the proposal here—PINs can be issued at 10 per cent of the maximum penalty amount under the national law. That's an existing construct and that flows through, but obviously at the three times increase across the board. Just to complete that out—because I think this came up before in relation to the disciplinary provisions which are new in this—again, it's part of that graduated sensibility that we're importing into the bill. Where a fine is able to be issued on a PIN basis, on a civil standard at a disciplinary level, the disciplinary fine that could be issued in that context is 50 per cent of that PIN amount. I know you've got to follow it through, but smaller amounts at that disciplinary level are 50 per cent of the amount that would be for the penalty notice infringement.

The Hon. ANTHONY D'ADAM: Ms Matthews raised concern about this perverse incentive issue around a potential incentive for people not to report because they then expose themselves to potential prosecution. Can you perhaps talk to that element in the bill?

KRISTIAN HOLZ: I'm happy to. One of the critical requirements that we've seen through the national discussion and the National Child Safety Review, and certainly something that is encouraged in terms of its importance, is proactive notification. It's something Mr Wheeler might be able to talk to, but it sits behind the strength of the recommendations that he made, for instance, in relation to whistleblowing. It's the importance of having that information made available such that, whether you're managing a service or whether you're the regulator, proactive information assists in dealing with something immediately, which is, in essence, aligned with that concept that children come first—the paramount consideration. That's probably the policy essence. I don't know if Mr Wheeler would like to expound further on that, because it's a broader concept that underpins, I think, many of his recommendations.

CHRIS WHEELER: I think there's already a situation in the legislation where if you report something, you might be held accountable for it, but then you'd have to consider the circumstances of the individual case as to whether any action would be taken at all. If somebody reports something very quickly and they've taken appropriate action to try and address that problem, that has an impact on a regulator's view about what steps they need to take. Now, if it was absolute negligence on the part of the individual, chances are they're not going to report it in the first place. I mean, let's be realistic about it—somebody else will report that, and a lot of what I was thinking about in writing the report was how you can try to ensure that other people will report conduct which is inappropriate.

It meant that you need to have protections for all the potential people who might be aware of a problem. It can't just be the current situation, which is that it is current employees. It needs to be current employees, former employees, parents and any person, which is what the current provisions of the bill cover. Any person can make a disclosure of serious conduct to the regulator. You could also make it to the management, but I would think if somebody was concerned about their position, they would probably go to the regulator first.

The Hon. ANTHONY D'ADAM: We had some earlier evidence around concerns about the possible circumstances of ambiguity on inappropriate conduct. Mr Holz, perhaps you're the best person to respond to that evidence?

KRISTIAN HOLZ: Yes. Thanks, Mr D'Adam. I guess what I can say is that context here is important in terms of where the idea and the policy behind this offence came from. I think I mentioned before that it came from

the National Child Safety Review, which was reflecting on the lessons learned in light of Operation Tenterfield and the gravest crimes that occurred in Queensland, New South Wales, and I think also in Italy in relation to that particular individual. I think there was a reflection, generally speaking, that there was a gap. We have an offence that relates to inappropriate discipline, and I think that's generally well understood within the context of the sector, and also within regulators. But there were these more contextual matters that were alarming, and that's what caused policymakers to have this conversation—ultimately reflected in the offence that's now known as "inappropriate conduct" in the bill. It deals with, in simple terms, what might be described as grooming behaviours.

It is a difficult offence to define, and that's because it is contextual. It relates to age of the child, it relates to context, and also the conduct, so it's really important that it's assessed in the context of the circumstance. But what I would probably like to clarify is some examples that were discussed nationally: things like sexualised comments and jokes; overfamiliar physical contact; secrecy with a child such as "don't tell" type requests; one-to-one unsupervised time without justification; gifts, favours and favouritism that create dependency; and retaliation or intimidation when concerns are raised. These things do need to be examined in context. It's also one of the reasons why another part of what is going to occur nationally—and this is being developed as we speak—will be training in this regard to ensure that everybody in the system has a better capacity to be able to identify those kinds of things. They'll certainly be encouraged to report them, but they'll also be much better aware and able to respond to those things. But it is a gap in the current regulatory regime.

MURAT DIZDAR: I just want to add, Mr D'Adam, the regulator will be responsible for giving plain English communication to the sector—fact sheets and FAQs—around what Mr Holz described, explaining this new offence and how it's applied. We're not going to publish a loophole-creating checklist, but he gave fantastic examples: sexualised comments, secrecy with a child, one-to-one unsupervised time, gives favours/favouritism, retaliation or intimidation. Those things are examples that will provide the sector of where this would come into play, but it's not an exhaustive capture-all list. I know you'll appreciate that if the offence is criminal, we'll be referring straight across to the New South Wales police.

The Hon. ANTHONY D'ADAM: Earlier there were some conjectures about who was liable when a supervisor is on leave. I wonder if someone might be able to provide some clarification on that?

MURAT DIZDAR: Let me take up that opportunity, Mr D'Adam, and for the benefit of the Chair and the Committee. Folks have provided me with advice. Every service—the 6,500 out there—has to have a delegated responsible person onsite at all times. It's an offence to operate an education and care service unless there's a responsible person present. The approved provider and the nominated supervisor maintain accountability at all times, even if they're on holiday.

The Hon. ANTHONY D'ADAM: I'll take this opportunity to see if there are any other areas of evidence taken today that any of the panel would like to respond to.

ZOË ROBINSON: I don't necessarily want to respond to the evidence that was put today, but I will say that whilst everyone has talked about the intentions of all of this and where it comes from, the people who will be ultimately impacted by every change are the littlest people who are in these centres. There is still some work that needs to be done about that. I know people might say you can't sit with them and ask them questions, but they should have a voice in this. They will be impacted. They will see cameras in their centres. They will see people's behaviour change. They will have different kinds of relationships. It might also see some of our really beautiful community preschools in a situation where they can't exist in the same way that they have existed. I'm thrilled to see the best interests of children are there front and centre and I'm glad it's being spoken about in so many places, but we're still doing it in the absence of the little ones in the room. I still think that there's room for their voices to be a part of this.

MURAT DIZDAR: I want to add, as secretary, that the department, who will help government set up the independent regulator, remain committed to working with the advocate on the implementation. I know the Committee will appreciate that, without the legislation, 30 per cent of services already have CCTV without the national trial. I agree with the advocate that we're looking for child safety as paramountcy, and we're looking to raise the bar. We'll work with the advocate, who does a great job in capturing from the littlest to growing voices, around implementation of the intended legislation.

The CHAIR: Is the Government the approved provider when it comes to government preschools? If so, are you a large provider? Who would then be personally liable for the $500,000 fine?

MURAT DIZDAR: Yes. We would be under the same expectation—when we've got 100 public preschools, it'll become 200—that the same rules apply. I'm proud to say we've got strong operations in public preschools.

The CHAIR: Who's personally liable?

The Hon. SARAH MITCHELL: Are you the approved provider, Mr Dizdar? Who is it for government preschools?

MURAT DIZDAR: It's the executive director for early childhood.

The Hon. SARAH MITCHELL: If there's an issue in one of these services that's government run and it's liable for a $500,000 offence, does that fall to that individual? Who pays it?

MURAT DIZDAR: It will fall to the department in the first instance. If there's any criminality, it'd be the—

The Hon. SARAH MITCHELL: But not an individual?

MURAT DIZDAR: —teacher or the principal, depending on the circumstance. You're talking about financial penalties. It can apply to the organisation. Individuals are not cut out of that either. It could, depending on the instance, apply to the individual as well.

The Hon. SARAH MITCHELL: Or the nominated supervisor at a particular service in the same way?

MURAT DIZDAR: Correct.

The CHAIR: Because, under the bill, for the large providers, each member who is on the board, presumably, is personally liable. Presumably, that would cover Mr Barraket. That's an interesting little—

MURAT DIZDAR: We would continue to work hard, like we have been, to support our services and maintain high standards.

The CHAIR: We know that government services are statistically far safer than the private ones. I'll clarify that: the large for-profit ones. That brings us to the end of our session with you. Thank you very much and for accommodating the earlier time. To the extent that there were questions taken on notice or supplementary questions, I understand there's a truncated time frame for that, but the Committee secretariat will be in touch. That concludes our hearing for today.

(The witnesses withdrew.)

The Committee adjourned at 12:30.