21 August 2026

The Committee Secretary
Senate Education and Employment Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

RE: Family Day Care Australia Submission to the Senate Education and Employment Legislation Committee, Wage Justice for Early Childhood Education and Care Workers (Special Account) (Extending Support and Strengthening Safety) Bill 2026

Dear Committee Secretary

Family Day Care Australia (FDCA) welcomes the opportunity to make a submission to the Committee's inquiry into the Wage Justice for Early Childhood Education and Care Workers (Special Account) (Extending Support and Strengthening Safety) Bill 2026.

FDCA is the national peak body for family day care in Australia, representing approximately 8,500 family day care educators and 350 approved family day care services. Our mission is to represent, support and promote the family day care sector in delivering high-quality early childhood education and care (ECEC) to more Australian children.

Family day care is a regulated form of ECEC delivered predominantly by educators operating from their own homes, under the oversight and support of an approved family day care service, supporting more than 47,000 families and more than 67,000 children nationally.

Executive Summary

FDCA supports the underlying objectives of improving workforce attraction and retention, strengthening quality and child safety, maintaining affordability and ensuring Australian families have access to high-quality early childhood education and care.

The Worker Retention Payment (WRP) is a substantial Commonwealth investment in those objectives. The Bill provides for a further $3.6544 billion to support the extension of the program and introduces an additional objective relating to quality and safety.

For family day care, however, a fundamental issue remains unresolved. The announced extension of WRP eligibility to family day care applies where all educators are engaged as employees. In practice, virtually all of Australia's approximately 8,500 family day care educators operate as independent contractors and small business operators rather than employees. The extension therefore provides nominal inclusion of family day care while leaving the predominant educator workforce outside the practical reach of the program. FDCA raised this concern with Government immediately following the June 2026 announcement.

This is not simply a question of applying an existing wage program to another group of employees. The approved service-educator relationship is a defining structural characteristic of the family day care model. Any workforce response must therefore accommodate that structure rather than assume that family day care can be treated identically to centre-based employment models.

FDCA has worked extensively with the Australian Government since 2024 to develop possible solutions. This has included modelling alternative payment methodologies, contractual pass-through arrangements, use of CCS data to verify eligible care, fee controls, audit and recovery mechanisms, and options for supporting approved-service employees.

The continuing exclusion of the predominant family day care workforce is therefore not occurring because no alternative models have been proposed. *The central issue now is whether a genuine legislative barrier prevents a tailored response, or whether the remaining barriers are matters of program and administrative design.*

FDCA submits that this question should be resolved urgently. The issue is also becoming increasingly time-sensitive. Since May 2022, Australia has lost at least 99 CCS-approved family day care services and 2,090 educators. The decline affects not only educators but the approved-service infrastructure through which family day care operates.

This submission therefore proposes a preferred pathway of an appropriately tailored workforce-retention mechanism for family day care educators, supported by clarification of the legislative and administrative pathway required to deliver it. If that mechanism cannot be implemented promptly, FDCA proposes a modest, time-limited workforce retention and viability response to stabilise the sector while longer-term structural reform proceeds.

Recommendations

Recommendation 1: Recognise and address the unresolved family day care workforce gap

FDCA recommends that the Committee recognise that, while the Bill extends Commonwealth investment in ECEC workforce remuneration, quality and safety, the current Worker Retention Payment settings do not provide a meaningful workforce-retention response for the predominant family day care operating model.

FDCA supports the underlying objectives of improving workforce attraction and retention, supporting affordability, strengthening quality and child safety, and sustaining access to early childhood education and care.

However, the overwhelming majority of approximately 8,500 family day care educators operate as independent contractors and small business operators rather than employees. The extension of WRP eligibility only to family day care services that engage all educators as employees therefore leaves the predominant family day care educator workforce outside the practical reach of the program.

FDCA submits that the structural characteristics of family day care should inform the design of the workforce-support mechanism; they should not result in the continuing practical exclusion of the sector from the workforce-retention objective the Commonwealth is seeking to achieve.

Recommendation 2: Establish a tailored workforce-retention mechanism for family day care educators

FDCA recommends that the Australian Government urgently establish a family day care-specific workforce-retention mechanism capable of supporting eligible independent contractor family day care educators while preserving the legitimate structural characteristics of the family day care operating model.

The mechanism should pursue substantively equivalent workforce-retention objectives to the WRP without requiring approved services and educators to adopt an employment relationship simply to access Commonwealth workforce support.

An appropriately designed mechanism could:

- use CCS-approved family day care providers as grant recipients or administrative intermediaries;
- link support to verified CCS activity or another auditable family day care-specific measure;
- provide transparent and enforceable arrangements governing the transfer or application of educator support;
- incorporate proportionate caps, reporting, acquittal, audit and recovery arrangements;
- make use of existing CCS data, payment and integrity systems wherever practicable; and
- be designed so as not to inadvertently create or recharacterise an employment relationship between approved services and independent contractor educators.

FDCA has previously developed and discussed with Government a range of potential approaches to address the distinctive features of family day care, including the absence of a conventional industrial instrument, payment methodology, pass-through arrangements, attendance verification, fee constraints, administration and payment integrity. These issues require tailored policy design; they should not be treated as reasons why the predominant family day care workforce cannot be supported.

The Bill itself recognises the need for differentiated implementation where a standard WRP requirement does not fit the architecture of a particular service model. The Explanatory Memorandum provides that the Secretary may decline to impose the standard National Quality Framework-based quality condition where it is not possible or appropriate, expressly identifying in-home care services because they do not receive NQF ratings. It also contemplates comparable alternative quality and safety conditions for such services.

FDCA does not suggest that the same statutory accommodation is required for family day care. Rather, this demonstrates an important policy principle already recognised within the Bill: *where the architecture of an ECEC service model does not fit a standard program requirement, the mechanism can be adapted while preserving the underlying policy objective.*

FDCA submits that the same principle should be applied to the distinctive workforce structure of family day care.

Recommendation 3: Clarify whether the remaining barrier is legislative or administrative

FDCA recommends that the Australian Government clearly identify whether the inability to provide workforce-retention support to independent contractor family day care educators arises from a statutory limitation within the Wage Justice legislative framework or from the administrative and program design of the WRP.

The original 2024 legislative framework did not expressly exclude family day care as a service type. The practical exclusion arose principally through program settings that restricted eligibility to particular service types and employment arrangements.

FDCA recognises that the application of concepts such as remuneration and workers engaged by an approved provider to independent contractor family day care educators may raise legitimate statutory interpretation questions. Those questions should now be resolved transparently.

Accordingly:

- where the existing legislation prevents an appropriately designed workforce-retention mechanism from supporting independent contractor family day care educators, the Government should identify the relevant statutory impediment and Parliament should consider the amendment required to remove it; or
- where no such legislative impediment exists, the Government should establish an appropriate family day care-specific mechanism through the WRP guidelines, a separate grant opportunity or another suitable administrative arrangement.

After an extended period of policy development and consultation, it should be possible to clearly distinguish between a genuine legislative constraint and a program-design choice.

Recommendation 4: Ensure eligible family day care service employees are not excluded because educators are independent contractors

FDCA recommends that otherwise eligible employees of CCS-approved family day care services be able to access the extended WRP irrespective of whether the educators supported by that service are employees or independent contractors.

Family day care approved services employ coordinators, nominated supervisors, managers, administrators and other personnel who perform essential functions relating to:

- child safety and quality;
- regulatory and CCS compliance;
- educator monitoring, support and professional development;
- family engagement;
- administration; and
- service governance.

These employees form part of the workforce infrastructure that enables family day care educators to operate within the regulated ECEC system.

Their eligibility for an employment-based workforce-retention payment should therefore be determined by their own employment status and duties, rather than by the separate contractual relationship between the approved service and its educators.

Excluding otherwise eligible service employees solely because educators operate as independent contractors would create an additional inequity and would not advance the workforce-retention objectives of the WRP.

Recommendation 5: Provide an interim family day care workforce retention and viability response if a tailored mechanism cannot be implemented promptly

FDCA recommends that, if an appropriately tailored workforce-retention mechanism for independent contractor family day care educators cannot be implemented promptly, the Australian Government establish a separate, time-limited *Family Day Care Workforce Retention and Viability Support Program*[1] as an interim stabilisation measure, noting that this should be clearly understood as an interim response, not as a substitute for resolving the underlying workforce-support gap.

Approved family day care services provide the regulated infrastructure through which educators are supported, monitored and connected with families. Workforce retention in family day care therefore cannot be considered independently from approved-service sustainability.

FDCA has previously developed an indicative interim model comprising an approved-service viability component and an educator retention and sustainability component, with an indicative annual investment of approximately $48.5 million. At approximately 1.3% of the $3.6544 billion fiscal commitment associated with the WRP extension, this would represent a modest and proportionate investment to stabilise a nationally significant part of the ECEC workforce that remains largely excluded from the benefit of the broader program.

The proposal is not intended to replicate the WRP on a like-for-like basis. Rather, it represents a scaled, time-limited stabilisation response capable of preserving educator capacity, approved-service infrastructure and family access while an enduring workforce and funding architecture is developed.

The existence of longer-term reform processes should not result in continued sector contraction while those reforms are designed and implemented.

Key Issues and Considerations

1. The unresolved family day care workforce gap

The Bill extends significant Commonwealth investment in ECEC workforce remuneration, quality and safety. However, the current WRP architecture still does not meaningfully reach the predominant family day care workforce.

The original WRP was designed around employment relationships and restricted eligibility to workers in CCS-approved centre-based day care and outside school hours care services, supported through relevant workplace instruments. The June 2026 extension formally brings family day care within scope, but only where all educators are employees.

This does not resolve the underlying structural issue. Virtually all family day care educators operate as independent contractors and small business operators rather than employees. As a result, the overwhelming majority of the workforce nominally brought within scope remains unable to benefit from the program.

FDCA submits that inclusion should be assessed by practical reach, not simply by whether a service type appears within an eligibility framework.

Family day care is structurally different from centre-based ECEC. Educators generally operate independent businesses while being registered with, monitored and supported by an approved family day care service. That structure is closely connected to the flexibility and responsiveness of the model.

The relevant policy question is therefore not how to reproduce the existing WRP mechanism exactly, but *how can the Commonwealth achieve comparable workforce-retention objectives in a service model where the predominant educator workforce is not employed by the approved provider?*

Equal policy objectives do not require identical administrative mechanisms. That principle is already reflected in the Bill itself. The Explanatory Memorandum recognises that standard NQF-based quality conditions cannot appropriately be applied in every service context and expressly provides flexibility for in-home care services, which do not receive NQF ratings.

It should be noted that FDCA does not suggest that the same statutory mechanism should simply be replicated for family day care. Rather, it demonstrates an important policy principle: *where the architecture of an ECEC*

[1] FDCA's *Family Day Care Workforce Retention and Viability Support Program* proposal was submitted to the Department of Education and Ministerial Office contacts on 17 June 2026.

service model does not fit a standard program requirement, the mechanism can be adapted while preserving the underlying objective.

It is FDCA's contention that the same principle should apply to workforce support.

2. A tailored mechanism is achievable

FDCA recognises that extending workforce support to independent contractor educators presents genuine design challenges. Independent contractor educators do not receive wages through an approved-service payroll, and industrial instruments, payment calculations, fee controls and integrity arrangements therefore require different treatment. Those differences are real. They are not, however, synonymous with administrative impossibility.

FDCA has worked constructively with the Australian Government and departmental officials since 2024 to explore possible solutions. This has included alternative payment methodologies, commissioned consultation, contractual pass-through arrangements, CCS-based verification, fee controls, audit and recovery mechanisms and options for approved-service employees.

FDCA first presented WRP-equivalent modelling in September 2024, followed by consultation through Dandolo Partners and extensive engagement with the Department of Education ("the Department") on payment methodology, contractual mechanisms, fee constraints, integrity and educator disbursement.

More recent FDCA proposals have included using existing CCS settings and data to calculate and verify support, grant conditions governing transfer of payments to educators, existing CCS compliance mechanisms for audit and recovery, proportionate fee controls and standardised acquittal arrangements.

FDCA does not contend that every design question has been conclusively resolved, nor that its proposals represent the only available models. The significance of this work is that credible options have been developed and tested through sustained engagement.

FDCA acknowledges the Department's active, constructive and good-faith engagement throughout that process. The current position should therefore not be understood as arising from an absence of potential policy or administrative options.

The remaining question is whether there is a genuine legislative impediment to supporting independent contractor educators, or whether the issue is ultimately one of program design.

The original 2024 legislation did not expressly exclude family day care as a service type. The Special Account was broadly directed to supporting remuneration increases for workers in the ECEC sector, while section 10 authorised grants to approved providers in relation to workers "*engaged*" by them. The explicit restriction to particular service types and employment arrangements arose principally through the original Grant Opportunity Guidelines.

FDCA recognises that statutory concepts such as *remuneration* and *workers engaged by the provider* may raise genuine legal questions when applied to independent contractor educators. Those questions should now be resolved.

If the legislation prevents an appropriately tailored mechanism, the impediment should be identified so Parliament can consider whether amendment is required. If it does not, an appropriate administrative mechanism should be progressed.

3. Workforce support should not inadvertently determine the future family day care model

The employee-only eligibility condition also creates a broader structural issue. By attaching substantial workforce support to employment status, the WRP creates a financial incentive for family day care services to consider moving away from the predominant independent contractor model and towards employment.

FDCA does not oppose employee-based family day care models where services determine that such arrangements are appropriate. Nor does FDCA suggest that the current operating model should be immune from future reform.

However, *a temporary workforce-support program should not inadvertently become the mechanism through which the future structural model of family day care is determined.*

A significant transition towards employment would have broad implications for the family day care operating model, including for service and educator viability, the nature of the approved service-educator relationship, operational and governance arrangements, and the overall sustainability and flexibility of the model. Such questions warrant careful and deliberate consideration through the broader family day care reform process.

The preferable approach is therefore to develop a workforce-support mechanism capable of accommodating the predominant current model, while allowing any longer-term consideration of employment structures to occur on its own policy merits.

This issue also extends to employees of approved family day care services. Coordinators, nominated supervisors, managers and administrative staff perform essential functions across child safety, quality, compliance, educator support and governance. *Their own eligibility for an employment-based workforce measure should not depend on whether the educators they support are independent contractors.*

4. Workforce retention, service viability and family access are interconnected

The consequences of family day care workforce decline extend beyond educator remuneration. Approved services provide the regulated infrastructure through which educators are registered, monitored, supported, trained and connected with families. A decline in educator numbers reduces service revenue and capability; increasing service viability pressure can in turn weaken educator support or increase service levies, further affecting educator retention.

This interaction is occurring against sustained sector contraction. Since May 2022, Australia has lost at least 99 CCS-approved family day care services and 2,090 educators. The contraction affects the service infrastructure through which family day care operates and, ultimately, families' access to care.

Family day care also provides forms of access that are not always readily replicated through centre-based provision, including non-standard hours, smaller care environments, culturally responsive settings, sibling care and provision in regional and other "thin markets". The workforce issue should therefore not be viewed solely as a question of parity between different groups of workers. It is also a question of preserving the infrastructure required for flexible and genuinely universal access to ECEC.

FDCA recognises that longer-term structural reform may be required across pricing, service capability, governance, technology, workforce structure and market stewardship. However, immediate stabilisation and longer-term reform should not be treated as alternatives. *The sector must retain sufficient capacity to participate in and benefit from future reform.*

For this reason, FDCA's proposed interim *Workforce Retention and Viability Support Program* is deliberately positioned as a bridge rather than an enduring substitute for reform. The indicative $48.5 million annual proposal is materially below FDCA's estimated proportional WRP-equivalent benchmark of approximately $82.26 million. Against the Bill's $3.6544 billion funding commitment, it also represents a comparatively modest investment in stabilising a part of the ECEC system that remains largely outside the practical reach of the WRP.

If a tailored workforce-retention mechanism can be implemented promptly, that remains FDCA's preferred response. If it cannot, further delay risks allowing service infrastructure to be lost before longer-term reform can take effect.

5. Quality and safety

FDCA unequivocally supports the objective of strengthening quality and child safety across the ECEC system.

The Bill introduces an additional object directed to improving quality and safety, including increasing the number of approved services rated at least Meeting National Quality Standard in Quality Area 2. It also enables WRP grant agreements to contain corresponding quality and safety conditions, with consequences potentially including suspension or cessation of funding.

FDCA supports the principle that Commonwealth workforce investment should reinforce safe and high-quality ECEC. Implementation should nevertheless be proportionate and recognise that an assessment and rating outcome is not always a contemporaneous measure of a service's current quality or safety position. For example, a service may have rectified an identified issue but not yet been reassessed, or may be actively undertaking regulatory remediation.

The Bill gives the Secretary discretion over whether these conditions are imposed and expressly recognises that standard conditions may not always be possible or appropriate. FDCA submits that this discretion should be exercised transparently and proportionately, with child safety remaining paramount while distinguishing serious or persistent quality failures from circumstances where timely remediation is appropriate.

This would strengthen accountability without creating workforce or service-sustainability consequences that are disproportionate to the underlying issue.

Conclusion

The WRP represents a significant Commonwealth investment in ECEC workforce sustainability. Family day care shares the workforce-retention, affordability, quality and child-safety objectives underpinning that investment.

The unresolved issue is that the current eligibility architecture does not meaningfully reach the predominant family day care educator workforce. That difference is structural, not incidental: again, virtually all family day care educators operate as independent contractors rather than employees.

FDCA submits that the structure of family day care should inform the mechanism through which workforce support is delivered; it should not become the reason the workforce remains unsupported. The Bill itself demonstrates that differentiated ECEC service models can require differentiated implementation arrangements. That same policy principle should be applied to family day care workforce support.

Almost two years of constructive engagement between FDCA and Government have identified and explored potential solutions. The immediate task is therefore to determine clearly whether any remaining barrier is legislative or administrative and to act accordingly.

Family day care workforce and service capacity continue to decline. Longer-term structural reform is necessary, but the sector must retain sufficient capacity to reach that future. FDCA therefore encourages the Committee to recognise the unresolved family day care workforce gap and support a clear pathway to either an appropriately tailored workforce-retention mechanism or, if that cannot be delivered promptly, a proportionate interim stabilisation response.

Yours faithfully

Andrew Paterson
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Family Day Care Australia