

# **Submission to the NSW Legislative Council Inquiry into the Early Childhood Education and Care Sector in NSW**

by Community Early Learning Australia (CELA)

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June 2025



# Contents

<b>Executive Summary .....</b>	<b>4</b>
<b>Response to Terms of Reference.....</b>	<b>6</b>
(a) Safety, Health and Wellbeing of Children in ECEC Services & (g) Availability and Affordability of Quality Training Institutions .....	6
(b) Quality of ECEC Services and Educational Outcomes .....	10
(c) Safety, Pay and Conditions of ECEC Workers .....	12
(d) Effectiveness of the Regulatory Framework .....	13
(f) The collection, evaluation and publication of reliable data in relation to ECEC services and the level of public knowledge and access to information made available about each ECEC service .....	13
(h) Impact of Government Funding and Sector Composition .....	15
<b><u>Attachment A: Supporting Resources</u> .....</b>	<b>17</b>
<b><u>Attachment B: CELA's Local Champion Model</u>.....</b>	<b>18</b>
<b><u>Attachment C: ECEC Business Service Hub</u> .....</b>	<b>19</b>

## Submission to the NSW Legislative Council Inquiry into the Early Childhood Education and Care Sector in NSW

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Date: 14 June 2025

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Confidentiality: Public with attribution

Evidence: No

### About Us

Community Early Learning Australia™ (CELA) is the voice for Australia's early education and care sector. As a peak body, our vision is for all of Australia's children to have access to quality early education, regardless of economic circumstance or where they live.

CELA supports over 1,800 members employing more than 27,000 educators and teachers nationally. Our members include community-managed not-for-profit, government, and privately owned small providers, delivering preschool, long day care, outside school hours care, and family day care services.

Our Mission is to:

- ▶ deliver effective and expert support for our members, enabling them to deliver quality early education and care for all Australia's children
- ▶ influence policy makers and government by amplifying the voices of community based and small providers
- ▶ promote the value and importance of community managed early education.

# Executive Summary

Community Early Learning Australia welcomes the opportunity to contribute to the Portfolio Committee No. 3 – Education inquiry into the early childhood education and care (ECEC) sector in New South Wales.

Our submission outlines our response to the Committee’s terms of reference with a focus on recommendations for improvements to child safety, quality training, regulatory reform and systemic improvement.

There is nothing more important than ensuring the safety of children. The vast majority of NSW providers prioritise child safety and wellbeing. However, we cannot accept an early education and care system where a family has a one in ten chance of their children attending a service that is not meeting minimum standards.

## **The safety of children must be our highest priority**

Too often, options for effective child safety reforms are dismissed because they place additional administrative imposts on services and require additional government funding to implement.

If we are serious about changing outcomes for children, this mindset must end.

Child safety must be prioritised over:

- ▶ funding and regulatory challenges for governments
- ▶ administrative and change management issues for sector stakeholders.

## **Educators, providers and governments must be equally responsible for children’s safety in early education and care**

We need a system that balances the responsibilities of employees, employers, funding agencies and regulators to deliver high quality outcomes for children.

A safe system is based on high quality, but quality does not happen by chance. It is based on:

- ▶ a well-structured, funded and coordinated national system that puts children’s needs first
- ▶ a provider market that prioritises quality over profit, with good governance and educational leadership informed by expert pedagogy
- ▶ higher than minimum staff ratios to provides supervision and care at a level that is appropriate to needs of children
- ▶ a stable workforce that results in high retention of staff and low use of temp staff and waivers, ensuring children can maintain consistent attachments with educators and teachers
- ▶ a qualified experienced workforce with paid access to ongoing professional development
- ▶ a National Quality System with effective assessment, rating and compliance levers.

These factors should be present in all government funded education and care services. This is the basis for delivering the full benefits of early childhood education and care for children, families and our broader community.

The achievement of this will require:

- ▶ effective National Cabinet collaboration
- ▶ establishment of an independent ECEC Commission
- ▶ a balanced sector that provides quality, access and choice for families.

#### **All ECEC services must foster a child safe culture**

Understanding and fulfilling child safety responsibilities is a legal and ethical imperative for all ECEC professionals. However, to deliver a truly safe system, we need more than regulation and compliance. ECEC services need support to embed a culture of child protection into everyday practice, ensuring it features on every meeting agenda, every induction, and in every job interview. This creates an environment where all staff feel supported to identify and report concerns about children at risk and the conduct of other staff members.

This can include:

- ▶ strong recruitment practices including obtaining written references, conducting detailed phone interviews (including most recent employer) and asking specific child safe questions of referees
- ▶ ensure a culture of child safety during induction of new staff and temp staff
- ▶ integrating the Child Safe Standards into service programming, ensuring their consistent inclusion in daily programs, evaluations, policies, child safe codes of conduct, risk assessments, future planning and all staff meetings
- ▶ using diligent supervision practices to ensure no staff member is ever alone with a child or out of sight/earshot of colleagues
- ▶ dedicating time each year to embed child safe practices, guided by the Safe Series program developed by the Office of the Children's Guardian
- ▶ prioritise annual child protection training for the whole team, delivered by high quality service providers, and suitably experienced and trained facilitators, so teachers and educators truly know how and when to act.

#### **A national uplift in quality and safety requires state and federal government leadership**

Families, educators and services all want a system that is based on safety and high quality.

State and federal governments must play a leadership role in solving the policy and regulatory barriers that are creating quality and safety issues in ECEC services. Without this leadership, more children will be put at risk.

We encourage the Committee to adopt our recommendations to create the education and care system that children and families need.

# Response to Terms of Reference

## (a) Safety, Health and Wellbeing of Children in ECEC Services & (g) Availability and Affordability of Quality Training Institutions

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### Current Issues

- ▶ The current national child safety and protection systems are fragmented and under resourced, missing opportunities to prevent and identify issues in education and care settings.
  - Mandatory reporting is not consistent for early educators and teachers in different jurisdictions, leading to under reporting of neglect and abuse.
  - Education and care staff are not required to undertake regular whole team training that shapes child safe culture in services.
  - Working With Children Checks (WWCC) are not nationally consistent, creating gaps that allow unsafe individuals to work in education and care settings.
- ▶ There is no national standardised approach for defining, monitoring and responding to staff conduct issues in ECEC services.
  - The lack of clear reporting obligations has resulted in delayed or inadequate responses to serious issues.
  - This compromises child safety and undermines public trust in the sector’s ability to safeguard children.
- ▶ High quality, whole team training is required to help ECEC professionals gain the knowledge and skills necessary to identify, respond to and prevent child abuse and neglect.
  - Without adequate training, key indicators of harm, abuse, neglect and inappropriate conduct of other staff members may go unreported.
  - Low quality training encourages a ‘tick and flick’ approach of superficial compliance via online or self-taught modules without meaningful engagement, practical application or thorough assessment.

### Recommendations

- ▶ Child safety outcomes must be prioritised over potential:
  - funding and regulatory challenges for the NSW and Australian Governments
  - administrative and change management issues for sector stakeholders.
- ▶ The consistent provision of safe ECEC services must balance the responsibilities of employees, employers, funding agencies and regulators.
- ▶ Funding and regulatory systems must enable providers to deliver services that support quality and safety.

## National Cabinet

- ▶ National Cabinet should establish a Reform Committee for Early Childhood Education and Care to drive an urgent national uplift in quality and safety across the ECEC sector.
  - The Reform Committee should be supported by a taskforce of federal, state and territory officials with expertise in education and care policy and regulation, and an advisory council of leaders from across the sector.
- ▶ Examine the funding required for state governments to deliver assessment and rating programs that meet National Quality Standard (NQS) objectives including:
  - assessing all services at least every three years, prioritising services rated as Working Towards or Meeting the NQS
  - improving the frequency of spot checks
  - prioritising new service approvals for higher rated providers over those with lower existing service ratings
  - requiring providers wishing to expand services to demonstrate a capacity to consistently meet or exceed minimum quality standards
  - embedding child safety requirements into the assessment and compliance framework to ensure consistent sector wide accountability.
- ▶ Establish consistent national child protection protocols and annual compulsory child protection training (6 hours) for all team members with approved content, delivered by high quality providers and facilitators who are suitably experienced and trained.
- ▶ Establish a nationally consistent approach to WWCC including requiring approved providers and Regulatory Authorities to be notified about changes in an individual's WWCC status.
- ▶ Support a national approach to regulating Registered Training Organisation (RTO) standards with stronger enforcement and oversight for RTOs that deliver child protection qualifications.

## NSW Government

- ▶ Expand the requirement for annual mandatory training to both child protection and child safety training for the whole service team including people with governance responsibilities.
  - Staff working with children must undergo comprehensive refresher training every 12 months, and whenever significant changes are made to the child protection law or reporting requirements.
  - Content for training must be prescribed and standardised, including a minimum of 6 hours (can be delivered 3x2 hours) delivered by an approved RTO, with suitably experienced and qualified facilitators.
  - Establish a system for identifying and tracking individuals who require mandatory training or retraining.

- Establish mechanisms to monitor the effectiveness of mandatory training.
- ▶ Training must be aligned to quality ECEC practice and include:
  - modules on inappropriate discipline, adult self-regulation, and positive behaviour guidance strategies to reduce the use of punitive or outdated practices
  - legislation, processes and protocols that must be followed in the relevant jurisdiction and align with a service’s policies and procedures.
- ▶ Remove barriers for services complying with mandatory training requirements including:
  - the cost of implementing these requirements into broader service delivery price and funding models
  - additional support needs of services operating in communities with high needs
  - access to funding for paid time to release staff for training (during work or after hours).
- ▶ Provide guidance and support for services to implement quality and safety reforms by:
  - supporting approved providers to undertake system level analysis to proactively identify patterns across incidents and examining contextual factors such as staffing levels, workforce composition and staff tenure
  - supporting services leaders to deliver ongoing coaching and reflection for staff, for example recognising positive engagement with tools such as the Child Safe Standards self-assessment
  - embedding the National Child Safe Principles and Standard 1 through reflective practice that places children’s voices at the centre of service improvement (CELA, 2024a)
  - establishing communities of practice and localised systems of support that reinforce training outcomes with peer-led reflection, practice sharing and leadership development.
- ▶ Support services to embed child safe practices including:
  - prioritising the rights of children to be heard, protected and respected as the foundation for delivering high quality education and care (CELA, 2024c)
  - using participatory approaches to ask children regularly how they feel, reinforcing agency and contribution (CELA, 2024a)
  - ensuring staff understand their obligations under the Model Code for Taking Images, including obtaining informed consent and avoiding any practices that compromise children’s dignity (CELA, 2024b)
  - ensuring behaviour guidance practices are underpinned by trauma informed connection seeking approaches rather than compliance based models (CELA, 2024d; CELA, 2023a)
  - supporting families facing vulnerability through proactive strengths-based partnerships that are responsive and coordinated (CELA, 2024e).

## Outcomes

- ▶ Government support for embedding a child safe culture in all ECEC services will ensure:
  - service leaders can identify systemic drivers of inappropriate conduct and take effective preventative actions
  - all ECEC services can uphold clear enforceable expectations for professional behaviour
  - service types with different needs, sizes and contexts can deliver safe quality education and care
  - staff have access to procedural fairness and support through mandatory professional development and training, reinforcing high standards across the sector.
- ▶ Nationally consistent child safety and child protection training will ensure:
  - all staff, regardless of their role or employment type, are equipped with current knowledge, practical skills and the confidence to identify signs of harm, respond swiftly, and create environments that reduce the risk of abuse or neglect
  - directors can embed a child safe culture in their service that supports consistent compliance with quality and safety regulations, and prioritises child protection in all decision making
  - service are delivered in vigilant proactive environments where children's safety and wellbeing are consistently prioritised and upheld
  - educators and teachers understand their legal and professional requirements, helping them to identify safety risk factors, create child safe environments and use trauma-informed practices.

## (b) Quality of ECEC Services and Educational Outcomes

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### Current Issues

- ▶ Australia has a world class quality framework through the NQS.
  - However, improvement is needed across state and federal regulators to consistently uphold these standards using effective assessment, rating and compliance levers.
- ▶ The ECEC sector is hamstrung by conflicting policy objectives.
  - Outdated distinctions between ‘care’ and ‘education’, the ages at which these happen, and who bears constitutional responsibility, are limiting the impact of government investment at all levels.
  - This confusion of purpose is contributing to a system that is expensive, difficult to navigate and fails to deliver its full social and economic impact.
  - It also exacerbates supply and workforce shortages, creating internal competition for staff and leading to families utilising multiple services to reduce costs.
- ▶ As a result, children, families and our broader economy are not reaping the full benefits from government investment in education and care.

### Recommendations

#### National Cabinet

- ▶ Establish an independent ECEC Commission to assist state and federal governments to achieve their intended outcomes for education and care including supporting:
  - policy coordination to deliver an efficient high quality affordable universal education and care system
  - joint stewardship of the ECEC sector across governments, providers, workforce and families
  - nationally consistent outcomes under the NQS by providing advice and direction to ACECQA and state regulators
  - ongoing research and policy development including monitoring progress towards national and intergovernmental objectives
  - national workforce supply and development for all service types
  - monitoring the cost and supply of services to inform needs-based planning.

## NSW Government

- ▶ Establish children’s right to high quality education and care as the primary objective for early education and care, from birth to 12 years of age.
  - Embed this right in all pedagogical and organisational decision-making processes.
- ▶ Establish a rights-based approach to quality nutrition in ECEC services, ensuring every meal served meets dietary guidelines and includes fresh vegetables and fruit.
  - Support services to adopt best-practice principles for fussy eating that respect children's autonomy while meeting nutritional goals (CELA, 2020).

## Outcomes

- ▶ Families can enjoy the full benefits of early childhood education and care reforms if the sector is operating at its full potential.
- ▶ With advice and support from an independent ECEC Commission, state and federal governments can deliver the full range of education benefits by creating a system that:
  - prioritises high quality and safety for all children
  - maximises the impact and efficiency their investment in education and care
  - is simple for families to access
  - values the work of early educators and teachers
  - is viable for providers.

## (c) Safety, Pay and Conditions of ECEC Workers

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### Current Issues

- ▶ Staffing is the primary driver of quality for early education and care services.
- ▶ Services cannot grow to meet the needs of their communities if they cannot attract and retain quality staff.

### Recommendations

#### NSW Government

- ▶ Support professional pay for early educators and teachers working in NSW Government funded services.
- ▶ Establish a universal requirement for at least 16 hours of professional development that is directly linked to the NQS and Quality Improvement Plans.
- ▶ Establish subsidised professional learning opportunities for teachers and educators that are:
  - attached to agreed required qualify uplift areas
  - robust, high quality and based on best practice pedagogy
  - delivered in an appropriately paced approach with time for the learner to understand and process the content
  - specific to the evolving needs and challenges of the ECEC sector.
- ▶ Support ECEC professionals to understand workplace violence reporting procedures and psychological safety as part of a comprehensive wellbeing strategy (CELA, 2023b).
- ▶ Reinforce staff capacity for emotional regulation using the 'window of tolerance' as a key framework for managing challenging moments (CELA, 2023c).
- ▶ Reinforce the importance of robust recruitment and induction processes that include detailed vetting, reference checks, and probationary reviews that assess child protection knowledge and evaluate how educators respond to behaviours that challenge.

### Outcomes

- ▶ A qualified education and care workforce is the foundation for a national uplift in quality and safety, supporting prevention and early intervention when children are at a critical stage of development.
- ▶ The federally funded ECEC Workforce Retention Grant demonstrates the effect of offering professional wages to attract and retain qualified staff.

## (d) Effectiveness of the Regulatory Framework

### (f) The collection, evaluation and publication of reliable data in relation to ECEC services and the level of public knowledge and access to information made available about each ECEC service

#### Current Issues

- ▶ All state based regulators, including the NSW Regulatory Authority, have limited means to enforce provider assessment and compliance with the NQS.
- ▶ Cancellation of a provider's license is challenging, with direct evidence required that continued provision poses unacceptable risks to the safety, health or wellbeing of children at a service.
- ▶ Anecdotally, state based regulators are loath to remove providers from the sector due to the immediate negative impacts on children and families.
- ▶ Services that repeatedly fail to meet minimum standards are still allowed to operate, sometimes for more than a decade.
- ▶ Regulators have limited capacity to distinguish between misconduct that results from individual poor behaviour and misconduct that is a foreseeable consequence of the way a service is managed, such as inadequate staffing, weak supervision or systemic neglect of risk factors.
- ▶ The current governance and management framework does not provide visibility of related approved providers that may manage multiple services to regulators, the sector and families.

#### Recommendations

##### National Cabinet & NSW Government

- ▶ Enhance the ability for regulators and licencing agencies to reject approvals for new and expanded services if a provider is subject to existing bans.
  - Develop a robust system for regulators to identify relationships between related approved providers to detect patterns of non-compliance and systemic issues across affiliated services.
- ▶ Empower regulators to remove consistently underperforming service providers by establishing new mechanisms for urgently intervening with services to ensure the safety of children, or with services that do not demonstrate improvement
  - This includes a 'supported intervention' under an administration style model to install a quality team at a service to minimise impacts on children and families.  
  
Regulators would require the consistently Working Towards provider to fund a new team of early education and care professionals to take on leadership roles within the service to build quality practices. This would be a condition for avoiding the closure of the service.

- ▶ Determine a national approach to the frequency of assessment and rating as well as risk thresholds that triggers spot checks in education and care services.
- ▶ Examine funding required for state governments to deliver compliance, assessment and rating uplift programs that meet the objectives of the NQF.
- ▶ Enable regulators to significantly improve their assessment and rating processes by:
  - requiring new services to receive a quality rating within six months of approval
  - increasing frequency and depth of inspections by Authorised Officers for consistently underperforming services
  - empowering regulators to act on identified concerns earlier and prosecute consistently underperforming providers.
- ▶ Enable regulators to identify, monitor and take action against related providers including:
  - compliance and enforcement at the related provider level
  - publishing information on related approved providers operated by a single entity.
- ▶ Establish national guidelines to govern how personal information in incident reporting is managed by regulators to comply with privacy laws and specify permissible use, including safeguards to protect procedural fairness for individuals involved.

## Outcomes

- ▶ These reforms will ensure:
  - the NSW Government can drive a state wide uplift of quality and safety in a meaningful timeframe
  - regulators will have the capacity and levers to effectively assess and respond to inappropriate conduct with a focus on early intervention and systemic improvement
  - the impact of non-compliance will rest with the service provider and not with families who rely on services to remain operational
  - providers are subject to consistent and regular assessments that are necessary to maintain safe high quality services
  - families will have the information to compare and maintain trust in ECEC services.
- ▶ Establishing national guidelines for information sharing on incident reporting will ensure:
  - incidents in ECEC services can be examined publicly to improve child safety outcomes without compromising staff privacy and safety
  - educators and teachers have the confidence to report incidents.
- ▶ Greater transparency on related providers will empower families to make informed choices about education and care services.

## (h) Impact of Government Funding and Sector Composition

### Current Issues

- ▶ A diverse early education and care market is necessary to ensure choice, quality and a substantive return on government investment in early childhood development.
- ▶ The introduction of child care fee subsidies and the removal of operational subsidies to the community sector has led to a disproportionate growth in private for-profit provision of early childhood education and care.
  - The ECEC market is incentivised to deliver services that meet minimum standards in order to maximise the number of licensed places, rather than prioritising children and educators' wellbeing.
  - Governments receive less return on investment in large for-profit services because subsidies fund owner profits, higher executive compensation and corporate functions, diverting resources away from quality service provision and professional wages for early educators.
- ▶ Federal child care assistance and the Child Care Subsidy has skewed the rapid expansion of services towards private for-profit services.
  - The for-profit sector has grown by over 30% since 2015, while the community not-for-profit sector has declined by 8%.
  - The for-profit sector now represents 68% of the long day care sector, 48% of the Outside School Hours Care sector and 51% of overall ECEC providers.
  - This growth at the expense of the community not-for profit sector comes at a cost for families, children and the government.
- ▶ The overreliance on for-profit services to meet demand for education and care services has failed to ensure access for all families.
  - This has also created oversupply in communities that have the capacity to support high fees.
  - This growth at the expense of the community not-for profit sector comes at a cost for families, children and the government.
- ▶ Large for-profit services are currently incentivised to operate where there is existing high demand and high incomes to maximise their own returns, creating 'childcare deserts' in areas where the market cannot support viable services.
- ▶ The current high proportion of for-profit services limits the ability of governments to create a balanced market that prioritises quality, access and affordability for families.

## Recommendations

### National Cabinet

- ▶ Coordinate capital funds between state and federal governments to deliver the types of early education and care required to meet local community needs.

### NSW Government

- ▶ Expand communities' access to the types of early education and care services that local families need by:
  - funding the development of new community and small services using CELA's Local Champion model (Attachment B)
  - supporting existing community and small services to establish new campuses
  - providing professional and governance support through an Early Childhood Education & Care Business Service Hub to ensure community and small services can focus on high quality service delivery (Attachment C).
- ▶ Support the growth and sustainability of community and small services through additional administrative funding.

## Outcomes

- ▶ State and federal governments can successfully deliver universal high quality early education and care by supporting existing community and small services to remain viable and expand into new communities.
- ▶ Governments can solve market failures and maximise the value of education and care by playing a stewardship role to:
  - target the goals, priorities and workforce needs of regional and rural communities
  - grow sustainable services that reflect the values, cultural identity and needs of local children and families
  - support thousands of parents to return to work
  - promote economic growth via increased workforce participation and ECEC jobs.

## Supporting Resources

CELA (2024). What is inappropriate discipline? Amplify! Blog.

<https://www.cela.org.au/publications/amplify!-blog/sep-2024/what-is-inappropriate-discipline>

CELA (2024a). Reflections on Implementing the Child Safe Standards.

<https://www.cela.org.au/publications/amplify!-blog/aug-2024/reflections-implementing-child-safe-standards>

CELA (2024b). Understanding the New Model Code for Taking Images.

<https://www.cela.org.au/publications/amplify!-blog/jul-2024/understanding-the-new-model-code-for-taking-images>

CELA (2024c). What Are Children's Rights in Early Education?

<https://www.cela.org.au/publications/amplify!-blog/sep-2024/what-are-childrens-rights-early-education>

CELA (2024d). The Role of Behaviour Guidance in Early Education.

<https://www.cela.org.au/publications/amplify!-blog/dec-2024/the-role-of-behaviour-guidance-in-early-education>

CELA (2024e). How to Support Vulnerable Children and Families.

<https://www.cela.org.au/publications/amplify!-blog/november-2024/how-to-support-vulnerable-children-families>

CELA (2023a). Understanding and Responding to Connection-Seeking.

<https://www.cela.org.au/publications/amplify!-blog/jun-2023/understanding-and-responding-to-connection-seeking>

CELA (2023b). What to Do When Workplace Violence Occurs.

<https://www.cela.org.au/publications/amplify!-blog/august/what-to-do-when-workplace-violence>

CELA (2023c). A Look Into the Window of Tolerance.

<https://www.cela.org.au/publications/amplify!-blog/august/look-into-the-window-of-tolerance>

CELA (2020). Best Practice Principles for Supporting Fussy Eating.

<https://www.cela.org.au/publications/amplify!-blog/february-2020/best-practice-principles-for-supporting-fussy-eati>

NSW Parliament (2025). Terms of reference – Inquiry into the Early Childhood Education and Care Sector. <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=3098>

## CELA's Local Champion Model

State and federal government should support the following four stages required to design and deliver new community managed services. CELA is currently supporting Local Champions to establish new community and small services using this model. Services would receive support to use the Local Champion model via the ECEC Business Service Hub (see Attachment B).

### Stage 1 – Local Champion

- ▶ A local area 'champion' (e.g. local council, major local employer or community group) is identified to provide project leadership.
- ▶ The 'local champion' oversees the detailed design of proposed services and infrastructure to ensure they meet community needs.

### Stage 2 – Needs Assessment

- ▶ Identify the scope and type of services required, based on demographic analysis and community consultation.
- ▶ Undertake financial modelling based on identified needs of the community.

### Stage 3 – Funding

- ▶ Identify and secure infrastructure funding.

### Stage 4 – Service Establishment

- ▶ New education and care infrastructure is designed and built under the leadership of the local champion.
- ▶ The local champion identifies the ideal management model e.g. council managed, community managed or tendered to a not for profit provider.
- ▶ The local champion approaches the preferred provider type, and where the preferred provider is a community managed service, they establish a local management board/committee.
- ▶ The service building is then leased to or owned by an approved provider.

## ECEC Business Service Hub

The NSW Government should support the growth and sustainability of community managed services through an ECEC Business Service Hub. This would include:

- ▶ governance training, resources and support for management committees and directors including approved provider, governance and compliance obligations
- ▶ professional development and communities of practice specific to particular roles, e.g. Director, Administrative Services, Educational Leader and new educators
- ▶ funding management
- ▶ human resource and payroll management
- ▶ financial management and operational resource support.

Services' engagement with the ECEC Business Service Hub would be led by a high functioning leader in early education and care who understands the needs of their services and the communities they support.

Access to the ECEC Business Service Hub will ensure:

- ▶ providers can focus on delivering quality services tailored to what local families need
- ▶ providers have access to professional governance, operational resources and support tailored to their needs
- ▶ decisions about early childhood education and care services continue to be made in the interests of local children, families and their community
- ▶ services have access to advice and change management support on government measures, improving the efficiency of implementation.

Existing successful models include the Victorian kindergarten cluster management and Queensland's 'affiliated service' model.