

# TRANSCRIPT

## SELECT COMMITTEE ON THE EARLY CHILDHOOD EDUCATION AND CARE SECTOR IN VICTORIA

### Inquiry into the Early Childhood Education and Care Sector in Victoria

Melbourne – Wednesday 25 February 2026

#### MEMBERS

Anasina Gray-Barberio – Chair

Michael Galea – Deputy Chair

Melina Bath

Georgie Crozier

Jacinta Ermacora

Sarah Mansfield

**WITNESSES** (*via videoconference*)

Gabrielle Sinclair, Chief Executive Officer, and

Abigail Weldon-Chan, Acting General Manager, Policy and Regulatory Systems, Australian Children's Education and Care Quality Authority.

**The CHAIR:** Good morning. I declare open the committee's public hearings for the Inquiry into the Early Childhood Education and Care Sector in Victoria. Please ensure that mobile phones have been switched to silent and that background noise is limited.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands we are gathered on today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue to the committee. I welcome any members of the public in the gallery or watching via live broadcast. I remind those in the room to be respectful of proceedings and to remain silent at all times.

All evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and provisions of the Legislative Council standing orders. Therefore the information you provide during the hearings is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same things, those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded. You will be provided with a proof version of the transcript following the hearing. Transcripts will ultimately be made public and posted on the committee's website.

For the Hansard record, to our first witnesses this morning, can you please state your name and any organisation you are appearing on behalf of.

**Gabrielle SINCLAIR:** Thank you, Chair. My name is Gabrielle Sinclair, and I am the CEO of ACECQA. And my colleague –

**Abigail WELDON-CHAN:** Good morning, Chair. My name is Abigail Weldon-Chan. I am the Acting General Manager of Policy and Regulatory Systems at ACECQA.

**The CHAIR:** Thank you both. We are now going to introduce ourselves, the committee members and I. Good morning. My name is Anasina Gray-Barberio, MP for Northern Metro and Chair of the select committee.

**Michael GALEA:** Good morning. Michael Galea, Member for South-Eastern Metropolitan and Deputy Chair.

**Georgie CROZIER:** Good morning. Georgie Crozier, Member for Southern Metropolitan Region.

**Melina BATH:** Hello. Melina Bath, Eastern Victoria Region.

**Sarah MANSFIELD:** Sarah Mansfield, Western Victoria Region.

**Jacinta ERMACORA:** Jacinta Ermacora, Member for Western Victoria Region.

**The CHAIR:** Thank you all. I would now like to invite you, Ms Sinclair, to make an opening statement and ask that you keep it to a maximum of 8 to 10 minutes to ensure that we have plenty of time for discussion. Thank you.

**Gabrielle SINCLAIR:** Thank you, Chair. Given that we did provide the committee with a submission in October of last year, I am more than happy to forgo an opening statement in the interests of the committee's time.

**The CHAIR:** That is okay. We actually do have a bit of time, Ms Sinclair, so if you wish to make any statement at all, you are most welcome to. Do not feel like you have to forgo that. It is completely up to you.

**Gabrielle SINCLAIR:** Thank you. Well, in that case, Chair, I think that for the committee it would be perhaps of value to say that since our submission was provided to the committee a number of national commitments have been made. In our submission, for example, we talk about the fact that we are developing a national workforce register, and I know that a number of witnesses yesterday spoke about the fact that that will go live on Friday, this Friday.

Because we are a statutory body established by the nine governments of Australia, we ensure that we provide regular reports to the education ministers meeting, and with permission from the education ministers we publish the work that we do, including our NQF annual report. We do quarterly snapshots, which provide information about how the sector and services are progressing in terms of quality.

I guess that the main function for ACECQA, as detailed in the national law, is that we are an advocate for children's quality and safety in early childhood education and outside school hours care. So for the committee's information, nationally that is just over 18,000 services operating under the national quality framework. I think that that is probably just a quick summary, noting of course that we work with each regulatory authority in each state and territory in, I guess, a partnership mode. We do not have the authority to direct regulatory authorities, but we do work hand in hand with them to ensure that they have the support and the information that they need to undertake their regulatory role. Thanks, Chair.

**The CHAIR:** Thank you very much, Ms Sinclair. I appreciate you making that opening statement. I just want to touch on the end of your opening statement there around ACECQA not having authority over interstate jurisdictions in relation to regulators. Given the obviously horrific allegations of abuse, neglect, harm and maltreatment not just in Victoria but in New South Wales and Queensland – this is a systemic problem that is occurring right throughout the country – do you think it is time now that ACECQA has more authority and powers to be able to implement the changes that are necessary to ensure that children's safety is paramount?

**Gabrielle SINCLAIR:** Thank you, Chair, for that question. ACECQA has always been willing and able, and our board has a very strong policy that whatever governments ask us to do, we do it. Over the years since ACECQA was established we have taken on new functions because ministers had seen a need to, for example, look at skilled migration applications to ensure that educators and teachers trained overseas are appropriately qualified and of good quality. That was not originally intended for ACECQA, but we gladly took on that function, and we have been doing that for a number of years now. Also, education ministers asked us back in 2023 to undertake a review of the national quality framework to ensure that it was still contemporary and still able to protect children's health, safety and wellbeing as well as their developmental needs. That report was provided to ministers in 2023 and published in December 2023. Those recommendations are all being implemented, and we are seeing the effects of that implementation now. I guess for any system – and the national quality framework is, as you know, regarded very highly internationally – what we found was that there were a number of things that could be done to ensure that it was keeping up to date with new technologies and understanding the pressures.

**The CHAIR:** Just on that, if I may, Ms Sinclair, on new technology: this report that you are speaking about that your organisation did – the 2023 review of child safety arrangements under the national quality framework published in December of 2023 – found that CCTV may capture abuse and neglect but does not necessarily prevent it. You had reservations about the purpose of having CCTV in preventing harm. The Victorian rapid review recommendation 16 was for a trial use of CCTV as a regulatory and investigative tool. Do you think it should be implemented beyond a trial, given the horrors of what has been happening in the Victorian early childhood sector? Right now it has been proposed as a trial, but do you recommend it to go beyond that?

**Gabrielle SINCLAIR:** Our report found that CCTV in any system and any setting does not prevent harm. Internationally we looked at all the evidence and the research. For example, we know that CCTV used in London streets and in prisons worldwide does not actually stop offending, but it is a resource and an aid to prove offending or indeed to prove that an offence was not committed. Our terms of reference at the time, Chair, asked us to have a look at CCTV as a preventative measure, so our findings were consistent with those terms of reference. However, we did find of course that the privacy of children and the privacy of educators had to be protected. Our recommendations about CCTV at that time – and remember, we wrote the report without knowing the details of the offending that was taking place in Queensland at the time – were at the heart that parents need to know that CCTV is operating. They need to be assured that there are policies about children's privacy and protection from cybersecurity attacks and in the interests of children: who sees the CCTV footage,

how is it stored, for how long is it stored et cetera. But we did make recommendation 16, which was that, after all investigations and all information was available, then there should be a further review to ensure that all the recommendations that we made were still pertinent, given the fact that we did not know the details at the time.

**The CHAIR:** No worries. That is great. Can I just ask you about the National Quality Agenda IT system that you use? This is a system that regulators from various jurisdictions around the country and their staff input data into, and also it is data that you use to assess emerging trends in the sector as well as information that you use to assess and rate centres. Is that correct?

**Gabrielle SINCLAIR:** Almost.

**The CHAIR:** Am I missing something there? I guess what I am getting at is, in our hearings yesterday we were talking about centres that were ‘meeting’ and ‘exceeding’, and there seemed to be questions raised yesterday around how difficult it is for centres to meet the ‘exceeding’ rating. Can you just sort of explain to the committee what a centre needs to be at the ‘exceeding’ level? The picture painted for us – at least how I received that information – was that it is really, really difficult. It is not impossible, is it?

**Gabrielle SINCLAIR:** I will answer that last question first: it is not impossible. Can I go back to the question you previously asked and just clarify that ACECQA does not assess and rate – that is undertaken by the regulatory authority in each state and territory. But as you said, Chair, that data is then inputted into our NQA ITS, and we then, on behalf of all governments, extract the information and we look at patterns and trends. For example, in our quarterly report we report on how services are going in terms of their rating. To go back to your question about if it is impossible to get ‘exceeding’, I would like, if the committee does not mind, just to give a very simple question a quite complex answer. In the first instance, the national quality framework set up the rating and assessment system as I guess a quality assurance for families. At the time, and still, meeting the seven quality areas of the national quality standard is a high bar.

**The CHAIR:** Just on those national quality standards, you have identified that quality standard 2, children’s health and safety, and quality standard 7, governance and leadership, seem to be areas where centres are really struggling to ensure that (a) they have got the policies and processes in place to ensure the safety of children and (b) there are appropriate governance structures and mechanisms that allow for safe environments for children. So how are you, as the national statutory body, ensuring that centres do bring up and lift up their standards with regard to these two national quality standards that seem to stand out as gaps?

**Gabrielle SINCLAIR:** Chair, a number of years ago we worked with Macquarie University to look at the relationship between the seven quality standards. As you pointed out, quality area 7, about the leadership and the governance of a service, is the key. It sets the culture, it sets the expectations and it sets what policies, procedures, programs and training is given to staff. We know that services that do quality area 7 well do well in all the other quality standards.

**The CHAIR:** Are you finding any emerging trends that not-for-profit or government-run or community-owned centre structures are exceeding in this area compared to their for-profit counterparts?

**Gabrielle SINCLAIR:** Going back to the question about whether it is impossible to get ‘exceeding’, exceeding is part of the national quality framework, which expects continuous quality improvement. So we expect that every service is on a journey going from ‘meeting’, hopefully, to ‘exceeding’ and even achieving ‘excellent’. We see a pattern in all types of services. As one of your witnesses said yesterday, the sector is complex, and we know the expectations on long day care, which are typically the types of services run by for-profit. They are the ones that have the longest opening hours, they are open the longest during the year, and they have the youngest aged children.

**The CHAIR:** I have actually just run out of time. I am so sorry, Ms Sinclair. I just want to ask you a very, very quick question before I hand over to our Deputy Chair. The iron triangle, often referred to as qualifications, ratios and group size: you say that these are structural elements that high-quality learning environments depend on. Has this fallen by the wayside as we see increased levels of neglect, maltreatment and harm happening in the sector? What can the regulators – for example, VECRA here in Victoria – do to ensure that this iron triangle stays at a high benchmark?

**Gabrielle SINCLAIR:** What makes a very safe and high-quality service is exactly that, and we know that the workforce – the qualifications, the experience and the consistency of the workforce – is one part of that iron triangle. We know the pressure on services and indeed on schools to attract and retain high-quality staff, teachers and educators is not an easy thing, and particularly since COVID. That is the first pressure that is on services and for regulatory authorities to look for patterns of, as one of your witnesses – I think it was Paul Mondo – said yesterday, where you have a high turnover of staff.

The second part of that iron triangle is group size. We have just undertaken a review for education ministers about under-the-roof ratios. One of our findings was that group size does make a difference, particularly in long day care where you have lots of children. The bigger the group size, the more likelihood there will be to have an incident or a serious incident. Of course ratios always have to be maintained as minimum standard, but we also found in that report that the highest quality services are the ones that go beyond the minimum, and they always have additional staff because of course, when you have lots of little children and young children, our reports have found that little boys between the ages of three and four, and usually in the afternoon, are more likely to undertake risky play and a serious incident will occur. Our information and our resources that we provide to approved providers and to the regulatory authorities is so that we can say, ‘These are the times when more staff should be in the service, because these are the elements that would lead to risks.’

**The CHAIR:** Is that ratio report public? If so, could the committee have a copy of that?

**Gabrielle SINCLAIR:** The education ministers considered the report last Friday, and they have approved for it to be released this Friday.

**The CHAIR:** This Friday. Okay, wonderful. Thank you so much for your time, Ms Sinclair. Thank you, Mr Galea.

**Michael GALEA:** Thank you, Chair. Good morning, Ms Sinclair and Ms Weldon-Chan. Thank you for joining us. Just to begin with, as I am no doubt sure that you are intimately aware, late last year and implemented over the start of this year as well, the national law was changed in Victoria and consequently changed to national regulations as well. Could you please speak to what ACECQA is doing to support childcare centres to understand and comply with these changes?

**Gabrielle SINCLAIR:** Can I ask my colleague Abi to respond? Thanks, Deputy Chair.

**Michael GALEA:** Of course.

**Abigail WELDON-CHAN:** Thank you for the question, Deputy Chair. Yes, one of ACECQA’s roles under the national law is the consistent communication and improving the guidance that is available for services and to providers. One of the main ways that we do that is through a resource called the *Guide to the National Quality Framework*, which you may be familiar with. It is a very extensive document, and it is strongly consulted on across the regulatory authorities. Every time we have a change to our legislation, whether it is the law or the regulations, we work very closely with the regulatory authorities to update that resource to make sure that there is appropriate guidance for the sector and for regulatory authority personnel themselves, so for authorised officers, on what those new provisions look like. We are currently finalising that content with our regulatory authority counterparts in the states and territories, and we are hoping, as you rightly said, because our legislation does change on Friday – the most recent changes come in on Friday – the updates to that resource will follow very quickly. We also have highlighted some specific changes in that legislation where we believe additional guidance on certain topics would be beneficial. Information sheets have been developed specifically on those topics, and a new suite of those are now available on ACECQA’s website, again all developed with the regulatory authorities, so there is a consistency in interpretation of the provisions of what they expect to see when monitoring compliance across the country. Those are all on our child safety webpage now. As I say, the guide to the NQF is just going through its final iterations before that is then published to align with the legislation that changes on Friday.

We have also worked very closely with our regulatory authority colleagues through their particular functional groups, so people who are responsible for leading the assessment and rating functions in each of the states and territories. One of the changes that came into the national quality standard from the beginning of January was a more explicit mention of children’s safety in quality area 2 and also in quality area 7, which the Chair was referring to earlier. We work very closely with that group to ensure that regulatory authority personnel, the

authorised officers out doing assessment and rating across the country, are familiar with what those new requirements are. As I say, that guidance also gets picked up in the *Guide to the National Quality Framework*.

**Michael GALEA:** Thank you. I understand that part of the national law changes is the mandatory rollout of child protection child safety training as well. What sort of work, if any, is ACECQA doing to facilitate this change?

**Abigail WELDON-CHAN:** Come Friday, all of the links to all of those child protection and child safety training requirements across the country will be on ACECQA's website. Those links for the child safety training do take a national link to the Australian government's hosting platforms, and then the specifics around the child protection requirements that are in each state and territory will also be on our website. Along with those we have worked with our state and territory colleagues to prepare some frequently asked questions which will be published for the sector. As I say, the *Guide to the National Quality Framework* will also explain where those child protection and child safety training requirements are relevant to the various areas of the national quality standard, and also to the regulations that are coming in from Friday. Yes, we have worked very closely with our state and territory colleagues, and as I said, they are just going through their very final approval processes right now so we can publish on Friday.

**Michael GALEA:** Excellent. Thank you. Also, you touched on, from this Friday, the establishment of the national workers register. My understanding is the national law that passed through Victoria built this in mind to be covering all the same aspects that the existing recently introduced Victorian scheme also covers, so that will then be able to be transitioned into the national register. Can you talk to me about the functionalities that this new register will have, the benefits, if any, of it being nationwide and what has been learned from Victoria?

**Abigail WELDON-CHAN:** Yes, Deputy Chair. Thank you. The national early childhood worker register has been a commitment and a priority of all education ministers. ACECQA has been working very closely with the sector but also with the regulatory authorities to build the register. The national worker register will go live this Friday. There has been an extensive testing and piloting phase that has been happening over the last few months. I would say one point for the committee, that it does not introduce new legislative requirements for approved providers at this point because they already have to maintain the information that will be on the register but just in their own staffing records. So there are not additional requirements at this stage on top of those, other than that it needs to be maintained in the register and that register needs to be kept up to date. If that information does change, it needs to be updated within 14 days. We have been working very closely, as you mentioned, with our Victorian counterparts in the Victorian government so that there will be a smooth transition for the Victorian approved providers. Since the committee met yesterday a new frequently asked question has been added to our list of frequently asked questions on our website to say that once the national register does come in this Friday Victorian providers can meet their obligations under the Victorian legislation by using the national register. So that is a little bit of clarification, and I believe the Victorian government – it will be a matter for them of course. But we will be explaining that in more fulsome detail to their approved providers in the coming days. Then there will be that, as I said, 30-day transition period for that information to be uploaded into the national early childhood worker register across the country for approved providers, and there are bulk upload functions as well, so that can be streamlined into the register.

**Gabrielle SINCLAIR:** May I add, Deputy Chair, that your point about the value of a national register – it is really important, as Abi mentioned, that we are not asking approved providers to do anything other than what they are already required to do in making sure that they have a very complete record of all their staff, including that they have sighted staff qualifications and making sure that they have working with children and working with vulnerable people checks. The difference this national system will make is that regulatory authorities will not have to actually go to the premises of a service to check the workforce register. They can do it online. That gives a little bit more transparency about, for example: are services keeping up to date with ratios? Are they ensuring that all of their staff are qualified and appropriate? And mostly we can then say as a foundational stage this gives regulatory authorities the information that they need before they even go into the service to check.

**Michael GALEA:** Thank you. It is valuable to have that feedback as well on clarifying that this is not an additional requirement but something that they are already legislatively required to keep records of themselves. That will just now be on the national register or moving, in our case in Victoria, from the state register to the national register. It is also good to see that you have been keeping a close eye on our inquiry and have already updated your FAQs. We are looking forward to that confirmation guidance as well and see that it will not be a

duplication or a double-up, that people will be able to meet those legislative requirements by uploading just the one national register. Thank you. That is really good to have clarified as well.

Now, I understand of course you, ACECQA, are not the regulator of the state regulators but you work in partnership with them. Separately to the national law, legislation in Victoria has also of course, as you would be all too aware, implemented the new independent regulator, VECRA, in Victoria. From your experience – and correct me if I am wrong, but I think the only other state that has previously had an independent regulator has been South Australia – do you view an independent regulator as providing that more robust ability to monitor and regulate its sector? Do you have any views on that difference between the independent or department-linked regulating authority?

**Gabrielle SINCLAIR:** Deputy Chair, you are right that South Australia has long held an independent regulator. But I would say that Australia is a complex place and each state or territory has to make a determination about how they can best set up and support their regulatory authority. My previous role was deputy director-general in Queensland, and I had both the policy arm and the regulatory authority arm. As long as we ensured that the regulatory authority was treating state-run services exactly the same way as they were operating non-state, then that seemed to work. But I would have to say that at the end of the day, as one of your witnesses said yesterday, each jurisdiction has to decide what works best for its jurisdiction. The most important thing is that a long time ago, back in 2007, when COAG was deciding about whether to establish a national quality framework or not, there was a lot of debate about whether states and territories should continue to be regulatory authorities or that should be national. It was decided, quite rightly, that it was important for the states and territories to have their own regulatory authorities because then they knew their local services, they knew their local communities. Their people lived and worked in these communities, and that relationship between the regulatory authority and their communities and the families was really important. So I guess a short answer is that each state or territory has to decide what works best for them.

**Michael GALEA:** Thank you. I am out of time, but you actually answered my next question anyway, so thank you very much. Thank you, Chair.

**The CHAIR:** Thank you. Thank you, Ms Crozier.

**Georgie CROZIER:** Thank you very much, Chair. Thank you both for being before the committee this morning. If I could just follow up a few things in relation to some of the clarification that you have provided to the committee, yesterday I was asking about the duplication of the registration process and it going live on Friday. It concerns me, though, that providers were unclear – given their evidence, they did not know the timeframes. You have said within 30 days. Can you provide any information on why that information has not been given to providers? There remains, obviously, confusion. They know it is going live Friday, but they do not know the process about the state register as well as the national register. Can you explain to the committee why that information has not been provided? Is that a state obligation, or does it come from another body that should have made that very clear to providers?

**Gabrielle SINCLAIR:** There are a couple of questions. The first one is that all services knew that they would have 30 days. That has been part of the development and the testing of a national workforce register. The frequently asked questions on our website have been there for quite a while to help our services to prepare for Friday, to be able to upload their information in the best possible way. And as Abi mentioned earlier, we did our testing with over a thousand services, and as we have learned from their experiences and from their viewpoints, we have been adding to our frequently asked questions. The issue – and thank you again, because we were watching the committee hearings yesterday. We did contact our Victorian government counterparts and said there was still some confusion about what Victorian services need to do. Credit to them, they moved quickly yesterday and gave us an answer to put on our frequently asked questions that services, as Abi mentioned, do not need to duplicate, and we were able to put that answer on our website this morning.

**Georgie CROZIER:** Well, that is great, but it really should not have taken this inquiry to give those providers that information, given what has gone on. So thank you for putting that on the website and for following, as Mr Galea said. Ms Sinclair, in answer to a question by the Chair you spoke about how you collect data and look at patterns and trends. Can you explain what those patterns and trends have been, particularly in a Victorian context?

**Gabrielle SINCLAIR:** In terms of quality ratings?

**Georgie CROZIER:** I think it was. I was listening, and I was interested in what you said in answer to a question of the Chair's around that capturing. You said, 'We capture data and look at the patterns and trends.' I was just wondering if that was from a national perspective or if you broke it down state by state and what the possible patterns and trends were for Victoria, if you have that. You may not have it; you might need to take that on notice.

**Gabrielle SINCLAIR:** Well, I can answer in the aspect of nationally – we do look at things like quality assessments. We report on that, and whether it is a trending line going up or trending line going down, we do it on a national level and then we do it by jurisdiction, and that is published on our quarterly snapshots. We have, over the years, added more and more information to that snapshot so that anyone can use the links and do quite interactive deep dives into all of the information that we have there. For example, in our submission to the committee back in October we said about 90 per cent of Victoria's approved services had been rated. I can tell you now that our latest data indicates that it is 92 per cent. So that line is trending, noting of course that regulatory authorities are never going to reach 100 per cent of services being assessed and rated because all new services are given a period of time in which they set up their policies and procedures, they work with their families and they fill the service. In that period of time they are not assessed and rated, because that gives them usually typically between 12 and 18 months time to be fully operational before the regulatory authority will assess them. So that is why we will never reach the 100 per cent. We also do trends and information about breaches nationally and by jurisdiction and of course serious incidents, and that information is provided to ROGS every year, and that is published under the report on government services. We also –

**Georgie CROZIER:** Just on that, on the breaches, were you concerned with the regulator here in Victoria that since 2018 complaints to the regulator about childcare providers had increased by 45 per cent, yet over the same period the enforcement action had declined by 67 per cent? And that progressively got worse. By 2023 the figure was one for every 88 providers. Were you looking at those trends too and reporting those issues back either to the Victorian government or to anywhere else?

**Gabrielle SINCLAIR:** No. Our role is not to look at the way that regulatory authorities undertake their work. That is a matter for each state and territory to decide whether the operation of the regulatory authority is meeting the expectations of their minister.

**Georgie CROZIER:** Thank you very much. In your submission that you did provide to us – and it is around building the national educator register – one of the dot points is around the integration with working with children checks and similar agencies. Were you aware of the Ombudsman's report of September 2022 here in Victoria that was calling on the government to strengthen working with children checks?

**Gabrielle SINCLAIR:** No, I was not aware of that. But in our report into child safety, published in December 2023, we did look at it as a national problem. As the committee knows, perpetrators look for gaps. Our report certainly called out the fact that having different working with children and working with vulnerable people checks across the nation that do not talk to each other is a problem and allows perpetrators to move quickly from service to service, across borders and indeed even into schools and back into early childhood. Our recommendation 15 of that report said that there had to be a closer link and a means by which there is one point of truth where all that information could be made visible, because we know that perpetrators certainly look to operate in systems where they can be hidden.

**Georgie CROZIER:** That report that you have just referenced is a very important report on a very important issue, where you have highlighted the gaps and where perpetrators can see the loopholes and abuse those. That report would have been provided to the department and to government here in Victoria?

**Gabrielle SINCLAIR:** It was provided to the education ministers meeting, because our obligation is to the nine ministers.

**Georgie CROZIER:** Did you get any feedback from the Victorian government around those concerns? I know you are saying from a COAG perspective, but was there any direct follow-up with you regarding that report given the concerns that you raised in it?

**Gabrielle SINCLAIR:** I know that all the education ministers, at the time they received our report, accepted the report and made a determination to approve all the recommendations in principle, and then they tasked their governments to work together to start to very quickly implement the 16 recommendations.

**Georgie CROZIER:** Are you aware that here in Victoria there was no action taken – that the Ombudsman made a recommendation around strengthening working with children checks and your report of 2023 and nothing was done?

**Gabrielle SINCLAIR:** I cannot comment on that, sorry. That is a matter for the Victorian government.

**Georgie CROZIER:** That is all right. Thank you. Nothing further. Thanks, Chair.

**The CHAIR:** Thank you, Ms Crozier. Thank you, Dr Mansfield.

**Sarah MANSFIELD:** Thank you for your submission and for appearing today. I just want to start with the topic of ratios. We heard some evidence yesterday – you have indicated this or alluded to this yourselves – that ratios, rather than being the minimum floor, are almost being treated as a target and being seen as the ideal number of staff, whereas, as you have said, actually exceeding that is generally much more appropriate and creates a safer environment for children. Do you think there needs to be clearer guidance about optimal staffing levels given that the minimum staffing ratio is really being treated as the expectation?

**Gabrielle SINCLAIR:** I guess it is important to say that not all services use the ratios as the target.

**Sarah MANSFIELD:** No, but some are.

**Gabrielle SINCLAIR:** Again, when I said that great services always are far more flexible in how they roster their ratios, because we know that there are key times during the day to allow educators, for example, to have a proper lunchbreak, you would imagine – and we see this quite clearly – that good services look after their staff by making sure that they have proper breaks and that they are not required to be counted under ratio while they clean and things like that, because we are very, very clear that active, appropriate and adequate supervision has to be maintained at all times. What we do know from feedback we received when we were undertaking the rapid assessment, which is about to be released on Friday – I do not think I am jumping the gun by saying it – is that we heard and we saw enough evidence that there are a small number of services who use those ratios as a maximum. That is unacceptable in that we can see that when you have a very, very large group size, plus you have got educators who are not fully qualified and are working towards their qualifications and they put – how would I say – inexperienced educators with very large groups of children, we know that the result is that there is more likely to be a serious incident.

The committee mentioned the iron triangle. We say horses for courses and that you must make sure, if you have got a very large group size, you have got experienced educators, you have got the appropriate ratios and you are not counting someone who is in the kitchen cleaning as someone who is within ratio and looking after children.

**Sarah MANSFIELD:** On that idea of the under-the-roof ratios, do you think that there need to be changes to that process? I understand that centres need some flexibility, but as you have alluded to, it is potentially, in some services, being really abused as a way to avoid adequate staffing.

**Gabrielle SINCLAIR:** Yes, Doctor, you are absolutely right. Our recommendations from that report are very clear. Back in 2018 there were some changes to how the National Quality Standard was written. One of our recommendations is that we have to be much clearer about the expectation of what is considered to be, as I mentioned, adequate and appropriate supervision of children. With the National Quality Standard, we need to be very clear that under-the-roof ratios should only be used in exceptional circumstances and not as a normal process in which some services – a very small proportion – are using those to reduce costs.

**Sarah MANSFIELD:** Thank you. Yesterday we also heard, and we have heard it through our submissions as well, that while NQS ratings are one part of ensuring child safety, we have got plenty of instances where services that were of an acceptable standard were meeting – potentially exceeding, but certainly meeting – but have still had some terrible incidents happen within them. So it is not a guarantee that a service is necessarily operating safely. We also heard yesterday that some providers use the NQS as a basis for financial incentives or bonuses for their management or executive. It is a component, so if they achieve certain scores on the NQS,

they personally will get a financial bonus. Do you think there is a risk that the NQS system can be gamed or that you can meet those targets without genuinely having to provide a safe environment?

**Gabrielle SINCLAIR:** That is a very complex question, because I think one of the things that we have to say is that in environments where you have children and young children there will be incidents that happen. From our data and the work that we have done it is very clear that the serious incident categories under the national quality framework go from everything from a child having an asthma attack to an ambulance being called or indeed, tragically, the death of a child. Those extreme cases are quite rare when you consider that every day 1.4 million children attend a service. What we have found is that the better the service, the more likely they are to report a serious incident, and they go overboard in a way and report incidents that are not considered serious because they have a culture of transparency and accountability.

When we have had a look at serious incidents, we have found that approximately 8 per cent of serious incidents end up in an action being taken against the service because it was their fault. I did mention a couple of weeks ago that when we had a look at, for example, the category of children missing or unaccounted for, we found that the vast majority of that type of incident happens in outside-school-hours care where a child fails to come to the outside-school-hours care service. Our role is to explain that to parents and, looking at data that can seem to be very, very worrying, explain it to them in a way that I guess puts it in context. Abi might want to say something too. Sorry, Doctor.

**Abigail WELDON-CHAN:** Dr Mansfield, I just want to clarify as well that when those regulatory authorities go out and assess and rate services against the National Quality Standard, there are various review processes built into that system and there is an internal review option if providers and services are not comfortable with the ratings that they have received or the evidence that has been used by the regulatory authority to make that determination. That is undertaken by the same regulatory authority but somebody who has not been involved in the assessment rating process to try and give that extra layer of accountability, let us say. Then, if they are still not comfortable with the outcome of that first-tier review, which is what it is called, they can put in an application to ask for a second-tier review. We then organise a group of experts across the country to review that evidence, and they will make a final determination on that application. So there are various levels within the system that are at play.

**Sarah MANSFIELD:** Okay. Thank you. Just moving to some of our systems of oversight and regulation in Victoria, last year exposed that a weakness in the chain of oversight was the failure of the regulator, QARD at that time. Are you confident that this can be avoided with the new regulator, VECRA?

**Gabrielle SINCLAIR:** Again, sorry, Doctor, that is a matter for the Victorian government. It is not a role of ACECQA's to determine the adequacy of regulatory authorities.

**Sarah MANSFIELD:** Okay. Are you working with VECRA? Are there partnerships between you and VECRA?

**Gabrielle SINCLAIR:** We are. One of our functions under the national law is national consistency. When ACECQA was first established, we established what is called the regulatory practice committee. That consists of all the heads of the regulatory authorities. We bring them together on a regular basis to talk about the issues that they are facing, trends, consistency of their regulatory effort, tools that they need might need, resources.

**Sarah MANSFIELD:** Sorry to interrupt. What sort of tools? What sorts of things do you think that, from your experience, they need to be able to do that job effectively?

**Gabrielle SINCLAIR:** I think, first of all, to be clear about what sort of risks they should be looking at when they go into a service. Part of ACECQA's role is to train authorised officers to undertake assessment and rating, so we do a very, very strenuous training program for any authorised officers who are going to take that function on. We test them. We make sure that they are not approved to undertake an assessment and rating until they have passed our testing regime, and then every year they must set the exam and pass that exam to make sure that they are still consistently able to undertake assessment and rating in a reliable way. The other resource that we do for them is, as I mentioned before, when we have a look at the national data, we can pick up issues. A number of years ago, working with regulatory authorities, we picked up the issue of fraudulent family day care. We saw that in the eastern states, and by bringing all the regulatory authorities together, they could discuss

and agree how they were going to target family day care at the time to make sure that fraudulent family day care services were being shut down.

**Sarah MANSFIELD:** Thank you.

**Abigail WELDON-CHAN:** Dr Mansfield, one other thing I might just add to that is that we have worked very closely through one of the subcommittees of that group to prepare a new resource, which went live last July I believe, which is the national decision tree. That is one of the things that help services and approved providers understand their notification obligations under the national quality framework, and that was something that was identified by that committee as being an additional tool that would assist the sector to meet their responsibilities. That is just one example of one of the tools that we have developed.

**Sarah MANSFIELD:** Thank you.

**The CHAIR:** Thank you. Ms Bath.

**Melina BATH:** Thanks very much, Chair. Thank you very much for being here today, Ms Sinclair and Ms Weldon-Chan. I want to talk about the model code. In day care and in this sector, the digital world is really important. I know it is really important for families who go off to work to get photos of their loved child or children showing what they are doing for the day and the positive things that are happening. I think it is certainly a positive and I would be seeking your clarity on that, but also it can be misused and there is a risk to children in terms of these devices that the sector can hold and use. I want you to unpack the model code. You have made some recommendations about its importance. Where did these incidents that put this on your radar come from? Could you just comment to the committee about the model code?

**Gabrielle SINCLAIR:** Thanks very much. As I mentioned, in the child safety report that we did in 2023 we were very concerned about the personal use of digital devices, so people's mobile phones, watches et cetera taking images of children without anyone else knowing and certainly not the parents knowing about it. Then of course as investigations were undertaken we became aware, as did the rest of the nation, of a perpetrator who used his mobile phone to take images of offending against children. Our recommendation in that child safety report was that no educator, no-one working in a service, should have their personal device on them. We got a lot of feedback at the time that a number of educators were put under a lot of pressure by, how would you say, less than quality approved providers who were putting pressure on them to use their personal devices to take images of children and then uploading them for families. That was unfair for them, and also there was no quality assurance of what sorts of images were being taken, how they were being stored or how they were being shared. When the education ministers approved in principle our recommendations, while changes were being made to the regulations they asked us to develop a model code, which gave lots of information to approved providers, to educators and to services about what they could choose to adopt before the regulations could go through and be changed. Abi?

**Abigail WELDON-CHAN:** So following that, education ministers did approve changes to regulation 168 of the national regulations from 1 September, which is around having policies and procedures in place for the safe use of digital technologies and online environments, and those policies and procedures that services must have to cover requirements such as the taking, use, storage and destruction of children's images and also have to include authorisations from parents. That was the next stage in the national action, and then the changes that come in from Friday go a step further. Now there will be restrictions on how devices are used in services, whether they are service-supplied devices in centre-based care, or in family day care they can be service-supplied or service-authorised devices. But in neither context – neither family day care nor centre-based care – can personal devices be used to take images of children. Some of the fact sheets that I spoke about earlier, in terms of the work that we are undertaking with governments in advance of those changes coming in on Friday, do include specific information sheets for both of those two service types to explain what those changes that come in on Friday mean in that context.

**Melina BATH:** Thank you. From your perspective, do the service providers have the capability and digital literacy needed to properly implement the model code? Are people aware enough of this, or do you see a trend anywhere that there is a lack of that understanding?

**Abigail WELDON-CHAN:** In between all of these actions that have happened across the country and been prioritised by education ministers was the development of a national quality framework online safety guide.

That was released in June, July of last year as just that – the kind of guidance to support services if they did not already have strong practices in place. We know from feedback from some providers and services that they are very digitally literate. But for those that were not, that guide, which was developed with a lot of expert involvement, including the eSafety Commissioner, does set out very clearly best practice guidance. As I said, it was in place from the middle of last year to support services on that continuous improvement journey, and now it is one of those resources that is used, we believe, across the sector. We have now got those legislative parameters in place as well, and the guidance is being developed through those information sheets and the guide to the national quality framework.

**Melina BATH:** Sure. And I guess there are emerging technologies that you have got to try and keep ahead of the curve on, because clearly, sound people and good people working in these are not going to tap into those, but there is potential, so I am assuming that you are trying to keep ahead of the IT technology wave. In terms of an audit – this has come in and it is an evolving issue – do you have a national audit? How do you know that you are keeping abreast of this issue? Have you thought about an audit?

**Gabrielle SINCLAIR:** There are a couple of things. When we were doing the child safety review in 2023 we worked very closely with the eSafety Commissioner and also with NOCS, the National Office for Child Safety, and we continue to work very closely with them as well as looking at international evidence and international data. We believe that – working as much as we can from the benefit of the child, I would say. Cyber security: there are images, but more than that – and I appreciate that your background is as a teacher – what we saw when we looked at the use of technologies was that a lot of educators in poorer types of services were under pressure to keep taking images of children when they should have been actually working with the children and teaching the children. We are closing the loop by giving more and more information to parents to say – for example, a good service will tell you about their policies about taking images of your child and they will tell you about what they are doing to protect the images of your child, but more importantly, they will tell you that they do not spend 90 per cent of their day taking images of your child; they are actually working with your child.

**Melina BATH:** Sure: participating with the advancement of that child.

**Gabrielle SINCLAIR:** Exactly.

**Melina BATH:** You have got to get that balance right. It is not about the show, it is actually about the education and care. That is a good comment, thank you. You just mentioned fraudulent family day care. Could you unpack that more for this committee? It is really concerning and it happens – that is why we have all the regulations and oversight and authorisations and laws. But I remember a few years ago in Victoria – it was happening in the west – people were claiming funds for this. How are you able to investigate and/or advise to stamp this out? Because at the end of the day, we can have all these day care centres and services, but when there is this undercover black market, we will call it, how are you dealing with that from your position?

**Gabrielle SINCLAIR:** We saw a peak of fraudulent family day care back in, I think it was, 2014 to 2016. That is when all regulatory authorities and the Australian government and ACECQA worked together to identify what the indications of fraud were, and we were asked by the regulatory authorities and the Australian government to develop a system called the joined-up approvals process. Fraudulent family day care seemed to be able to exist because there were two different approaches to approvals. One was to get approval through the Australian government for the funding for CCS, and then approval through a regulatory authority to run a service. Since, I think it was, 2019 the joined-up approvals process that ACECQA developed and hosts and continues to run means that for anyone seeking to operate a service, whether it is family day care or any other type of service, there is only one system that they go through so that everyone is now assured that it is difficult for the fraudulent ones to get approval. On the other hand, you have also got, as you called them, the black market services. We hear from time to time that a regulatory authority has found out that a service is operating without appropriate approvals and not meeting any of the standards, and they move very swiftly to contact that so-called service and to close them down. Abi, did you –

**Abigail WELDON-CHAN:** I was going to add just that that regulatory practice committee that we spoke about earlier – one of the subcommittees is an investigators committee, and that includes investigators from the Australian government and also from the states and territories. We hear very often of the regulatory authorities and the Australian government working very closely together on joint investigations. Some of those are into

family day care, and where there may be data that the Australian government holds around attendance – for example, at sessions of care – the regulatory authorities can then work with the Australian government to ensure that the quality and safety of those environments are optimal for children. There are often joint investigations that are underway across the country into that.

**Melina BATH:** One quick final question and my time is out: are there any recommendations for this committee to further stamp that out? Do we need to be saying to state government anything on that issue?

**Gabrielle SINCLAIR:** I think it is an extremely good question. We know perpetrators, whether they are perpetrators against children or fraudulent perpetrators, look for different systems. Unsurprisingly to the committee, ACECQA's role is really wherever it can be to be national, because that really smooths out those sorts of opportunities to game the system or to look for little gaps. The more that we can drive national decisions and national consistency, I think the safer our children will be.

**Melina BATH:** Thank you. Thanks, Chair.

**The CHAIR:** No worries. Thank you. Ms Ermacora.

**Jacinta ERMACORA:** Good morning. Thanks for being present. One of the recommendations from the Victorian rapid review was to also give regulators the ability to deregister individuals who are on the register. I am just interested in your views on progressing this work nationally. Is it part of the planning undertaken by your organisation?

**Abigail WELDON-CHAN:** Yes. There is already an existing system where, if regulatory authorities do prohibit an individual, that information is fed into the NQAITs, the information system that is used across the country. Approved providers can check whether an individual's name is held on that register, and if there is a concern, it will flag for them to talk to their regulatory authority about that. Because it is national prohibition, that does mean that if they are prohibited in one state or territory, they are prohibited across the country.

In terms of the national early childhood worker register, the stage that is being rolled out on Friday is the foundational stage of what that register will operate under. There are still conversations underway by ministers and senior officials about what later stages of the register might look like, so it is possible that that kind of registration scheme that I think you are referring to, similar to teacher registration, might be a future stage in that register. We do not have any clarity on that at this point.

**Jacinta ERMACORA:** Thank you. Just moving on, recommendation 17 of the Victorian rapid review speaks to making information about service quality easier for parents to view and interact with, such as through the Starting Blocks website. Can you speak to the work that has been undertaken in terms of implementing improvements stemming from this recommendation, because I think it is the confidence of parents that really is a strong piece here.

**Abigail WELDON-CHAN:** Thank you. That is a great question. Yes, I think that has been a priority for all ministers over the last few months. We have made progressive changes to the Starting Blocks website. In agreement with governments, we are now publishing things like the dates of the last regulatory visit that has happened to an individual service. We have also enhanced our information about the types of compliance and enforcement actions that are taken by regulatory authorities and what those mean. Then there are a series of six different enforcement actions that we now have gained the permission from the states and territories to publish in relation to those services, so things like whether states and territories have amended conditions on approvals, whether they have suspended approvals of a service or an approved provider, the kinds of compliance directions and actions that they have undertaken. As I say, there are six new types of information that we are now able to publish on Starting Blocks for parents, which has been worked through with the states and territories.

**Gabrielle SINCLAIR:** I think it is also important to say that Starting Blocks is ACECQA's website. We also work – outside of the enhancements that Abi just mentioned – directly with parents, and we ask them what sort of information that they would like to see on Starting Blocks. We have a parent focus group and we do surveys with parents so that we keep enhancing the information on Starting Blocks so that they choose the best service for their child.

**Jacinta ERMACORA:** Staying with parents, how do you support services to encourage parents to report concerns – minor or medium or major – when parents know that a minor incident or even any kind of significant incident reported by a parent will change the relationship between the child and the carers and the parent, and that in itself compromises the care. So doing the right thing also changes the relationship. How do you provide support in those environments? I guess it is a cultural question.

**Gabrielle SINCLAIR:** It is.

**Abigail WELDON-CHAN:** From a very legislative perspective, when there are complaints about a service or a provider, a family can go straight to the regulatory authority, so they do not have to go through the service or the provider. So if there is any concern, such as the type that you have raised, that can be dealt with immediately just straight from the family to the regulatory authority, and there is information on Starting Blocks to explain that parents can do that – they can make those direct complaints. As Ms Sinclair said, we have enhanced the information that is available across Starting Blocks, and the work that has been done with focus groups has also touched on how to look for a quality service, what kinds of things to be looking out for, and the kinds of questions that families should be able to ask of services to understand a little bit more about maybe why they have a particular policy or why they have a particular practice in place. I would say that it is really important that the relationships between families and their services are maintained. It is part of quality area 6 in the national quality standard that those relationships with families and with communities are a really strong component of a service's practice. When regulatory authorities are out assessing and rating services, they are looking for evidence of that.

**Gabrielle SINCLAIR:** For example, they may – sorry.

**Jacinta ERMACORA:** No, that is okay. I was just going to give an example of, say, where a childcare centre accidentally provides another mother's milk to a baby. Reporting something like that, the childcare centre will know who reported it – either the parent whose milk it was or the parent whose child received that milk. So how do you deal with that?

**Gabrielle SINCLAIR:** I think that again we know that high-quality services go out of their way to make sure that they report those types of mistakes or incidents, even though it is not considered to be a serious incident. They will be on the front foot and they will notify the parent so that the parent should not have to be put into an invidious situation where they have to report a complaint. We also know that high-quality services, and the majority of the over 18,000 services, are there to do the best that they can. They are the ones that are very explicit about how parents can make complaints, and they are very quick to ensure, as Abi said, that the relationship with the families is sustained by doing everything they can to be transparent and accountable to their families.

**Jacinta ERMACORA:** I think I will leave it there and keep us on schedule. Thank you.

**The CHAIR:** Thank you very much, Ms Ermacora. I would now like to say on behalf of the committee, thank you very much, Ms Sinclair and Ms Weldon-Chan, for your time this morning and your evidence and contribution to the parliamentary inquiry. We really appreciate it. I just want to let you know that you will receive a copy of the transcript for review in about a week's time, before it is published on the website.

We are now going to take a short break to reset for our next witness, and we will be back at 10:20. Thank you.

**Witnesses withdrew.**