

# 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**

Karen Bunker, Member,

Nicole Skoda, Centre Director, and

Ffion Evans, National Coordinator, Early Childhood Education and Care Team, United Workers Union; and

Justin Mullaly, President, Victorian Branch,

Heidi Ratje, Deputy Vice-President, Early Childhood, Victorian Branch and

Justin Bowd, Research Officer, Victorian Branch, Australian Education Union.

**The CHAIR:** Good afternoon. We will now resume the committee's public hearings for the Inquiry into the Early Childhood Education and Care Sector in Victoria.

All evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and the provisions of the Legislative Council standing orders. Therefore the information you provide during the hearing 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, can you please state your name and any organisation you are appearing on behalf of.

**Justin BOWD:** My name is Justin Bowd. I am a Research Officer at the Australian Education Union, Victorian Branch.

**Justin MULLALY:** Justin Mullaly, President, Australian Education Union, Victorian Branch.

**Heidi RATJE:** Heidi Ratje, Deputy Vice-President of the Australian Education Union for Early Childhood and a full-time practising teacher.

**Karen BUNKER:** Hi. My name is Karen Bunker. I am a United Workers Union Member, but I am also an early childhood educator.

**Nicole SKODA:** Hi. I am Nicole Skoda. I am a United Workers Union Member and a Centre Director.

**Ffion EVANS:** I am Ffion Evans, and I am the National Coordinator at the UWU ECEC Team.

**The CHAIR:** Thank you all very much. Welcome. We are now going to introduce ourselves. My name is Anasina Gray-Barberio, MP for Northern Metro and Chair of the select committee.

**Michael GALEA:** Michael Galea, Member for South-East Metro and Deputy Chair.

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

**Melina BATH:** I am Melina Bath, Eastern Victoria Region.

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

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

**The CHAIR:** Thank you all. I would now like to welcome and invite you to make opening statements. I believe you have two opening statements, one for each union. Excellent. If we could keep it to a maximum of 8 minutes each so that we have got plenty of time for discussion, that would be wonderful. Thank you very much.

**Ffion EVANS:** I would like to first of all thank you for the opportunity to speak on behalf of the United Workers Union members. As I mentioned, my name is Ffion, and I am the coordinator at UWU. I am joined today by educators and UWU members who have got over 40 years experience in the sector.

We want to see a sector where children are not only safe but thrive, where families have confidence in the education and care their children receive and where educators are supported to do their best work. The underlying issues, as educators have reported over and over for decades, are understaffing and ratio loopholes that leave children unsupervised and in unsafe situations.

The United Workers Union represents thousands of early childhood educators across the country and in Victoria who are calling for urgent action to ensure safety and quality across the sector. Safe early childhood education cannot be delivered without familiar, stable and well-supported teams of educators. Our recent survey of over 3000 educators revealed that 77 per cent reported operating below minimum staffing requirements at least weekly, and 42 per cent said that it happens daily. These are not isolated incidents; they are systemic failures. When staffing falls short, children miss out on emotional support, face greater risk of injury and lose vital developmental opportunities. Ratios must be met in every room, not just across the centre, and built on. The under-the-roof loophole allows services to appear compliant while leaving individual rooms drastically understaffed.

Children with additional needs must be fully supported. Seventy-nine per cent of educators say there are not enough inclusion support staff, and this contributes to more safety incidents. We have also found that more than half of educators feel uncomfortable raising concerns, and two-thirds say their issues go unheard. That is why we are calling for much more educator involvement and for people in power to listen.

Finally, we must invest in ongoing professional development for educators and address the issue that for-profit providers are less likely to invest in staffing and more likely to face compliance issues. Public funding must go to services that prioritise children's welfare and not shareholder profits. I wonder if I could pass on to my colleagues here for any remarks that they want to add.

**The CHAIR:** Yes. You have less than 5 minutes, but please go ahead.

**Nicole SKODA:** We know that the first five years of a child's life are fundamental for their learning and their growth, and for so long I feel that it has been overlooked. Now is the time for us to really say we need to do more not just as educators, not just as people, but the government too – as a collective we need to invest in these children. I have been in the sector for over 13 years, and the number of challenging behaviours that we see day to day has grown astronomically. When I first started as a trainee, there were maybe one or two in a centre. There are now five-plus per room, so we really need to look at the way that we support the educators to support these children to have the best outcome in life.

**Karen BUNKER:** Hi, I am Karen. I have been an early childhood educator for 25 years. I have actually worked at the same service. It has changed companies over the years, but I have actually worked at the same centre for the 25 years. Over those years I have seen some wonderful changes. I have been able to practise the early years learning framework, so I have actually been able to model and teach the children. We have seen some positives, but just like Nicole said, the difference is in the children now compared to 20 years ago. I work at a service where I have a lot of children that come through the department – a lot of children with trauma, a lot of children in outside-of-home care – and really see how much more support those children do need. Unfortunately, because those children do not have an actual diagnosed learning difficulty, they are not given any extra support, and they really need that extra support to thrive and grow and feel safe and feel recognised. That is one thing we are seeing.

But my biggest concern at the moment is the under-the-roof-line ratios. They are being used by all services – different services give it different fancy names to make it not sound as bad as it is. But no matter what, under the roof line is under the roof line. I am not sure how much time I have to explain or if we are going to talk again, but I want to explain to you how a ratio works, just in case you are unaware. In the three-to-five years age group, the ratio is one educator to 11 children. We have an example: you have a three-to-four years room and a three-to-five years room. You have 11 children in each room, and you have one educator in each room. But if both of those rooms had 16 children, counting those two rooms together, you only need three educators. Technically, you really should have two educators for 16 and two educators for 16, but under the roof, you only

need three. This is where the big safety issues are happening, where one educator will be left with 16 children because the other educator needs the support more in their room, so they could be left for a long period of time on their own and then they are out of ratio. But under the roof, they are technically not out of ratio, so this is becoming a huge problem. It is affecting the younger age groups as well. Children's safety is out the window – their care, their education. It puts educators under stress. It is just causing such a big issue within every early learning centre.

I am happy to chat more later. I do not know how much time we have, but I wanted to express how much that is affecting us. I feel that at my service; we feel it at every service. And the pay rise was amazing. The pay rise has helped so many educators. But we got the pay rise but now we have less educators, so we sort of gained one and we lost one. I hope I explained myself okay.

**The CHAIR:** You did very well. Thank you very much, Ms Bunker. Over to the AEU.

**Justin MULLALY:** Thank you, Chair. The saddest thing is that we actually have a system that is working perfectly as it is designed to work, and that means that we have got a system that is not delivering for children and it is not delivering for the adults that are there for the children. What that means is that we need to redesign the system, and what that means is that we need to take not just short-term opportunities – which we must – but actually look long term. I wonder what this looks like in terms of the provision of ECEC for the children of those children who are currently in ECEC. If we can get the policy settings right, if we can get the funding arrangements right, if we can get the valuing of the workforce right, I wonder whether we can then guarantee ourselves as a community that we will get the provision of high-quality early learning for children right – and I do not mean that in the sense of things are really wrong now, where they are going well. What I mean is a system that does not have the failures that we have seen, a system that is actually able to be sought to be emulated by other jurisdictions. We have the ability to achieve that outcome, but we need to have the vision that enables us to get there.

In terms of some of the key things that we have raised in our submission that I want to touch on, the compulsion for this is set out in what our international obligations are. In that sense, it is absolutely critical that we meet those obligations in a better way than what we have had up until now. The AEU agrees with the submissions of the UWU in the broad and in a number of the particular matters that they have raised, including today. But we have uniquely designed a system that relies on for-profit provision, and everybody here knows the expansion of that in the last five years has been phenomenal, to the extent that it actually goes against what I would say is the proper design of an ECEC system. If you were setting out today to build it from scratch you probably would not build it this way, and you would not build it this way because it creates too many holes, too many gaps around quality and around consistency in provision. In that sense, moves where they have been made by the current government to have more public provision is welcome. But systematic change to drive greater and ultimately only public provision is exactly what our union advocates for. That is not to say you get there in one step. That is why we argue that we need to take the opportunity for what can be done now in order to fulfil a long-term promise to children and to families.

It is not lost on us that one of the critical things that ECEC provides is in relation to the capacity for parents, particularly mothers, particularly as it affects women, to enter the workforce when they still have young children. So in that sense, that element of it – which you cannot ignore, but being from an education union always comes second to the provision of education for children – is something that is best served where there is the right level of confidence, where there is capacity, even in thin markets, to access really high quality services, and in a way that makes sure that we are not just providing care for children, we are actually preparing them in the best way possible for their lives let alone the steps that they take as they head through kindergarten and of course into schooling itself and beyond. So we are very strong advocates for public provision, and we are very strong advocates for making sure that there is a pathway to get there over a period of time.

Where we are also concerned, as our submission raises, is in the context of the consequences of failure. We have got a system that says that even if you are not up to scratch, working towards, that seems to be okay. That is not okay, and we actually need to get the settings right. In the absence of settings that enable us to get every service to a level where we say that they are at least satisfactory, and if we are concerned that having provision stopped because they are not quite satisfactory, then we create issues for parents and as workers and a range of those other consequences, then there must be investment to ensure that those services that are not quite up to scratch are able to actually get up to scratch, with considerable support. Our submission calls for the regulator

to be in a position to provide that direct support, such that it can be guaranteed that if you are not quite there yet, that you are able to get there, especially if you are not able to get there in a way that is quick and proper. In too many instances we have too many services that are not at the standard over multiple phases of assessment. That has got to stop. It has got to stop, and we have got to have a better way of doing it.

There is a nexus here between training and the provision of professional development as it applies to child safety and as it applies to the valuing of the workforce. The proportion of those who are being trained for roles in early childhood education and care, particularly certificate III and diploma, are predominantly being trained in for-profit providers. I will not tar every for-profit provider with this brush, because that is not correct, but there are too many that still have the character, as we would put it, of 'tick and flick', so the quality of the education workers are receiving prior to entering into the service delivery is not as good as it could be. We think that public provision through TAFE is a much better guarantee. I am not so foolish as to say that TAFE is perfect either, but it is certainly a much better mechanism for quality control and quality assurance. We think that mechanisms that prioritise delivery through TAFE, especially given that access to training for these workers in thin markets is only provided for by the public provider, then as a universal base and emphasising its status is really important. Ongoing safety training is critical, and I am conscious of my time.

Our basic thesis is this: marketisation in this space has failed. Market provision is not the way to guarantee the needs of children and families. We need to change it, and we need to have a bold approach of doing that, and we need to do that over a period of time.

**The CHAIR:** Thank you. Well done; you had 10 seconds left there. I will get underway. I just want to quickly touch on that point, Mr Mullaly. You said market approaches have failed. Do you have a recommendation of what approach the committee could be considering? We heard from witnesses yesterday that a social market kind of approach could be considered. What is your suggestion around this?

**Justin MULLALY:** We have particular concerns about the for-profit element of the sector, because we think it increases the likelihood that children's needs and families' needs are not appropriately prioritised every step of the way. So from that point of view, certainly not at this stage, having an expansion of that would be a positive first step. Finding measures to then limit that in the context of greater public provision is important. Public provision in Victoria of course means a range of different things. It could be public provision through government, and of course there is any number of not-for-profit providers that have a more public character than what you might have in a for-profit provider. So, in transition, there is certainly a role for the not-for-profit sector in our view. Ultimately, as previous witnesses – most recently from The Parenthood – have suggested, there is great capacity for us to have a much more systemic approach that has some of the characteristics of our approach to schooling.

**The CHAIR:** Great. I just want to pick up the centres that are 'working towards' – your suggestion is that VECRA, the new regulator, needs to take on a hands-on approach. What does that look like?

**Justin MULLALY:** Yes. So when a centre is 'working towards', it clearly needs to address a number of deficits. We have got a number of centres, I think, on the public record where they are in that situation on multiple occasions, sometimes consecutive occasions, over a review cycle. So from that point of view, we say that we need to perhaps look at the question of what 'working towards' means. It is more than nomenclature; clearly 'working towards' means that there is a sufficient view that the service can remain open, but what we think is: what does it mean to enable a service to remain open? We think that there is a role for the regulator or for another agency of government, because it can be different to the regulator, to be able to go in and work with the management of that centre.

**The CHAIR:** Are you suggesting then currently, as the system is, the regulator does not work closely with centres that are working towards? Is that right?

**Justin MULLALY:** I do not think that they work in the way that we are proposing that they would work, and that is that they would work on the precise areas of concern and that they would work to put systems and processes in those services to make sure that they were actually addressing properly the areas of deficit as opposed to setting a requirement for that to be met and that then to be subsequently assessed only upon a further review.

**The CHAIR:** All right. Thank you very much. I am just looking at the time, and I have got lots of questions. First of all, thank you for the work that you do in our early childhood education sector. It is hard work, and we honour the complexities within your workplace. I just want to start off by saying that 25 years is a long time. I can imagine you are an anomaly in your sector, with that kind of service behind you, so thank you for that. I want to touch on what you spoke about under-the-roof line. It sounds to me like this is being exploited quite heavily. Am I wrong in assuming that?

**Karen BUNKER:** You are very correct.

**The CHAIR:** And it is being exploited by all models of centres, non-profit and for profit.

**Karen BUNKER:** Yes. Different companies will use different wording to make it sound like –

**The CHAIR:** You mentioned something about fancy words. What are the other terms?

**Karen BUNKER:** They will say ‘age banning’, so they will look at groups of children. It does not matter how they use it. There are some centres that do open plan, so there is no set room – all children explore in all the rooms and the educators just move through the rooms. That is one way of not using under-the-roof line. However, you have then got very small children with very big children – how can you care, educate and supervise. Some companies will find their own little ways, but really under-the-roof line is under-the-roof line; it is still happening everywhere. I explained the older age group, but the same thing happens – because you have the zero to three age group and the ratio is one to four, then you have the three to five age group and the ratio is one to 11. It still happens in the zero to three age group as well, where they will work between those two rooms.

**The CHAIR:** I am just looking at centre-based ratio requirements. Victoria has, on paper, better ratio requirements, correct, compared to other states?

**Karen BUNKER:** Compared to other states, yes. I cannot think how many years ago when it changed, but it was originally one to five in the zero to three and it was one to 15, which probably only changed maybe about –

**Nicole SKODA:** 2012-ish.

**Karen BUNKER:** Yes. I was going to say it was not really that long ago.

**The CHAIR:** What triggered that change?

**Karen BUNKER:** Fighting very, very hard – educators, union, families, everyone. It was a hard fight, but we changed it because it was extremely necessary. Some other countries have better ratios than we have in Australia. Ours has improved. It is amazing. It made a huge difference, but there are some countries where the ratio is one to seven, not one to 11.

**The CHAIR:** Can I ask about under-the-roof line. Have your organisations spoken to the Victorian government about your serious concerns related to under-the-roof line and how it is being misused to address staff shortages?

**Karen BUNKER:** One hundred per cent.

**The CHAIR:** What has the response been?

**Karen BUNKER:** Have not had –

**The CHAIR:** Have you had a response from the Victorian government?

**Ffion EVANS:** Most recently we have participated in the rapid review, which the ministerial group asked for in August. We had over 2000 submissions on behalf of UWU members to that rapid review, and we are eagerly awaiting their response. We hope that they listened. We have been talking about staffing loopholes and under-the-roof ratios for many, many years, for decades.

**The CHAIR:** Have you met with the new regulator? Or do you have plans or anything in motion to meet with VECRA?

**Karen BUNKER:** We have not. We use every opportunity and every platform given to us to raise this issue. We have for decades. As I mentioned, we have just recently participated in the rapid review that was called by the ministerial meeting.

**The CHAIR:** But that has not amounted to anything concrete, is that right, like any kind of a commitment?

**Ffion EVANS:** Not yet, but we are really, really hoping that we are going to get a positive outcome this week.

**The CHAIR:** Okay. My time is up. But I just want to mention that this morning we had ACECQA come before the committee, and they spoke about the iron triangle, often referred to as qualifications, ratios and group size. What I am hearing today is ratios are an issue. Qualifications are an issue, in terms of private RTOs. In your submission, you talk about how in 2024 a lot of students were preferencing private RTOs versus TAFE options to receive their qualifications. I guess for us today in terms of the recommendations that we will be considering to give to the government, what is one recommendation that you have? I know it is going to be pretty hard to whittle it down, but what is one recommendation that you really want to see the government bring forward?

**Karen BUNKER:** The under-the-roof-line ratio.

**The CHAIR:** The under-the-roof-line ratio needs to go?

**Ffion EVANS:** It needs to go.

**The CHAIR:** All right. I really hear the pain.

**Karen BUNKER:** As educators, we do the absolute best that we can with our caring, educating, supporting and everything. We play many, many, many, many roles in our job. We know that there have been lots of issues with safety, and this will get worse, because you cannot actively supervise children when you are not working in your correct ratio.

**The CHAIR:** Just before I quickly hand over to our Deputy Chair, Mr Galea, do you have any information or data from your members around these sorts of issues that you could make available to the committee? You can take it on notice.

**Karen BUNKER:** Well, we have a barcode at our services. We can scan it, and we can put in every single time that we are out of ratio or if –

**The CHAIR:** And you have got some collation of that?

**Karen BUNKER:** Our union has all that.

**The CHAIR:** Great. Could we have access to that? Is that possible?

**Ffion EVANS:** You absolutely can. You can have access to our submissions to ACECQA as well. Just to close on this, 83 per cent of educators said that they strongly agreed a common staffing loophole, the under-the-roof ratios, used by centres compromises the safety and wellbeing of children. We will take that on notice.

**The CHAIR:** Thank you very much. Thank you, Mr Galea.

**Michael GALEA:** Thank you, Chair. Thank you all. I do have a few things I would like to try and get to. I do want to start on that, though. Yesterday we had one of Australia's largest private childcare operators tell us that they avoid the use of the under-the-roof-line metric. How prevalent is it?

**Karen BUNKER:** Like I said, different companies use different wording, but under the roof line is still under the roof line.

**Michael GALEA:** Across all the major companies that would be?

**Nicole SKODA:** Yes. There are a few that do not or that might use it in an emergency situation. Let us say you have had 10 staff call in sick with gastro, and you cannot get any more staff in. You might have to use it for that day or for a particular timeframe, but there are only a small amount of providers –

**Karen BUNKER:** There might be a few community-based ones that are able to not do it. But yes, with any provider that is maybe slightly bigger, it is being used.

**Nicole SKODA:** At the end of the day, profit is often pushed over the needs and the safety of the children.

**Ffion EVANS:** Just on that, as I mentioned earlier, when we did a survey recently of 3000 educators, 77 per cent of them said that they worked under ratio at least weekly, and 42 per cent said daily.

**Michael GALEA:** Those are good statistics to have. Thank you. We have seen lots of data and charts and everything, and we know, for example, from the ACCC that the turnover rate in the for-profit sector is higher than the not-for-profit sector. I would love to hear from you your perspective on any differences that you have noticed in working conditions between the for-profit and not-for-profit sector, recognising of course that there is good and bad in each. I would love to hear in broad terms some comparisons.

**Ffion EVANS:** In broad terms, we know at the core that educators more than anybody else are advocates that the quality of care and education for children take priority over anything else. Sometimes when organisations are accountable to shareholders, it is clear, from educators, that the priorities take precedent, and we are calling for a limit on the profiteering that we see in the sector at the moment. Educators reported to us sharp differences between the perceptions of for-profit providers' commitment to education and care compared to not-for-profit. Fifty-three per cent of workers said for-profit providers either placed a low priority on quality education, safety and care of children or did not consider it at all. I think that there is something in that.

**Michael GALEA:** Thank you. Are there any specific examples or areas of work that you do – whether it is in the conditions of staff or other processes in the centres – that any of you would want to draw our attention to?

**Heidi RATJE:** I think it comes into the pay and conditions. Educators and teachers who are provided with professional pay and conditions, so they have the time to invest in understanding what we need to do to be able to invest that time and energy into caring for the children, to build those relationships with children, with our colleagues, with our families, is so fundamental to having that positive outcome overall. I think there is a really stark difference between – and I am not playing the long day care versus kinder debate, I am really sorry – a lot of sessional kindergartens on EBAs versus our comrades in some long day care services who are on the award and on minimum wages, and the differences between the turnover rates of staff are huge.

**Michael GALEA:** The correlation, you would say, is there and the causation.

**Heidi RATJE:** Yes.

**Justin MULLALY:** I would suggest that if the committee is interested in this question, then research conducted and reported on by the Front Project, which is identified in our submission, goes to the heart of it in the context of identifying the characteristics of the link between terms and conditions of employment and the quality assessment of a particular service as it relates to low socio-economic communities. For us, that research is telling as it makes that direct connection in a fashion that should not be surprising to any of us. If you treat workers well, then your chance of having a higher quality outcome in the service that is provided is there, let alone all the other key markers around safety, around retention of a workforce, around connectedness to community, around trust of parents and carers, and all those other things.

**Michael GALEA:** Thank you. I think it was you, Ms Skoda, that mentioned inclusion support. The Productivity Commission review of a couple of years ago advocated for the federal government to bring in a needs-based ECEC inclusion fund. Is that something that unions here would support?

**Nicole SKODA:** Yes.

**Michael GALEA:** What difference would that make?

**Nicole SKODA:** A massive difference, because it would mean that more children have better access to the support that they need day to day. It means that the children that do not necessarily have behavioural needs but

are just participating in the program are not missing out because their educators are spending more time dealing with these challenging behaviours rather than educating and caring for their needs.

**Ffion EVANS:** A quote from you from an educator that is really familiar, I am sure, for our colleagues across the table is: we always work with the correct ratio, but the increase of children with higher needs is making current ratios completely inappropriate. Often you hear educators say that the current ratios are set as if you had a room of children who did not need any extra support at all, and does not take into account the reality of needs based on headcount and not based on needs. Educators would say that really does not set them up to be able to give the quality education and care they deserve.

**Michael GALEA:** I believe someone said there is a high rate of undiagnosed special needs as well. Is that an increasing trend?

**Nicole SKODA:** Yes, definitely. Especially since COVID there has been a massive increase in the children that need additional support, and it might not be a diagnosed need; it might just be that they need extra support, but unless they have the written documentation to say that – and 78 per cent of educators have said that they have children with additional needs in their spaces. So the statistics are there; they are showing – I lost my train of thought then, sorry. But yes, it is definitely on the rise.

**Michael GALEA:** Yes. Thank you.

**Karen BUNKER:** It is hard too with a lot of children that have additional needs. It is also hard to get the families on board, because you need to get support from everywhere and have those open conversations and those relationships with your families. This is where things come back as well to the importance of having quality educators, educators that want to stay in the industry, because if you build those relationships with your families and with the children, the families have more trust in you when it comes to you knowing their child and trust in what you are saying and they are more accepting to get help. So it all comes back around.

**Michael GALEA:** Thank you.

**Heidi RATJE:** And there is that disregard for our professional understanding of children within the context of an educational setting. What we are observing within a learning space might be different to what the parents are observing at home, so in that social context they do need that extra support. However, on paper they do not meet any criteria to be supported. When it is one child in a group of 11 or 22 or 33, that is not a huge problem, but when it is multiple happening, it is making a big flow-on impact for everybody.

**Michael GALEA:** Thank you. And if I may, just one quick question, perhaps for you, Ms Ratje: as the union also representing primary school teachers, what difference do your members observe with cohorts that come in through prep who have had the benefit of, say, three-year-old kinder as well as four-year-old kinder and those added supports? What difference does that wholly invested kinder approach make to their teaching in primary school?

**Heidi RATJE:** We have had some really, really positive feedback from our school colleagues about the difference that it has made, especially last year when that first bigger cohort came through post COVID and then accessing three-year-old kinder – the 15 hours of three-year-old kinder and 15 hours of four-year-old kinder. They were coming in so much more socially and emotionally ready and were able to engage more readily in the classroom space, and even the families had a deeper understanding of what was expected at school. There is still more research to happen in that space – it is very much anecdotal – but there has been really positive feedback.

**Michael GALEA:** Thank you. And thank you especially to the educators for everything that you do.

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

**Georgie CROZIER:** Thank you, Chair. Ms Evans, in their submission the UWU represents more than 150,000 members from over 45 industries. How many members in the early childhood setting do you have?

**Ffion EVANS:** Thousands.

**Georgie CROZIER:** How many?

**Ffion EVANS:** I will have to take that on notice.

**Georgie CROZIER:** Okay. How many work in the early childhood education sector in Victoria?

**Ffion EVANS:** Thousands.

**Georgie CROZIER:** There are around 47,500, from my background. I just thought you would probably have those figures on notes. You put it in your submission, so I would be very interested to know how many members you have out of those numbers. Were your members concerned about the loopholes in the working with children check? We know of the failures within the department around breaches. What were your members saying to you?

**Ffion EVANS:** We have supported publicly the changes in the working with children check, specifically the changes that now allow different states and territories to communicate with each other. We have been very supportive of that.

**Georgie CROZIER:** But that has only happened since what happened in the last 12 months has been exposed, the shocking situation that was exposed. What have you done over the last 10 years to alert your concerns around the failures with the working with children check? The Ombudsman found in 2022 that it was one of the weakest systems in the country. Was the union worried about the working with children check and the issues around its workers and the safety concerns for children?

**Ffion EVANS:** Our educators in our union have been advocating for quality care for decades, have been –

**Georgie CROZIER:** That is not what I am asking. I am asking about the working with children check and the gaps in the system. Was your union talking to government about concerns? You may not have been, I do not know; I am just asking. Was it raised with your workers?

**Ffion EVANS:** Our union have been talking to government about many, many issues relating to safety.

**Georgie CROZIER:** I am specifically asking about the working with children check.

**Ffion EVANS:** I will have to take that on notice. As I said, we have really supported the changes recently to the working with children checks.

**Georgie CROZIER:** We all support the changes. Catastrophic failures have happened in the system, and the issue is that you cannot answer the questions around the numbers in your union or whether this has been an issue raised with your members. I think it is really important that the committee understands that, because the Ombudsman made a recommendation to government in 2022 and the government failed to do anything about it. It was highlighted as one of the weakest in the nation. I am wondering whether your workers had those same concerns. So if you could take that on notice.

Mr Mullaly, I will go to you. You said in your evidence that there are consequences of failure, and you had a rhetorical question, ‘Is that okay?’ So I put to you: the regulator in the Department of Education since 2018 had a number of complaints around childcare providers, and those complaints increased by 45 per cent. Yet over the same period, enforcement action had declined by 67 per cent. In 2018 there was one enforcement action for every 20 complaints, and by 2023 that figure was one for every 88. Is that a consequence of failure? Has the regulator failed?

**Justin MULLALY:** The regulator, where there is not appropriate follow-up where there are matters raised, is not then able to address and rectify, if that is what is required, those issues. That is clearly, from the numbers you have just advised us of, potentially the case. But of course, what the numbers do not tell us is the nature of those matters. I would be interested to know what the nature of those matters is in that regard.

**Georgie CROZIER:** So one enforcement action for every 20 complaints in 2018 had gone up to one for every 88. Isn't that a failure by the regulator?

**Justin MULLALY:** I have just answered your question.

**Georgie CROZIER:** Yes, but you did not –

**Justin MULLALY:** Well, what I said is that it depends on the particulars. But what I also said was that it is clear to me that if the regulator is not in a position to follow up where it needs to –

**Georgie CROZIER:** Is that a failure then, if they cannot follow up where they need to?

**Justin MULLALY:** Well, conceptually, where you have got a responsibility to apply a set of standards and you are met with –

**Georgie CROZIER:** But this is the Department of Education.

**Justin MULLALY:** evidence that says that those standards are not being delivered, then the regulator's job is to make sure those standards are delivered.

**Georgie CROZIER:** The Department of Education's own regulator could not even do the follow-up. And also, even the Ombudsman, who said that the working with children check was one of the weakest in the nation, did not follow up. They are clearly failures in the system, and hence, that is partly the reason why this inquiry is going on – because of the failures in the system and the terrible, shocking circumstances that arose.

**Justin MULLALY:** There is clearly a reason why this committee has been established. There is clearly a reason why the government has sought to put in place any number of arrangements given what has occurred in the last 12 months. In that sense, that is evident to all. The degree to which arrangements of the past have the same character that gave rise to the changes we foresee and have in place now, I think, is about the particulars of those circumstances.

**Georgie CROZIER:** When the regulator within the department is not following up on breaches – the complaints that have been provided to them – that is a failure.

**Justin MULLALY:** That is not what you just said to me.

**Georgie CROZIER:** Well –

**Justin MULLALY:** Well, it is not, actually.

**Georgie CROZIER:** I gave you the figures.

**Justin MULLALY:** Yes, you gave me the figures. You did not actually say that, though.

**Georgie CROZIER:** You said in your statement 'consequences of failure', and you asked a rhetorical question, 'Is that okay?' I was putting to you, given the failures within the department: is that a consequence of failure and is that okay? I did not really get a clear answer. Anyway, I will move on. You say the market provision has failed. Can I ask you therefore, given the government's commitment to roll out three- and four-year-old kindergarten, do you see that the public system could have picked up all of that demand? I mean, surely somebody had to fill that gap. Was that a failure of government to promise and not be able to deliver, and therefore the private market had to step in?

**Justin MULLALY:** I do not understand your question.

**Georgie CROZIER:** The government's decision was for three- and four-year-old kindergarten to roll out. The current facilities could not cope with that huge rollout program, so the private system has come in and filled a gap, has it not?

**Justin MULLALY:** There will be instances where private providers, both for-profit and not-for-profit, have expanded kindergarten programs within existing long day care arrangements because of the expansion of three- and four-year-old kindergarten. That is true. You have also got that being the case across not-for-profit, you have got that being the case across community provision and indeed you now have that being the case through a whole range of other things, like government provision.

**Georgie CROZIER:** You clearly do not support the private market. You have made that very clear. What about parental choice? Do you support parental choice?

**Justin MULLALY:** I support a system that enables parents to have complete confidence that the quality of the service that they choose to send their child to is one that meets the standards that as a community we set.

**Georgie CROZIER:** Which is what we all want. And are you advocating to government to take the private market out of the system in your evidence today?

**Justin MULLALY:** No. What we are advocating for is more public provision. As I said in my comments earlier, what we want to see is a standardised approach where public provision is prioritised, and that is something that I think can be achieved and should be sought to be achieved over a period of time. Does that mean that there would be a reduction potentially in the size of private provision? Well, that could be a consequence of an approach that prioritised and expanded public provision.

**Georgie CROZIER:** Thank you. Unfortunately, I am out of time.

**The CHAIR:** Thank you. Dr Mansfield.

**Sarah MANSFIELD:** Thank you, and thank you all for your submissions and for appearing today, and I will just add to the thanks for the work that you do. I have had children that have benefited greatly from early learning educators and I really value what you do. I was curious earlier, in your opening statements some statistics were presented about the proportion of staff surveyed that felt uncomfortable about raising concerns. Can you expand on that a little bit more and maybe provide some information for the committee's benefit on why staff might feel uncomfortable about raising concerns?

**Karen BUNKER:** Sometimes you feel like you are talking to deaf ears. If ever we have got really big safety concerns, none of us would ever not say what needs to be said. But when it comes to things like the under-the-roof line, it does not matter how many times you approach a centre director or you approach your area manager and say, 'You know, this is how we've been working. Today my room has had 16 children. I've been on my own numerous times today. I've also got two children in my room that are undiagnosed.' We are always crying for help with those things like that. Because they are not doing anything wrong, it does not matter how many times you voice your opinion or you are crying for help – they are not doing anything wrong so they can just say 'It is out of my hands.' That is how people have felt with that. If Nicole or Ffion have got anything else to mention in other sites –

**Nicole SKODA:** I have networked with a lot of educators over my time, and the concern for raising issues – obviously safety concerns, yes, 100 per cent. Serious safety concerns always get raised and they are incredibly important. But as Karen said, small things often fall on deaf ears. Educators often feel that if they have raised it once and then they raise it again, they are then targeted to keep their mouth shut or 'We're not doing anything wrong, so therefore there's nothing wrong,' despite whether you have 16 children with one educator and then an incident occurs and then that educator is performance managed or punished. Does that make sense?

**Sarah MANSFIELD:** Yes. So there is not always a supportive culture for disclosing issues?

**Nicole SKODA:** No.

**Sarah MANSFIELD:** Yes. And do you think that is a system-wide thing or is it more prevalent in some parts of the system?

**Nicole SKODA:** I think it is system wide, yes.

**Sarah MANSFIELD:** Okay. Did you want –

**Heidi RATJE:** I think it goes beyond the system as well though, so even engaging alongside Orange Door or child protection and putting in a request for help or identifying a family's need, if they do not answer the phone, their case is closed. There is a systemic issue in seeking support when we have been brave and put in a support request. I think there is a lot of fear around calling out sometimes our employers because they are responsible for our livelihood. If we do make too much noise, if my job is not secure, I risk losing that, and then what happens? It is a massive cultural shift that needs to happen in services, which then leads into the professional development for that empowerment side – and it needs to be paid professional development for educators to engage in – to hopefully see that system change. It is not an overnight change, it is a long-term process that will occur.

**Justin MULLALY:** If it helps the committee, on page 6 of the AEU submission we make reference to a recommendation to see the establishment of child safety consultative committees. As others have just said, culture is a big problem here. Empowering the workforce is the solution – having a mechanism to do that that both creates a requirement for a provider to have a committee that transacts business around child safety and is also the same location that provides further formal opportunity for employees to raise matters. Part of the art here, and part of what we have learned in more recent times, is that visibility matters. Being able to have things like committees, amongst a range of other things, actually makes a difference, we think, and it is evident in other industries. It is not as if you do not have approaches like this in a whole range of different ways to promote particular sets of behaviours and cultures in other industries. Indeed it is not uncommon even with regard just to workers' health and safety that you take this approach.

**Ffion EVANS:** We started our submission today by talking about the systemic issues that have led to safety concerns and quality not being the priority in the sector. When we talk about concerns that educators want to raise, they are those systemic issues about understaffing – not having enough educators to take breaks, to look after the children and to educate the children as well as they would like to – and in those situations we can absolutely assure the committee that educators do raise very, very frequently with their directors, with their area directors and the hierarchy within the organisations that the priority is more educators, no using loopholes. These systemic issues are raised constantly. There is an element of wondering how many times, as Nicole said, you can raise it, not be heard and continue to want to raise those issues. But educators are the experts and they have the knowledge, so it is really, really important that they are heard.

**Sarah MANSFIELD:** On the issue of ratios, because it is obviously a really big concern, we heard yesterday from providers who were saying, 'Well, the reality is I can't always get workers. It's hard. There's not enough workforce. We sometimes just have to get by. We can't close a centre, because so many families rely on the service, so we can't close a room. We've got to have some flexibility in the system.' Do you think that is a good enough explanation for why ratios are being exceeded and why they are using this under the roof?

**Karen BUNKER:** It is not good. You are putting everything at risk. I understand a lot of our centres right now, at this time of the year, are a little bit quieter. All your kinder children have gone to school and your other children have moved rooms. Your room capacity is going to be a little bit lower, and you just have to try and find other ways. But yes, capping rooms sometimes is something that centres need to happen. Some services will encourage educators, if they work for a large provider, to work different days at different centres. You are trying to get new families through the door. You are trying to talk to families about high-quality education and care. You are talking yourselves up when you are doing tours with families, but you are pretty much lying to these families if you are not going to work within the proper ratios and actually be able to do your job and provide the best care for their children. You are just lying when the new families are coming in, and it is going to be very different from what you are explaining is going to happen to what is actually going to be happening day to day.

**Heidi RATJE:** Can I add to that the providers' accountability. What actions and what proactive steps are they implementing to ensure that they have ratios, that they are attracting enough people, the right people, to be able to provide that provision? Have they reflected on what awards they are offering and what pay and conditions they are offering? Why are their staff leaving or why are they not able to maintain the correct number of staff? I think that that needs to be something we are really mindful of, that accountability. People have to be held to account.

**Sarah MANSFIELD:** There need to be more consequences.

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

**Melina BATH:** Thank you very much for your time today and for everyone coming in. It seems to me, when we drill down into these, we end up sitting on a position, and that position is often philosophical or ideological. This position that I certainly hear from the teachers education union is about 'Let's phase out for-profit'. I just think if you go into any small country town – and I have just googled my own, and I see that there are four for-profit providers and four not, and that can be a not-for-profit or education department and council, so a mix. But ultimately my comment to you – please respond – is that it is almost futile to say this, because what we need to do – we have a system, and the cost to the taxpayer in federal and state taxes in a fiscally constrained environment, even over decades, to actually swap out the for-profit providers is huge, immense,

when there are other issues and other things that must occur. We all agree – we are all here, we all care and want to see the best system possible, the safest children, care, quality for staff, all of that. But I just find it, I will not say obtuse but philosophical that the solution to some of these issues, most of these issues, is to swap out the private sector.

**Justin BOWD:** Can I just say, one of the issues with the private sector is that to some degree their aims are not the same as the public good. They are not as likely to be in rural areas, for instance, as other types of providers.

**Melina BATH:** Well, we have got four and four in my town, so I am just making that as a comment.

**Justin BOWD:** Yes, that might be anecdotally the case there, but they are much more highly – and we quoted the statistics in the submission, they are from the ACECQA data, which is really very useful.

**Melina BATH:** Sorry to drill down into that, but you are saying they are not; they come in here and say they are. And so my argument is we should be taking the for-profit/not-for-profit off the – you can have a position. You are allowed to have a position. This is a free country I think still. But shouldn't we be looking at the quality of care – which we I feel we have been, and you are here today presenting arguments for – the regulation, the whole auspices of in-the-centre care – shouldn't that be the debate? Why does it need to transcend into what I would consider to be an ideological one?

**Justin MULLALY:** Well, the premise is problematic is where the difference in the opinions lie from my point of view and from the union's point of view. If you take out profit motive, you take out profit dividend, you actually have a very different funding expenditure environment, and that does give more scope for the way in which provision is permitted.

**Melina BATH:** Anecdotally, if you take out 50 per cent of the child care, the day care, the care in my town – and it is not anecdotal, it is there. I appreciate what you are saying. I think we will go round in circles. We have now got VECRA. We have had concerns, and we have heard them. We have seen in submissions in this inquiry where people have been concerned about having, once upon a time – only recently – the regulator sitting inside the department, so there was a conflict. Now we have got VECRA. I want to ask both unions: what will a good system look like? Regulators are very important to influence, instruct, oversee and implement the rules and laws here. What will a good regulator look like? What will independence in decision-making look like? What will transparency look like? What will no formal influence from the department look like? What will that look like as success from your point of view? I will go to both.

**Justin MULLALY:** I am happy to lead off. The measure – that is, the ultimate measure – is the one that I think we probably all have in our heads, and that is that the instances of child safety concerns are zero, or if they are not zero, they are so diminished that it is an outcome that we can accept. In that way the effect of the regulator should be to drive that kind of outcome – the mechanisms that the regulator has, the capacity for the regulator, as you put, in the context of appropriate independence but also appropriate transparency around its own conduct and the measures that are put in place if there are issues to rectify issues, whether they are issues that relate to circumstances that have already occurred or to prevent instances where children are not treated in the fashion that they should be.

**Melina BATH:** Thank you. And please let me provide that. How will you as a union look to hold VECRA accountable, from your stance? What will be some of your thoughts around that or your actions around that?

**Justin MULLALY:** I will probably deploy my magic wand towards it like I might try in other places. The union of course, as you will understand, has limited capacity to actually influence the behaviour of a regulator in this or in any other circumstance beyond seeking to engage with it where we think that that is a productive course, where members, for example, might raise instances that we might seek on behalf of them or in conjunction with them to make them known to the regulator. It might be that there is engagement that the union has as an organisation with the regulator, like we might do with other regulators in our sector, and that is about having conversations about things that we see systematically. It might be about understanding their approaches and making comment around those approaches.

**Melina BATH:** You make that commitment to do that, to hold the regulator, I am going to say, to transparency from your end.

**Justin MULLALY:** We would seek to engage so that we have an understanding of what they are doing and why they are doing it. If we have got opinions about how they could or should, then it would be through a relationship where you would exchange those views, all of course in the context of what they are there to do.

**Melina BATH:** And be transparent about that if you find that it is not meeting a standard that you are comfortable with.

**Justin MULLALY:** You will know that we are sometimes not shy in telling people what we think.

**Melina BATH:** We have understood that today. Thank you. Do you want to make a comment?

**Ffion EVANS:** Just to add to that, our educators are fierce advocates of a quality, education and care system which puts children's safety and quality at the heart of everything they do. They will not be in the future, neither have they been in the past, silent about failures or weaknesses in any institution within this space.

**Melina BATH:** My time is up.

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

**Jacinta ERMACORA:** Thank you very much to both unions. It has been a very interesting conversation. I will start where you were almost finishing off, in a way. The rapid review called for a Commonwealth rethink of the early childhood education system. It recommended reconsideration of the current funding model and the reliance on a market approach and that that should occur across a 10-year strategy. I just want to understand both unions' views on that recommendation. We have heard from so many contributors over the last two days around ratios, the funding model, profit and ASX-listed companies. To reframe the question, can we afford our childcare money and our childcare subsidies to be going into ASX-listed profit margins? Can we afford that still?

**Ffion EVANS:** We do believe and our union also believes that public provision of ECEC improves quality and accessibility and is the long-term vision for a sector that should be focused on safety and quality. I am not sure if we need to get into any of the detail, but I think that we have talked about public provision quite a bit today and certainly increasing public provision is kind of the long-term vision of our union.

**Justin MULLALY:** The for-profit nature of ECEC, in part, is of course absent from the schooling sector and only reappears in terms of education in vocational education and to a more limited degree in higher education. It occurs to me that in the context of young children but also in the context of families, that it is a little bit strange that we think that long term there is a wisdom in having for-profit provision in such a staple fashion as we do now, let alone in a way that might ultimately, as we advocate for, be replaced to whatever extent by strong public provision. I do not think it is the right use of public funds to drive particular profit margins. We seem to think that would be not acceptable at all in schooling. I do not know why we think it is acceptable in early childhood education and care.

**Jacinta ERMACORA:** Thank you. One of the recommendations from the Victorian rapid review, so another one, is now reflected in national law – that safety rights and the best interests of children must be the paramount consideration of staff in services. There has been some discussion about this principle, and I just want to know if both unions are supportive of that and is it practical in the face of other pressures around market forces in that portion of the sector?

**Ffion EVANS:** In 99 per cent of cases, we think that educators, in our experience, do put the rights of the child ahead at the forefront of what they do every day, often at their own expense.

**Justin MULLALY:** I think we would support those comments.

**Jacinta ERMACORA:** Very good. Also, increased penalties for offences, this is reflected in recent national law changes. That was probably the very first thing that was done in the face of the recent issues that emerged. Is this something the unions support as well?

**Ffion EVANS:** 100 per cent.

**Justin MULLALY:** In the absence of proper consequences, it does not matter what service provision is across our community or our economy. You have to have those in place and they have to have weight, because whether we like it or not, deterrent is a pretty good motivator at times. These measures help in that regard and of course those sorts of things should be reviewed over time, depending on how effective they are or whether there are environmental changes that point to further changes.

**Jacinta ERMACORA:** Thank you. This is my last one. Georgie Dent from The Parenthood said that we do not have a knowing problem, we have a doing problem. This is in relation to assessments and levels that have been achieved, are they exceeding or meeting and so on. It just occurred to me: would a threshold for opening the doors also be effective within that assessment system so that you actually were not allowed to be open if you could not meet a certain basic?

**Ffion EVANS:** Quite possibly. Our union has advocated certainly for assessments and ratings to be made far sooner than they currently are with newly opened centres, which often can see centres being open for six months and longer without an assessment or a rating.

**Heidi RATJE:** I think that having an assessment as they are opening – they are bright, they are new, they are shiny – can be very different to three or six months down the track as everything is settling in. Have they been able to maintain the level of documentation that they need? Are they able to put into practice the child safety so that it is not just words? Are they able to follow through with everything that is happening? Because we do know that service quality can shift over time, and this is why there has been the call that assessment and rating does need to occur more frequently. Even in our submission from the AEU we have called for that. With VECRA, yes, the annual visits that they are proposing are very welcome, but they do need to commit to frequent unannounced visits, because that is when you get an insight into what is happening at the service. Some services can be great at going, ‘Look, distraction.’ They need to see what is really going on.

**Nicole SKODA:** Can I just add to that?

**Jacinta ERMACORA:** A reminder that culture is what happens when no-one is looking.

**Nicole SKODA:** Yes, I think we need more regular check-ins and for the regulator to work more closely with centres and providers so that if there are issues that they detect, they will not just say, ‘This is an issue,’ but say, ‘These are ways we can support you.’ I think that would help the sector as a whole.

**Heidi RATJE:** We are not looking just for a slap on the wrist. It is what fundamental changes, systematic changes we can embed.

**Nicole SKODA:** Yes.

**Justin MULLALY:** That question relates to a comment that the AEU made earlier in terms of what role the regulator has to support sufficiently high-quality service provision where there are concerns with the service, and that in the absence of the resources available to the regulator or some similar organisation, then one of the continuing behaviours we see to be allowed is that centres remain open, because parents need a place to have their children. We need to close the gap between that need and ensuring quality. That, I think, can be met by supported delivery to get a place up to scratch.

**Jacinta ERMACORA:** Thank you, that is exactly where I wanted to get to. Thanks, my time is up. I appreciate it.

**The CHAIR:** Thank you, Ms Ermacora. Well, that brings our session to a close. On behalf of the committee we would like to say thank you to everyone for your contributions and your evidence to the hearing today. It has been really great. You will receive a copy of the transcript for review in about a week, before it is published on the website. And just a reminder that there have been a few requests for information on notice, so when you can, if you could provide that in due course. We are now going to take a quick break to reset and welcome our next witnesses. Thank you very much.

**Witnesses withdrew.**