

IN THE FAIR WORK COMMISSION

Matter No.: AM2018/18 and AM2018/20
Re Application by: Australian Childcare Alliance Inc. & Ors
4 Yearly Review of Modern Awards (commenced under s.156 - *Fair Work Act 2009* (Cth))

STATEMENT OF KATY PATON

I, Katy Paton, of Eastwood Early Education in the State of Queensland affirm as follows:

Background

1. I am currently an employee and Education and Quality Coordinator of Eastwood Early Education Pty Ltd who is the approved provider and owner of two long day-care services in Queensland. They are:
 - (a) Eastwood Early Education (**Eastwood**);
 - (b) Wyreema Early Education (under construction scheduled to be open opened May - June 2019) (**Wyreema**)(collectively, the **Centres**).
2. I have taught in a number of child care services, state and independent schools, Queensland University of Technology and University of Southern Queensland before opening the Eastwood centre in 2010.
3. I currently hold a:
 - (a) Bachelor of Education (Early Childhood); and
 - (b) Masters of Learning Innovation.
4. I am also a member of the Australian Childcare Alliance - Queensland committee.

Australian Childcare Alliance - QLD

5. The Australian Childcare Alliance - Queensland (**ACA QLD**) is the peak body representing QLD early childhood education and care (**ECEC**) service providers. Their members include long day care centres, many of whom offer outside of school hours care and vacation care. It is a not for profit, member-funded organisation representing around 850 ECEC services, employing

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approximately 13,500 educators, who educate and care for around 180,000 children in Queensland.

6. The committee is comprised of owners, operators and managers of services with extensive knowledge and experience in the early childhood industry as well as education and training, and management.
7. ACA QLD makes regular submissions to Government on Training, Industrial Relations, Government Reviews, Policy and Regulations.
8. ACA QLD also supports its members with inquiries on issues such as Training, Industrial Relations and Regulations, and responds to inquiries and concerns from non-members and the public on subjects relating to the care of children. In order to accurately carry out this role, I am well versed in the Queensland legislation that applies to childcare owners/operators.

The Centres

9. Eastwood is open 51 weeks a year and conducts long day-care only and does not cater for school aged children at the moment.
10. Wyreema will provide long day care as well as Before and After School Care and Vacation Care for children aged 0 -11 years old.

Number of children

11. Eastwood is currently licensed for 75 children aged 0 - 5 years and has approximately 75 - 85% occupancy, although occupancy can get as low as 55 children in down periods.
12. When a centre is licensed that means it means that it met the planning requirements from local council for use, and has been approved by the Australian Children's Education and Care Quality Authority (ACECQA) as meeting the National Law and Regulations to Operate a Long Day Care Centre Based Service.
13. Wyreema will be licensed for 115 children including school aged children.
14. It is important that a centre has a mid-high level of occupancy for it to be viable. At the moment, the Toowoomba area is experiencing a large amount of new child care centres either opening or being approved for development which impacts on the occupancy of existing local centres.

(Annexed and marked 'HP-1' is a list of current development applications for child care centres compiled from the Toowoomba Regional Council Website).

Hours of Operation

15. The Centres are open at the following times:

	Open	Close
Eastwood	6am	6pm
Wyreema	6.30am	6.30pm

16. I choose to open and close at these times because:

- (a) the hours reflect customer demand the vast majority of whom are working parents. Our families are predominately hospital shift workers, defence families, emergency services as well as some working professionals (eg lawyers/accountants); and
 - (b) these opening hours align with the ordinary hours (6am -6:30pm) under the two modern awards that cover my employees: the *Children's Services Award 2010* (**Children's Services Award**) and the *Educational Services (Teachers) Award 2010* (**Teachers Award**) which helps keep my wage costs down and mitigate incurring overtime costs at the end of the day after 6:30pm.
17. Our first staff members arrive at the Centres at around 5.55am and there are normally parents waiting at the door at that time.
18. Staff usually leave at 6pm at Eastwood but this is delayed if parents are late to collect their children or there is a significant amount of closing work to be done.
19. I have decided to close Wyreema at 6.30pm given the 20-30min drive from Toowoomba where most families will work. If our families who live in town only just manage to get their children by 6pm (or sometimes after) I need to allow this travel time for our out of town service.

Types of employees

20. The staff breakdown at the Centres is as follows:

	Total Staff	Full Time	Part time	Casual Employees
Eastwood	20	2	14	4
Wyreema (Proposed Figures)	24	1	19	4

21. We have chosen this mix of full-time, part-time and casual employees because we need flexibility in our staffing to ensure we can:
- (a) meet the daily changing needs of the service (for example, fluctuating occupancy levels if children do not turn up); and
 - (b) remain compliant with educator-child and teacher-child ratios throughout the day.
22. We are unable to offer many full - time positions given the fluidity of our bookings, changing occupancy and constantly changing ratios. This is why majority of our staff are part - time which provides the centre with more flexibility but gives employees job security. However, we employ a number of casual staff who we call on depending on the demands/ratios/requirements of the service on any given day.

Wages

23. Staff wages are by far our highest cost. In the last financial year, wages at the Centres made up around 60% of revenue.
24. We pay most of our employees in line with the award rate applicable to their classification under the Children's Services Award or Teachers Award. Only the Centre Director and the Teacher are paid above award rates.

Overstaffing/mitigating risk

25. To ensure we are not caught short on our child to educator ratios, we try to ensure the centre is overstaffed in case of staff illness or emergency which do occur on a regular basis. Operating with such extra staff adds at least \$80,000 per year of additional staffing costs, but mitigates any risk of non-compliance with the ratio requirements in emergency situations, which could ultimately result in poor quality of care or a centre being closed down.

Ordinary Hours

Extending the Ordinary Hours

26. I have read and understand the ACA claim for extending ordinary hours in the Children's Services and Teachers awards from 6:30pm to 7:30pm.
27. Eastwood is open 6am to 6pm Monday to Friday, however it is approved by the Toowoomba Regional Council to operate from 5am to 10pm Monday to Friday and 6am to 6pm Saturday and Sunday. We are currently unable to offer extended hours of care due to the restrictions of the award making our costs too high for families.

28. Extending ordinary hours until 7:30pm per day would enable my Centres to:
- (a) provide a better quality service to families;
 - (b) provide 'consistency of care' to children in accordance with the National Law and Regulations that apply to the ECEC sector;
 - (c) have the ordinary hours in the Awards reflect customer demand;
 - (d) pay ordinary time (instead of overtime) for hours worked up to 7:30pm;
 - (e) make childcare more affordable for parents as centres are less likely to charge a 'late fee' to parents if the costs between 6:30pm and 7:30pm are not as high; and
 - (f) give my staff more certainty over their hours of work. For example, if the ordinary hours of the awards were extended to 7.30pm, I could roster my staff to start later and finish later with more certainty as parents will be more likely to be able to pick up their children on time if they get an extra hour to do so. My staff get disgruntled when they cannot finish at their scheduled time because parents are late.
29. At the moment the staff who are on the closing shift are scheduled to finish at a certain time (6:30pm) as dictated by the award, and if the parents are running late they have to stay until the parents arrive to ensure the staff - child ratios are maintained and the children are safe (which is our highest priority).
30. Parents at the Eastwood centre would be keen to support the extended hours from 6pm to 7.30pm. However as the awards requires the payment of overtime after 6:30pm, keeping the centre open longer would increase wages costs and I would have to pass those costs on to the families that want a 'late pick-up' in order for that option to remain viable.
31. At the moment late collections occur fairly regularly. There would be one per week on average.
32. If the ACA's proposed changes are made to the Award, it will provide more opportunity for families to be flexible in both work and child care and reflect the changing nature of our parent's workplaces, our family's working hours and the longer commute to and from work.
33. Currently, child care services cannot be flexible and work beyond 6.30pm because of the prohibitive cost of overtime which means parents cannot be flexible as they have to leave their work to ensure they can pick up their child no later than 6.30pm, likely having to deal with issues such as peak hour traffic, in order to ensure they pick up their children on time or likely suffer a financial cost.
34. If we were able to roster our staff to work ordinary hours until 7.30pm then the parents could be more flexible with managing their work times and workload and our staff would have more reliable hours of work so they can plan their lives outside of work with much less chance of having to stay back due to late arriving parents.

Overtime

35. On top of my regular staffing costs, the Eastwood incurs approximately \$5,000 worth of overtime per year. This is mostly attributable to late pick-ups from parents.
36. While the Children's Services Award does allow certain flexibility for extending hours in the event of an emergency, the definition of 'emergency', including a natural disaster or death of a parent' are extremely specific and almost never occur. Ideally, it would be great if that definition could be expanded to include matters such as traffic jam, transport delays or other such daily events that happen from time to time that make parents late to pick up their children. Such an expansion would take the pressure of both centres and parents.
37. At the moment, I pay overtime to our employees who work beyond 8 ordinary hours in a day, and/or when they have to stay past their rostered finish time of 6:00pm (or whichever comes first).
38. To compound matters, to meet ACECQA's best practice guidelines state we must have 2 employees open and close the Centres (for safety reasons), so that means we must pay overtime rates to 2 employees until the child is picked up, plus other costs such as electricity, water etc.
39. Where possible I will try to send at least one or both of the employees home at their finishing time and I, along with the Centre Director, will step in to wait until the parents arrive and close the centre. Many of our employees have families of their own so they often want to get home to their family and children, or have the same issue needing to collect their children from care elsewhere by a particular time.

Fees paid by parents

40. Eastwood only has 2 different offerings in pricing. They are:
 - (a) 12 hour day - 6am to 6pm; and
 - (b) 10 hour day - 7.30am to 5.30pm.
41. We work with parents to work with their anticipated pick up times. So we do charge a late fees if they can't be there in time, although the charge is discretionary
42. On a very rare occasion the Director may waive the fee if there is a justified reason (e.g. Mum went into labour, new baby born, dad running late to collect sibling. We charge \$20 for the first 5 minutes, the \$5 per minute thereafter.

Working parents

43. Our families are predominately hospital shift workers, defence families, and emergency services, as well as some working professionals (eg lawyers/accountants). Customer needs drive our opening hours and closing hours and we need to structure our operations around these families needs. An extension of ordinary hours to 7.30pm would allow our families to access our service for longer periods or later drop off/pick up times because we could make it affordable for them.

44. The nurses who have shifts at the local hospital tend to be on either a 6am-3pm shift or a 1pm to 9pm shift. Our emergency services families tend to need later pick-ups as they work varying shifts similar to hospital staff. Our parents who are lawyers, physios, accountants etc often have meetings in the evening. These working professionals are the most likely to be late to pick-up their children and would benefit from a later closing time.

Other operating costs

45. Child care centres have high stagnant costs such as rent, wages, and operational costs (water, electricity etc). Therefore when the child care market experiences an oversupply of services (and increased competition) upwards pressure is placed on prices as centres try to remain viable as the number of children attending the centre (occupancy) drops. As a result of increasing prices it gets much more difficult for low income families to meet the activity test for the childcare subsidy and maximise accessible, affordable child care under the current system.
46. The intent of the amended Child Care subsidy system introduced in 2018 was to encourage parents (predominantly mothers) to return to the workforce after having children. I have observed a decrease in families accessing child care in the child's first year of life because it is more financially viable for parents to stay at home and access entitlements such as paid parental leave (from either the government or an employer) which means the Nursery room at my centre usually struggles to maintain a high level of occupancy.

Ratios

47. Queensland childcare centres must comply with complicated legislative requirements relating to educator-child and teacher-child ratios.
48. In Queensland, the Educator - Child ratios are:

<u>Age of Children</u>	<u>Educator to child ratios in QLD</u>
Birth to 24 months	1:4
Over 24 months and less than 36 months	1:5

Over 36 months up to and including pre-school age	1:10
Over preschool age (incl both Before and After School Care)	1:15

49. We also have to work within the Nation Quality Framework (**NQF**) which focus on quality of care of children. The NQF introduced a new quality standard in 2012 to improve education and care across long day care, family day care, preschool/kindergarten and outside school hours care services.
50. The NQF includes the:
- (a) *Education and Care Services National Law Act 2011* (**National Law**) ;
 - (b) *Education and Care Services National Regulations* (**National Regulations**)
 - (c) National Quality Standards (Standards 1 to 7);
 - (d) assessment and quality rating process (regulated by the Australian Children's Education & Care Quality Authority (ACECQA)); and
 - (e) Early Years Learning Framework.
51. Queensland centres must comply with this legislation in order to pass assessments that rate centres according to quality standards. If a centre breaches the regulatory requirements (such as being under the set ratios), a centre could receive a fine, a poor rating or eventually be shut-down. I always aim for the highest quality in the Centres and I want to be at the higher end of the scale when my Centre's are assessed.
52. It can be difficult to comply with ratios and support working families. A high proportion of our parents are dual income shift workers, who's booking days and times vary constantly which impact our ratios.

Qualification Requirements

53. Rule 126 of the National Regulations prescribes that:
- (a) at least 50% of educators in a centre-based service who are required to meet the relevant educator-to-child ratios for the service, must have, or be actively working towards, at least an approved diploma level education and care qualification (**50% qualification requirement**).

- (b) all other educators who are required to meet the relevant educator-to-child ratios for the service must have, or be actively working towards, at least an approved certificate III level education and care qualification.

- 54. I must carefully manage the staffing numbers at the centres to ensure that they always meet the legislative requirements. I have to manage this daily. Even if a staff member goes home sick, we need to prove that on the floor at any point in the day there are at least 50% qualified staff. Hence, I have mostly qualified staff (which is more expensive again) but it negates the stress of this very strict requirement.
- 55. If a business does not meet the educator-to-child ratio, or the 50% qualification requirement, the business is required to report that it is in breach of the National Regulation and National Law.

Teacher - Child Ratios

- 56. Queensland services educating and caring for children of preschool age and under must engage (or have access to) an early childhood teacher based on the number of children in attendance.
- 57. As Eastwood is licensed for 75 children I must meet the following ratio requirements:
 - (c) ECT in attendance 6 hours /day (if operating for more than 50 hours/week) ; or
 - (d) 60% of operating hours (if operating less than 50 hours/week);
- 58. Additionally from 2020, the service must employ a second early childhood teacher or suitably qualified person in attendance for:
 - (a) 3 hours per day, when operating for 50 hours or more per week; or
 - (b) 30% of the time, when operating for less than 50 hours per week.
- 59. These requirements do not apply if the service has 60 to 80 approved places, and employs or engages a full time or full time equivalent early childhood teacher at the service, and employs or engages a second early childhood teacher or suitably qualified person for half the hours or full time equivalent hours at the service.

Rostering

- 60. Our roster consists of rotating weekly shifts. In the past 8 years we have trialled weekly, fortnightly and monthly shift rosters. The weekly shift suits the needs of our current group of employees. However, we constantly need to change shifts for a multitude of reasons. We are flexible with the needs of our staff. We do our best to look after our staff if they need time off or have family matters or appointments that they need to attend to.

Opening and Closing a Centre

61. We must have two staff on the premises even if only one child is still there after closing time to meet the best practice guidelines set down by ACEQA. The regulatory requirements assert that for staff and child safety, there be 2 people on duty at any given time as a back-up for each other in case of an emergency or unexpected situation occurring. This way, there is always someone able to care for the children and call for assistance. This contributes to an unnecessarily high cost in wages, as we have to have 2 employees even for 1 child.
62. We roster a six monthly projection of anticipated shifts. This may change depending on:
- (a) the qualifications held by our staff and which staff are working that day;
 - (b) any certified supervisor requirements such as [qualification and tenure to be able to open and close the service];
 - (c) any requests for leave or personal circumstance that arise.
63. Supplementary to the 6 monthly roster, the weekly roster is provided the week prior to the employees.
64. Our families would like to access extended hours care (between 6pm and 10pm) however the current award and the requirement to pay overtime after 6:30pm makes the wages cost unviable for centres and will be passed on to parents by way of daily fees.

Contradicting Compliance Requirements

65. For child care centres, balancing the multitude of different regulatory requirements between the Award, legislation and other compliance matters (such as building and health codes) is a constant struggle.
66. We often have people who work over their daily 8-hour limit to maintain our educator to child ratios. For example, even if they are due to finish at 5.30pm, if we have too many babies and the ratio requires, then staff are required to stay. We must maintain ratios at all times as required by law.
67. Typically, we always have one additional staff member on site above our ratio requirement (our cook, our Japanese teacher, or administration staff) in order to ensure this does not happen.
68. There have been some severe health outbreaks (such as gastro) that have wiped our staffing. At this time I called friends with child care qualifications, and other centre Directors to ask for their casual staff contact lists. As a network of Directors we support each other to ensure we can provide care for families.

7-Day Rostering Requirement Doesn't work

69. I am aware and understand the ACA claim to amend the Awards to not require 7 days notice of a roster in situations where:
- (a) another employee has provided less than seven days notice of his/her inability to perform a rostered shift; and
 - (b) a centre needs to comply with its ratio requirements.
70. Furthermore, the 7-day rostering requirement is exceptionally difficult when our aim is to support working families. The majority of our parents dual income shift workers, who's booking days and times vary regularly. In an attempt to be responsive to their needs, and ensure we are providing access to quality care for their children we almost have to "overstaff" on a roster and if the situation changes our casual staff shifts are added or reduced. It is markedly difficult to plan staffing with the restriction of being unable to change.

Last minute emergencies

71. We try to provide 7 days' notice in advance, but usually find we need to make amendments prior to the implementation date of the roster. Usually changes are due to issues such as staff illness, staff's own children's illness at home, or requests for time away for unexpected/family or study reasons.

Annual leave and personal leave

72. For annual leave, team members are made aware that leave is negotiated and approved on the basis that we are still able to provide continuity of care for the children in their room which is a service priority. However, there will still be times when employee's do not provide me with any notice at all, and want to urgently take annual leave.
73. The difficulty with personal and compassionate leave is we often don't hear from the staff member until the day they call in sick. Unfortunately, in such circumstances 7 days' notice cannot be provided to the employee that is asked to replace the absent employee.

Consent

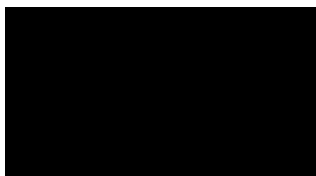
74. If a permanent employee is unable to attend work, I can usually cover that absence, and maybe a second staff absence because I can normally use the cook and the Japanese teacher for these two replacements i.e. I take them away from their normal duties and place them on the floor to ensure we meet our ratio requirements. After that, I would make contact with our regular casuals and see whether they will agree to come in.
75. We utilise a pool of casual staff on a weekly basis. We currently have three of these at Eastwood and they work various days and times, changing each week to compensate for the fluctuation in ratio, booking changes and parent needs. Their hours can range from 15 hours per fortnight to up to 60 hours per fortnight.

Changing a roster

76. Rostering to ensure staff are given 7 days notice is a constant challenging when employees or parents want to change something last minute, which happens on a regular basis, because we have to make sure that Eastwood (and Wyreema when it opens) meets:
- (a) our educator-child ratios requirements;
 - (b) our teacher-child ratios requirements;
 - (c) ACECQA best practice guidelines to have two people opening and closing the centre to ensure safety and best practice; and
 - (d) continuity and consistency of care standards under the NQF and NQS; and
 - (e) the needs of our families to provide affordable is affordable for our families.
77. Every time we need to make changes to a roster this is an issue impacting on the smooth operations of the service and consistency of care which is a priority for our centres. It also takes up a lot of time for the Directors who must manage the matter at hand and adjust rosters on the fly. This is almost a daily issue, and certainly a weekly challenge.
78. For example, families will only tell us they are taking holidays at the last minute, or a family will change their care requirements from Monday and Tuesday to Thursday and Friday, which in turn often means a staff member is needed on alternative days to meet the shifting ratio requirement.

Applying and interpreting Modern Awards

79. Despite a long history in the child care industry, I find the Awards difficult to interpret and apply because they are not straightforward or written in plain English. I also do not think the Awards work together or consider all the other legislation that applies to the ECEC sector.



Katy Paton

14 March 2019

"KP-1"

"KP - 1"

	Date	Application Number	Address	# of Children
	14/02/2018	MCUC/2018/640	662 670 Greenwattle Street	120 Children
	14/02/2019	MCUC/2018/4742	GROW EARLY EDUCATION 18 Hill St & 15 Grange St (Lot 1 RP198818 & Lot 6 RP1624) TOOWOOMBA, QLD 4350	119 Places
	13/09/2018	MCUC/2018/2859	495-513 Hume Street KEARNEYS SPRING QLD 4350	Unknown
	23/08/2018	MCUI/2018/2073	15 Old Homebush Road GOWRIE JUNCTION QLD 4352	Unknown
	11/04/2018	MCUI/2017/6645	163-167 Anzac Avenue, HARRISTOWN QLD 4350	150 Children
	5/03/2018	MCUC/2017/5428	202-216 Hursley Road GLENVALE QLD 4350	Unknown
	8/03/2018	MCUC/2017/6488	130 Ramsay Street, 215 Alderley Street & 66 Wentworth Street, CENTENARY HEIGHTS QLD 4350	80 Places
	8/02/2018	MCUC/2017/6740	132-134 South Street CENTENARY HEIGHTS QLD 4350	79 Children

	12/1/2018	MCUI/2017/3027	1 Oval ST Kleinton Q 4352	Unknown
	6/10/2017	MCUC/2017/3775	2 Platz Street DARLING HEIGHTS QLD 4350	Unknown
	22/08/2017	MCUC/2017/3236	2-16 Andersson Court HIGHFIELDS QLD 4352	Unknown
	26/04/2017	Unknown	40-44 Raff Street, TOOWOOMBA CITY QLD 435	Increased capacity - 120 children
	1/03/2017	MCUC/2016/745	587-593 South Street, GLENVALE QLD 4350	100 children
	13/12/2016	MCUI/2016/142	48 Althaus Road WESTBROOK QLD 4350	Unknown
	23/12/2016	MCUI/2016/3777	2-4 Burnage Street EAST TOOWOOMBA QLD	Unknown
	28/11/2016	PSW/2016/3648	317 Margaret Street TOOWOOMBA CITY QLD 4350	Unknown
	4/08/2016	MCUI/2012/6423/C	611-621 Boundary Street GLENVALE QLD 4350	Unknown