



Education and Care Pay Rise - options pack

OCTOBER 2024



Community Child Care Association



Community Early Learning Australia

About Us



Community Child Care Association

From a small beginning, Community Child Care (CCC) has grown significantly, and is the peak body for community-owned education and care, supporting long day care, outside school hours care (OSHC), kindergarten, family day care and occasional care educators, teachers, leaders, coordinators and directors. CCC's vision and purpose are underpinned by the belief that all children deserve the best possible start in life, regardless of their circumstances. Our vision is for excellent early childhood and outside school hours education and care for all and our purpose is to lead, support and advocate for accessible high-quality opportunities for children and families.

As a trusted sector leader, CCC provides leadership and advocacy, works with governments toward improvement in the sector and supports services with membership, quality professional development and consultancies. CCC equips and supports early childhood and outside school hours care services, educators and their communities with the skills and confidence to deliver high quality inclusive education and care services.

CCC's advocacy helps to enable and strengthen the development and retention of Victoria's community-owned education and care sector.

Contact

Julie Price
Community Child Care Association
jprice@cccinc.org.au



Community Early Learning Australia

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

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

Our Mission is to:

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

Contact

Michele Carnegie
Community Early Learning Association
michelecarnegie@cela.org.au

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Introduction

For decades, fixing low wages and fixing the workforce crisis has been the number one issue for education and care services.

CCC and CELA are so proud to have been part of a process that has finally provided the sector with the opportunity to improve pay and conditions without impacting families.

This is a historic and life changing opportunity, both for individuals pouring their passion and commitment into their work, and for the sector as a whole. It will allow us to chart a future for our sector where it is properly valued for its immense contribution to the lives of children and our society.

This grant is a first step towards embedding funded professional wages into a future universal education and care system. This initial investment will help to stabilise our workforce, before long term reforms support the sector to expand and meet the growing demand of children and families.

CCC and CELA will continue our long and effective advocacy to ensure that this first investment leads to a stronger and expanded sector.

How to use this pack

This pack is designed to give you an overview of all your options to meet the funding conditions and apply for the Worker Retention grant—in particular, the condition to have an eligible workplace instrument to deliver the funded pay increases to staff.

This pack is designed to be shared with managers and parent committees to support you to make an informed decision about the best options for your service.

The grant process provides significant time for services to carefully consider your options. The funding is demand-driven, and services can apply for the grant up to 30 June 2025 and be eligible for funding to be back paid to 2 December 2024.

How CCC and CELA can help your service to access the grant

CCC and CELA's new workplace relations service will directly help providers to meet the conditions and access the government funding.

This includes supporting member services to have an eligible workplace instrument to deliver the funded wage increases.

Details on the supports we will be offering and how to access them are included in this pack.

Getting support from CCC and CELA means you are not only obtaining high quality industrial and technical support, but advice that comes from our extensive knowledge of the sector.

We have been at the negotiating table directly with Government since July 2023, kicking off the process that has led to this funding announcement.

Having played a crucial part in shaping the agreement, we have gained a unique understanding and significant amount of insight and knowledge on how the process works, and how to best support services.

We look forward to working with your service to benefit from this historic opportunity.



Julie and Michele

October 2024

Disclaimer: Please note: The information contained in this pack is general information only and is not a substitute for legal advice. CCC and CELA do not accept liability for any action taken based on information provided in this pack or for any loss as a result of reliance on this information pack.

What is an eligible workplace agreement?

To be eligible to receive the federal government's Worker Retention Grant, providers must meet the condition of having an 'eligible workplace instrument'¹ in place to ensure the minimum funded wage increases are passed on to employees.

The eligible workplace instrument must also:

- Include an obligation to pay workers either at or above the relevant minimum rates set out at Schedule A of the grant guidelines:
<https://www.grants.gov.au/Go/Show?GoUuid=99ae5ad1-d749-4a9c-8fdc-72259be9469d>
- Be in effect for the full duration of the grant period; and
- Allow for the amounts in schedule A of the grant guidelines to increase in accordance with any increase in the Award rate for each classification under the Children's Services Award 2010 or the Educational Services (Teachers) Award 2020 as a result of an Annual Wage Review of the Fair Work Commission.²

Workplace instruments are defined under the Fair Work Act 2009 and mean an instrument that is made under, or recognised by, a workplace law and concerns the relationships between employers and employees.

A workplace instrument that can include, and give effect to the requirements of these grant guidelines, include:

- Workplace agreements which may be:
 - A multi-employer workplace agreement approved by the Fair Work Commission
 - A single employer enterprise agreement approved by the Fair Work Commission; and
- Individual Flexibility Arrangements, where made in accordance with the Fair Work Act and that appropriately provides for the conditions required by the Grant Guidelines.

Please note, while the Awards are a workplace instrument as defined by the Fair Work Act, they do not currently reflect the minimum funded rates required under the grant guidelines, and as such are not sufficient to meet the funding conditions.

¹ <https://www.grants.gov.au/Go/Show?GoUuid=99ae5ad1-d749-4a9c-8fdc-72259be9469d>

² Section 4.3 Grant guidelines pg 8

How can I make an eligible workplace instrument?

Providers can make their own workplace instruments, or they can seek support from CCC and CELA's new Education and Care Workplace Relations Service.

As current employer bargaining representatives on behalf of community and small providers for the national Long Day Care Multi- Employer Agreement, CCC and CELA's workplace relations service will be directly supporting services to join this agreement. In addition, services will also be able to engage us for:

1. Joining onto the renewed Professional Community Standard. This is an existing community based multi-employer agreement that offers above-award wages and conditions.
2. Support and information on how to make or vary an enterprise agreement; or
3. Individual Flexibility Arrangement (IFA) templates and information.

Details and costs of all these options are outlined in this pack.

Summary of options for an eligible workplace instrument by service type

If you are:	Options of eligible workplace instruments
A long day care provider with staff covered by the children's services award and / or the educational services (teachers) award	<ul style="list-style-type: none"> • The National Long Day Care Multi-Employer Agreement • The Professional Community Standard multi-employer agreement • A single enterprise agreement • Individual Flexibility Arrangements for all eligible staff
A long day care provider with staff covered by other awards eg: The Local Government Award Educational services (general award) Other eligible state awards	<ul style="list-style-type: none"> • A single enterprise agreement • Individual Flexibility Arrangements for all eligible staff <p>Note, no current multi-employer agreements are in place but may be made by application</p>
A long day care provider with staff covered by an enterprise agreement which has not passed its expiry date	<ul style="list-style-type: none"> • Renew or vary your existing agreement • Individual Flexibility Arrangements for all eligible staff
An Outside School Hours Care provider covered by any eligible award	<ul style="list-style-type: none"> • A single enterprise agreement • Individual Flexibility Arrangements for all eligible staff <p>Note, no current multi-employer agreements are in place but may be made by application</p>

If you are:

Options of eligible workplace instruments

A sessional preschool or kindergarten / FDC provider or IHC provider

Not currently eligible to receive grant funding.

What to consider when choosing a workplace instrument

When considering which workplace instrument is the best option for your service/s it is important to think about:

- The type of service you provide
- The numbers of eligible staff
- The predominant form of employment of your staff (permanent/ casual)
- Whether you have an existing workplace agreement, its expiry date, and your current level of wages and conditions
- The operational complexity of making the workplace instrument and any ongoing compliance requirements
- Any costs associated with making and maintain the workplace instrument.

Types of workplace instruments -

Workplace agreements

What is a workplace agreement?

A workplace agreement sets the terms and conditions of employment for a group of employees and sits on top of minimum awards. Workplace agreements must leave employees better off overall than if they were on a minimum award.

Workplace agreements are how an employer may offer improved wages and conditions across all current and prospective staff.

A workplace agreement must be agreed to by the employer and employees. Employees show they agree to a new workplace agreement by being asked to vote on the agreement by their employer.

A workplace agreement is lodged and approved by the Fair Work Commission, and they apply until they are replaced by a new agreement or terminated.

Types of workplace agreements

There are three types of workplace agreements able to be made by employers and employees under workplace law:

- **Enterprise agreements**
 - Enterprise agreements are made by agreement from employees and employers to cover a single employer.

- **Multi-employer agreement**
 - Multi-employer agreements are made to cover more than one employer and their employees. Some forms of multi-employer agreements allow additional employers to join and be covered by the agreement after it is made.
 - Multi-employer agreements are currently used in the education and care sector including Victorian government-funded kindergartens, Victorian community services and the independent school sector.

- **Greenfields agreements**
 - Greenfields agreements are available to employers of new businesses, prior to the employment of employees. They may not be made by employers with existing employees in an established business.

Workplace agreements to access the worker retention grant

Below the full extent of options for approved providers is described and what support CCC & CELA can provide.

1. The National Long Day Care Multi-Employer Agreement

Providers can pre-register for this option now www.surveymonkey.com/r/LDCMEA

The National Long Day Care Multi- Employer Agreement (LDC MEA) is a new workplace agreement for employers and employees in the long day care sector.

This agreement was made using new workplace laws that allowed the sector to bring the Federal Government to the table to directly negotiate funded professional wages for educators and teachers in our sector.

The Worker Retention Grant was announced as a result of this process, bringing employers, employees and the government together to solve the workforce crisis.

The LDC MEA has been negotiated with representatives across the sector including CCC and CELA representing community managed and small providers, and others representing private providers and large providers and Unions.

The LDC MEA has been made to provide a simple and straight forward way for long day care providers to comply with the requirement to have a workplace instrument to deliver funded ECEC wage increases.

The LDC MEA is an eligible workplace instrument for the purpose of the Worker Retention Grant, based on the Children's Services Award and the Educational Services (Teachers) Award. Once made, long day care providers will be able to join to be covered by the new agreement. Joining the LDC MEA is one way to significantly reduce the time it takes to make a workplace agreement that is compliant with the grant guidelines.

Summary of the Long Day Care Multi-Employer Agreement

Who can use this agreement?	Which employees are covered?	Are any employees excluded?	Terms and conditions	Why consider this option?
<p>Centre-based long day care providers who are eligible to apply for the Worker Retention Grant</p> <p>Do not have a current enterprise agreement</p> <p>Who have a current enterprise agreement that has passed its nominal expiry date</p>	<p>All employees covered by the Children's Services Award 2010 and the Educational Services (Teachers) Award 2020</p>	<p>Employees who are not employed in a long day care service</p> <p>Employees in Victoria covered by the VECTEA or equivalent³</p> <p>Employees employed under educational services (general) award, employees employed under the local government award and other state-based awards</p>	<p>Conditions based on Children's Services Award and Teachers Award</p> <p>Includes a savings clause to ensure existing staff do not lose any conditions that are more favourable</p> <p>Includes recognition for:</p> <ul style="list-style-type: none"> • The importance of professional development • Aboriginal and/or Torres Strait Islander employees engaged in implementation and embedding of Aboriginal and Torres Strait Islander culture across their services • Provision of IT equipment where required 	<p>If your service is currently paying on or near award rates.</p> <p>The MEA is the quickest and easiest way to make a workplace agreement</p> <p>Simplifies evidence needed to apply for worker retention grant</p> <p>Supports the sector to deliver further improvements through future negotiations with government</p> <p>Negotiated by the sector, for the sector</p>
<p>What steps are involved?</p>	<ul style="list-style-type: none"> • The LDC MEA is likely to be finalised shortly • Once made, services can join the agreement by putting the agreement out to staff to vote • The vote must be conducted in compliance with the Fair Work Act • Once voted up by staff, an application is made to have the provider added to the LDC MEA 			

³ Victorian Early Childhood Teachers and Educators Agreement 2020, Victorian Early Educators Agreement 2020, Victorian Early Childhood Agreement 2021, applicants named in the single interest authorisation to renew these agreements.

	<ul style="list-style-type: none"> Once approved by the Fair Work Commission, the link to the updated agreement / approval number is provided to apply for the Worker Retention Grant
How our Education and Care Workplace Relations Service can help	<p>Providers can get comprehensive support to join the LDC MEA including:</p> <ul style="list-style-type: none"> CCC and CELA have acted as employer bargaining representatives to make this agreement on behalf of community managed and small providers Managing all vote and approval stages Provision of all explanatory documents for staff Managing all formal application and approval stages with the Fair Work Commission on behalf of the Provider Phone and email assistance
Timeline and cost	<p>Cost: \$4200 + GST for single services, \$2520 + GST each additional service for multiple service providers.</p> <p>Approximate timeline: 6-8 weeks following appointment of CCC and CELA and the LDC MEA being approved by the Fair Work Commission</p>

2. The Professional Community Standard

Providers can opt-in to the PCS now, to receive the sign on pack email

FRogers@cccinc.org.au

The Professional Community Standard (PCS) is an existing multi-employer agreement for community managed long day care services. Originally made in Victoria, any long day care service is eligible to join this agreement.

The PCS has supported community managed services to offer improved pay and conditions since 2008. The current PCS 2021 includes wages and conditions that are above award and reflect best practice to deliver high quality education and care.

This agreement will be renegotiated to ensure it complies with the conditions of funding required for the Worker Retention Grant. This process is already underway and will likely be concluded prior to the end of 2024. Teachers under the Educational Services (Teachers) Award 2020 will be included in the renewed agreement.

Services who are covered by the renewed agreement will be eligible for funding under the Worker Retention Grant to be back dated to 2 December 2024.

The PCS is a good option for services who are already covered by the PCS or who offer similar wages and conditions to staff.

You can see the current PCS here: <https://www.fwc.gov.au/document-search/view/3/aHR0cHM6Ly9zYXN5Y2RhdGFwcmRhdWVhYS5ibGgiLmNvcuUud2luZG93cy5uZXQvZW50ZXJwcmVudHMvMjAyMi84L0FFNTE2ODg2LnBkZg2?sid=&q=Professional%24%24Community%24%24Standard>

Summary of the Professional Community Standard

Who can use this agreement?	Which employees are covered?	Are any employees excluded?	Terms and conditions	Why consider this option?
<p>Centre-based long day care providers eligible to apply for the Worker Retention Grant</p> <p>And do not have a current Enterprise Agreement that has not passed its expiry date</p>	<p>All employees covered by the Children's Services Award 2010 and the Educational Services (Teachers) Award 2020</p>	<p>Employees who are not employed in a long day care service</p> <p>Employees in Victoria covered by the VECTEA⁴</p> <p>Employees employed under educational services (general) award, employees employed under the local government award and other state-based awards</p>	<p>Above Award pay</p> <p>Above award conditions including:</p> <ul style="list-style-type: none"> Improved planning time Additional carers and bereavement leave 2 days professional development Study and exam leave Includes a savings clause to ensure existing staff do not lose any conditions that are more favourable 	<p>If your service is covered by the PCS 2021 or earlier agreements</p> <p>If you currently offer above award wages and conditions</p> <p>Simplifies evidence needed to apply for worker retention grant</p> <p>Supports the retention of sector leading wages and conditions in the community sector</p>
<p>What steps are involved?</p>	<ul style="list-style-type: none"> The PCS 2021 is in the process of being renewed Services opt to be covered by the renewed agreement Negotiations are conducted and a new agreement drafted Agreement put to employees to vote Agreement lodged and approved with the Fair Work Commission 			
<p>How our Education and Care Workplace Relations Service can help</p>	<p>Providers can get comprehensive support to join the PCS including:</p> <ul style="list-style-type: none"> Acting as employer representative in all negotiations Compliance with all legal requirements Managing all vote and approval stages Provision of all explanatory documents for staff Managing all formal application and approval stages with the Fair Work Commission on behalf of the Provider Phone and email assistance 			
<p>Timeline and cost</p>	<p>Cost: \$4200 + GST for single services, \$2520 + GST each additional service for multiple service providers</p> <p>Approximate timeline: currently underway, services eligible to apply for Worker Retention Grant early 2025</p>			

⁴ Victorian Early Childhood Teachers and Educators Agreement 2020, Victorian Early Educators Agreement 2020, Victorian Early Childhood Agreement 2021, applicants named in the single interest authorisation to renew these agreements.

3. Enterprise agreements

Enterprise agreements cover a single employer and a group of employees. An enterprise agreement can be used to meet the condition of having an eligible workplace instrument if it contains pay rates that are compliant with schedule A of the grant guidelines.

Enterprise agreements are made by agreement between employers and employees and may include terms and conditions that are unique or specific to that workplace.

Enterprise agreements must be made in accordance with the Fair Work Act, including an obligation to do the following:

- Notify employees of their intention to make an agreement and their rights to be represented
- Comply with good faith bargaining rules, including recognition of and bargaining representatives
- Comply with pre-approval steps set out in the Fair Work Act
- Ensure the proposed agreement meets the Better Off Overall Test and contains all mandatory terms

Existing enterprise agreements may be varied to include a new term, for example updating minimum pay rates to comply with the Worker Retention Grant Guidelines. Variations of existing agreements must not include a nominal expiry date that is later than 4 years after the original agreement was approved by the Fair Work Commission.

Summary of single enterprise agreements

Who can use this agreement?	Which employees are covered?	Are any employees excluded?	Terms and conditions	Why consider this option?
Any provider eligible to apply for the Worker Retention Grant (Long Day Care or Outside School Hours Care)	The employees specified in the agreement	This is specific to each agreement	<p>Must include the minimum funded wages as required under schedule A of the Worker Retention Grant Guidelines</p> <p>Must provide wages and conditions that leave employees better off overall compared to the relevant minimum awards</p>	<p>If your service currently has an existing workplace agreement that contains specific or unique conditions. Please note: for LDC providers both the LDC MEA and PCS contain savings clauses which mean existing staff cannot go backwards.</p> <p>You can manage your own agreement making process</p> <p>You are an OSHC provider</p>

<p>What steps are involved?</p>	<ul style="list-style-type: none"> • Decide to make an enterprise agreement • Comply with notification steps • Negotiate with bargaining representatives in good faith • Provide agreement to staff to vote • Lodge agreement with Fair Work Commission
<p>How our Education and Care Workplace Relations Service can help</p>	<p>Providers can access a comprehensive guide on how to make an enterprise agreement covering all stages and minimum requirements. The pack will also include clauses required for compliance with the Worker Retention Grant Guidelines.</p> <p>Services will be responsible for making any enterprise agreements.</p>
<p>Timeline and cost</p>	<p>Cost: \$750.00</p> <p>Services who access this product and then choose to join the Long Day Care MEA or the Professional Community Standard will have the cost of this pack deducted from the relevant service fee.</p> <p>Approximate timeline: This is a self-managed process. Timing will vary by provider. Average timeline for negotiating enterprise level agreements is 3-12 months.</p>

Types of Workplace Instruments - Individual Flexibility Arrangements

Individual Flexibility Arrangements (IFAs) are written agreements made between an employer and an individual employee to amend a term of the award or agreement that covers the employee.

Most awards and agreements include a 'flexibility term' which allows for IFAs to be made. This term includes:

- How an IFA can be made
- The terms of the award or agreement which may be amended by an IFA
- How they may be terminated; and
- What must be included in an IFA.

Generally, IFAs can only be made to vary a limited number of award or agreement conditions. For example, the Children's Services Award limits these to the following:

- Arrangements for when work is performed; or
- Overtime rates; or
- Penalty rates; or
- Allowances; or
- Annual leave loading⁵.

The flexibility terms under existing enterprise agreements may include different arrangements.

To be eligible to receive the Worker Retention Grant, any IFA must be made in compliance with the Fair Work Act and comply with the grant guidelines including providing for the minimum funded rates.

In accordance with the Grant Guidelines, providers will be required to submit and upload each IFA made by all eligible employees as part of their application. There may be additional requirements from the Department to ensure all new staff have appropriate arrangements and to notify of any changes to the arrangements.

There are some specific conditions on how IFAs are made that should be considered when thinking about the operational sustainability of this option, including:

- IFAs can only be made by consent of the employee. There cannot be any pressure on the employee to sign or complete an IFA.
- IFAs are not permitted to be made prior to commencement of employment and cannot be a condition of employment – it is likely that evidence for IFAs for any new staff will need to be submitted. It is unclear how funding can be used for staff wages prior to the instrument being in place.

⁵ Childrens Services Award (2010) clause 7

- An IFA cannot be made with people under the age of 18 without getting it signed by a parent or guardian.
- There may be uncertainty on how and when a casual employee can make an IFA given their irregular engagement.
- IFAs can be unilaterally terminated by either the staff member or the employer, and it is likely that evidence of termination or alteration to the IFA would need to be notified to the Department.

Summary of Individual Flexibility Arrangements

Who can use this agreement?	Which employees are covered?	Are any employees excluded?	Terms and conditions	Why consider this option?
Any provider eligible to apply for the Worker Retention Grant (Long Day Care or Outside School Hours Care)	The employee specified in the arrangement	NA	<p>Must facilitate the payment of funded wages in accordance with schedule A of the Grant Guidelines</p> <p>Must provide wages and conditions that leave employees better off overall compared to the relevant minimum awards or any agreement currently in place</p>	<p>As a transitional option while making an alternative workplace instrument</p> <p>Your existing workplace instrument has yet to expire and/ or covers other employees who perform roles outside of ECEC (eg: universities, local councils)</p> <p>You are an OSHC provider</p>
What steps are involved?	<ul style="list-style-type: none"> • Ensure the IFA is drafted to comply with the Fair Work Act and the Grant Guidelines • Ensure the staff member genuinely consents to the making of the arrangement • Retain the IFA as a time and wages record • Submit and upload each IFA that has been made as per the application for the Worker Retention Grant 			
How our Education and Care Workplace Relations Service can help	Providers can access an approved IFA template to use in services including instructions on how to make an IFA and limited phone support.			
Timeline and cost	<p>Cost: \$750.00 for single service approved providers</p> <p>Services who access this product and then choose to join the Long Day Care MEA or the Professional Community Standard will have the cost of this pack deducted from the relevant service fee.</p> <p>Approximate timeline: This is a self-managed process. Timing will vary by provider.</p>			

Explanation of costs

Community Child Care Association and Community Early Learning Australia are peak bodies supporting community managed and small providers across the education and care sector.

We are membership funded organisations and have not received any government funding to negotiate the multi-employer agreement or to support services to access and receive the worker retention grant.

The service charges outlined in the pack have been set to cover costs and are in consideration of the operations of our members. While we appreciate this is a new charge, our current membership fees do not cover these additional services.

Examples of what costs these service charges cover include:

- Legal advice
- Representing providers in formal proceedings
- Document review
- Advice and enquiry support
- Voting platforms
- Compliance checking
- Contributions towards costs of making multi-employer agreements
- Sector communications and information such as development and delivery of webinars, sector briefings and information packs, such as this Options Pack
- Advocacy with government and departments

Where to get more information

Worker retention grant

<https://www.education.gov.au/early-childhood/workforce/wages>

CCS provider help desk

Phone: 1300 667 276

Email: ccshelpdesk@education.gov.au

Further information on workplace agreements

<https://www.fairwork.gov.au/employment-conditions/agreements#:~:text=Enterprise%20agreements%20and%20other%20registered,minimum%20employment%20terms%20and%20conditions.>

Further information on IFAs

<https://www.fairwork.gov.au/employment-conditions/flexibility-in-the-workplace/individual-flexibility-arrangements>

ECEC awards

<https://www.fwc.gov.au/document-search/modern-awards-list#C>