

Draft Terms of Reference for review of NSW early childhood education and care affordability, accessibility and consumer choice

I, Victor Dominello, Minister for Customer Service, under section 12A of the *Independent Pricing and Regulatory Tribunal Act 1992*, request the Independent Pricing and Regulatory Tribunal (IPART) to assess affordability, accessibility and consumer choice in the NSW early childhood education and care (ECEC) sector.

Background

Governments in Australia provide financial assistance for ECEC through a mix of payments to families, support for providers and the direct provision of services. The Australian Government's role in ECEC is largely confined to funding. The NSW Government provides funding and support for providers, service regulation and some direct service provision.

NSW ECEC services are delivered in a range of service types. Not-for-profit and for-profit providers provide the majority of early childhood education and care services in NSW, with the NSW Department of Education and local governments providing some services.

In June 2022, the NSW Government announced the Early Years Commitment, a \$15.9 billion investment over 10 years in the NSW ECEC sector. This reform plan will change and deepen the NSW Government's relationships and responsibilities in the ECEC sector. NSW will grow beyond its responsibilities of preschool funding and ECEC regulation into funding and shaping outcomes across more ECEC service types. The NSW Government wants its investment to improve accessibility, affordability, quality and safety outcomes, not only the sector's commercial performance.

While the ECEC sector is subsidised and regulated for safety and quality, the NSW Government currently has limited oversight of affordability, accessibility and consumer choice. To ensure the reforms and investment result in improved outcomes for children and families and inform its stewardship of the sector, the NSW Government seeks more information about affordability, accessibility and consumer choice across different children and family groups, geographies, service types and provider types. This includes more information about supply shortages and barriers to affordability and accessibility.

The findings of this report may be used by the person commissioned by the Minister under Part 2 (5)(1) of the Childcare and Economic Opportunity Fund Act 2022 to inform the independent market monitoring report.

The task

IPART is requested to:

1. Review the market for ECEC in NSW and report on factors which drive:
 - a. Supply of services
 - b. affordability, accessibility and consumer choiceacross different children and family groups, geographies, service types and provider types

2. Collect current fee, household out of pocket costs and provider revenue and cost information consistent with the ACCC review approach (where possible to minimise duplication) across different children and family groups, geographies, service types and provider types
3. Estimate benchmark prices that can be used as a standard to measure and compare ECEC fees. These benchmark prices should reflect costs for different children and family groups, geographies, service types and provider types
4. Recommend ways for the NSW Government to improve ECEC affordability, accessibility and consumer choice relevant to the scope of these Terms of Reference.

IPART will not develop, investigate or recommend price regulation or price setting mechanisms.

In conducting the review and developing recommendations, IPART is to have regard to:

1. The diversity of the NSW ECEC sector, including across children and family groups, geographies and local markets, service types and provider types
2. The roles and responsibilities of government (both NSW and Australian Governments), providers and non-government participants
3. Public funding and subsidy arrangements for providers and service provision
4. Competitive neutrality principles
5. The extent of convenience-based, location-based, price-based and quality-based consumer choice for families in different geographies
6. The information that families have access to about the accessibility, affordability, convenience, quality and safety of ECEC services
7. Demand and supply for ECEC, including circumstances where demand and supply is too low to support effective accessibility and consumer choice
8. The objectives and provisions of the Childcare and Economic Opportunity Fund Act 2022
9. The state of the sector, including workforce supply and pay and conditions and service quality standards
10. The Australian Competition and Consumer Commission price inquiry of child care and the Productivity Commission inquiry into the sector and any other key reports impacting the sector that may arise during IPART's review
11. The benefits, costs and risks of any recommendations
12. The impacts of any fee governance recommendations on:
 - a. accessibility, affordability, convenience, flexibility, quality and safety of ECEC for families, including families facing diverse individual circumstances
 - b. the ECEC workforce
 - c. service provision and operational and financial sustainability of sector participants at a service, provider and sector level
 - d. barriers to entry for sector participants
 - e. NSW and Australian Government legislation and policy and program objectives
 - f. the capacity of the NSW Government to successfully implement them.
13. Any other matters IPART considers relevant.

IPART will consider the ECEC market for children aged 0 to 12 years. The review will include community and mobile preschool, family day care, long day care, NSW Department of Education preschool, occasional care, and out of school hours care (before and after school care and vacation care) service types. Playgroups are excluded.

IPART is required to consult with families and communities, NSW ECEC providers and sector, NSW Government agencies, the Australian Competition and Consumer Commission regarding their national review of ECEC competition and pricing, the Australian Government Department of Education, and other interested parties.

Timeframe

IPART is to provide a final report to the Minister for Customer Service and the Minister for Education and Early Learning no later than December 2023. IPART is to provide an interim report on market conditions by August 2023.

IPART should provide regular progress briefings to the NSW Department of Education.