

BACKGROUND BRIEF

LEGISLATION FOR EARLY CHILDHOOD DEVELOPMENT



Every Child's Right to Thrive by Five – Make It Law

The first five years of a child's life are critical. There is an overwhelming body of brain science that shows these early years are the best opportunity we have to make a positive difference in the lives of children, leading to better health, education and economic outcomes.

The Thrive by Five campaign is seeking to have the Commonwealth, and State and Territory Governments pass legislation to create a high-quality, universally accessible early childhood development¹ system for Australia that 'guarantees' an early childhood entitlement for all Australian children and their families.

This 'entitlement' would be aligned with what is described as in the *Starting Better Report*², with the entitlement referred to as a '*Guarantee for Young Children and Families*'.

It would include:

- Universal and free access to maternal and child health care,
- High-quality, universally accessible early childhood education and care³ (ECEC),
- Two years of preschool in the years before school,
- More generous paid parental leave with better flexibility,

for all Australian children and families.

In 2020, Nicola Forrest from Minderoo Foundation launched a campaign for a high quality, universally accessible and affordable early learning system. Since then, Thrive by Five has built a movement, with over 100 organisations, and more than 100,000 public supporters, together representing more than 1 million Australians who want change.

This legislation is the way forward to deliver an early childhood development system that benefits every child and every family, no matter where they live.

¹ Early Childhood Development – encompasses early childhood health childcare, preschool, family and community services, and benefits such as paid parental leave.

² <https://cpd.org.au/wp-content/uploads/2021/11/CPD-Starting-Better-Report.pdf>

³ Early Childhood Education and Care (ECEC) encompasses childcare (long day care, family day care, out-of-school hours care) and preschool.

The campaign for legislation – key points

- *Every Child's Right to Thrive by Five – Make It Law* is a new major focus of Thrive by Five, which now has over 100 organisational partners and 100,000 public supporters.
- Thrive by Five is asking all MPs from all political parties to pledge their support for Every Child's Right to Thrive by Five.
- Model legislation is being drafted with a consultation period to run over the 2023-24 summer.
- The legislation is the 'way forward' on a universal system that can implement the recommendations of the various reviews that are complete or near completion.

Title of the Legislation

The Thrive by Five Early Childhood Guarantee (Universal access to early childhood services and benefits) Bill 2024.

Objects of the Legislation

1. Define a high-quality early childhood development system.

The legislation will describe a vision for a universal, high quality, early child development system for Australia. It would include all services and supports provided specifically to young children and families, including early childhood education and care, maternal and child health, paid parental leave and other services that exist within communities, such as playgroups and First Nations services.

The vision would describe how these services and supports are integrated into one system, including how universal early childhood services provided by the education, health and community service agencies link with specialist services including Allied Health Services, Family Support Services, and the National Disability Insurance Scheme.

The vision would describe a requirement that services are inclusive and appropriate for each child's individual situation, including:

- culturally appropriate services,
- Aboriginal and Torres Strait Islander-controlled services, and
- Services that are inclusive of children with disability or neurodiverse profiles.

2. Define a nationwide entitlement for all Australian young children and families ('Early Childhood Guarantee').

This would include:

- Paid Parental Leave – 52 weeks, which can be flexibly shared between partners.
- Universal access to maternal and child health (MCH) care, consistent across all states and territories, with additional support (such as extended home visiting) for families who need it.
- a universal, integrated ECEC system to deliver the entitlement, for all 0–5-year-olds that would include three days (up to 30 hours) of high-quality early childhood education and care per week as soon as families want it, where cost is not a barrier to access, with additional days for those who need it at minimal cost. These three days would be Inclusive of:

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- three days (up to 15 hours for 3-year-olds, and 30 hours for 4-year-olds) of high-quality preschool per week for the two years before children start school, where cost is not a barrier to access, with additional days for those who need it at minimal cost.

3. Establishes a joint body (such as a Commission) between the Commonwealth and State/Territory Governments.

This body would be responsible for stewardship (governance) and be accountable for working with the Commonwealth and State Governments to deliver a high quality, universally accessible early childhood development system, and an early childhood entitlement.

The responsibilities of the body would include supporting the Commonwealth and State and Territory governments implement the National Early Years Strategy, The National Vision for Early Childhood Education and Care and key recommendations emanating from the Productivity Commission and Australian Competition and Consumer Commission (ACCC) Inquiries into ECEC.

Its remit would include:

- supporting the Commonwealth and state and territory governments establish and maintain a high-quality universal early child development system.
- working with the Commonwealth and State and Territory Governments to clarify roles and responsibilities to deliver on the vision for a universal, high quality early childhood development system.
- ensuring access to early childhood education and childcare (including three- and four-year-old preschool) is universal and consistent in each State and Territory.

4. Legislate a 10-year timeline for delivering a high-quality, universally accessible early childhood development system and early childhood entitlement.

Implementation

The Legislation (Act) will commence in January 2025 followed by a phased approach to Implementation over 10 years. The following stages are envisaged:

Stage 1. Describe and enact a vision for a universal early childhood development system.

The Commonwealth Government would consult with State and Territory Governments at National Cabinet, then pass legislation in the Commonwealth Parliament that describes a vision for a universal early childhood development system and an entitlement for all families. States and Territories would pass similar legislation or engage in multi-lateral and/or bilateral agreements with the Commonwealth Government, depending on decisions made at National Cabinet.

Stage 2. Establish a National Early Childhood Joint Body (such as a Commission)

This body would be responsible for stewardship (Governance) and be accountable for working with the Commonwealth and State Governments to deliver the vision for a universal, high quality, early child development system and entitlement for all Australian young children and families.

The body would assist Governments clarify roles and responsibilities and support the development and implementation of agreements between the Commonwealth and State/Territory Governments. It would have a remit to assist governments to work together on key areas such as funding arrangements, planning for the provision of Early childhood development services in all Australian communities, improving the quality-of-service delivery, and workforce quality and supply.

Functions that the body would include:

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- Ensuring universal access to early childhood education and care for all families, including equitable access to three- and four-year-old preschool across all States and Territories.
 - Supporting governments address provision of early childhood services in communities where there is currently inadequate provision (e.g., Childcare Deserts).
 - Enhancing Maternal and Child Health services.

Stage 3. The Commonwealth Government lead the development of a new National Preschool Reform Agreement for the delivery of 3 and 4-year-old Preschool.

This agreement would establish a coordinated national approach to 3- and 4-year-old Preschool that includes an entitlement to a consistent national preschool offering, inclusive of 15 hours of 3-year-old and 30 hours of 4-year-old preschool. This could be delivered through a high-level multi-lateral agreement, and then bilateral (individual) agreements between the Commonwealth and each of the State/Territory governments.

Stage 4. Broader Reform of Early Childhood Development system, with a priority on reforming Early Childhood Education and Care.

Following the establishment of a National Preschool Reform Agreement, the National Early Childhood Commission should work with the Commonwealth and State Governments to engage in reforms that deliver a universal, high quality, early child development system and entitlement for families.

This would include a coordinated national approach to ensuring universal access to services including maternal and child health services and high-quality ECEC (childcare and Preschool) and focus on key areas such as the quality of services, accessibility, and workforce.

The National Early Childhood Joint Body would be the primary vehicle charged with implementing key recommendations that will be delivered by the ACCC and Productivity Commission Inquiries into ECEC.

Context

The reasons for advocating that the Commonwealth and State and Territory Governments to pass legislation for a high quality, universally accessible early childhood development system and early childhood entitlement now are to:

- Ensure that recent policy initiatives announced by the Commonwealth and State and Territory Governments related to early childhood development are sustainable into the future and underpinned by the required funding and delivery agreements.
- Provide a legislative framework and mechanism (e.g., a body) for the implementation of recommendations that will be made by the upcoming Productivity Commission and ACCC Inquiries into Early Childhood Education and Care, the current review of the National Disability Insurance Scheme (NDIS), and state and territory initiatives such as increasing the entitlement to 3- and 4-year-old preschool, and the South Australian Royal Commission into Early Childhood Education and Care.
- Ensure an appropriate timeline is followed, and that the required long-term reforms are not easily delayed or cancelled due to changing political dynamics or changes of elected governments.

There has been unprecedented focus from Governments on early childhood development, particularly Early Childhood Education and Care, in the last 3 years. The Prime Minister has committed to a universal ECEC system; National Cabinet is developing a Vision for Early Childhood Education and Care, and there are ongoing Inquiries from the Productivity Commission and Australian Competition and Consumer

Commission (ACCC). State and Territory Governments have made commitments to supporting preschool and childcare.

However, there are overlapping and conflicting roles and responsibilities between the Commonwealth, State and Territory Governments for delivering ECD services, particularly childcare and preschool. This has resulted in there being no consistent national entitlement for ECD (including ECEC) services across states and territories in Australia. This includes different preschool offerings for 3- and 4-year-olds, an unequal investment by the Commonwealth Government into 3 and 4-year-old preschool between different states and territories, and different Child and Maternal Health offerings to parents. This has resulted in a situation when not all Australian children and families can access or afford essential early childhood services.

There is a need for legislation to create a national early childhood development system for Australia and establish a consistent national entitlement to essential services and benefits for all Australian children, no matter where they live.

Legislating a high-quality early childhood development system, and an entitlement for all children and families is required for the Government to achieve the vision and objectives described at the Jobs Summit and articulated in the Employment White Paper. Broadening access to foundation skills by charting a course towards universal access to affordable, quality early childhood education and care is a key policy step in the roadmap to full and sustainable employment described in the Employment White Paper.

Achieving the educational and productivity benefits that comes from a more educated population driven by preschool participation, and ensuring ECEC is universal and accessible so parents can work are critical to achieving the Governments vision of a dynamic and inclusive labour market in which everyone has the opportunity for secure, paid work.

There have been recent inquiries that further highlight the need for legislation. The ACCC in its second interim report recommended that the Australian Government reconsider and restate the key objectives and priorities of its childcare policies. Legislation would provide this clarity.

The South Australian Royal Commission found that their needs to be a clarification of roles and responsibilities for delivery of ECEC (childcare and preschool) between the Commonwealth and State/Territory governments. Legislating an entitlement, and then establishing a joint body between the Commonwealth and State/Territory governments would clarify roles and responsibilities and provide a mechanism for ongoing cooperation.

Given the current lack of clarity and overlapping nature of the roles and responsibilities of the Commonwealth and State and Territory governments for ECD and ECEC, an appropriately formed body representing all Governments needs to be established with the necessary authority and resources required to assist Governments establish a high quality, universally accessible early childhood development system and early childhood entitlement.