

Submission to NSW Health

Public Health Act Statutory Review Discussion Paper

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Recommendations

RECOMMENDATION 1

That the Public Health Officer (not the early childhood education and care service) be responsible for directing the exclusion of a child with a vaccine preventable disease; an unvaccinated child; and – pending potential amendment of the Act – children who have come into contact with a person with a vaccine preventable disease; in the event of an outbreak of a vaccine-preventable disease.

RECOMMENDATION 2

That requirements for parents to obtain a conscientious objection exemption for enrolment in early childhood education and care services in NSW be strengthened, without increasing the administrative burden on services.

RECOMMENDATION 3

That the NSW Government engage the early childhood sector in a discussion about the potential benefits and risks of making changes to immunisation requirements for early childhood educators.

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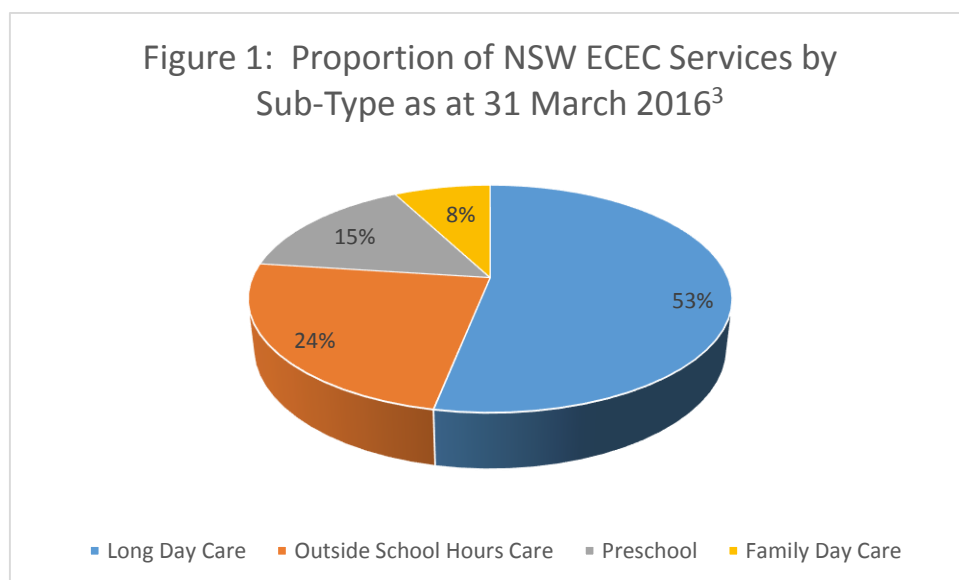
1. Introduction

Australian Childcare Alliance New South Wales (ACA NSW) is the peak body for privately owned early childhood education and care (ECEC) services in NSW. We provide advocacy, policy and regulatory support and advice; member services; and professional development for our members across the state. ACA NSW members are predominantly privately owned long day care services, with approximately 65% of members metropolitan-based.

ACA NSW welcomes the opportunity to provide a submission in response to the *Public Health Act 2010 Statutory Review Discussion Paper*. Whilst keenly interested in a number of issues raised in the discussion paper, this submission focuses on Section 3.6 *Vaccine preventable diseases*, in particular Section 3.6(c) *Childcare enrolment requirements*. To assist us in preparing this submission, we have surveyed our 600 members (who between them operate more than 1000 early childhood education and care services across the state), and the key findings are referenced throughout.

2. Early Childhood Education and Care in NSW

As at 31 March 2016, there were 5301 early childhood education and care services in NSW, of which 4893 are centre-based services (long day care, preschool, outside school hours care). Of these 5301 services, 53% (2816) are long day care services¹ (see Figure 1 below). As at the June quarter 2015, there were 413 410 children across 284 390 families using “approved child care” in NSW, 220 620 (53%) of whom are in long day care². These statistics highlight the importance of capturing the long day care sector in terms of data collection pertaining to the national education evidence base.



At least 46% of all long day care services in NSW are privately owned and operated (noting that a further 30% of long day care services in NSW are of unknown management type), as are 71% of family day care services; 37% of vacation care services; 40% of outside school hours care services⁴, demonstrating the importance and relevance of the private sector in ECEC in NSW, and

¹ ACECQA (2016) NQF Snapshot Q1 2016 http://files.acecqa.gov.au/files/Reports/2015/NQF_Snapshot_Q1_2016_May.pdf

² Department of Social Services (2016) [Early Childhood and Child Care in Summary March Quarter 2015](http://files.acecqa.gov.au/files/Reports/2015/NQF_Snapshot_Q1_2016_May.pdf)

³ ACECQA (2016) NQF Snapshot Q1 2016 http://files.acecqa.gov.au/files/Reports/2015/NQF_Snapshot_Q1_2016_May.pdf

⁴ Department of Social Services (2016) [Early Childhood and Child Care in Summary March Quarter 2015](http://files.acecqa.gov.au/files/Reports/2015/NQF_Snapshot_Q1_2016_May.pdf)

the need to ensure that any recommendations arising from this inquiry are practical in terms of private sector implementation and reporting requirements.

As indicated in Figure 2 below, approximately 18% of centre-based services in NSW are 'small' centre-based services of 29 or less approved places. NSW is in a somewhat unique situation in that there is such a high proportion of 'small' services relative to the proportion of small services in other states. This is the highest proportion of small services in any state, and considerably higher than in Victoria for example, where only 6% of centre-based services are ≤ 29 places (see Figure 3). This is in part a legacy issue of the previous *NSW Children's Services Regulation 2004*, which capped the maximum number of children at 90 until the national regulations took effect in January 2012, enabling larger services to be developed. It should also be noted that the growing demand for outside school hours care places skews the data in terms of services with ≥ 80 places in NSW.

Figure 2: Proportion of Centre-Based Services in NSW by Number of Licensed Places

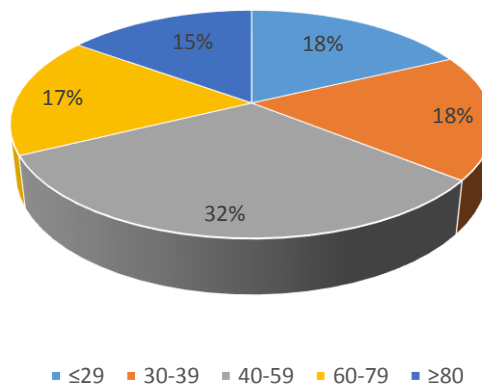
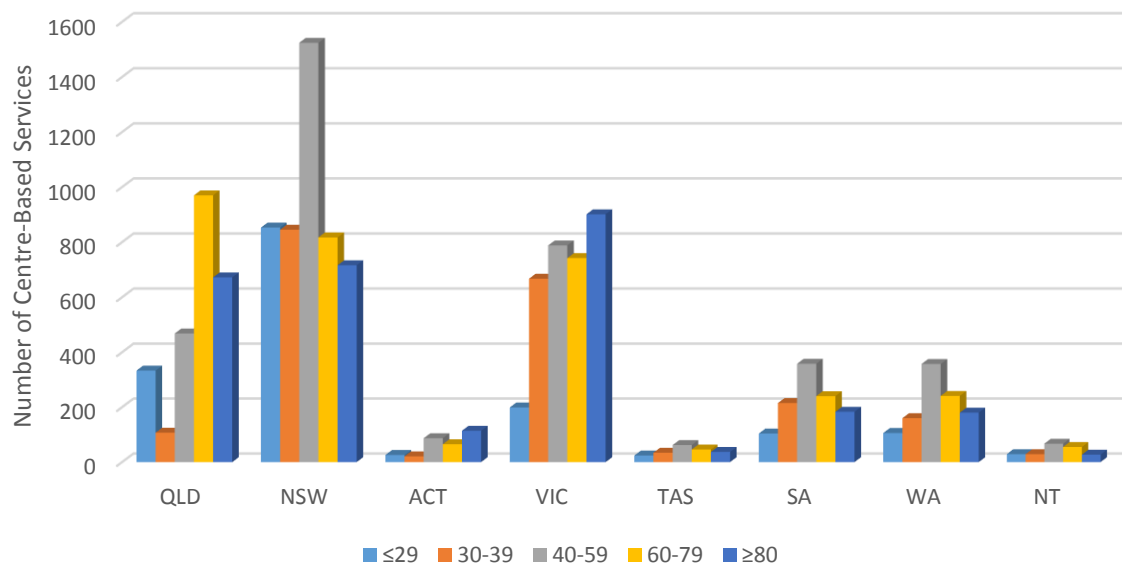


Figure 3: Number of Licensed Places for Centre-Based Services by State, as at May 2016



In a number of other states, larger services are considerably more prevalent than smaller services. This presents NSW services with challenges in terms of economies of scale, and is relevant to this debate in that smaller services may find additional reporting requirements more difficult to administer relative to larger services that may have additional team members or centrally located administrative staff to assist with information collection and notifications.

3. Vaccine Preventable Diseases

3.1 Actions undertaken during an outbreak of a vaccine preventable disease

Section 3.6(b) of the discussion paper canvasses the possibility of amending the *Public Health Act* to allow a public health officer to direct an unvaccinated child whom the officer reasonably believes has been in contact with a case of a vaccine preventable disease to be excluded from an early childhood education and care (ECEC) service. ACA NSW is keen to ensure that any moves to enforce exclusion of children in these circumstances be the responsibility of the Public Health Officer, not the ECEC service. As highlighted in the discussion paper, most parents will voluntarily exclude their child/ren from the service in these circumstances. However, it should remain the responsibility of the Public Health Officer – not the Nominated Supervisor at the ECEC service – to direct the exclusion of children exposed to vaccine preventable diseases.

RECOMMENDATION 1

That the Public Health Officer (not the early childhood education and care service) be responsible for directing the exclusion of a child with a vaccine preventable disease; an unvaccinated child; and – pending potential amendment of the Act – children who have come into contact with a person with a vaccine preventable disease; in the event of an outbreak of a vaccine-preventable disease.

3.2 Childcare enrolment requirements

It should be noted at the outset that ACA NSW worked closely with NSW Health in preparing the *Immunisation Enrolment Toolkit for Early Childhood Education and Care Services*. We continue to provide regular information and updates to members on important changes to the toolkit, such as the recent introduction of an *Interim Vaccination Objection Form for Enrolment in NSW Child Care Centres*, following the removal of the Commonwealth Conscientious Objector form arising from the introduction of 'No Jab No Pay'.

Member feedback suggests that the Commonwealth 'No Jab No Pay' requirements have acted as an incentive for previous conscientious objectors to immunise their children, as there has been a clear financial imperative, given that conscientious objectors are no longer able to receive subsidies and other assistance measures and as such must pay full fees. However, we have had feedback from some members that children have been withdrawn from long day care and enrolled in preschool as a consequence of No Jab No Pay, as reflected in the member comment below:

"the children that we had that were not immunised moved on to a preschool setting where the CCB and CCR was not an issue. I feel that this could potentially have a reverse effect of what the aim is"

One issue that was exacerbated by the introduction of No Jab No Pay that adversely affected families attending member services was the delay in processing vaccination records, meaning that families could not present an up to date Australian Childhood Immunisation Register history form, and hence could not be enrolled. However, children whose parents had conscientiously objected to their children being vaccinated were able to be enrolled immediately. This is highlighted in the member comment below:

"I feel it's rather incongruous that a family whose child is immunised must show their Immunisation History Statement (ie not the Blue Book) just to enrol at a centre but it's ok to enrol a child of a conscientious objector. Shouldn't the child who cannot provide the necessary documentation at least be able to enrol but be classified as 'unimmunised' until the HIS is received? Currently the conscientious objector who is organised with paperwork has a greater access to childcare than the child whose family (or in some cases the family doctor) who is not as organised"

Whilst the transition to the new Commonwealth 'No Jab No Pay' arrangements has been relatively incident-free (other than the processing delay mentioned above) from our perspective, it is important to acknowledge the significant confusion arising from separate arrangements operating at State/Territory and Federal levels. In our communications with members, we have been at pains to specify the responsibilities of each level of government regarding immunisation and enrolment requirements, as well as legislative differences across jurisdictions.

However, for service providers – in particular those operating in border regions or across jurisdictions, the inconsistent approach to enrolment requirements across jurisdictions has been enormously confusing. In NSW, services cannot enrol a child unless they first obtain a vaccination certificate in an approved form indicating that the child is age appropriately vaccinated, on a catch-up schedule, has a medical contraindication to vaccination, or has parents who are formally conscientious objectors. This varies markedly to our neighbouring states, with services in Queensland now able to refuse to enrol a child who is unvaccinated, and the Victorian Government no longer accepting conscientious objection to vaccination as an exemption for enrolment in Victorian ECEC services. In an age where information is often shared on social media without acknowledgement that the information is state-specific, the confusion within the sector about immunisation enrolment requirements for ECEC services should not be underestimated.

Whilst acknowledging that removing the conscientious objection exemption would align NSW with at least one jurisdiction, it should be acknowledged that this would be a major policy shift for the NSW Government, and the sector is justifiably concerned about the implications of essentially punishing children for their parents' decisions, but equally concerned about the risks that unvaccinated children pose to other children, educators and families. This concern is reflected in the member comment below:

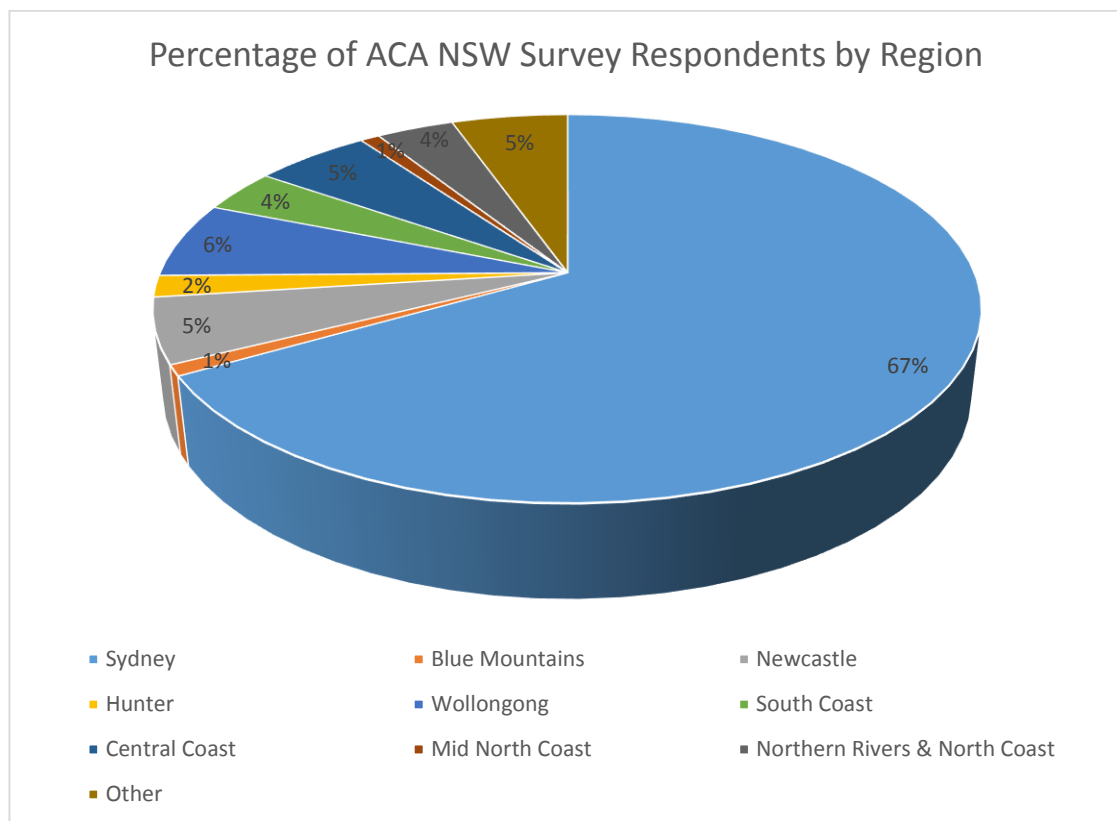
"If services have babies enrolled then it is our obligation to protect them. Enrolling unimmunised children will put babies who are not old enough to have completed all of the vaccination requirements at risk of diseases such as measles"

"We need to safeguard the other children and families. I have a parent undergoing chemo and she is at risk if someone unimmunised spreads a vaccine-preventable illness"

Members have also expressed concern that excluding unimmunised children from ECEC services could lead to children commencing formal schooling earlier than originally intended, as reflected in the following member comment:

"The Public Health Act preventing unvaccinated children from enrolment in ECEC services only results in parents sending their young children to school at a very young age, without being ready for formal schooling and still not being immunised. Now the schools will have to deal with many more unimmunised and not ready to school children."

To assist us in preparing this submission, ACA NSW conducted a member survey on the issues for consideration raised on p43 of the discussion paper. Of the 600 members surveyed, 104 members responded, the majority (67%) of whom are based in the Sydney area (see Figure 4 below). The survey respondents were from a mix of service sizes, from small services of less than 24 licensed places, to large services of more than 80 places (see Figure 5 overleaf).

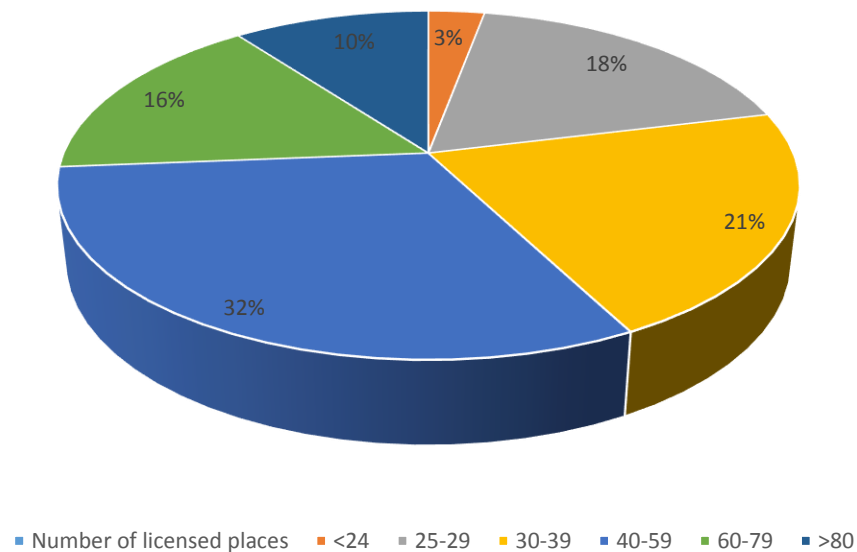


As stated previously, ACA NSW believes service size to be pertinent to the debate given that services in NSW have additional reporting requirements pertaining to registers of immunisation status and so on when compared to other jurisdictions, and it is important to ensure that any policy outcomes are practical and administratively efficient, as highlighted in the following member comments:

"Educators and directors should have less responsibility for matters that are the parents' responsibility. I really don't have time to remind all families that their child is turning 4 soon and needs an immunisation."

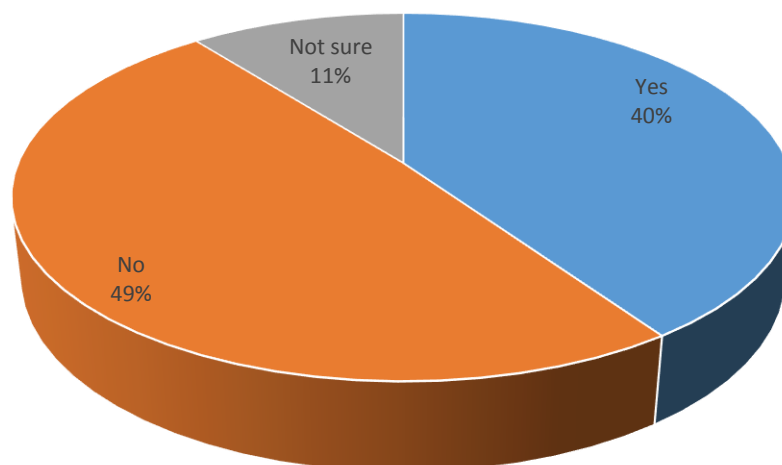
"This forces ECEC to be the gatekeepers of immunisation which should be the Government's job. Another role ECEC environments now have to add to the endless list of administration tasks."

Figure 5: Percentage of ACA NSW Survey Respondents by Service Size



ACA NSW sought member feedback as to whether children who are not vaccinated due to their parents' conscientious objection (NB: not for medical reasons) should be allowed to enrol in ECEC services in NSW. As shown in Figure 6 below, the responses were mixed, with 49% of respondents stating that unvaccinated children should not be allowed to enrol in NSW services.

Figure 6: ACA NSW Survey Responses to the Question of Whether Unvaccinated Children (of Conscientious Objectors) Should Be Able to Enrol in NSW ECEC Services



As indicated in a sample of the survey comments provided below, there was a range of member views on this issue, with some members strongly opposed to excluding children:

"I don't think we should exclude any children."

"I do not believe that we should prevent any child from accessing early childhood education."

"Every child should have a chance to attend care and education."

Others questioned the right of government to influence parent/s' choice regarding immunisation:

"It is a parent's right to say if they want their child immunised or not. The government shouldn't control people's beliefs and rights."

"The government should not dictate parents decision on their child's health. There are 2 sides the vaccinations and parents that don't vaccinate their children have valid concerns about vaccinations."

There were also calls for the best interests of children to be at the heart of any proposed reforms:

"We hope whatever decision taken by the regulator is based on proper research and in the child's best interest."

Given the range of views within our membership on this issue, ACA NSW is not in a position to make a formal recommendation as to whether or not the Public Health Act should be amended to remove the conscientious objector exemption to enrolment in a childcare facility from the Act.

To help gauge whether members' concerns about potential amendments were in part a result of concerns about implementation timeframes, ACA NSW also sought member feedback as to whether potential changes to immunisation enrolment requirements that would prevent unvaccinated children (based on conscientious objection only) from being able to enrol in ECEC services in NSW should apply to new enrolments only. Once again, the feedback was mixed, with 55% believing that any changes should apply to new enrolments only ie the amendments should not be applied retrospectively (see Figure 7 overleaf). This range of views is reflected in the following two comments from separate survey respondents:

"Those already in the system should not be penalised for any new change."

"[Potential changes should apply] to all, otherwise it's pointless."

We also asked members whether they believe the requirements to obtain a conscientious objector exemption should be strengthened, eg requiring the exemption to be granted annually, requiring a second visit to a medical practitioner to reinforce the benefits and safety of childhood vaccination after further reflection by the parent/s etc. As evidenced in Figure 8, the response was very clear, with 79% of members believing the requirements should be strengthened. It should be noted that this question was posed on the assumption that the conscientious objector exemption is not removed from the *Public Health Act 2010*. Whilst there was clear support for strengthened requirements, those who were not in support were concerned about administrative burden, as indicated in the following comment from a survey respondent:

"I think it works fine. A parent having to get an exemption every year is just red tape."

Figure 7: ACA NSW Survey Responses to the Question of Whether Potential Changes to Immunisation Enrolment Requirements Should Apply to New Enrolments Only

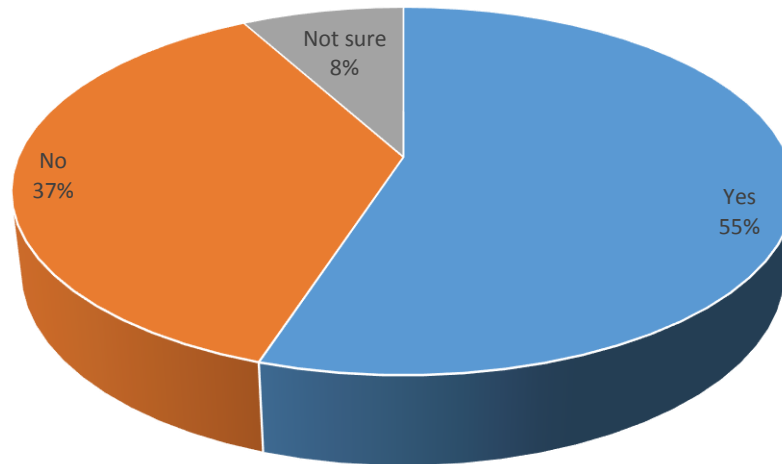
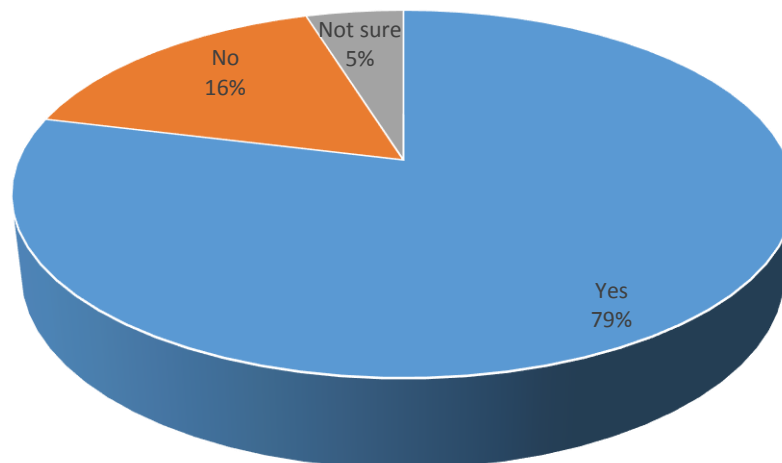


Figure 8: ACA NSW Survey Responses to the Question of Whether Conscientious Objector Exemption Requirements Should Be Strengthened



RECOMMENDATION 2

That requirements for parents to obtain a conscientious objection exemption for enrolment in early childhood education and care services in NSW be strengthened, without increasing the administrative burden on services.

Whilst the discussion paper does not make reference to educator immunisation requirements, it is an issue that has been raised with ACA NSW by members and families alike. As such, we sought members' views as to whether they would support a requirement for educators working in ECEC to be vaccinated (as is the case in the Health workforce). As highlighted in Figures 9 and 10 overleaf, whilst the majority (81%) of members support a requirement for educators working in ECEC to be vaccinated, there were mixed views as to whether this should be mandatory, best practice, or on the proviso that vaccinations be fully or heavily subsidised by government.

The following sample of survey respondents comments on this issue highlight some of the concerns that some members have regarding educator immunisation, including costs; access to records; the need for a medical contraindication exemption to apply to educators, just as it does to children; and personal rights:

COSTS

"Vaccinations should be free for professionals working in the ECEC sector."

"I don't think adults should be forced to do this except perhaps those working with very young babies that aren't fully immunised yet due to age not choice. If they are forced to do this it must be subsidised- the wages are low enough, we won't get any future childcare workers if the red tape gets any tighter."

ACCESS TO VACCINATION RECORDS

"It needs to be that staff - especially older staff - should have easy access to personal vaccination records so the process of boosters/updated vaccinations required is quick and painless (besides the needles ;-)) It should be made clear who needs boosters/vaccinations and who doesn't."

MEDICAL EXEMPTIONS

"The medical exemption is so hard to get! I have employed a great staff member who can't be immunised due to a medical condition but she is not eligible for a medical exemption. Would she then not be eligible to have a job [if educator immunisation requirements were changed]"

PERSONAL RIGHTS

"Again I believe we have to the right to make these decisions regarding chemicals/ medicines/vaccinations being placed into our bodies for ourselves"

"Again the government has no right to tell employees what to do with their body."

"What happens to our freedom of choice?"

We encourage the NSW Government (in particular NSW Health and the NSW Early Childhood Education and Care Directorate) to carefully consider broadening the scope of the current debate to include consideration of making changes to immunisation requirements for early childhood educators.

RECOMMENDATION 3

That the NSW Government engage the early childhood sector in a discussion about the potential benefits and risks of making changes to immunisation requirements for early childhood educators.

Figure 9: ACA NSW Survey Responses to the Question of Whether They Would Support A Requirement For Educators Working in ECEC to be Vaccinated

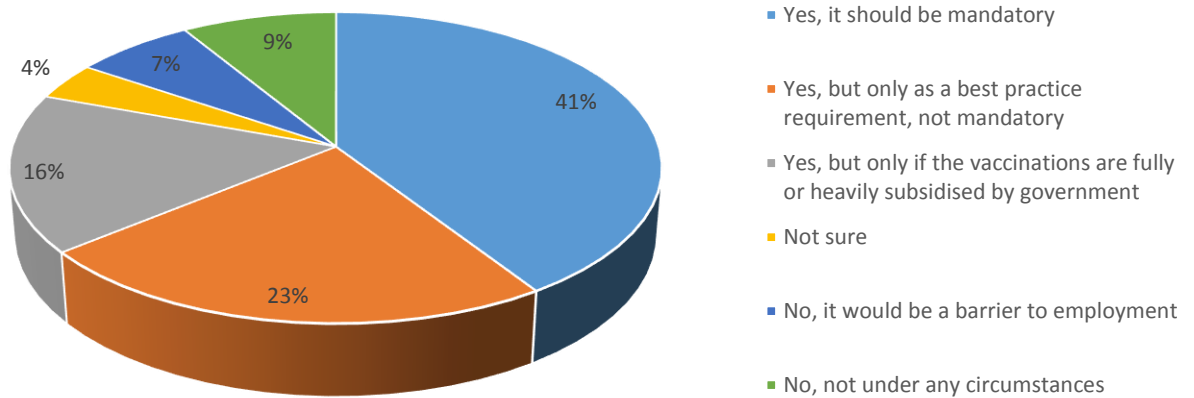
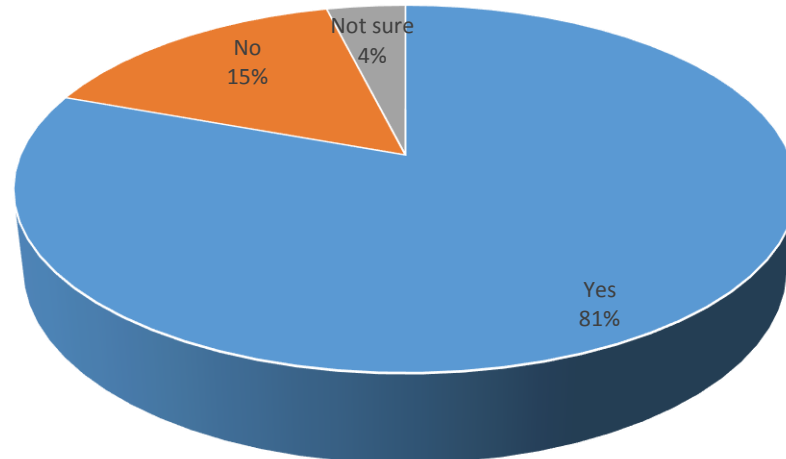


Figure 10: Aggregated ACA NSW Survey Responses Regarding Support for a Requirements for Educators Working in ECEC to be Vaccinated



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