

UWU other than for Directors. We accept the ACA's submission that the existing classification structure is unlikely to reflect work value, since each CSE classification above Level 1 contains varying numbers of annual incremental pay points not based on any identified distinctions on work value. As earlier discussed, progression between increments is based partly on time served and partly on an employee's competency at their existing level and demonstration of the skills necessary to advance to the next pay point. However, the CS Award does not specify any criteria for assessing this beyond the classification criteria for the classification as a whole, rendering (as some of the evidence before us indicates) the pay points at least in part a mechanism for rewarding perceived individual performance rather than properly-assessed minimum remuneration reflective of differentials in work value. Further, the classification structure is not reflective of the regulatory regime now applicable to children's services whereby:

- educators who work 'on the floor' in CBDCs must either:
  - hold a Certificate III in ECEC or be working towards one; or
  - hold a Diploma in ECEC; and
- there is a mandatory minimum proportion of diploma qualified staff.

**[557]** Our *provisional* view is that there should be a new, simplified classification structure which is substantially based on the qualifications framework for the ECEC sector, with the rates of pay structured by reference to the Caring Skills benchmark rate. This classification structure, when fully implemented (not taking into account future AWR outcomes) would be as follows:

<b>Classification</b>	<b>Criteria</b>	<b>Relativity to Level 3</b>	<b>\$ per week</b>
CSE Level 1 Introductory Educator	An employee whose primary role is to work directly with children and who has less than 12 months' experience as a CSE.	90%	1,142.80
CSE Level 2 Educator	An employee whose primary role is to work directly with children and who has at least 12 months' experience as a CSE.	95%	1,206.30
CSE Level 3 Qualified Educator	An employee whose primary role is to work directly with children and has obtained an approved Certificate III-level early childhood education and care qualification.	100%	1,269.80
CSE Level 4 Experienced Educator	An employee whose primary role is to work directly with children, who has obtained an approved Certificate III-level early childhood education and care qualification and has obtained four years' post-qualification industry experience at CSE Level 3.	104%	1,320.60

Classification	Criteria	Relativity to Level 3	\$ per week
CSE Level 5 Advanced Educator	An employee whose primary role is to work directly with children and who has completed a diploma-level early childhood education and care qualification or an equivalent approved qualification for out of school hours care.	108%	1,371.40
CSE Level 6 Lead Educator/ Room Leader	An employee who has been appointed as a Lead Educator or Room Leader in accordance with relevant legislation or regulation.	112%	1,422.20
CSE Level 7 Assistant Director	An employee who is appointed as: <ul style="list-style-type: none"> <li>• the Assistant Director of a service;</li> <li>• Children's Services Co-ordinator;</li> <li>• Family Day Care Co-ordinator;</li> <li>• Family Day Care Trainee Supervisor; or</li> <li>• School Age Care Co-ordinator</li> </ul> and who has completed an AQF Level 5 or Level 6 Diploma in Children's Services or equivalent or is deemed by the employer or relevant legislation to hold such qualification or possess such experience as appropriate or required for the position.	122%	1,546.70
CSE Level 8 Director	An employee who is appointed as the Director of a Service and has completed a relevant degree or other qualification or is deemed by the employer or relevant legislation to hold such qualification or possess such experience as appropriate or required for the position.	142%	1,803.20

**[558]** The above structure includes the roles of Family Day Care Co-ordinator and Family Day Care Trainee Supervisor, which align with that of Assistant Director of a Service at Level 7, as is the case with the current Level 5. This would partially facilitate the implementation of our *provisional* view stated in respect of the SCHADS Award that coverage of family day care work should fall entirely under the CS Award. However, the current range of classifications for Family day care employees in Schedule D of the SCHADS Award is broader than this, and we invite further submissions in due course regarding whether it is

necessary to add further family day care roles at other levels in the CS Award structure in order to fully implement this *provisional* view.

**[559]** In establishing the rates for Directors and Assistant Directors, we have had regard to the fact that they are responsible for managing and implementing educational programs developed by teachers who hold degree-level qualifications, and for managing Educators, who may be appointed to roles where they are in charge of a group of children. The rates for teachers are set by the EST Award and it is necessary that the rates for Directors exceed the rate for teachers given their respective roles. The proposed wage rates for Directors and Assistant Directors (Levels 8 and 7 respectively) have been set by reference to the current percentage relativities that the rates for these classifications in the existing structure bear to the new key classification of CSE Level 3, applicable to an Educator holding an AQF Level 3 qualification, undertaking caring work. Because there is no qualification requirement to hold the roles covered by these classifications, they operate on the basis that it is the work of the role itself, and not any qualification that a person in the role may hold, for which the minimum wage rate has been set. Consistent with this, it is our *provisional* view that the qualification allowance in clause 15.6 of the CS Award for Directors or Assistant Directors holding a Graduate Certificate in Childcare Management or equivalent should be abolished.

**[560]** The translation of existing employees under the CS Award to the new structure, with the total increase to the award minimum wage rates identified, would operate as follows:

Current Classification	New Classification	Increase (%)
Level 1.1	CSE Level 1	24.8
Level 2.1	CSE Level 2	27.8
Level 2.2	CSE Level 2	23.7
Level 3.1	CSE Level 3	23.0
Level 3.2	CSE Level 3	18.9
Level 3.3	CSE Level 3	15.3
Level 3.3 (with 4+ years' post-qualification experience at Level 3)	CSE Level 4	19.9
Level 3.4	CSE Level 5	18.0
Level 4.1	CSE Level 6	17.0
Level 4.2	CSE Level 6	15.2
Level 4.3	CSE Level 6	13.5
Level 5A.1	CSE Level 7	21.6
Level 5A.2	CSE Level 7	19.9
Level 5A.3	CSE Level 7	18.2
Level 5.1	CSE Level 7	21.6
Level 5.2	CSE Level 7	19.9
Level 5.3	CSE Level 7	18.2
Level 5.4	CSE Level 7	17.8
Level 6A.1	CSE Level 8	23.0
Level 6A.2	CSE Level 8	21.5
Level 6A.3	CSE Level 8	20.0
Level 6.1	CSE Level 8	23.0
Level 6.2	CSE Level 8	21.5
Level 6.3	CSE Level 8	20.0
Level 6.4	CSE Level 8	15.7

Current Classification	New Classification	Increase (%)
Level 6.5	CSE Level 8	14.6
Level 6.6	CSE Level 8	13.3
Level 6.7	CSE Level 8	11.9
Level 6.8	CSE Level 8	10.7
Level 6.9	CSE Level 8	9.4

**[561]** We have not included the current Level 4A classifications in the above translation table because it is unlikely that employers could appoint persons without qualifications to the roles of Lead Educator or Room Leader consistent with applicable regulatory requirements in the ECEC sector, including the requirement for minimum ratios of qualified educators to children. We have also not included the current Level 3A classifications because they appear to be obsolete.

#### **7.10 Operative date and phasing-in**

**[562]** Our *provisional* view as to a new classification structure and minimum wage rates for CSEs will, if implemented, obviously have significant cost implications for employers in the ECEC sector. As set out in the translation table above, the total increase to the minimum wage rate for a Certificate III-qualified CSE under the *provisional* view will be 23 per cent. It is not in dispute that the sector is heavily reliant on Commonwealth government funding and that the capacity for employers in the sector to bear the cost of the new wages structure will depend to a large degree upon an adjustment to that funding. In respect of the outcome of these proceedings specifically, the Commonwealth has made no commitment to or decision about increased funding and has indicated that it seeks the opportunity to make further submissions about cost and implementation once we have stated our conclusions about the existence of gender-based undervaluation and the steps necessary to rectify it. The likely outcome of a lack of a funding commitment on the part of the Commonwealth beyond the scope of the Retention Payment scheme is that providers will be forced to increase their fees, which will have consequences for the capacity of at least some parents with young children to participate in the workforce.

**[563]** There are two matters which are ameliorative of the cost impact. The first is the Retention Payment associated with the entry of employers into the ECEC Agreement (or another ‘compliant workplace instrument’), which will fund a total wage increase of 15 per cent above the current award wage rates by 1 December 2025. Because, as explained in the Commonwealth’s submission, this amount will effectively absorb any award wage increases of a lesser amount, this means that, for those employers who render themselves eligible for the Retention Payment, a substantial proportion of the award wage increases proposed would be funded at least for the duration of the Retention Payment scheme. The second is that it is clear that, independent of the Retention Payment scheme, a significant minority of employers covered by the CS Award already pay above-award wages, whether through enterprise agreements or individualised arrangements, and there is therefore some capacity in the ECEC sector to absorb increases in award wage rates.

[564] Having regard to these matters, our *provisional* view as to the implementation of the classification structure and wage rates is that:

- (1) the wage rates should be phased in over a period of five years in annual increments; and
- (2) there should be an initial increase to the award wage rates for CSEs of 5 per cent operative from 1 August 2025.

[565] We will invite further submissions about the above *provisional* views before finally determining what variations to the CS Award are necessary to meet the modern awards objective and the minimum wages objective.

## 8. NEXT STEPS

[566] A determination to vary the Pharmacy Award to implement the first phase of the outcome we have determined is published together with this decision.

[567] In respect of the *provisional* views we have expressed concerning the HPSS Award at paragraphs [177]–[179], [235]–[236] and [289]–[290], the SCHADS Award at paragraphs [392]–[396], the ATSIHW Award at paragraphs [447]–[451] and the CS Award at paragraphs [557]–[561], we will as a first step program each award for conference in order to ascertain in the first instance the nature and scope of any issues which interested parties may wish to raise in response to those *provisional* views. These conferences will be conducted after the parties have had a reasonable opportunity to properly consider the *provisional* views. They will not occur until after 3 May 2025. Based on parties’ responses at the conferences, we will then, to the extent necessary, program the Review for further hearing to finalise the variations to the awards necessary to rectify the gender-based undervaluation we have found to have occurred.



PRESIDENT

*Appearances:*

Matter AM2024/19 (Pharmacy Industry Award 2020)

*K Burke SC* with *P Lettau*, counsel, *T Clarke* and *S Peldova-McClelland* for the Australian Council of Trade Unions.

*M Buchanan* for The Association of Professional Engineers, Scientists and Managers, Australia.