



CHANGES TO
**Child Care Subsidy
Gap Fee Payments**

FROM 1 JULY 2023

A GUIDE FOR APPROVED
FAMILY DAY CARE SERVICES





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1 INTRODUCTION

This guide forms part of a suite of practical support resources that Family Day Care Australia (FDCA) has developed with funding from the Australian Government Department of Education (the Department) to assist the sector in meeting the new requirements for collection of Child Care Subsidy (CCS) gap fees via Electronic Funds Transfer (EFT) from 1 July 2023.

This resource provides general guidance on preparing for the new requirements as well as good practice tips and strategies.

The content of this guide was developed using information provided by the Department as well as insights and experiences shared by FDCA service members, obtained through a national survey and in one-to-one interviews.

Please note that the content in this resource is intended to provide broad guidance only to support family day care services in their decision-making and practice. Services are encouraged to seek relevant professional and/or legal advice specific to their situation and context, as needed.



2 CHANGES TO CCS GAP FEE COLLECTION FROM 1 JULY 2023

What changes are being made CCS gap fee payments?

From 1 July 2023, in accordance with amendments to Section 201B(1) of the A New Tax System (Family Assistance) (Administration) Act 1999 (“the Administration Act”), families using child care must pay their CCS gap fee using EFT and therefore cash payments will no longer be permitted.

The CCS gap fee is the difference between the full child care fee and the amount of CCS that families are entitled to receive.

EFT is where you pay a bill via electronic means rather than cash. Examples of common EFT methods include bank transfer, direct deposit, bank or credit card payments, mobile wallets, BPAY, pre-paid debit or credit cards and Centrepay.

EFT payments are already accepted by the majority of service providers. If a service or their educators don't already accept EFT, service-wide EFT payment methods must be in place by 1 July 2023. For many services, this may mean changing current practice.

Under the new requirements, CCS gap fees may be collected via EFT in a family day care context in the following ways, depending on the business decisions taken by the provider:

- the approved service collects the CCS gap fees centrally and then disburses payments to educators, or
- a service allows educators to act as an agent on behalf of the provider and collect the CCS gap fee, or
- a service employs a combination of the above two methods.

There will be limited exceptions to complying with this new CCS gap fee requirement. Exceptions will be available for:

- individuals at risk of family or domestic violence
- services experiencing exceptional circumstances.

See FDCA's information sheet about the exception provisions on our dedicated EFT Transition resources webpage at www.familydaycare.com.au/supporting-you/eft.

Why are these changes being made?

Mandating the collection of CCS gap fees via EFT makes it easier for services to meet their legal obligations of ensuring the gap fee is being paid. It also enables service staff and/or educators to track and reconcile their accounts and payments more efficiently. Providers will be required to take all reasonable steps to ensure gap fees are collected by EFT, which includes demonstrating adequate oversight of gap fee collection. The Australian Government will be conducting audits of providers to enforce the new measure.

It is important to note that family day care approved services have always been required to ensure the CCS gap fee is collected. However, where gap fees are collected in cash by educators, it can be difficult for services to meet this requirement.

According to FDCA's consultations, the vast majority (91%) of family day care services and/or educators already have EFT systems in place, and many collect CCS gap fees this way because it is easier for families and also easier to track gap fee payments. However, 62% of services currently have some families who pay their CCS gap fees via cash.

How will compliance be monitored by the Department?

The Department will audit service providers' compliance with the new CCS gap fee payment requirement. Failure to comply will have serious consequences. If services are found to have failed to meet their obligations, compliance action may be taken such as:

- issuing a warning letter
- issuing an infringement

Providers should be acutely aware that they ultimately carry the obligation of ensuring compliance with Family Assistance Law (FAL) and, as such, if educators are found to be non-compliant, any relevant liability (in terms of sanctions) will sit with the provider.

- putting conditions on a service's approval
- suspending or canceling a service's approval

In the proposed audits, the Department will be checking EFT CCS gap fee payments against relevant records and evidence, such as provider or educator bank statements and receipts, as well as relevant reports from third-party software providers.

The Department may request this information from approved services using a section 158 notice. A [section 158 notice](#) is a legal document requiring specific information, documents or records to be provided to the Department of Education. A person with management or control of the provider (PMC) must respond to this notice.

These compulsory notices apply to any documents in the persons possession, custody or control, including any documents that are in the educators' possession.

FDCA is creating a fact sheet around what services may be expected to produce during the Department's audit process. It will be available on our [EFT Transition Resources webpage](#).

The need for services to demonstrate adequate oversight

While the change to requiring the gap fee to be paid electronically is new, providers have always needed to take 'all reasonable steps' to ensure the gap fee is being paid.

It should be noted that 'all reasonable steps' is not defined specifically in the legislation and will inevitably look different amongst service providers. This may be due to factors such as differing internal systems, varied governance arrangements, multiple third-party CCS software providers and varying service policies and processes for EFT gap fee collection. However, it is essential that service providers clearly document the process the provider deems to be 'reasonable steps' in their service, including action taken to recover late or unpaid CCS gap fees.

In addition, services should establish clear, transparent and well-defined processes and/or procedures related to their service-wide approach to EFT CCS gap fee collection and audit these processes regularly to ensure ongoing compliance with the EFT gap fee requirements. This is considered best practice, regardless of whether a service collects EFT gap fee payments centrally or allows educators to collect EFT gap fee acting as an agent on behalf of the provider (or both).

These processes may include (but are not limited to) regularly examining statements of entitlement, reviewing third-party software session reports and other relevant documentation (i.e. relevant bank statements of the provider and/or educators) that show session payment details for a specified period.

3 MANAGING THE TRANSITION TO EFT CCS GAP FEE COLLECTION

From our consultations, it was clear that services preparing for the transition to the new requirements are working systematically through a range of key considerations to determine the changes (if any) they must make to ensure compliance with the new requirements from 1 July 2023.

While services' approaches necessarily varied according to their specific context and business operations, most worked through the following staged process to guide their planning and decision-making.



Note that services did not necessarily follow the above steps in a sequential fashion, as several aspects and considerations overlapped others.

Evaluation of the service's current system for collecting CCS gap fees

Key considerations included:

- How are CCS gap fees currently collected? Is the current system working?
- How many families currently make their CCS gap fee payments via EFT methods versus cash?
- What EFT options should be offered and why?
- Do we need to upgrade or change our third-party system?
- Have we had prior compliance issues? Where do we need to strengthen policies and processes?

TIPS AND STRATEGIES

Choosing EFT Options

The changes coming in from 1 July 2023, do not require a specific type of EFT method. This is ultimately a business decision made by services and/or educators.

The following good practice tips and strategies are derived from FDCA's consultations with services:

1. When deciding on EFT options, key considerations include the reliability and security of the payment system, the ease with which payments can be tracked, additional service fees and/or transaction costs associated with some EFT methods or banks, or incurred when direct debits from bank accounts or credit cards bounce. Some EFT payment options may take 4 days or more to transfer from a person's bank account to the service's/educator's account, depending on their banking institution. Others (e.g. PayID, direct debit from credit card, BPAY) are immediate, but may come with additional fees.
2. Investigate the pros and cons of EFT options and payment gateways available through third-party software providers. For example, [Hubworks](#) uses iPay Dynamic, [Harmony Web](#) uses redPAY, and [FDSee](#) will soon incorporate a new CCS payment system (run in partnership with Smart Central). These third-party providers are also working towards improvements to their functionality in response to the new EFT CCS gap fee rules.
3. It may be worth considering changing over to another provider depending on the functionality they can provide. Most third-party software systems offer inbuilt accounting software, automated invoices and receipting, varying ways payments can be verified and tracked as well as user support functions and tip sheets. Currently a number are also making improvements to their functionality to respond to the new EFT gap fee measures. It pays to check.
4. Consider the number of EFT options you can feasibly offer, while balancing the need to address families' preferences. The most popular EFT option used by services currently is direct debit from families' nominated bank account or credit card.
5. BPAY may be considered a more desirable EFT option for families who are from culturally and linguistically diverse (CALD) backgrounds who may not trust the banking system. Services with CALD families say that [BPAY](#) is usually perceived as a trusted method as families have used that method when paying their bills. BPAY also provides a unique customer reference number to identify clients easily and money clears within one business day.
6. Reloadable prepaid debit cards may be an alternative worth considering if some families do not wish to sign up to direct debits from their bank account or credit card. These debit cards are a safe alternative to cash, do not require a bank account and often provide tap-and-go payment capabilities. Prepaid debit cards are available to buy at post offices, banks, retail stores and online and money can be deposited in a range of ways, including in person with cash, via BPAY, online transfer or direct from an employer. Most prepaid cards are issued by Visa or Mastercard and can be used wherever these cards are accepted. However, they sometimes vary in terms of fees charged and specific terms and conditions.

Identification of changes that needed to be made

Services typically considered the following:

- Should the service make a transition to a centralised model?
- Should the service continue to permit educators to collect the CCS gap fee, acting as an agent of the service?
- What changes or upgrades need to be made regarding third-party software or other IT applications needed?
- What processes do we need to change to demonstrate appropriate oversight by the service? For example, invoicing and receipting, record keeping, debt recovery and management, internal audit processes, risk management, governance and so on.
- What changes to educator contracts and service policies/processes are needed?

Identification and management of risks and challenges

Transitioning to new systems, processes and procedures also posed new risks and challenges for most services. Services typically considered the following:

- What are the risks of non-compliance? How can these be mitigated?
- How can the service demonstrate appropriate oversight of CCS gap fee payments, especially in cases where educators collect these payments?
- Will the proposed changes result in an increase in administration burden for the service and/or educators? How can this be minimised?
- What are the implications for the service's debt recovery policies and processes?
- How can educators and families be supported to adjust to changes in the service's policies and processes in order to comply with the new requirements?



TIPS AND STRATEGIES

Supporting families

A key challenge for some services will be supporting and transitioning families to adjust to new policies, systems and processes which may present potential risks of non-compliance to educators and providers. The following good practice tips and strategies are derived from FDCA's consultations with services:

1. Provide information regularly in small chunks. Start with raising awareness about the changes that are coming and explain that the service must comply with these changes. FDCA's information sheet for families on the forthcoming changes to CCS gap fee payments provides general information for services and/or educators to kick start the conversations with families. It is available on our dedicated [EFT Transition Resources webpage](#).
2. Update enrolment forms to ensure clear information is provided about families' obligations to pay the CCS gap fee by EFT from 1 July 2023 and the consequences (e.g. refusal of care) if they do not.
3. Consult as much as possible on the types of EFT payments (from a limited selection) that the service may offer to gain insight into families' preferences. Consider creating short surveys/polls for the families to do so you have data to base decisions on.
4. If possible, allow time for families to transition to new systems such as direct debits. Families first need to contact their bank to authorise the direct debit in this instance. Also be aware that some banks or financial institutions may automatically block payments to new payment systems they are not familiar with e.g. redPAY etc and may need verification from the service provider. All these issues require time to navigate, so the sooner you start the conversations with families the better.
5. It is recommended that one-to-one interviews over the phone or in person be conducted by service staff with families who are used to paying with cash. Those who may be at risk of domestic or family violence may be eligible for an individual exception to paying by EFT. See FDCA's [information sheet about the exception provisions](#). Other families may also require 1:1 support in how to set up direct debits from their bank account or credit card. Many services see this contact with families as an opportunity to strengthen connections with families.
6. Services and educators need to consider whether to pass on additional costs to families due to new bank or other fees associated with EFT payments. One service decided to abolish their usual enrolment fee for families, given they will be paying \$30 approximately a year in transaction fees.
7. A set schedule for gap fee payments is the most efficient – either weekly or fortnightly depending on third-party software capabilities. This may be difficult for some families to adjust to, especially if your service has moved to a centralised system when families previously negotiated gap fee payments and timing with educators. One service suggested to some families who were paid monthly to set up an offset account against their savings account, so they could just put the amount of the fees into that account each week and then the fees would be deducted each week from there.

Development of a plan to implement the necessary changes

Services typically developed a plan and timeline to manage the change process in a staged manner, identifying key milestones along the way. Services typically considered:

- staged communication with educators/families about the main changes and decisions taken by the service and timelines for these
- processes for deployment of EFT payment options for CCS gap fees
- identification of risks and documentation of how these would be managed
- trialling the functionality of any upgraded software applications/functionality, seeking support from third-party software providers as appropriate
- establishing and trialling internal checking/audit processes
- amendment of relevant services policies and procedures as well as educator contracts
- updating and conducting induction/training and support for educators/service staff on all new processes and procedures.

Communication with educators and families

Skillful and timely communication with educators and families was seen as key to successfully transitioning to the new CCS gap fee requirements by 1 July 2023. Services typically considered how to:

- tailor communications for educators and families about the forthcoming changes
- stage dissemination of information
- address the concerns of educators and families who were resistant to the changes to CCS gap fee payment arrangements
- be transparent about the decisions taken by the service and reasons why
- provide ongoing support to educators and families to prepare and be ready for the CCS gap fee requirements by 1 July 2023.

TIPS AND STRATEGIES

Communicating with educators

The following good practice tips and strategies are derived from FDCA's consultations with services:

1. As in the case with communicating with families, provide information regularly in small chunks. Start with raising awareness about the changes that are coming and explain that the service must comply with these changes. FDCA's information sheet for educators available on our [EFT Transition Resources webpage](#) provides general information to kick start the conversations with educators.
2. Update educators frequently on decisions being made about which model of CCS gap fee collection the service will employ e.g. through weekly zoom/Teams meetings. Take questions and address all concerns constructively.
3. Services transitioning to a centralised model emphasised the need to tailor communications to educators very carefully. Selling points included educators no longer having to carry the financial administration burden for collecting the CCS gap fee payments and thus being able to focus on their other responsibilities. It is important to communicate to educators that their status as an independent contractor was not being disrespected, but from an administrative and risk management point of view a centralised model was the most efficient for the service.
4. Following initial communications, ongoing training and education is seen as essential. For services employing a decentralised model of CCS gap fee collection, it is imperative educators have a full understanding of the scope of their responsibilities and the processes they have to follow and a thorough understanding of the third-party system they are using.
5. Training sessions with a collaborative focus around the payment options that your service chooses, invoicing and receipting processes, the service's need to demonstrate adequate oversight, audit processes, exception criteria for parents, and role play type activities were considered extremely useful. Tip sheets, factsheets or information sheets available through the third-party software providers are also regarded as useful resources.

4 MODELS FOR COLLECTION OF EFT CCS GAP FEE PAYMENTS

In the family day care context, services are permitted to collect gap fees in the following ways, depending on the business decisions taken by the service, and provided that the gap fees are paid by an EFT method:

- either an approved service collects the CCS gap fees centrally and then disburses payments to educators (a centralised model), or
- the service allows educators to act as an agent on behalf of the provider and collect the CCS gap fees (a decentralised model), or
- a service employs a combination of the above two methods (a hybrid model).

These three alternatives are examined in more detail below.

OPTION 1: A CENTRALISED MODEL OF CCS GAP FEE COLLECTION

KEY POINTS:

- More and more family day care services are implementing a centralised model for collection of CCS gap fee payments.
- The Department sees a centralised model as being “best practice” or the most robust approach from a risk management and compliance point of view.
- There are concerns from some services that a centralised model of CCS gap fee collection poses a risk to the independent contractor model of family day care. However, this risk can be managed.
- There are concerns about additional administrative burden under this approach, however this should be considered in comparison to the oversight requirements of a decentralised model.

Our consultations showed almost 1 in 5 (20%) of family day care services already centrally manage *all or part* of the collection of the CCS gap fee from families, and a further 1 in 4 (25%) are planning to transition to such a model in preparation for the changes that will take effect on 1 July 2023. In addition, 17% of services reported that they were unsure about whether to implement a centralised model at the stage of surveying.

How does it work?

A centralised system of collecting CCS gap fees from families is one whereby the family day care service takes central responsibility for all administration associated with collecting gap fee payments, including sending invoices for CCS gap fees due to families following receipt of CCS entitlement, receipting payments, and following up on late payments. The service then passes on an amount equal to the CCS payments and gap fee payments to the educators, minus the service’s “levy” or “administration fee”. Basically, the service collects the CCS gap fee rather than educators.

The educators still operate as independent contractors and determine their own hourly rate, taking into account the relevant overarching service policy. However, some specific policies may be up to the discretion of the service, for example whether the service collects an advance payment to be paid by families on enrolment, or whether educators collect it.

Rationale

The three most common reasons services cited for implementing, or considering a centralised system for collecting CCS gap fee payments were:

1. it is regarded as the most efficient and effective way the service can demonstrate their compliance with the new EFT CCS gap fee collection requirements as well as manage associated operational risks

2. it removes the need for services to manually check educators' invoices for EFT CCS gap fee payments against receipts issued and cross-checking with educators' actual bank transactions
3. it limits the service's exposure to any potential risks of intentional or unintentional breaches by educators regarding collection of CCS gap fees, managing unpaid or late gap fees and inaccurate record keeping.

Specific considerations

In addition to the general operational considerations cited earlier, services implementing or planning to transition to a centralised model raised some specific considerations that need to be thought through. For example:

- the capabilities of their current third-party software system, especially in terms of payment systems and reporting functions and whether they will meet the administration needs of a centralised system
- how to resource potential additional administration burden that the service will need to carry (noting that this may be equal or less than the burden required to provide actual adequate oversight of CCS gap fee payment in a decentralised model and is likely to decrease over time)
- the implications for policies and processes to manage late payments and debt recovery
- how to manage potential additional financial liabilities the service may incur, for example, in situations where the Government overpays the CCS payment, or when services who pay the CCS gap fee in advance to their educators together with the CCS payment incur a deficit while they wait for or pursue payments from families
- policies and procedures related to the timing and frequency of remunerating educators and obtaining CCS gap fee payments from families.

Perceived advantages

Services identified the following advantages of a centralised model:

- the ease and efficiency of tracking and reconciling invoices and CCS gap fee payments at service level, rather than having to ask their educators for relevant evidence of payments, such as bank transaction reports
- educators' timesheets, invoices, receipts and bank transactions would no longer need to be manually checked
- a decrease in admin burden (when compared with that required in a decentralised model to show adequate levels of oversight to ensure the payment of CCS gap fees)
- EFT payments were already accepted as part of the service's administration of CCS payments, with families providing the relevant banking information on enrolment of their children
- greater clarity and transparency to families regarding all payments associated with their child's/children's care, as all details are on the one invoice and the service becomes the single point of contact for all such enquiries, which was seen as especially useful for those families who shared care
- families who transitioned to a centralised model typically reported that it was a more professional approach to have the collection of the CCS gap fee payment one step removed from the educator
- for those services who had already implemented a centralised model, educators reported feeling relieved that they no longer had financial administration responsibilities related to CCS gap fees, allowing them to focus on what they saw as their core job of building relationships with the children and their families and providing high quality education and care.

Perceived disadvantages

Perceived disadvantages of a centralised model typically included mention of:

- additional administration burden and associated costs to service overheads due to taking on the responsibility of CCS gap fee collection (please note, however, many services reported that once set up, then the administration burden was actually less in the long run, due to not having to audit individual educators)
- implications for managing late CCS gap fee payments and debt recovery policies and related costs
- not all family day care educators or families may favour a centralised CCS gap fee collection model, which could have implications for recruitment and retention of educators and families
- potential unforeseen implications for the independent contractor model that underpins family day care.

It is advisable that services, **whether adopting a centralised EFT gap fee collection model or not**, review their own contract with educators in line with FDCA's updated Educator Agreement Templates. We have also updated our guidance fact sheets on the independent contractor model. The educator agreement template and the guidance fact sheets can all be downloaded through the [FDCA Member Zone](#). Simply log in and navigate to the subheading "Resources and Factsheets".

GENERAL GUIDANCE ON INDEPENDENT CONTRACTOR MODEL IMPLICATIONS

On behalf of our members, FDCA sought Legal Counsel advice to clarify the effects that a centralised system of CCS gap fee collection would have on the independent contractor model of family day care, with particular focus on any potential drawbacks. Below are some general recommendations from that advice to assist services.

- a. *There are many factors that impact a determination of an independent contractor vs an employee relationship, however, there is a risk that adopting a practice of centralised gap fee collection may compromise the family day care independent contractor model, with the outcome that a court may be more likely to find that the educator was in fact engaged by the provider as an employee. HOWEVER, this risk can be minimised by ensuring the terms of engagement with their educators are comprehensively set out their educator agreements (see point c below)*
- b. *Come 1 July 2023 services are faced with a choice: educators may continue to collect the gap fees directly from parents, or providers may commence collecting the gap fees on their behalf. In the event that educators continue to collect the gap fees directly, providers will be legally obliged to ensure that educators are aware of their obligation to collect the gap fees electronically, and also required to ensure that educators are in fact using EFT for the collection of gap fees.*
- c. *Should members elect to move to centralised gap fee collection, in order to minimise the risk referred to above:*
 - i. *It is more important than ever to comprehensively set out the terms of engagement between providers and educators in a written agreement between the parties. If key aspects of the relationship (including as to the mechanics of the collection and disbursement of the gap fee) are not regulated by the agreement, this may open the door to educators challenging the contract and a court then examining the conduct of the parties (which, in turn, may increase the likelihood that the educator will be found to be an employee).*
 - ii. *The move to centralised gap fee collection should only be made once educator agreements are reviewed and updated, with careful attention being given to the clauses dealing with the collection and disbursement of monies to the educator by the provider to make clear that:*

- *liability for payment of the fees charged for each session of care remains with the parents of those children enrolled with the educator and the gap fees are merely collected by the provider on behalf of the educator;*
 - *payment of the gap fees to the educator is not dependent on the discharge of any obligations that might separately be owed by the educator to the provider under the agreement. That is, the educator's entitlement to be paid the gap fees should not be tied to the performance of the educator's obligations owed to the provider under the agreement. Instead, payment of the gap fees to the educator should hinge only on the educator duly conducting and reporting the sessions of care to which the gap fees relate to the provider.*
- iii. *Renewed focus should be given to other clauses in providers' agreements with their educators to ensure that by construction of the terms of the contract, it is apparent that the educator is contracted to conduct his or her own family day care business or enterprise, as opposed to providing services in the business of the provider, and that as a whole, the legal rights, duties and obligations created between the parties are consistent with the relationship of an independent contractor and principal.*

The considerations outlined above have been built into the updated version of FDCA's Educator Agreement Template.

****Please note:** the general guidance provided above is designed to assist services' planning and decision-making regarding any potential changes to service operations in order to be compliant with the new EFT CCS gap fee requirements from 1 July 2023 and also to protect the independent contractor model. However, this guidance does not, in any way, constitute legal advice by FDCA. Services are encouraged to seek independent legal advice specific to their situation and context, as needed, particularly with respect to amending existing educator agreements.

OPTION 2: A DECENTRALISED MODEL OF CCS GAP FEE COLLECTION

KEY POINTS:

- A majority of family day care services currently permit all or some of their educators to collect CCS gap fees on behalf of the service provider.
- This decentralised model of CCS gap fee collection has historically been regarded by many as fundamental to the structure of family day care.
- With the new requirement for gap fees to be paid electronically, services employing a decentralised model must be able to verify that families are paying the CCS gap fees to educators via EFT. To manage the risks of intentional or unintentional non-compliance by educators or families, services must have robust internal checking processes in place.

Our recent consultations with family day care services showed that a majority (80%) of family day care services currently permit all or some of their educators to collect the CCS gap fee payments, acting as agents on behalf of the service provider.

How does it work?

A decentralised model of CCS gap fee collection is, in general terms, a system whereby family day care educators have the responsibility for collecting the CCS gap fees from families. This may also include the responsibility for pursuing unpaid debts and late payments.

In a decentralised model educators determine their own hourly rate, taking into account the relevant overarching service policy. They provide families with their own fee schedule, which may include whether families need to pay an advance payment of two weeks' fees up front as surety, the methods of payment that are accepted, frequency of payments, e.g. weekly or fortnightly, and the consequences of late or non-payment of the CCS gap fee.

This approach usually involves educators invoicing families directly for the CCS gap fee once the CCS entitlement has been confirmed. When the payment has been made, the educator receipts the payment and provides all necessary CCS gap fee documentation to the service to show that CCS gap fee payments have been made, in line with the relevant service policies.

However, as for services employing a centralised model of gap fee collection, there are still variations to the above processes due to a number of factors such as differing governance arrangements, multiple third-party CCS software providers and varying service policies and processes.

Rationale

FDCA's consultation process revealed the top three reasons services decided to stay with a system whereby educators collected the EFT CCS gap fee were:

1. The strong commitment shared by the service and its educators to the independent contractor model underpinning family day care and the desire to ensure educators were able to maintain control over all aspects of their own business. Services reported that some educators felt that the collection of gap fees was an indicative component of them running their own business.
2. That the majority of Council or Government services preferred an option whereby educators collected the CCS gap fee on behalf of the

service to mitigate potential risks associated with compromising the independent contractor model. These entities also flagged administrative complexities associated with centralised banking and accounting functions.

3. That the majority of a service's educators already had business bank accounts in place and already collected gap fees via EFT from families and there had been no compliance issues in the past with this system.

Perceived advantages

Services planning to allow EFT CCS gap fees to be collected by educators, typically identified one or more of the following advantages of such a system:

- It would not incur potential additional risk to the independent contractor model of family day care. Some services felt that adopting a centralised system of CCS gap fee collection could risk shifting their relationship with their educators too much towards an employer/employee relationship.
- Such a model was seen as leveraging the close relationship that families form with their educator. Services believed that as a result, families would be more inclined to pay the educator the CCS gap fee than the service.
- The service would not incur the administrative burden or increased risks of CCS gap fees and debt recovery perceived to be associated with a centralised system.

Perceived disadvantages

The following disadvantages were identified by the services we consulted:

- Services did not believe they had enough time to develop the robust internal auditing processes required to demonstrate services oversight of educators' compliance with the new requirements by 1 July 2023.

- There may be an increased risk of unintentional breaches of the new requirements if educators are not given adequate training and a robust internal audit process is not in place.
- There would be additional administration burden and/or staffing costs for services to develop and administer robust internal audit policies and processes to ensure they can demonstrate adequate oversight of CCS gap fee payments by EFT. Due to current limitations of some third-party software reporting functionalities, services may need to manually check actual EFT transactions supplied by educators against invoices and receipts.
- Some educators may require a lot of support to build reliable, consistent and compliant processes. This can be due to the educators' lack of IT expertise, familiarity and knowledge of the relevant legislation, or their capacity for assertiveness when it comes to CCS gap fee collection.

A key overarching consideration for services employing a decentralised model is the establishment of robust internal audit processes to ensure the service can demonstrate adequate oversight of payment of CCS gap fees via EFT.

Specific Considerations

The following specific considerations were identified by services planning to implement a decentralised model of CCS gap fee collection:

- How they will ensure educators are fully aware of the entirety and seriousness of their obligations regarding the new EFT CCS gap fee requirements and the potential consequences of non-compliance. These consequences may include issuing a warning letter, issuing an infringement, putting conditions on a service's approval and suspending or canceling a service's approval.
- How to establish and conduct robust internal checking and auditing processes to demonstrate they have taken 'all reasonable steps' to ensure EFT gap fee payment by families. Services must also consider that they must be able to provide explanations of any discrepancies that have occurred throughout the period, such as families being on payment plans.
- From an auditing perspective, services must also consider what new processes (if any) should be implemented in circumstances when families do not pay, or incur a debt in gap fees.



TIPS AND STRATEGIES

Establishing internal audit or checking processes

The following good practice tips and strategies are derived from FDCA's consultations with services:

1. To ensure greater transparency and accountability for collection of EFT CCS gap fees from families, encourage educators to open a business bank account.
2. Require all educators to submit timesheets, invoices and receipts through your third-party software system on a regular 1 week/2 week cycle, depending on the capabilities of your third-party software system. For most systems, educators enter their bank details into the third-party software system and the system generates an invoice which has their bank details already included.
3. Encourage educators to amend their fee policies to require families to enter a specific reference number (e.g. child's initials, child's first name and parent's last name, invoice number etc.) when making the CCS gap fee payment via EFT to facilitate tracking in the educator's bank account.
4. Conduct mandatory training sessions for all educators about the new EFT gap fee requirements, proposed EFT options, the consequences of non-compliance, changes to the services' policies and procedures etc.
5. Amend educators' contracts and relevant policies to require that educators submit evidence of CCS gap fee payments for a specified period (i.e. bank transaction details) as part of their standard submission of other necessary records (e.g. timesheets, invoices and receipts). Educators should be able to generate a custom bank transaction report of all payments received from families over a specified period for relevant service staff to check against invoices and receipts. A custom transaction report can usually be created by applying a filter to online bank accounts.
6. Adopt a risk-based approach to the internal review of CCS gap fee payments by conducting a rolling program of internal audits. This may entail spot checks by coordinators on their monthly visits, and/or the service requesting 3 months bank statements from educators' bank accounts for relevant service staff to formally check against invoices and receipts to ensure the CCS gap fee is being paid via EFT. Services may also consider checking associated cohorts of families to strengthen internal audit processes e.g. by ringing them and asking them the date of their last CCS gap fee payment and the amount they paid.
7. Ensure that the internal audit processes developed can verify whether the CCS gap fee is being paid by families by EFT and that the gap fee amount is the same as the actual payment they should be paying. For instance, the CCS gap fee payment and associated receipt must match exactly the amount on the invoice issued, and not be rounded up to the next dollar. The original receipt must also stay with the families, not the educator/service.
8. Pay special attention to the timing of passing on the CCS gap fee payment to educators so that it occurs after CCS entitlement has been confirmed. According to the [Child Care Provider Handbook](#), the Department does not recommend that providers invoice families using estimates of fee reduction before Child Care Subsidy eligibility and entitlement is confirmed. This is because the actual amount of Child Care Subsidy paid (if any) may vary for a range of reasons.
9. As outlined in the *General guidance on the independent contractor model implications* above, ensure variations to educators' contracts clearly reflect the terms of engagement between the provider and the educator. Visit the [FDCA Member Zone](#) to access an updated educator agreement template as well as the independent contractor guidance fact sheets.

TIPS AND STRATEGIES

Managing debts and unpaid gap fees

The following good practice tips and strategies are derived from FDCA's consultations with services:

1. Have policies in place that will minimise debts being incurred in the first place. For example, the service enrolment form may include a set of terms and conditions that families must agree to upon enrolment. These might include a requirement to pay the sum equivalent to two weeks' fees in advance on commencement of care. This money could then be held in a holding account by the service as surety. Some services that employ a policy of advance payments from families, allow a settling in period where families can pay this payment over 4 weeks.
2. If the service collects an advance payment from families on commencement of care, and a family misses paying their CCS gap fee payment, the service may draw from the advance payment in their holding account. If the two weeks' advance payment provided by the families on enrolment runs out, due to several instances where the family has not paid the CCS gap fee, the family may be advised that care can no longer be provided until the CCS gap fee is paid.
3. Include a late cancellation policy in the enrolment form for casual bookings, for example if cancelled within 48 hours of the booking, that fees for that care will be forfeited by the family.
4. Seek legal advice or engage a debt collection agency to assist with the "terms of trade" that families must sign up to if they wish to enroll their child/children in care at your service.
5. If debts are incurred from late or unpaid CCS gap fees, ensure there is a written email/letter trail that can be shown as evidence of the service "taking all reasonable steps" to recover the debt in question, in the event of an audit by the Department.
6. Utilise the third-party software "debit report" function to keep track of overdue payments or those that have not come through. These debit reports are available within most third-party software applications.
7. If the family is in dire financial straits go through the other options available e.g. a payment plan or assessing whether Additional Child Care Subsidy (ACCS) is an appropriate option. In Harmony Web, on the main children's page it is possible to add 'flags' to those families who are currently in a payment agreement with the service. This can particularly assist tracking those families who have issues initially with commencing care.

OPTION 3: A HYBRID MODEL

KEY POINTS:

- A very small proportion of family day care services currently employ a combination of centralised and decentralised models.
- The main reason a service adopts this option is to accommodate the preferences of educators and/or families.
- A hybrid model may present additional administration burden for the service and may lead to added complexities in developing and implementing appropriate oversight mechanisms and audit processes in a systematic way.

In a very small proportion of family day care services (around 6%), a hybrid system of collecting CCS gap fees currently operates.

How does it work?

A hybrid model of CCS gap fee collection refers to services that utilise a combination of models 1 and 2 in collecting CCS gap fees. For example, for some families, the service manages the collection of CCS gap fees centrally, transferring payments to educators; however, for other families, educators are permitted to collect the CCS gap fees, acting as an agent on behalf of the service.

Rationale

The main reason a service adopts a hybrid model is to accommodate the preferences of educators and families. For example, a service might opt for a hybrid model in situations where it has been

decided to transition to a centralised system for collecting CCS gap fees. The service may have a number of experienced educators who have efficient and reliable systems in place who do not want to change over to such a system. New educators and families are, however, usually inducted into the new centralised system.

In other instances, cultural reasons may come into play. For example, some parents from a particular cultural background may have a strong belief they should not be paying the educator directly, as in their country it is common to barter when purchasing goods or services from individuals. In these cases, the service collects their CCS gap fees centrally even though their predominant model is a decentralised one.

Perceived advantages

Many of the perceived advantages of a hybrid model overlap with the advantages associated with Option 1 and 2 CCS gap fees systems.

In addition, services report the following specific advantages:

- greater flexibility to match the preferences of educators and families
- retaining experienced educators with effective business systems in place
- minimising the risks of unintentional or intentional service breaches if the service only permits educators with a demonstrated track record of strong business capabilities to collect CCS gap fees.

Perceived disadvantages

Services reported the following disadvantages of a hybrid system:

- a hybrid system may lead to added complexities to developing and implementing appropriate oversight mechanisms and audit processes in a systematic manner
- additional administration burden on the service to accommodate both models, keep records about who is using which option and address risks associated with each model
- if families share information with one another, or if a family shares care for their child across multiple educators, it may be confusing or complicated that certain educators invoice for CCS gap fees while others do not.

Specific considerations

For services considering undertaking a hybrid option of CCS gap fee collection, there are some specific considerations that need to be worked through:

- assessment of the business strengths and weaknesses of their educators
- educator contracts need to reflect which option of collecting the CCS gap fee payment applies to that educator and implications for other processes or responsibilities e.g. pursuit of late payments, debt recovery etc.
- service policies and procedures need to be amended to account for both options for collecting the CCS gap fee from families and be clear around the situations in which each may apply, as well as service approval processes
- enrolment forms need to be tailored to either option, specifying which option families must use for CCS gap fee payments and any conditions or processes around debt recovery
- the capacity of the service to operate and have appropriate oversight of two very different systems for collecting families' CCS gap fee payments.

5 WHERE TO GO FOR FURTHER INFORMATION

In closing, FDCA would like to acknowledge the generous time and input from all the service members who completed the national survey and participated in the 1:1 interviews. FDCA greatly appreciates your commitment to sharing valuable insights and experiences to assist the family day care sector to prepare for the transition to EFT CCS gap fee payments and collection.

Useful resources

Click [here](#) to view the A New Tax System (Family Assistance) (Administration) Act 1999.

Click [here](#) to view the legislation for the Child Care Subsidy Amendment (Electronic Payment Exceptions and Other Measures).

Click [here](#) to view the Department of Education's FAQs on the changes to CCS gap fee payments from 1 July 2023.

Visit [Family Day Care Australia](#) for more information on gap fee payments, exceptions or get in touch with us at 1800 658 699 or enquiries@fdca.com.au

Visit the [FDCA Member Zone](#) to access the updated educator agreement template and the independent contractor guidance fact sheets. Simply log in and navigate to the subheading "Resources and Factsheets".

Support services for those experiencing domestic violence:

[1800RESPECT](#) – 1800 737 732

[1800ELDER](#) Help line –1800 353 374

[Lifeline](#) –131 114

[MensLine Australia](#) – 1300 789 978

[Q Life](#) – 1800 184 527

