

**STANDING COMMITTEE ON ESTIMATES AND  
FINANCIAL OPERATIONS**

**2015–16 BUDGET ESTIMATES HEARINGS**

**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
MONDAY, 12 OCTOBER 2015**

**SESSION TWO**

**Members**

**Hon Ken Travers (Chair)  
Hon Peter Katsambanis (Deputy Chair)  
Hon Liz Behjat  
Hon Alanna Clohesy  
Hon Rick Mazza**

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**Hearing commenced at 4.38 pm**

**Hon PETER COLLIER**  
**Minister for Education, examined:**

**Ms SHARYN O'NEILL**  
**Director General, Department of Education, sworn and examined:**

**Mr DAVID AXWORTHY**  
**Deputy Director General, Schools, Department of Education, sworn and examined:**

**Mr LINDSAY HALE**  
**Executive Director, Statewide Services, Department of Education, sworn and examined:**

**The CHAIR:** On behalf of the committee, I would like to welcome you to the meeting. Before you begin, I must ask you to take either an oath or affirmation.

[Witnesses took the affirmation.]

**The CHAIR:** You will have signed a document entitled “Information for Witnesses”. Have you read and understood that document?

**The Witnesses:** Yes.

**The CHAIR:** These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, would you please quote the full title of any document you refer to during the course of this hearing for the record. Please be aware of the microphones and try to talk into them. Ensure that you do not cover them with papers or make noises near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise that the publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Obviously, we are very narrow today; we are dealing with answers to questions on notice A7, A9 and A11 that you provided to us in regards to the hearings in June of this year. They were asked by Hon Alanna Clohesy, so unless there is any opening statement you wanted to make —

**Hon PETER COLLIER:** No, we are fine.

**Hon ALANNA CLOHESY:** In the last hearings I asked for a list of schools that have isolation rooms, and that list has been provided, but the minister asked for that information to be kept private, and I think the reason was that—actually, I cannot really find the reason.

**Hon LIZ BEHJAT:** It may make the students identifiable within their school communities.

**Hon ALANNA CLOHESY:** That is right. So, there are 28 of those. Looking at the list, can you explain to me how the students would be identified within their school communities just with a list of the names of the schools that have isolation rooms?

**Hon PETER COLLIER:** I will ask Mr Hale to comment and I will have a few comments as well.

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**Mr Hale:** Look, I probably need to clarify. I think the list that was 28 at the time—it is now 30—is actually a list of facilities that are suitable for use as protective isolation rooms. There is probably potentially less concern about privacy there, although I think there is still a concern. There is a particular concern when we talk about the active plans for these rooms because it is a very small number —

**Hon ALANNA CLOHESY:** Yes, I will get to the active plans because maybe they are different questions.

**Mr Hale:** Yes, they probably are. But I think the concern is that the use of a protective isolation room is most unusual. I think that even by identifying the school, potentially it could lead to a breach of privacy because the question could then be pressed in that school community as to who the individual child is.

**Hon ALANNA CLOHESY:** So in individual school communities, individual parents in those schools do not know there is an isolation room there?

**Mr Hale:** They would know there is an isolation room there, I am sure. If they spent any time on the school property, I am sure they would probably become aware of that, particularly where it is an education support facility because they are quite small. But they would not necessarily know that there was an active plan or who the student was who had the active plan.

**Hon ALANNA CLOHESY:** I just want to keep that separate because it is a separate issue.

**Mr Hale:** Yes.

**Hon ALANNA CLOHESY:** So, given that the parents know that there is an isolation room in the school, in what way does providing the list of schools that have an isolation room being made public compromise the privacy of individual students?

**Mr Hale:** Look, I think our thought at the time was related to the media interest that this had attracted, although, having said that, it is also correct that we did publicly acknowledge one of the rooms that was not in use but was available for use, and allow the media to look at it to try to reassure people because there was such misunderstanding about the sort of facility we were talking about. I can only say that we are very concerned to protect the privacy of those individuals.

**Hon ALANNA CLOHESY:** Of course, and that is completely understood and respected. However, I still do not understand how the list of 28 schools could compromise the privacy of one individual child.

**Hon PETER COLLIER:** Can I just add something, if you do not mind, just in terms of this. I understand, because when this question was submitted, I asked this very question, and the director general is going to make a comment as well with regard to the issue. As I say, if you identify a school, how does that necessarily suggest that there is a particular child or identify a child? With regard to the children or the students who would potentially use these isolation rooms, they are fairly identifiable, I have to say, in the school in a lot of instances in terms of their behaviours, and either those sorts of students going to either the former behaviour centres, now the engagement centres, or whatever it might do. They do build up a bit of a reputation that does cause a bit of—what would be the best phraseology? That child does become known within the local school community in terms of the fact that they are the usual suspects.

**Hon ALANNA CLOHESY:** And that child is already known within the school community. How can a list identify that child?

**Hon PETER COLLIER:** I am just making a comment here; I am not offering an excuse. All I am saying to you is that that is usually the way. Very frequently it is very easy for that child then to develop a stigma both within the school community as a whole as being the child who is problematic, is disengaged or a whole host of other behavioural issues that surround that child. The worst thing—again, it is not an excuse; it is just a commentary here—you could do for that

child is to label him even more—put something on his forehead that says send him off to the isolation room.

**Hon ALANNA CLOHESY:** Of course.

**Hon PETER COLLIER:** As I am sure the director general will comment in a moment, it is always good in those instances to err on the side of caution and to be conservative in terms of making sure that you do not identify that child wherever possible in terms of his behaviour patterns, but also if he is the recipient of what would be deemed as being very, very unique attention on the part of the school. I think the director general wants to comment.

**Ms O'Neill:** I do not think we can probably offer any more detailed response to your question. It remains our view that, given the level of vulnerability of these children and the level of at-risk concerns that we have about them and their behaviours, it remains our view that we do not want to create the potential for further identification and marginalisation within the school community. That is our view —

**Hon ALANNA CLOHESY:** How can a list create that marginalisation of the individual child?

**Ms O'Neill:** I do not think we can add any more, except to say that at these schools—they are not all active—it just begs further questions. I do not think we have got more to add to waste your time in saying that, but it just creates the opportunity again for more questions to be asked.

**Hon ALANNA CLOHESY:** I heard at the time that there was concern about media, which was not created by this committee and was not pre-empted by this committee, and which had been occurring on a national basis quite some time before this committee made these inquiries. To what extent was the concern to keep the media removed from the list of schools a consideration in the decision-making?

**Ms O'Neill:** From our perspective, we have not suggested that the committee played any role. Our primary concern is always the safety and wellbeing of the student, whether or not the media was involved at the time. But certainly at the time it had added attention, which for these students is difficult. But that is not our primary concern; our primary concern is always their general wellbeing.

[4.50 pm]

**Hon PETER COLLIER:** It is the welfare of the child. When it comes down to it, inevitably, it will instigate speculation on the part of that school community. If you have a couple of recalcitrant children in your school community and then it becomes public that the school does have an isolation room, even if most of the parents know, I feel, inevitably there will be speculation that that isolation will be used for that particular child. There is no suggestion that the committee had anything to do with it. It is one of those things the media salivate over—the prospect of having isolation; they talk about padded cells and all the rest of it. It is nothing like that. In some instances, the child does need to be isolated both for his welfare and also for the welfare of his peers.

**Hon ALANNA CLOHESY:** Absolutely; I completely understand that. Because it is related to that, I move onto question A7 where the physical features of isolation rooms were asked to be kept private. Really, on the basis of what you are saying, I would have thought that this information would have acted to demystify and to address some of the kinds of concerns that the public had about the rooms. The physical description, which is very generic, was asked to be kept private. In what way does that assist in keeping the privacy of children and their families protected?

**Mr Hale:** I have just been consulting with my colleague, Mr Axworthy. I think our concern about privacy was simply in relation to the locations rather than the detail because, in fact, the fundamental requirement of those facilities is in our policy, which is publicly available on the website. As I mentioned earlier, in response to that public interest, we did allow the media to inspect and film an isolation room to do exactly that—to dispel the misunderstandings people had

about them. I think it is simply that it is a subset of the question related to the localities and that was our concern.

**The CHAIR:** You have got no problem with part 2 being made public?

**Hon PETER COLLIER:** No; that is fine.

**Ms O'Neill:** In saying that, I would note that the experience on these sorts of topics is that you can take the media there and you can give the information; people still find it titillating, nonetheless.

**Hon PETER COLLIER:** That is what they love.

**Ms O'Neill:** We should note that people will ask. It does not necessarily resolve everyone's particular interest because it is such an unusual and different circumstance. It does not mean that we are not prepared to give it —

**Hon ALANNA CLOHESY:** I also think there is a level of interest that rises above that titillation and it is in the genuine interest of the rights of the child and the way the child is treated and the information parents get.

**Ms O'Neill:** I am not suggesting we do not give it because of that, it is just that —

**The CHAIR:** I am sure the file footage the TV has of the isolation room you took them to will give them far greater titillation than the information provided in this hearing.

**Hon PETER COLLIER:** We have got nothing to hide.

**The CHAIR:** You are happy for 2 to be made public?

**Hon PETER COLLIER:** Yes.

**Hon ALANNA CLOHESY:** Similarly, 3. They are the same kinds of questions really. Is this information already in the public domain?

**Mr Hale:** The active plans?

**Hon ALANNA CLOHESY:** No, this is the schools with isolation rooms that are currently active.

**Mr Hale:** That is not in the public domain in the sense that we provide that information to people. I am sure people in those school communities would be aware of the presence of a protective isolation facility. It is when we get to where these active plans are that is where our concern about privacy of students really becomes —

**Hon ALANNA CLOHESY:** Understood.

**Mr Hale:** — quite significant because then we are really narrowing it down.

**Hon ALANNA CLOHESY:** Of course, particularly when there is a small number of students in even a very large school. I understand that completely —

**Mr Hale:** Often.

**Hon ALANNA CLOHESY:** — and respect that, of course.

Going onto question A9, the question was the number of times that isolation —

**The CHAIR:** Just before you leave A7, I want to double check something. With those schools listed in answer to A7 part 1, is the principal prevented from telling the school community that they have an isolation room?

**Mr Hale:** No.

**The CHAIR:** In fact, if the members of the school community ask if that was an option that was available and they were one of the schools listed, they would more than likely advise them that that is an option that they could consider, is it?

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**Mr Hale:** No, but not because the information is secret; simply that it is not an option that we present to people *carte blanche* and say, we have got this facility. I think we have to be really clear. These are not naughty or misbehaving children; these are children with severe problems with self-regulation. We would come at it the other way. The process would be the other way around; it would be about the individual need. Such a facility is available wherever it is required because if we need it we will go through the process and will create it.

**The CHAIR:** I guess the point I am trying to get to is that with these schools, I would have thought that at the local level there is nothing to prevent that being made known to the school community.

**Mr Hale:** Absolutely not.

**The CHAIR:** There is that facility there. If it is available in the public domain at that level, I cannot see why a parliamentary committee cannot make it public. If it is already in the public domain, it may be that you have to go around and collect it up, but it is in the public domain that those schools have isolation rooms.

**Hon PETER COLLIER:** I understand that; that is the point I made as well. The issue is though that there is a difference being in the public domain in terms of the fact that the information is readily available and publishing that information. It is very similar to league tables, with all due respect. The media used to list the 10 worst schools, in league tables. The information is readily available normally, and, of course, the public would make an assumption, wrong that it would be, that if you were one of the 10 worst schools, the school is a terrible school, and it is not. The school may not have academically capable students.

**The CHAIR:** That is different from identifying the student, minister.

**Hon PETER COLLIER:** No, no; but that is what I am saying. It might be. Straightaway, of course, you will develop a stigma or there will be an issue with regard to that school that will evolve and then within the school itself.

**The CHAIR:** This is my point. The fact that there is an isolation room, and if there is a child that has the sort of behaviours you are talking about, that will be well known to the school community as well, already at that level. I do not disagree with you. I do not think you want to be identifying those on a broader basis, but I think that is very different from identifying the schools that have an isolation —

**Mr Hale:** I think in our minds at least, one of the other concerns is that list of facilities is simply a list of where we have made these facilities available at a particular point of time and they continue to be there. Some of them may not have been used for a long period of time.

**The CHAIR:** That may be something we need to add if we were to make that information public, to clarify and put it into complete context, so they are not necessarily active, or —

**Ms O'Neill:** Chair, it also does change as they come and go. You made the point: how is it that we are saying at the local level people may know because of the behaviour of the child and some action that might be taken and why are we not willing for everyone to know them all? It is a difficult area; it is not black and white. What I said before remains our view. We are trying to minimise the risk of further attention being drawn to the children because of their usually multi-layered disability or emotional problems with emotional regulation. As you say, it is not necessarily consistent that people at the local level might know about an instance at that school vis-a-vis publishing the whole list. We can only say to you, and our advice is, that we would be concerned about greater potential for exposing and identifying young people. But, as I said, I do not think we have got more to add on that subject.

**Hon ALANNA CLOHESY:** Is there still a requirement that the number of times isolation rooms had been used in the last 12 months remain private?

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[5.00 pm]

**Mr Hale:** Particular isolation rooms?

**Hon ALANNA CLOHESY:** No. The question was the number of times isolation rooms have been used in the last 12 months, and there was one figure given. Is there still a requirement that that remain private?

**Mr Hale:** The concern would be the same, because the difficulty is that there are so few plans that are active, and their use is so unusual, so I think our only concern is around how we could provide that data to give —

**Hon ALANNA CLOHESY:** I am not talking about the list yet. The list is the next part.

**Hon PETER COLLIER:** No. You are just talking about the number.

**Mr Hale:** I think that we could, without that list, provide the number by student, without identifying the student or the school.

**Hon ALANNA CLOHESY:** Is there a general number?

**Ms O'Neill:** The question is: can someone publish the number 40 as the number of times —

**The CHAIR:** You just did!

**Ms O'Neill:** What I was going to say is that I think in isolation we could give consideration, but we have just considered it! Sorry, minister!

**Hon PETER COLLIER:** That is all right. We have just collectively agreed that that number is correct.

**Mr Hale:** The number, and the number of students and the duration and matters like that, I do not think —

**Hon PETER COLLIER:** No. That is not what they are asking. They are just asking for the number.

**Hon ALANNA CLOHESY:** The next parts to those questions were the duration of each, the circumstances of use, and the resolution of each instance. That was the table that was provided, and I will not go into detail about the table. But, again, if the first column of that table was deleted, I cannot see how that information would compromise the privacy of any child or any school. In fact, it probably would have the opposite effect of demystifying these rooms, and in fact what you actually would see would be the honest way in which they are used and the type of information. However, that is my personal opinion. Is there a requirement for that information to remain confidential or private?

**Mr Hale:** I suppose, again on the issue of privacy, the difficulty is that to the general public, that information does not tell them anything about an individual child, but to people in a particular school community, it may, and we would still maintain, I think, that that information about that individual child's behaviour record and the management of their behaviour is a private matter.

**Hon ALANNA CLOHESY:** Except in those cases in which there is a public interest test about the way in which the policy is applied, the way in which the rooms are used, and the monitoring that is engaged—all of that public interest. The way in which the department applies its policies and programs is under public scrutiny, and it is in the public interest to be aware of particularly those contentious issues.

**Hon PETER COLLIER:** Personally, I do not see any benefit behind this information being made public. All it will do, for a very, very small number of students, is just reinforce in the minds of some people that our public schools are rife—and they are not, because we are talking about a very, very small number of students here—with issues in terms of violence et cetera. I understand where

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you are coming from from that perspective, but I can see this sort of information being used inappropriately by the media, and it will be; I can guarantee that. They will jump on this.

**Hon ALANNA CLOHESY:** If that outside column, the first column, was deleted, how could that identify?

**Hon PETER COLLIER:** I am not talking about identifying. I am talking about perception.

**The CHAIR:** Minister, the claim that was made was that this information would help identify the students and may compromise the welfare of these students.

**Hon PETER COLLIER:** Sorry. I am just trying to get around this. I do not think it would serve any purpose at all, I have to say. I do not see what we could possibly gain from making this public at all.

**Hon ALANNA CLOHESY:** For a start, I was not actually talking about “the media”. I was talking about making it publicly available.

**Hon PETER COLLIER:** But then the media will get involved. Of course they will. They will jump on this.

**The CHAIR:** I think this information would help our colleagues understand what is going on, rather than just relying on the media. I understand that there may be things like the first column and deleting it. I understand the issues around the five schools that are in one of the answers and why you would not make that public, because that does bring it into identifying and narrowing it down. But for the rest of this information, I do not understand.

**Mr Hale:** I guess it is just the concern that with that information, as we have already agreed, it is in a school community, and the presence of the child would be known, and in fact the identity of the child is likely to be known. With this information, because so few students are involved, that is a risk to the privacy of that individual. I mean, we would not normally divulge the behaviour plans or records that relate to a particular child to third parties, and the reason we do not, apart from their privacy, is that we do not want to impinge on the very process that we are trying to engage in to support their behaviour and their wellbeing.

**Hon ALANNA CLOHESY:** I understand and respect that process. However, I just cannot see how providing information could identify any of the children, or any of the families or any of the schools, or reinforce negative perceptions of students with behaviour plans; all it would do is clarify. Similarly, I do not know what you expect—whether you think that people would pick up the information and go to a particular school and watch for a child with these kinds of behaviours. I just do not understand how you think the information would be used, other than sort of having a general knowledge of the way in which these rooms operate.

**Hon PETER COLLIER:** I think we have said all we can on this one and we have to agree to disagree.

**Hon ALANNA CLOHESY:** There is one final question, A11. The question was the ratio of students who have behaviour plans in place to the students who do not. Is there still a requirement for that evidence to remain private?

**Hon PETER COLLIER:** No. That is fine.

**Hon ALANNA CLOHESY:** So you are happy for that to be public?

**Hon PETER COLLIER:** Yes.

**Mr Hale:** Basically, what we are saying here is that in every case, the room is there for a student with a diagnosis—every student has a diagnosis —

**Mr Axworthy:** At that stage.

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**Mr Hale:** Yes, at that stage—which is basically the answer that I gave at parliamentary estimates. All students would have a disability; however, at the time that a plan goes into place, there may be some that are awaiting a formal declaration of that. But it makes the point that these rooms are not rooms for the general rank and file of badly behaved children or naughty kids. They are for children with a very specific diagnosis and a specific disability or difficulty if you will.

**The CHAIR:** I might draw it to a close, unless there are any other questions. Minister, just in closing, I think we have gone through a fair bit there. However, I would ask if you and your department could look at things like the initial claim was that it would identify the students, and I think there are some areas where we have now agreed that it probably will not, and in fact in respect to A7 I would have thought that maybe the answer is that if that were to be made public, you might need to provide some more context to it. So I would invite you to consider whether you want to provide to us some further context about the fact that if a school has such a room, that does not mean that the room is active or being used; it is just that the facility is there. Likewise, if another school required such a room because of the student needs, it would be provided at that school. If you could provide some of that context to us, that would then give us an answer to A7. I think we have covered a couple of the other areas. Also, a summary of some of the information in A9 could help provide context to people about these rooms and their uses. Perhaps you could provide some further information about whether that could be provided in a way that we could make public, perhaps with some examples so that we can make sure that there is no risk of identifying the students, but to give people context.

**Mr Axworthy:** Yes, certainly.

**The CHAIR:** We will await your advice on that.

**Mr Axworthy:** We will get back to you ASAP.

**The CHAIR:** I wish to thank you for your evidence before the committee today. A transcript of this evidence will be forwarded to you for correction of minor errors. Any such corrections must be made and the transcript returned within 10 days from the date of the letter attached to the transcript. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Again, we thank you sincerely for your contribution today.

**Hearing concluded at 5.11 pm**

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