

**STANDING COMMITTEE ON  
ESTIMATES AND FINANCIAL OPERATIONS**

**INQUIRY INTO THE MEMORANDUM OF UNDERSTANDING BETWEEN  
BALGA SENIOR HIGH SCHOOL AND MANUFACTURING INDUSTRY  
TRAINING SERVICES PTY LTD**

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**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
MONDAY, 30 MARCH 2009**

**Members**

**Hon Giz Watson (Chairperson)  
Hon Ken Travers (Deputy Chairman)  
Hon Brian Ellis  
Hon Sheila Mills  
Hon Helen Morton**

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**Hearing commenced at 1.48 pm**

**COLLIER, HON PETER**  
**Minister for Energy; Training,**  
**sworn and examined:**

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

**McCAFFREY, MR PETER**  
**Deputy Director General, Department of Education and Training,**  
**sworn and examined:**

**WIMBRIDGE, MR GRAHAM**  
**Manager Legal Services, Department of Education and Training,**  
**sworn and examined:**

**The CHAIRPERSON:** Good afternoon and thank you for coming. On behalf of the committee, I welcome you to the meeting. Before we begin, I ask you to take either the oath or the affirmation.

[Witnesses took the oath.]

**The CHAIRPERSON:** You have signed a document entitled "Information for Witnesses". Have you read and understood that document?

**The Witnesses:** Yes.

**The CHAIRPERSON:** These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing and please be aware of the microphones and try to talk directly into 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 you that 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.

Usually I would ask if you have an opening statement, but I think as this is a continuation of the last meeting, we might just proceed. We will be revisiting questions from the last hearing we had with you. We thought it might be appropriate at this stage to ask: we were discussing the issue of recommendation 4, which was to do with the duty-of-care obligations. I wondered if there is any update on that matter. Perhaps the minister or Ms O'Neill might like to comment on whether there is advice coming from the minister in that regard.

**Hon PETER COLLIER:** The Minister for Education is a little unclear as to what is expected of her in that particular recommendation. She has asked if you as Chair would not mind writing to her direct in regard to that issue.

**The CHAIRPERSON:** We can do that. We will perhaps then proceed on to the next matter, which is in regard to recommendation 6, which is —

The Committee recommends that the Department of Education and Training develop written policies and guidelines for due diligence checks that are to be undertaken by a school when engaging a private service provider. This includes ensuring the private provider has processes in place to ensure that the staff hired by the private provider are appropriately qualified.

The department's response states that the department has established a strategic procurement directorate and has overall governance of procurement and that this directorate is developing systems and strategies to improve procurement processes. It seems that the department has not carried out the specific recommendation of the committee. What, if any, is the reason or reasons that written policies and guidelines have not been developed?

**Mr McCaffrey:** I am just trying to think about the due diligence of people who are engaged by government agencies, and in this case obviously schools. As part of the State Supply Commission Act and also the procurement requirements that are delegated to the department and also carried out by the Department of Treasury and Finance, I am pretty sure there are lots of guidelines about how people go through a tendering process and those constraints and obligations on them when they engage a private provider for whatever reason. As part of our financial policy in schools manual there are quite explicit regulations about what a school and any officer of the department are required to do when they engage a provider. The bit that I am struggling with, I guess, is if there is a person who is engaged, how we have due diligence within that organisation if there is no formal contract that stipulates what the requirements are in all the contractual arrangements that are in excess of \$20 000 that have a contract process. There are requirements in there about due diligence and all those factors that I think you are talking about here. Although I have not changed anything specific in our policies, because when we went back and had a look at them there were a number of areas that we would expect the principal in the school, in this particular case, to comply with. I guess part of the problem that we were facing is that the school went outside of those rules and engaged a company without even having an agreement or a formal tender process or a contract, which is where they got into a bit of trouble. I am not trying to avoid answering your question; it is just that it is difficult to make that connection to a private provider that is not already covered in some of those rules and regulations that are applicable to all sections of government in this particular case.

**Hon KEN TRAVERS:** Are you saying that if it had been done properly, those things would have occurred?

**Mr McCaffrey:** That is what should have happened, yes. We have a number of big contracts that are handled right across the system. When I was talking to you previously we talked about the procurement process. What the procurement unit is doing is actually working with schools. A simple example would be schools that organise overseas trips and excursions for their students and teachers. There was a tendency to go and get a quote, but there was no formal contract arrangement apart from "this is the quote". One of those tasks that we have been trying to tidy up is along those lines. Again, it is a matter of how the schools go about their tendering processes. They have been aware for many, many years that they have to comply with government state supply principles and guidelines.

**Ms O'Neill:** The new procurement unit is doing quite a bit of work, though, on making sure that people understand policies and procedures. It is one thing to have them; it is another thing to be fully conversant with the details of those and the implications and processes that sit around them. Although robust policies and written procedures may have been in place and not complied with, the work of the procurement unit, which has been doing quite an extensive job around this, is making

sure that particular school principals, but not only school principals, understand their responsibilities in terms of implementation of those policies.

**The CHAIRPERSON:** Is the inference there that it could have been the case that the then principal was not fully aware? Is that the case?

[2.00 pm]

**Mr Wimbridge:** No, I do not think that is the case. From what I have read here, it was pretty clear that—I think you took evidence from them that he had a meeting on the day that he signed the procurement arrangement, the MOU, that he was really required to go through certain processes before entering into any agreements. I think due diligence is part of a contractual process, is it not, where you check the relevant parties and you do your homework with respect to that contract? I am not sure to say that he was unaware that he was required to go through that because clearly, from what is in your report, I think he has even said that he had a meeting with the manager of contractual services.

**Hon KEN TRAVERS:** He could not quite remember, I think, if I recall right, whether it was just before or which order the two occurred. I think there was some dispute about that.

**Mr Wimbridge:** From the department's submissions, it was fairly clear that he was told not to enter into any contracts without actually talking to the manager of contractual services and following appropriate processes.

**Hon HELEN MORTON:** I am assuming that you do not take personal responsibility for everything that happens in the Department of Education and Training, so who do you delegate, at your next level or tier, responsibility for the strategic procurement directorate?

**Ms O'Neill:** That sits under Peter McCaffrey at the moment.

**Hon HELEN MORTON:** Today I heard Mr McCaffrey say, "I'm pretty sure that's what should have happened" and a couple of those sorts of comments. Can we be assured, Mr McCaffrey, that at this stage you are absolutely clear that the things that we brought up in that report will be known to principals and there is a process for making sure that those processes are followed?

**Mr McCaffrey:** The director general mentioned that one of the first tasks of the strategic procurement unit, through the director, was to visit districts and attend principals' conferences, as they call them, and spread the message about what procurement is all about and what their obligations are. I am sure that that is happening. I cannot say categorically that every district and every principal at this stage has had the opportunity to attend one of those sessions, but that is our intention to ensure that they, and their staff in the schools, are aware of their requirements under these guidelines and that they comply.

**Hon HELEN MORTON:** One of the things that we found through the inquiry was that this whole procurement process was incredibly lengthy. The attempts to try and get the contractual business completed seemed to be continually frustrated by inaction from within the department and in fact there needed to be three extensions to the temporary arrangement that was in place. Was there not an exemption for tender and some temporary thing put in place while there was still an attempt to try and get the contracts finalised? It would have gone on for about 12 months, I think.

**Mr McCaffrey:** Yes. The initial problem was that to legitimatise any expense through the school there needed to be a formal agreement and it needed to comply with the limits that are placed on certain levels of expenditure. There was nothing in place and we were trying to get the school to do the proper process. Depending on the size of the program and the complexity, and the number of people who would apply for a tender for such, it can go on for some time while the evaluation is going on. I agree it was inordinately long, but part of the issues we were trying to deal with was the difficulty of tying down exactly what was happening in the school, which has been part of the problem all the way along. We had to go to the State Supply Commission to get an exemption so we

could pay the accounts, or the school could pay the accounts, to Hurson for the services they were delivering.

**Hon HELEN MORTON:** You got those exemptions twice, did you not?

**Mr McCaffrey:** Yes. It took a long time.

**Hon HELEN MORTON:** There were a set of conditions that were required to be met before the second exemption could actually be provided, but nevertheless those conditions were not met and a second exemption was provided. I guess—my words—the slack way in which that occurred was happening at more than one level across the organisation.

**Mr McCaffrey:** I probably did not think it was slack in that sense. It took a bit longer to get it sorted out, which was unfortunate, but at the same time we had the students in the school as part of the program, and there was staff employed by Hurson who were delivering it. It took longer than we would have liked, for sure.

**Ms O'Neill:** It is true to say procurement from time to time is lengthier than we would want it to be, but, as I understand it, all the actions we undertook and the time lines were compliant with the legislation and the requirements upon us.

**Hon SHEILA MILLS:** With the due diligence, we were looking at it in a slightly broader way than due diligence over the contract and the procurement. I think we were looking at due diligence on checks of the personnel involved with this sort of thing. Michael Carton was running around town, maybe not overtly, claiming to be contracted to the Department of Education and Training, but certainly that was the impression that was given out. It was not just the education department either; it was corrective services and the rest of them, too. When the contract changed from MITS to Hurson, after all the trouble there, I am surprised there was not a due diligence done on Mr Carton because this thing had been hit right on the head then because of his past record in Victoria. Given he had an extremely high profile pursuing this particular program and Mr Garnaut was very well aware of the profile that Mr Carton was taking, I am really surprised that there was no due diligence done on Mr Carton, and also there was problems with police checks on the staff, too. Has the department improved that? These people were running around with children, without any checks whatsoever.

**Ms O'Neill:** Just to clarify—are you talking about criminal history checks? What sorts of checks are you referring to?

**Hon SHEILA MILLS:** Yes, all of it.

**Ms O'Neill:** Certainly the department has, since late 2006, as a result of another set of incidents, done a lot of work around criminal history and the advent of the working with children legislation as well, such that people are screened before they undertake employment. We are also doing back-screening of our current employees as well. There has been a considerable amount of work around screening processes.

**Hon SHEILA MILLS:** Given the amount of damage Mr Carton did, you do not think you bear any responsibility for failure in this field? He caused a lot of damage to a lot of people, financially and emotionally.

**Mr Wimbridge:** It seems we are conflating a couple of issues here. If it is in relation to the due diligence checks, as you say, and you are taking a broader perspective —

**Hon SHEILA MILLS:** The committee took a broader perspective.

**Mr Wimbridge:** — than due diligence through a contractual process, are you not then talking about the situation where Mr Carton became involved at the school level, as you say, without proper checks being done on him by the principal? At that stage it seemed to me that the system as such was not really aware of the extent of his involvement and, as you are saying, the misrepresentations where he was seemingly developing up this program and at the same time, I think, representing that

he was representing various agencies in the development of that program. All I can say is I presume the individuals involved must have been convinced of his bona fides or not looked into them appropriately.

**Hon SHEILA MILLS:** Mr Garnaut was aware of the profile he was taking. I thought the district superintendent director would have had a closer look, given he was aware of some of the problems that were occurring at the time.

**Mr Wimbridge:** Yes, but criminal screening, I think, are for those that are teaching or in direct day-to-day contact at the school with the children. I am not sure—I do not know whether he knew that they had —

**Hon SHEILA MILLS:** Notwithstanding that, have you got it all in place now that people are checked thoroughly?

**Mr Wimbridge:** I think the department's policy is anybody who is engaged at a school, in an employment context, has to go through a criminal screening check.

**Hon SHEILA MILLS:** It seems to me that there were people aware—this is just a comment of mine—including Mr Hammond, that Mr Carton had problems in Victoria, I understand.

[2.10 pm]

**Mr Wimbridge:** I think he had financial problems in Victoria, didn't he?

**Hon SHEILA MILLS:** No, he was charged actually, but anyway—okay.

**Hon KEN TRAVERS:** I guess this all sums up, to me—I am probably a bit off it—to me, it can be summarised that there was a rogue bull principal out there operating outside of the standard operating procedure and he got involved with a conman who was doing more than he should have been doing and lots of other things. When a whole range of problems arose, and the department did not respond to them quickly enough and cut them off at the pass, the fact that there is a rogue bull and a conman out there—he is always going to be a problem and you are going to have to try to deal with that and tomorrow there could be another one turn up and they will try to find a way—my concern is, when those things occur, the speed with which the department is able to respond. I am looking for comfort that there is something happening in the department to make sure that you have that rapid response the next time it happens.

**Mr McCaffrey:** I think it comes back to the expectations on principals with their devolved responsibilities to try to do the right thing. If we go to a proper tender process and someone tenders and informs the tenderer that they are going to engage staff, we expect them to say what type of staff and where they would come from. My understanding in the early part of this program was we could not get accurate information through the school from Hurson about who they were indeed employing. I think all of that has contributed to the uncertainty about—we did not know what we did not know, but, yes, could we have moved quicker? I would like to think that in the future we certainly would and it has been a valuable learning experience for all of us. But I still believe that the rules and regulations that are there, if they were followed correctly, they would be covering off a lot of those concerns.

**Hon KEN TRAVERS:** And I agree, if they were followed correctly. The problem was they were not followed correctly. The alarm bells were ringing, and that is what still concerns me. I am not getting that sense, I mean—I sat through the finance brokers inquiry as well and that was about an agency that took too long to respond; that is why it blew up into a crisis. This is about an agency that, in my view, took too long to respond. I just want to be confident and I am not getting it yet, I have to be honest with you.

**Ms O'Neill:** Perhaps if I could just say, what you are after is, I think, what have we done around an early warning system such that we would intervene much earlier than we did in this case.

**Hon KEN TRAVERS:** And how would you intervene differently?

**Ms O'Neill:** So, there are a couple of things that we have mentioned and there are some other things as well. Certainly, the strategic procurement unit, with respect to any contractual arrangements, now would have much more—would have an alert system for the executive about contractual arrangements that are not going well or, indeed, should not perhaps proceed. It is something that we did not have before; it is now located in the department. Certainly, we have talked to the directors of schools about their role in standards reviews or reviews of schools and the kind of attention that they need to be giving to those programs that are out of the ordinary, which, in fact, this one was. There are quite a number of schools that have arrangements with private providers, particularly around innovation for students at risk. That being said, we have certainly tried to build it into standards reviews and approaches through performance management of directors of schools because that is the direct line relationship. We also have introduced an expert review team, which I think I talked about last time, that gives an in-depth analysis of schools' operations and reports directly to the director general, so that is something else we have put in place. We have a critical reporting incident arrangement with schools, although in this case they would not have reported themselves as being in a critical crisis, I do not think. We have relocated or strengthened our finance officers in districts; we have taken them out of district responsibility and we have said you specifically need to be in schools and reporting back, not to the district, but to the central office through Peter McCaffrey's area—the financial arrangements and performance of schools.

So, I certainly am comforted that we have many more alert systems in place than we had at the time of the Balga Works situation. I think, though, it is true to say that in an organisation this size you can have all those things in place and people not being alerted individually. So, I think personal accountability is the area that I would like to speak more generally about with staff, with principals, with directors—Mr Garnaut, for example—about being alerted and alerting the central office to issues as they arise, not to try to deal with them on the ground, and by the time we are alerted in the central office things are already running awry. That is personal accountability, in my view. So, I am not sure whether you are going to be any more comforted about those things, but there is some personal responsibility that needs to be taken, I think, in these matters. The central office of the department is only one part of it, but the central office can only intervene when a problem is evident to it. I think in this case we had various parts of the department being alerted and it not being, probably, sufficiently alarmed to bring it to the full attention.

How would we intervene in the future? I would expect, first of all, to have been appraised, had I been the director general of the time, of such alerts. We would be much more directive, I think, in our intervention. As I understand it—if you need to add detail, you can, certainly—at the time we tried to intervene and support, such that students, programs et cetera were not affected. What would we do today? We would take a much more directive role, I think, in that intervention such that we would call, probably, for an immediate review from procurement and every other perspective, and certainly would be asking questions about people's performance in this regard.

**The CHAIRPERSON:** I think the next recommendation I want to take you to is recommendation 7, which was a recommendation by the majority of the committee that the WA Council of State School Organisations Incorporated prohibit school employees who are members of a parents and citizens association to also be signatories of the parents and citizens association's bank accounts. The department's response to that states that the department had commenced the process with the assistance of WACSSO and DOCEP to review the standard constitution of P&Cs. I just wondered what the status of that review is; where that is at, and when it is expected to be completed.

**Mr Wimbridge:** I can answer that, if that is acceptable. The department has started a process to do that. The department has formed a working—well, a committee—to actually review the constitution; it is part of that review. It has the president of WACSSO on it, the president of the primary schools association, some officers from DOCEP and a representative of the Deputy Director General, Schools. I am also on that committee. We decided that it is an issue that we need

to sort of explore because what is being raised sort of anecdotally is that in a lot of country schools and small communities, it may be a bit of a problem if you cannot let staff of schools become signatories. It also disenfranchises some teachers in areas where they are also a parent at the school and they want to become involved. The way, as we have sort of indicated, the constitution works—and this is still WACSSO's position—is that basically you have four office bearers, and the School Education Act and the constitution provides that they can be anybody who becomes a member of the P&C and is elected by the P&C to be an office bearer, plus one other. So, they would have to change the structure of the whole constitution. Be that as it may, what is being done is we are drafting a survey. A survey is being put together to go to all P&Cs with a variety of questions just about how they manage their accounts, who are the signatories, whether they are staff members or people from the community—so, a whole range of things, because what the community has sort of said in consultation with the Department of Commerce, as it is now, the education department and WACSSO, is to review the whole constitution. We are putting in place a platform where we actually know how widespread this practice is; not whether it is a problem, but just how many people actually are on committees who are staff members and how many of those are actually signatories to various accounts.

[2.20 pm]

From that, we are going to work through where that is at the moment. We are just finalising the survey, and that has taken a while. It is a reasonably comprehensive survey that will go out to everybody through the WACSSO forum, and we will work through that.

**The CHAIRPERSON:** How long has this review been running for?

**Mr Wimbridge:** It probably started in September or October last year. There were meetings with Robert Fry about the position of the department, and that is what has occurred as a result of that.

**The CHAIRPERSON:** What is the anticipated completion date?

**Mr Wimbridge:** WACSSO's view was that it wanted it to be finalised, or for some progress to have been made towards it later this year; I do not know exactly when, but it has an annual conference, and there was going to be some sort of discussion or consideration of the issue there, because that is when all its members come through.

**The CHAIRPERSON:** I can appreciate the situation in smaller schools in country towns, but is there an appreciation that this was a fundamental part of the problem in terms of how money was handled?

**Mr Wimbridge:** I think there is definitely an appreciation of that, but WACSSO's position is that basically we need to find out how prevalent this is through the system, how much this will impact, and whether we need to balance this issue against people's involvement at the P&C level, because I also think that fundamentally this was broader than just about who could be a signatory; it was about participation in P&Cs, and that was one of the fundamental issues that happened at the Balga P&C, I suppose because of the nature of the community that it serves. In effect, from where I sit, the P&C was effectively hijacked and used for various purposes. There are a whole range of P&Cs; P&Cs in primary schools are different from those in high schools, and P&Cs in country areas are different from those in city areas. The committee decided that it wanted to basically get a strong basis to determine the extent to which that practice is being allowed to occur, and what safeguards might be available. We discussed various things, including the role of education, and whether there is a requirement, before any staff member joins a P&C or becomes a signatory, to have the staff member signed off by an immediate superior or someone else. These are all the things that we discussed. I know that that is what the committee recommended, and it has been taken on board, and I think that the Department of Education and Training and WACSSO clearly appreciate that it was a serious issue and it contributed, but I also think that there are a lot of P&Cs out there, and it is a fairly dynamic and diverse sort of environment. We wanted to explore all those issues and



WACSSO's position is that it understands the position of the committee, but it also has its members and it needs to find out the position of its members, and ultimately make a recommendation as to the constitution.

**Hon KEN TRAVERS:** I actually agreed with WACSSO on this issue. It is a matter of horses for courses, and one of the issues is stopping the money getting to the P&C. One member of the P&C was drafted in; it would not have been too hard for them to have a second signatory drafted in rather than a school employee, and the problem of the money being channelled out of the school and recirculated back through the P&C or other agencies would still not be resolved. That was the problem, and that is where I think some of the focus should be.

**Mr Wimbridge:** There is a clear financial management in schools policy—I think we have referred this to the committee—that schools are not to donate to P&Cs.

**The CHAIRPERSON:** I might take you to recommendation 8, which states —

The Committee recommends that the Government ensure that a detailed investigation be undertaken by the appropriate authorities into the role and activities of the Balga Senior High School Parent and Citizens Association Inc in relation to the Balga Works Program.

The department's response states —

The DET response states that it is the Department's view that further investigation is not worthwhile, given the serious investigations of the P & C, the change of membership, the oncoming involvement of DOCEP and WACSSO, and the review of the standard constitution that would consider the role of the P & C.

Can there be some assurance provided that there are no other P&Cs engaging in this sort of practice while this long-running review is occurring?

**Mr Wimbridge:** Again, the committee that was set up had discussions with WACSSO and clearly understands the position. It was an inappropriate circumstance. The committee, in doing its program, is actually trying to lift the profile and people's awareness of what can and cannot be done by P&Cs. In looking at this matter, the police advised the department that they had investigated what happened at the P&C, and their position was that unless there was any new evidence, there was not really a strong basis to go forward with any prosecutions.

**The CHAIRPERSON:** Sure, but that is a particularly high level —

**Mr Wimbridge:** I understand. That was the advice. We met with DOCEP and the police; there was a meeting between all the parties. Most of the individuals who were involved were investigated as a result of the Merv Hammond charges. The position of the police was that, unless more evidence could be brought to bear, there was not a strong basis for any successful convictions. Can we be assured that there are no other P&Cs out there that might be doing this? Probably not. However, the whole idea is that, through the survey and the whole process, the committee is basically trying to lift the understanding of members of P&Cs, and heighten their awareness that if they need assistance, they can come to WACSSO or the department, and the roles of everyone involved. I know that that is probably not what the committee wants to hear, but when I say that P&Cs are by nature very dynamic, I mean that they have flow-throughs of parents as their children become involved in the school. The level of knowledge waxes and wanes, depending on the individuals involved.

**Ms O'Neill:** I think some of the controls we have are around how the school interacts with a P&C, which is what I referred to earlier about ensuring that the practices of principals and staff in schools in relation to the P&C are proper and in accordance with policies and procedures, and that they are totally cognisant of those. To the extent that we can ensure that this does not happen again, our responsibility is, very clearly, to ensure that school principals are not engaging in practices which add to, or assist, P&Cs to be in this position.

**The CHAIRPERSON:** The next recommendation is recommendation 9. It states —

The Committee recommends that the Government establish as a matter of priority, a program for disengaged youth that provides appropriate education and vocational training along with integrated accommodation and life skills support.

The department's response states —

The DET response The response refers to programs that the DET is establishing, specifically Support and Transition Network (SATN) and Learning and Transition Network (LATN) which will focus on assisting severely at risk young people, similar to those that participated in the BWP ...

I have a number of questions with regard to that. Has the department extended the support and transition network service as is referred to in paragraph 32 of your response?

[2.30 pm]

**Ms O'Neill:** No; not in that form. We have a cross-governance group, which has on it the Catholic independent sectors and department of education services. It is a committee that I chair. They are responsible for the implementation, collectively, of initiatives around school-leaving age, including the sorts of initiatives being referred to here. While the network that you refer to here has not been extended, other programs have been put in place around disengaged youth. Some of those programs arise from the education and training participation plans that are negotiated locally, so they engage various programs for disengaged youth, as do the senior school engagement programs. However, the committee has funded, and approved, a number of other programs which provide a similar service to the networks that are talked about here.

**The CHAIRPERSON:** Have the funding models for the learning and transition network service been completed, and have the pilot programs for that same program been started, as is noted in paragraph 33 of your response?

**Ms O'Neill:** While we have pursued other programs for disengaged youth, the sorts of models that you are referring to around these networks have not been progressed. They form part of our discussions around our budget for this year.

**The CHAIRPERSON:** Would it be fair to say that there is still an amount of unmet need in terms of meeting the requirements of this particular recommendation?

**Ms O'Neill:** No, I do not think that is the case, because the committee has put in place other programs that it has deemed to be meeting the need on the ground. The committee has sought to pursue a range of other programs that meet the need of disengaged youth.

**The CHAIRPERSON:** Can you give us more details about those other programs?

**Ms O'Neill:** The one that comes to mind—I might get Mr McCaffrey to help me here—is the Hills Community Support Group Incorporated, which is mentioned in our response. We have extended that group, which provides intensive individualised support to students at risk. In addition, this year, through our general funding model, we have devolved more individual funding to schools so that they can meet some of this need uniquely to their area. Various schools do combine that funding and pursue some of these community-based organisation groups themselves.

**The CHAIRPERSON:** So, just for my clarity, would you be comfortable in saying that, in your view, the training and education needs of this particular cohort are being met by the programs that are —

**Ms O'Neill:** Yes. Recently we had a cross-sectoral governance group, where the director of this area reports to all of the heads of departments and sectors, and we went through, as we do at each meeting, the demographics and the needs and, as I understand it, we were assured at that meeting that we have in place sufficient programs to be meeting the needs. To be frank, I think that is a day-by-day concern, because while on one day we might have the needs met, the young people who we are referring to here can fall out of other programs as quickly as they are engaged in programs. So

while I am happy to say at one point in time that I think the needs are being met, they are ever-increasing needs and they change daily, and I think our responses have to be changing in concert with that. I would not want to be saying to you that if I said today that the needs are being met, it means that they are being met tomorrow. My understanding is that at the moment we have appropriate programs in place for the demographic. There is a small group of students that we continue to engage, through our participation coordinators, in finding relevant programmes. That has been successful, but of course we will continue to need to look at other programs to meet unmet need as that arises.

**The CHAIRPERSON:** I might be so bold as to ask the minister whether, as Minister for Training, he has the same sense that the training needs of this —

**Hon PETER COLLIER:** Training needs?

**The CHAIRPERSON:** —because I guess —

**Hon PETER COLLIER:** I guess what I would like to see occur—I have stated this in communication in the department on numerous occasions—is a model very similar to the one that exist in the CARE schools. I understand the problems associated with that. The CARE schools themselves deal specifically with disengaged students. They take them out of the mainstream schooling environment, which is not conducive to their personal advancement. Corridors College, for example, is a wonderful institution—it really is. It deals with kids who have been involved with juvenile justice or who are simply not compatible with an authoritarian system of education. Ultimately, I would like to think that that is what we can provide, and not just in isolation. I think we need to do it reasonably comprehensively. There are, particularly with the raising of the school leaving age, a number of students who are simply, as I have said, not compatible with mainstream schooling. I would like us to get to a point where we can cater for that cohort of students. They all have their particular talents. If you go out to Corridors, you see just how tremendous these institutions are in trying to provide these alternative pathways for these kids. A lot of the students at Corridors are Indigenous. Port Community School is not the same, and I do not think it does as much. ALTA-1 is much the same. They actually are specifically dealing with what we are talking about here. This is this cohort that I think we had at Balga—they have been the Balga Works program—and they are basically not being specifically catered for.

**The CHAIRPERSON:** Would you say that there is enough capacity to cater for those people now?

**Hon PETER COLLIER:** No; I can only go by what the department is —

**Ms O'Neill:** Sorry, Chair, but can I just clarify, because I may not have been answering your question. If you are asking me is every disengaged young person in Western Australia in a program, the answer is no. I do not want to pretend otherwise —

**The CHAIRPERSON:** It is a difficult area to —

**Ms O'Neill:** I do not want it to be considered that I believe that every disengaged young person is being well catered for. Can we do a whole lot better? Of course we can, if and when we find the people, which is another issue that we face. We have a number of young people that our participation coordinators are personally and individually case managing. It is a very complex area, as you can appreciate. They work with them on their needs, aspirations and strengths et cetera. I am not talking only about students. I am talking across the state, and not just, obviously, about Balga. They are assisting them to engage in a program, which might be, albeit rarely, reengagement in schools, but which is more often reengagement in a community-based program that is less institutionalised and more akin to their needs, or perhaps in training through apprenticeships or traineeships and the like. Our participation coordinators have individual cases that they manage. I think they manage them the best they can and manage them pretty well. A lot of those people are engaged in a vast array of community programs. However, to suggest that all of those young people are in community programs, or any other programs, would not be the case. Yes, of course we could

do better. We could do better on a range of those issues. It is not a new problem. I think we are much more on top of it now than we were even, say, five years ago, before we had such programs in place.

**Hon SHEILA MILLS:** Would you have any statistics on the at-risk youth who are engaged in the programs that you are talking about?

**Ms O'Neill:** I do, but I do not have them with me.

**Hon SHEILA MILLS:** Could you supply that?

**Ms O'Neill:** I am happy to provide them. What we can tell you is the number of young people who we have trouble engaging or who we know are not participating in education, training or employment.

[2.40 pm]

**Hon KEN TRAVERS:** As well as the programs, this recommendation makes reference to integrated accommodation. Is that being considered? This is probably more a question to the minister rather than the agency, if you are not actually doing something at the moment. I think the minister is well aware of the background of this recommendation.

**Hon PETER COLLIER:** Certainly, as far as training is concerned, I have some fairly bold ideas that I will be talking about with the director general. I have spoken with other players with regard to training, and I have some ideas, particularly in the area of Indigenous training.

**Hon KEN TRAVERS:** Do you see the students who were at Balga Works as a school issue or a training issue?

**Hon PETER COLLIER:** I think it is a combination of both. Are you talking about Balga Works?

**Hon KEN TRAVERS:** Yes, the clientele that were involved in the Balga Works program. Although it was based at a school, I must say that I saw it predominantly as training, and making them training ready. I think we use the term “job ready”. I think there was a need to make them training ready as well, but the stream that they were flowing into was actually vocational training. It was not the traditional school.

**Hon PETER COLLIER:** I think you will find that that will start to occur more and more. Things like the SAL program, and SBAs, or school-based apprenticeships, have not had as big an uptake as was anticipated, for logistical reasons more than anything. The SAL program is a perfect example of how that is morphing into the situation where you do have a marriage between school and TAFE—the training sector—and we are finding that the uptake of those pre-apprenticeships in particular is really accelerating. I am finding this around the state at the moment. I think that that inevitably will increase, without a doubt. I think you will find that that will become more and more prevalent as there is more of an acceptance—dare I say it—of a training pathway. You will find that that will occur more and more.

**Hon KEN TRAVERS:** My question then is: who is the responsible minister? Is it you or the Minister for Education?

**Hon PETER COLLIER:** As I have said, it is a combination of both. That is what I have said in the Parliament on a number of occasions. Training and education cannot be seen as two exclusive entities; they simply cannot, because of the nature of the beast. Inevitably, you are going to have a situation where there is a morphing of the two, and that is what we have in some situations. Ultimately, those who are involved in the training component of their education, such as at a TAFE college, will come under my jurisdiction, and those who are involved in the school component will come under the Minister for Education. But it is not an unusual beast to have created.

**Hon KEN TRAVERS:** My question then is: with regard to those students who are disengaged and not in the training system and not in the school sector, and who you are trying to get back into one or the other, who is the responsible minister to make that happen?

**Hon PETER COLLIER:** Some of those kids may not want to take a training pathway.

**Hon KEN TRAVERS:** Whose job is it to go out there and try to make contact with those students and bring them in? Which minister does it fall under?

**Hon PETER COLLIER:** If it is a school-aged child who is at school, that child is under the direction of the Minister for Education; it is her responsibility.

**Hon KEN TRAVERS:** When you say “school-aged child”, are you talking about a child under 15 or a child under 17?

**Hon PETER COLLIER:** No, a child under 17—or 18 now, is it not?

**Ms O'Neill:** When the legislation was changed to require children to be engaged in school, training or employment until the end of the year in which they turn 17, that raised the legal bar. We are talking about two different acts here. The onus under the School Education Act 1999 is around those students being engaged in education or training or seeking employment outcomes. In the first instance, if a child is of school age, up to 17, and is not attending any of those programs, that comes under the aegis of the School Education Act; therefore, it comes under the Minister for Education. The difference comes when they are engaged, even as a school-aged person, in something under the previous Industrial Training Act, or the new Vocational Education and Training Act; therefore, it comes under the Minister for Training.

**Hon KEN TRAVERS:** So if they are not engaged in anything, and they are under 17, it is the job of the Department of Education and Training to get them involved in something. Once you have got them, you can pass them on to the Minister for Training. That is easy for you, is it not?

**Hon PETER COLLIER:** It is that simple; that is right. A lot of the kids are doing that.

**Hon KEN TRAVERS:** So is the accommodation side of it definitely being considered?

**Hon PETER COLLIER:** I am looking at a program at the moment for Indigenous trainees. That will involve accommodation.

**The CHAIRPERSON:** I take you to committee recommendation 11: the committee by a majority recommends that the government reimburse all former employees of the Balga Works program who can demonstrate their claims for outstanding wages and superannuation. The department's position is that Hurson is responsible for payment of wages and superannuation for staff employed by Hurson. The department also states that whether Hurson's employees have claims for damages against the department is a legal issue that needs to be considered on a case-by-case basis. If the department is liable to a Hurson's employee, it will pay compensation. Hon Sheila Mills has a question about this area.

**Hon SHEILA MILLS:** I think our report says it all. We have outlined quite comprehensively the department's failure in its handling of Balga Works right from the top to the bottom. There was a belief that these people were employed by the Department of Education and Training in one way or another, because that was the story that was given to them. Merv Hammond's comprehensive involvement and participation in this also indicated to these people that they came under the auspices of the Department of Education and Training—maybe not formally employed, but certainly under its auspices, and approved by the Department of Education and Training. Michael Carton had an office in Balga Senior High School. He was directing school staff in the payment of accounts. I do not think there is an issue of fact about this whole thing. I think the department is responsible and has a duty of care to pay these people what they are owed and for what they have gone through in all this. I think the department can hide under factual and legal issues, but I think the department has a responsibility and a duty of care, because there was a genuine belief by this

group of people that the department was employing them in one way or another. I really do not think your response is very satisfactory.

**Ms O'Neill:** Do you wish us to respond to that?

**Hon SHEILA MILLS:** Yes, please.

**Ms O'Neill:** At the last committee hearing, my response to that was an acknowledgment that our part of the Balga Works situation—noting that there were more parts than just ours—was not handled in the most appropriate way. In my opening statement I made that point very clear. We also said in the report that notwithstanding our legal position around who was the employer, et cetera, individuals are able to bring to us their cases and we will consider them, as we are required to do; and, if there is a case to be put forward, we will make recommendations around that. We certainly have not in any way ruled out that people may have a claim against this department for its role in the management of the total Balga Works situation or program. I may have said this on the last occasion we were together, but if people are able to bring to us—we cannot make the case for them, obviously, and we cannot pretend to know all the details—their individual cases of how this situation has impacted on them, as we are required to do under Treasurer's instructions and all the other things that sit around such cases, we will consider it sympathetically and make recommendations.

[2.50 pm]

I am not sure what else we can offer in this regard, except to say that is available to them. We have offered—as we agreed last time—to meet with individuals and hear their individual stories and the impact it has had on their lives. If they are able to put their claims to us that we have breached the duty of care, we would give consideration to that.

**Hon SHEILA MILLS:** Would they be required to have a lawyer to go into —

**Ms O'Neill:** Certainly not to meet with us. In terms of whether it is a legal case put forward—Graham?

**Mr Wimbridge:** Nobody has to have a lawyer. If you are trying to exercise a claim against somebody else, there is no requirement that you be represented. I think one of the points that also might be overlooked—even the committee, in the minority report, indicates that despite whatever impression these people may have had, they clearly knew they had a relationship with Hurson and it is Hurson that has not paid them.

**Hon PETER COLLIER:** Also at the last meeting, we established that we would try to get a list of the people who were most affected, and we have done that—we have certainly made a start to that anyway. We have the names of about a dozen people, which I have forwarded to the director general, and she will be organising a meeting with those people.

**Ms O'Neill:** We are writing to the individuals offering them to come in and meet with us. We are happy to hear about, obviously, their experiences and the impacts. We will offer any advice we can give around procedure for them to make a claim—or point them at least to the direction of how they might do that. Of course, we are happy to provide that information.

**Hon SHEILA MILLS:** Your position, Mr Wimbridge, is that at the end of the day, notwithstanding what is in the report, they knew they were employed by Hurson, and Hurson paid them?

**Mr Wimbridge:** No, that is not my position. What I said —

**Hon SHEILA MILLS:** You just said that.

**Mr Wimbridge:** I do not think I did. I think what I indicated was that one of the fundamentals is that the clear legal relationship is between Hurson and these employees, and one of the reasons they seem to have suffered this loss is that Hurson has not paid them. There still may be a claim against

the department if, as you say, the department has breached its duty of care and caused these people a loss. But that is a matter for them to pursue with the department. We have never said that they need a legal representative to do that; but it is not for the department to solicit against itself for the money that people may be pursuing. I think what the director general said is that these people can approach the department and put forward the basis for a claim against the department.

**The CHAIRPERSON:** I am curious, just on a practical level: if one of these individuals approached the department, who would they meet with?

**Ms O'Neill:** I have nominated—the letters are on my desk for signature; I have not been well so I have not been in today—but we note in the letter that the director of my office is to meet with them personally. So it is my agent, the director of my office.

**Hon SHEILA MILLS:** Who is that?

**Ms O'Neill:** His name is Rob Lindsay.

**Hon HELEN MORTON:** Can I make a request to you that in proceeding down that line that you have a look at the redress guidelines and principles outlined by the Ombudsman for such situations, because the principles in those guidelines about being fair and equitable with these people, I think, are really useful guidelines for the people concerned.

**Ms O'Neill:** Sure.

**Hon HELEN MORTON:** I am talking about your staff—to pick up on and to have under their belt in the way they approach these meetings, rather than take a defensive or somewhat legalistic or technical approach, or any of those sorts of things. These guidelines talk about how to deal with issues such as this.

**Ms O'Neill:** I think that is good advice. Going back to the point I made previously, the last thing we want to do is to have meetings with individuals that exacerbate the feelings they already have towards the situation—the intent was quite the counter—and people have felt they have not had the opportunity to discuss with the department directly their views about how we managed, or did not manage, the situation. Clearly, we would want to manage that well, sensitively, and in such a way that people feel their views have been heard. That being said, that individual meeting would not constitute a claim; there would still need to be processes, but certainly we take your point in that regard.

**Hon KEN TRAVERS:** My comments were going to be similar to those of Hon Helen Morton. I assume the mechanism to make payments would be an act of grace payment. Is that your intention? Is that right?

**Ms O'Neill:** At this stage, if we were in a position to proceed with one of those, it would most likely—I am sorry, I would have to take advice. I am sorry.

**Mr Wimbridge:** Not necessarily, no; it could be a mixture.

**Ms O'Neill:** Not necessarily; it could be.

**Mr Wimbridge:** If somebody has a legitimate claim and, as you said, the government acts as a model litigant, then the department would not deny a claim for the sake of it. It would depend. I suppose there may be a mixture, but in the first instance, if the department determines it has a legal liability based on the facts presented to it—and the lawyers will not be involved; that will be through the director—if there is a legitimate basis for some liability, then the department is entitled under Treasury guidelines, and presumably the Ombudsman's redress for some of these things, not to make people go through a legal process, whether they in fact have a claim. There is no requirement, actually, to send people down a litigation path. What I am saying is, it depends on the basis for their claim.

**Ms O'Neill:** If we got to that point, we obviously would take advice on the best mechanism to use.

**Hon KEN TRAVERS:** I guess my point to that is, it is about prima facie—you have made the statement, which I do not necessarily disagree with, that Hurson was the primary employer so that is where the first liability lies, then it is about trying to establish whether there is a secondary liability or a secondary claim against the department if the department is unsuccessful in its claim against Hurson. So I guess the difficulty with that is, it is a very legalistic and technical argument. How do you provide someone walking in there—is there going to be some guidelines or some ability to assist those people in how they would structure their arguments and what they need to demonstrate to the department to be covered by that? My reason for asking about act of grace payments as well is that I assume that would require the minister—I know we had a bit of a discussion about whether the minister would meet with them, not just on this issue but on the duty of care issue. Has there been any more thought to that and are you able to advise if the minister will meet with them and, if not, why not?

**Hon PETER COLLIER:** I do not think the Minister for Education is planning on meeting anyone who is employed by the Balga Works program.

**Hon KEN TRAVERS:** Why not?

**Hon PETER COLLIER:** I do not know. You might have to —

**Ms O'Neill:** There were so many questions I might go back a bit. At this stage, I think the minister—no, I do not think—I know that the minister is aware that we have certainly made the offer to meet with the individual people. We have got the names and we will write to those people and invite them. My understanding is there is not an intention at this point for the minister to meet with those individuals. It would duplicate, I guess, in some instances, the purpose.

To go back to your point about Treasurer's instructions. Part of the Treasurer's instructions, as I understand it, around act of grace is that there needs to be a demonstration in the first instance that the parties have tried to seek redress from the primary—in this case—employer. Yes, obviously we would have to have an eye to complying with the Treasurer's instructions. Yes, if we pursued any of those mechanisms, we would need obviously to put those through the minister. I cannot remember what the other questions were.

[3.00 pm]

**Hon KEN TRAVERS:** I guess my question is: what will be explained to those people? Will there be a process for explaining to the person who meets the director of your office what the person is required to do to demonstrate the validity of the claim and have it considered by the department?

**Ms O'Neill:** In the first instance, at our last occasion here, we talked about—you impressed upon us—the need for the individuals to have an opportunity to put their experiences to the department. In the first instance, that is the purpose of inviting people to meet. I think we would be able to point those individuals in the right direction for the sorts of information they would need to consider in putting together a claim. But I think it needs to be understood, from our perspective, being the ones who are then assessing the claim, we need to be quite clear about the advice we are giving and what we are not giving. So the advice we can give is: these are the guidelines; people need to consider it in putting together a claim. We certainly cannot give advice about how to claim against us. It is a fine line, but I think what we can provide them with, rather than asking them to find information for themselves, is a link to where they can gather that information. Certainly, if it is a policy or piece of paper or spread sheet, rather than forcing them to go and search for it, we can provide it to them. But, if I am right, any deeper advice around a claim would be inappropriate.

**Mr Wimbridge:** I think so.

**Ms O'Neill:** We can give them all the advice we can around process but we would not be able to do so on substance.



**Mr Wimbridge:** As you say, it is about the extent the facts and their reasonable beliefs are portrayed to the department. That is an individual matter that they need to bring to the department in consultation with the director if it is apparent that they have that reasonable belief and they have all that information. Obviously, they have demonstrated to the committee that it is their reasonable belief and that they have a claim against the department.

**Hon SHEILA MILLS:** More than adequately.

**Hon KEN TRAVERS:** I guess my concern is that I do not want to provide false hope to people. I hope the department is prepared to at least outline to people on a very broad basis what will be the basis the department will consider and make those decisions so that people can be in a position to put together their arguments?

**Ms O'Neill:** You are quite right, raising people's hopes and expectations would not be a useful adjunct to the experience they have already had. So the advice we could give is that, if there is criteria around such information, it would need to be in such a submission. Certainly we would be as helpful as we can around that if there are technical pieces of information they need to attach so that they do not exclude themselves on that basis. They must demonstrate that they have tried to pursue this through Hurson first. If there is critical information like that, you are quite right, we should know, otherwise we will end up in a circle.

**Hon KEN TRAVERS:** All of us in this room would know that trying to pursue Hurson would be throwing a bit of money down at the local court to waste it.

**Mr Wimbridge:** I am not sure that they would have to pursue Hurson to extinguish their claim with Hurson. As you said, they would need to come forward and, as the director general said, with some basics about when, where and how, and with any supporting documentation or the basis. There are a number of people, as you clearly said, that were affected by the program, some of whom were employed by Hurson, and we have a list of those people. Those are the people we were sending a letter to. As you know, in mid-2006 the department, in cooperation with Hurson, paid Hurson some money so that it could fulfil its debts to people it had employed and owed money to. The department worked cooperatively with Hurson to ensure that occurred. But we were in a different circumstance then. If you like, Hurson was somewhat captive and still part of the program, whereas, now, that is not the case. So, as you say, a different approach is required and those people need to come directly to the department. The fact that they have not pursued Hurson does not necessarily disentitle them if they have a legitimate claim against the department. They are two distinct things, but I was saying that we have looked through our records and there has not been a great variety of approaches to the department saying that the department owes them money.

**Hon KEN TRAVERS:** That is also because the initial response to the report was, "You don't have a claim". I accept that as the starting point. I do not have any disagreement with your starting point. If you are telling us today that you are prepared to be more considerate of other factors and to look at these matters, the question needs to be: what are those other matters and factors? Then I think people can make the assessment and say, "Well, yes, I fit into that, so I will go down and try to talk to them." I agree that having a one-on-one meeting is a starting point. But whoever meets with them needs to have the criteria and guidelines and a sense of being able to communicate in a two-way street with those people about what the department will be looking for and considering.

**Ms O'Neill:** I think that is fair. Obviously, before we did that we would want to be clear about what we could raise with them, given that we do get in a position of assessing the claims. As I said previously, we will invite individuals to meet if they want to, firstly, talk about their experiences, and, secondly, try to give them some information, as you talked about, if they indeed want to consider it.

**Hon SHEILA MILLS:** Pursuing Michael Carton would be difficult, because he is missing in action. His last known position I think was Tasmania.

[Interruption from the gallery.]

**The CHAIRPERSON:** I remind members of the public in the gallery that they are not permitted to speak at this point.

I refer you to the following recommendation —

The committee recommends that the Government examine whether it has any recourse to recoup monies including outstanding wages and superannuation from any individual or company and their directors involved in the management of the Balga Works Program including Mr Hammond, Mr Michael Carton and Hurson Pty Ltd.

The department's response is that it does not have a legal basis to recover moneys from Hurson. Can you elaborate on that?

**Mr Wimbridge:** The department does not have a legal basis to recover from Hurson moneys owed by Hurson to its employees because that is a contractual relationship between them. With respect to pursuing moneys that may be owed by Hurson to the department, the nature of the relationship between the two representatives, being Mr Hammond representing the department and Mr Carton representing Hurson, would make it fairly difficult, from what we have looked at, to establish who owes what to whom, given the arrangements that were in place. As you were saying, it would be very difficult to find Mr Carton. But the basis upon which we could do that—the documentary evidence and the other evidence and the witnesses available to us—would make it fairly difficult to pursue. Ultimately, it is a contractual relationship, I suppose, that was entered into between Mr Carton and Mr Hammond. If we were to pursue that, it would be fairly difficult to establish all the relevant facts and circumstances and who owes what to whom.

**Hon HELEN MORTON:** Can you reiterate what you said in the last conversation about the department paying a sizeable amount of money to the Hurson employees? I cannot remember exactly what you said last time.

[3.10 pm]

**Mr Wimbridge:** My understanding of the relationships is that—and I am not going over this—Hurson had their contractual relationship with their employees, and that is fine.

**Hon HELEN MORTON:** Yes, I understand that.

**Mr Wimbridge:** And we cannot recoup moneys owed to their employees.

**Hon HELEN MORTON:** No, I understand that.

**Mr Wimbridge:** We have a relationship with Hurson and we also may have a relationship and talk with —

**Hon HELEN MORTON:** But did you not say that there was a sum of money that the department paid specifically to meet some of the outstanding —

**Mr Wimbridge:** Yes.

**Hon SHEILA MILLS:** Helen, that was that payment that Mr McCaffrey made —

**Ms O'Neill:** Earlier on.

**Hon HELEN MORTON:** Yes, I just want you to explain that again.

**Mr Wimbridge:** What happened was in, I recollect, mid-2006, Hurson were saying that some of the bills that they had presented to the department had not been paid for whatever reason, and I think Mr McCaffrey can articulate this in more detail. But, effectively, there was a period where payments to Hurson were stopped while these contractual issues were being regularised and they were trying to put out tenders and things. Then it became apparent that Hurson was not paying its employees various sums of money, so there was an arrangement between Hurson and the department whereby moneys were provided based on what was allegedly owed for the delivery of

the program, but on the clear understanding that that money would be given to Hurson so that they could simply just pay it straight to their employees.

**Hon HELEN MORTON:** So my question is: why did the department feel obligated to do that at that time? Why does that make that okay then, versus what you are saying? Why did the department not just say, "That is the business between Hurson and its employees. We're not responsible for that, we're not obligated, we're not in any way interested in that business"?

**Mr McCaffrey:** If I could? When it became apparent that the employees were not being paid and we contacted the school and the school said they had some outstanding invoices that needed to be paid, and the message to Mr Hammond was: if you get an invoice from Hurson and you validate that that is a legitimate claim of services provided by these staff in the program then you should be paying them. Is that the one that you are referring to?

**Mr Wimbridge:** Yes. That is the situation.

**Mr McCaffrey:** They actually provided evidence.

**Hon HELEN MORTON:** It was money provided from the Department of Education and Training deliberately to pay the outstanding wages or the wages that had not been paid by Hurson to its employees.

**Mr Wimbridge:** No. It was paid by the school for outstanding invoices. My understanding was there was a period where some invoices were not paid by the school.

**Mr McCaffrey:** Correct.

**Mr Wimbridge:** The school was provided invoices by Hurson. I think there was a period where it was not paid. As Peter said, he instructed the school if there is a legitimate invoice that has been provided to you for those services in those particular months then pay it. I think it was paid across, but what the department also wanted to make sure was that then Hurson fulfilled its obligations through to its employees to pass that money on that was owed to them.

**Hon HELEN MORTON:** Why? Why take any responsibility for that at all?

**Mr McCaffrey:** It seemed like the right thing to do at the time.

**Hon HELEN MORTON:** It does seem like the right thing to do. I am not disagreeing with that. But I want you to say why you felt it was appropriate at that stage.

**Mr Wimbridge:** I cannot say why. I am just saying that is what occurred.

**Hon KEN TRAVERS:** The future Minister for Training was harassing them!

**Mr McCaffrey:** I think they were harassing the future Minister for Training!

**Hon SHEILA MILLS:** Was it not that the school was just about bankrupt?

**Mr McCaffrey:** I was going to say they had overcommitted, which we have obviously discussed at some length. There was a concern that if they paid the invoices, it would take money out of the school that would affect the education of the rest of the students in the school who were not associated with the program. When it came up that, yes, Mr Hammond said, "Look, this has happened. Yes, I have overspent what my entitlement was because the money did not flow", there was a decision taken that we should support the school and make sure that the school's resources were not used to fund the program. It was based on the needs of the school and an obligation because the invoices were presented, they were seen to be true and correct by Mr Hammond, and he said, "Yes, this has happened." That was how it came about.

**The CHAIRPERSON:** Recommendation 13 is the committee recommends that the government provide assistance and support in the form of a debriefing and counselling to the people affected by the Balga Works program and that in six months' time the government report back to the Legislative Council on its actions. The department's response is that the department has provided

ongoing assistance and support to employees affected by the Balga Works program through its line managers and the department's and employee support bureau's employee assistance program; also, that they wrote to 12 employees who had been involved in the program advising them of a free confidential counselling advisory service. The question is: was the counselling service and employee assistance program taken up by any of the former employees in the program, or has it been?

**Ms O'Neill:** The answer is yes.

**Mr McCaffrey:** The answer is yes. Because it is a confidential service, and it is a contracted-out service to give that confidentiality, we do not get reports back of how many people took it up, but we were informed that some people had. I think there is one situation of \_\_\_\_\_ who has applied for and received some additional counselling. The reason we found out about that was because of the need to extend it beyond what we would normally offer employees generally for employee counselling. We do not know exactly how many, but we know that there were some. And, of course, \_\_\_\_\_ who is here today, was one of those people.

A member of the public gallery: This is public.

**The CHAIRPERSON:** I am sorry; you are not at liberty to speak.

Could you indicate why the department wrote to only 12 of the employees, not all of them?

**Ms O'Neill:** My understanding is the reason we wrote to 12 employees is because these are the employees that were directly involved in the program. There were other employees at the school that were not directly involved in the program. However, I can add to that. My understanding is also, though, that at the school since this time a more general offer had been made for people who were at the school to access the kind of service that has been suggested here. Also, we did say at our last meeting here that when we meet with the individuals that we are writing to, who are not considered or were not considered employees of the department, we will offer to them the same opportunity.

**The CHAIRPERSON:** I refer to recommendation 14. The committee recommends that the government identify the young people who were enrolled in the Balga Works program and ensure that they are able to access educational and employment assistance to the level promised by the Balga Works program. The department's response has not provided much detail as to what the department is offering these former students. Could you elaborate on what action was taken by the department to implement this particular recommendation?

**Ms O'Neill:** Perhaps if I can start. Of the remaining 25 students, 17 had continued contact with the participation coordinators, as I referred to previously. Participation coordinators, as I said, have an individual case management approach. They would have worked with the 17 that I am referring to to find alternatives for them—programs and support. My understanding is that they ended up being in a range of programs and places. I am not sure if this is in your notes; if it is, I will not go over it. But my understanding is that some were involved in community service programs, certain options, some went on to have employment, moved interstate, on remand, Swan TAFE. Out of the 17, they were either engaged in other programs, left the state or did other things. At the time of this report, four of the 25 were still enrolled at school and my understanding is that there were four left unaccounted for that the participation coordinators continued to follow up.

[3.20 pm]

**The CHAIRPERSON:** Recommendation 15 states —

The Committee recommends that the Department of Education and Training review the adequacy of its capacity to facilitate the resourcing and establishment of innovative initiatives within schools.

The department's position is that currently schools are provided with funding that allows the school a degree of flexibility in how programs, innovative or otherwise, are resourced. The department has commenced a review of the resource to ensure that resourcing, principally funding, keeps pace with the need of the changing operating environment within schools. What is the status of the department's review of resourcing mechanisms, which you referred to in your response?

**Ms O'Neill:** It would be unfortunate if, as a result of the experience of this program, schools did not seek to find innovative solutions, particularly for this cohort of students. They are the cohort that is least likely to engage with an institution or typical type of schooling program. The review that we have been undertaking is being done in concert with a university and is around ensuring that schools have sufficient flexibility in their resourcing so that they can pursue some different programs rather than have all of their resourcing tied up in an FTE allocation, which ties them to schools and classrooms. What schools have said to us—secondary schools, by and large—is that they need some flexibility in their funding so that they can engage with providers. That review is still in its early stage because the review is about not just this issue but is more encompassing and is around our funding arrangements with the new commonwealth agreements and how we get balance in funding across the whole sector, given that school sizes are a determining factor in funding and the like. This resourcing review is about not only this issue, but also giving flexibility, which is consistent with the new government's empowerment agenda. In doing so, what would have to apply to any new resourcing model are the kinds of controls that we have been talking about today. In devolving greater flexibility, there has always existed the risk of people being very entrepreneurial. Giving greater flexibility must be matched with appropriate accountabilities. While the resourcing model that we will continue to look at—the review is unlikely to be concluded within three months because it is a much broader review. Alongside that, once the review is put in place and greater flexibility is enabled, we would need to have in place the necessary controls and early alert mechanisms that Mr Travers was talking about. It is a review that will hopefully allow for greater flexibility for the sorts of things in some ways that Balga sought to do, but to do it while complying with legislation, policy and directives from the Department of Education and Training, as appropriate.

**Hon HELEN MORTON:** I was particularly interested in this part of the review and the recommendations that came out of it. I was interested also in the capability of a large bureaucracy like the Department of Education and Training to respond appropriately to research or innovative approaches within the department, not just at the school level. I was struck, as most people were, by the level of frustration of trying to make something innovative occur across all the elements of the department. It felt like there was too much bureaucracy in place. One of the thoughts I had was creating a dedicated research and development capability that would cut through those things to enable some things to happen with the kind of expediency that is necessary.

**Ms O'Neill:** It is a frustration across many school systems. In some ways they have become risk averse to innovation. If you are innovating within the current guidelines, it is not always innovation.

**Hon HELEN MORTON:** And you have to take chances.

**Ms O'Neill:** That is right. It is a good point. I have talked about the school's response to innovation. In terms of the department's response in this area, we have been acknowledged recently at the COAG process as leading the way in that we have all three sectors involved in the cross-sector governance committee. That group is able to respond quickly. Although, as I said, we did not pursue some of the networks that were talked about in the report, we were able to fund the Hills Community Support Group. You are quite right: it should not be left necessarily only to the school level. We as a department need to respond rapidly to the changing environment. Responding rapidly has not always been a term synonymous with this department or many other departments. How do we achieve that? How we decided to achieve that was by the three sectors—Catholic, independent and government schools—getting together and being able to direct resources quickly to the overall

need, but you cannot pull all the levers from the central office; there has to be a balance between the central capacity and local capacity. Also, you need to ensure that you are backing the right things, which is one of the lessons that we might learn from here. On the one hand you want to fund and invest in those things that are evidence-based while on the other hand you need some innovation to get going in the first instance. The innovation has to be appropriate and legal and meet all the standards. I suppose that what I want to point out here is that in our interactions with schools around innovation, talking about involving us much more at the front end, if not at the other end, to make sure that all the necessary legal and procurement processes, which we have talked about today, are in place such that the innovation is not only innovative, but also sustainable and defensible and the like. I think that is what we did not see in this situation.

**The CHAIRPERSON:** Thank you very much. That will be the end of the hearing this afternoon.

**Ms O'Neill:** Sorry, Chair, I just need one piece of clarification. We said that we would bring back some figures around the students at risk in that group. Can I just clarify if we agreed on other pieces of information?

**The CHAIRPERSON:** I think that was the main one that was on notice. If not, we will certainly let you know in the next 24 hours or so.

**Ms O'Neill:** Thank you.

**Hearing concluded at 3.27 pm**