

# **JOINT STANDING COMMITTEE ON THE COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE**

**INQUIRY INTO THE MONITORING AND ENFORCING  
OF CHILD SAFE STANDARDS**



**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
WEDNESDAY, 3 APRIL 2019**

**SESSION TWO**

## **Members**

**Hon Dr Sally Talbot, MLC (Chair)  
Mr K.M. O'Donnell, MLA (Deputy Chair)  
Hon Donna Faragher, MLC  
Mrs J.M.C. Stojkovski, MLA**

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**Hearing commenced at 10.42 am**

**Ms LISA RODGERS**

**Director General, Department of Education, examined:**

**Mr MARTIN CLERY**

**Acting Executive Director, Statewide Services, Department of Education, examined:**

**Mr STEPHEN BAXTER**

**Acting Deputy Director General, Public Schools, Department of Education, examined:**

**Mr LINDSAY ROBERT HALE**

**Executive Director, Public Schools, Department of Education, examined:**

**Mr MIKE CULLEN**

**Acting Executive Director, Professional Standards and Conduct, Department of Education, examined:**

**Mr GAVIN MARK AGACY**

**Director, Non-Government School Regulation, Department of Education, examined:**

**Mr RICHARD MILES**

**Director, Teacher Registration, Department of Education, examined:**

**The CHAIR:** On behalf of the committee, I would like to thank you for agreeing to appear today to provide evidence in relation to the Joint Standing Committee on the Commissioner for Children and Young People's inquiry into the monitoring and enforcing of child safe standards. My name is Sally Talbot; I am the member for South West Region. I am the Chair of the committee and I will ask my colleagues to introduce themselves.

**Hon DONNA FARAGHER:** Donna Faragher, member for East Metropolitan Region.

**Mr K.M. O'DONNELL:** Kyran O'Donnell, member for Kalgoorlie.

**Mrs J.M.C. STOJKOVSKI:** Jessica Stojkovski, member for Kingsley.

**The CHAIR:** It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege; however, this privilege does not apply to anything you might say outside today's proceedings.

Before we begin, do you have any questions about your attendance here today?

**The CHAIR:** You have presumably read our terms of reference, and you have had the correspondence from us about the nature of our questioning. You will be aware that one of our stepping-off points is the commissioner's oversight report of 2017, where he looked at oversight in relation to education as one of the six priority areas, and you will further be aware that recommendation 3 of that report, which hopefully we can get up on the screen, reads —

That a robust, comprehensive system of independent oversight for vulnerable children and young people in the education system be established. This should include:

- systematic inspection and investigation of facilities and the implementation of policy and practice in relation to the use of suspensions, exclusions, and behaviour management, particularly the use of seclusion and restraint
- monitoring of outcomes for vulnerable groups of children and young people including Aboriginal and Torres Strait Islander children, children with disability, children in the youth justice and/or out-of-home care systems.

Would you like to start by talking about how that recommendation was received, and what action you have taken to either implement or address those points in some other way—the points in that recommendation—since 2017?

**Ms Rodgers:** Sure, I wondered whether, to be helpful to the committee, I could give an opening statement. Is that okay?

**The CHAIR:** Yes, an opening statement is always welcome.

**Ms Rodgers:** Okay, I will do that. Thank you to the committee for the invitation to meet with you. As you have noticed I am recently appointed, and so I have brought the team to make sure that we can answer your questions in as fulsome a way as we possibly can today. From the outset, we would like to say that we support the recommendation relating to the education sector, made by the Commissioner for Children and Young People in the 2017 report, and we do support an independent oversight system or authority. The oversight system should be carefully considered and should not duplicate current services. It should complement existing services and, of course, the focus should be on the outcomes for young people and children and minimising the red tape. We have no position in terms of who should be the oversight body. The government is leading that consideration, and of course the government has fully accepted the royal commission child safe standards recommendations and we as the department endorsed that.

There is further work to be done to fully implement all recommendations, but we have got on with the job and I would like to take you through some of the things we have actually done. We have undertaken a major review of our child protection policy, from which the following key changes have emerged. Staff must now complete the mandatory child protection professional learning every three years, and principals are required to provide clear guidelines on how children can make a complaint. This is in addition to the requirement that protective-behaviours education must be provided across all phases of schooling. All schools must report their protective-behaviours activity in an annual survey, which is included in our department's annual report, of which I am sure you have a copy. In 2017, as part of the preparation for responding to the royal commission, we engaged an external consultant to work with students, teachers, school administrators and other department staff to look into our policies and practices with regards to the care and safety of our students. The commissioner was involved in this work and supported our work. From this work it emerged also that our policies were strong in regards to the duty of care and staff reporting obligations, but they were not well contextualised as part of a broader intent to create a safe, friendly student environment in all schools.

Emerging from this work, particularly informed by the input of students, we engaged in the process of drafting the safe and friendly schools framework. We have mapped that framework to the child safe standards from the royal commission, and we are preparing for broader consultation to finalise the framework and indeed implement this framework across the public school system. Again, this will be in consultation with children and young people in our schools, and their voices will be at the heart of this. Similarly, there is more work to do to support schools to genuinely empower students to be able to report. We know that child-safe environments are more than simply those that seek to prevent harm to children. They are also about supporting children to build the self-agency to

develop the competencies to report something when something is not right, and for them to know, quite frankly, that when they do report we take it seriously and we will act.

Some schools are doing great work in this area, and I am sure that we will touch on that today, but the reality is that there is still more to do. We will commence the consultation on our safe and friendly schools framework next term and we aim to have it finalised and in place for 2020. This work will be completed within the broader context of the overall response to the royal commission's recommendations, and I look forward to your questions today, and I look forward to supporting anything that we can do to ensure that all children are safe in our schools.

**The CHAIR:** Thank you, that is great. I guess you have answered that first question in relation to the commissioner's recommendation 3. I will just follow up a couple of things that you have just told us. You talked about developing that child protection policy in the compulsory training for staff. How do you monitor the outcomes?

[10.50 am]

**Mr Clery:** We certainly monitor participation, so the mandatory training is delivered online. It is linked to the department's IDs, so when teachers are employed they are required to complete their training within six months, and if they do not, then we have got a mechanism for following that up and, as Lisa mentioned, they also have to repeat that within a three-year time period to make sure their understandings are current.

**The CHAIR:** Okay. Can you give us a practical understanding of exactly what that training consists of?

**Mr Clery:** Yes, I could give you a little bit of a sense of that. Just bear with me for a second. It effectively is comprised of five components or modules. It provides some information for staff around rates and prevalence of child abuse. It really does provide a context that helps understand the significance of this matter, and why it is crucially important that school staff are positioned to engage with this. It goes through the mandatory reporting process—again, a whole lot of information around circumstances under which mandatory reporting would be required, and how that is to be enacted. It has a whole lot of detail in there that helps people identify the signs or the indicators that child abuse could be a factor in a young person's life, and then also some information again around how to appropriately record that and make sure that that information is reported, and then very importantly, of course, information on how to respond as a teacher or a member of the department staff when either something is disclosed or when they have a suspicion that a child could be subject to abuse.

**The CHAIR:** Is it in the form of multiple choice? Is there some assessment attached to this?

**Mr Clery:** There is. We can actually provide a copy of that if you would like.

**The CHAIR:** That would be excellent; yes. We will take that as the first question on notice. My question is: how do you measure whether the effectiveness of that training is worth the delivery?

**Mr Clery:** How do we measure if the effectiveness of the training is —

**The CHAIR:** Yes. You know how many of your teachers have done it and you have a way, presumably, of making sure that all teachers have done it.

**Mr Clery:** Yes.

**The CHAIR:** But what do you expect to see if that training is delivering some benefit? Do you expect to see more disclosures?

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**Mr Clery:** Yes, I think it would if it was working in the way it is intended, especially given the rates that we understand do occur. That information is provided to teachers as a part of their training.

**The CHAIR:** As you have said, that was the first component.

**Mr Clery:** Yes, that is right. It gives people a sense of how prevalent this is. One could anticipate that that would be reflected then in reporting information. However —

**The CHAIR:** Do you see that?

**Mr Clery:** I was just going to say that is —

**Mr Baxter:** Something I would like to mention is that rather than the hard data, on periodic cycle we have directors going to review the effectiveness of schools as a whole. One of the areas for emphasis is now around child safety. What we are looking for is those directors to come back to let us know is that, in fact, there is a change in the way that the leadership is approaching this—the governance within the school—but importantly the culture within the school that staff are actually sensitive to, alert to and responsive to the voice of children within the school. At the end of last year, I went down to speak with all ag college staff—those on the farm, those in the school program and those in residence—because people have been often working in those places for a long while. We can provide the training, but it is just the reinforcing of the message that this actually needs to be a whole-of-organisation, or cultural, change. You can put the process in place, but it is the way that people actually respond in the first instance to a student coming and saying, “I’ve got a concern.”

**The CHAIR:** Am I to understand that it is too early to measure practical outcomes from the delivery of this training?

**Mr Baxter:** We would want to see immediate gains. We would want to see students being confident in what is called the hostel situation in our residential colleges—nine of those across the state—where we have got students in 24/7 care. They have a hotline through to Mike’s area, standards and integrity. If there is an issue that they believe is what we would characterise as misconduct—inappropriate behaviour —

**The CHAIR:** But that is in relation to education department staff, is it?

**Mr Baxter:** It could be in relation to education department staff. Standards and Integrity deals with our staff, no other staff.

**The CHAIR:** Can we just leave the question about the staff to one side just for a moment, because I understood that up until now, we were actually talking about children disclosing to teachers —

**Mr Baxter:** That would be a disclosure about our staff, but it could be also about —

**The CHAIR:** A complaint about a staff member might be dealt with in a different way. I understood that the online training is actually about facilitating disclosure. If a child is needing to disclose to an employee of the education department, this is helping that employee understand how to deal with that; is that correct?

**Mr Clery:** Yes; correct.

**The CHAIR:** Are you seeing any data in terms of an increase in reporting that tells you that your training program is being effective?

**Ms Rodgers:** I think this is a great question actually. I do not have the data at my fingertips in terms of whether we have got enhanced reporting, so we will go back and check that.

**The CHAIR:** If you could take that on notice as well, that is the second question on notice. I guess that I can take you straight to something that the commissioner observed which you may not have

seen yet because it is actually in his submission to this inquiry. While that is now a public document, you might not have got around to reading it yet. He says this —

... despite the best efforts of the current oversight agencies, where they do operate, there has not been any discernible improvement in quality of care or wellbeing outcomes of these children and young people overall, —

I emphasise that he is talking about the six delivery areas —

with many oversight reports repeatedly highlighting the same concerns and recommendations over significant periods of time.

This committee is very keen to get individual agencies' reaction to that observation. It is not supposed to be pointing the finger at any particular agency; it is a general observation about the fact that we have got very, very good at producing reports and recommendations and it seems that we are less effective when it comes to actually making material changes that will benefit the lives of children and young people. That is the framework of that question.

**Ms Rodgers:** Honourable Talbot, that has not been my experience in the eight weeks of the job that I have been here. I have seen instances, certainly weekly, if not daily, whereby there have been occasions for us to act immediately in regard to the care and safety of children. It has been my experience that that has always been a priority and that is what we have done. In terms of improvements over time, I will have to defer to my colleagues in terms of how things were and their perspective and evidence in regard to how things are today. But that certainly has not been my experience. The other thing to note, though, is in our school review, we will be picking this up in regard to the school review that we initiate. Those school reviews occur every —

**Mr Baxter:** It is on a three-yearly cycle.

**Ms Rodgers:** It is something that we will be assessing the outcome on the basis of.

**The CHAIR:** So you are happy to take that on notice about the specific outcomes of the online training delivery?

**Ms Rodgers:** Unless, Martin, is there anything that you can add at this point?

**Mr Clery:** Not specifically about the online training for teachers, no.

**The CHAIR:** In your submission, you talk about the independent oversight role of you, director general, for non-government schools. What does that role entail and is it new?

**Ms Rodgers:** There are certain parts of that that are new in terms of the machinery of government, but also the fact that there are now 17 standards by which we undertake assurance against that regulatory framework, one of which relates directly to child safe standards.

[11.00 am]

**The CHAIR:** That is in non-government schools.

**Ms Rodgers:** Yes.

**Hon DONNA FARAGHER:** Could I just clarify that? You mentioned with respect to the machinery of government. Just so that we are all clear, because there is some other information that has been referred to us with regard to, I suppose, handling of complaints and other things regarding non-government schools, I just want to be clear. My understanding is that previously, prior to the machinery-of-government changes, there was the Department of Education Services that effectively took responsibility for overseeing non-government schools, and then of course there was the director general for the Department of Education with respect to government schools. There has

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now been a change and now those responsibilities come under one chief executive officer, which is now you. Is that correct?

**Ms Rodgers:** Yes, that is right.

**Hon DONNA FARAGHER:** With respect to where there might be complaints, if there are complaints with respect to non-government schools, they would come through to you through that channel. Is that how it is? Perhaps it might just be useful to get a bit of background.

**Mr Agacy:** Complaints are referred through to my directorate, the non-government schools regulation directorate. They can come either through a telephone call from a concerned parent or through our website. We act on that complaint in the sense that we ensure that the schools are meeting the standards. We do not have a role in resolving the complaint. The complaint is to be resolved at the school level, but we will certainly have a look at that complaint and act if, indeed, there is a suggestion that a school was not complying with the standards, including the child abuse prevention standard.

**Hon DONNA FARAGHER:** Just so that we are clear, within the commissioner's oversight report, I will quote from it —

If a student, or affected person, wished to complain about the decision-making or practices of a non-government school, they would have access to the Ombudsman to the extent that their complaint related to the decision-making or practices of the Department of Education itself.

Then it goes on to say it is generally managed internally. Is that correct or is that —

**Mr Agacy:** The Ombudsman would not get involved in non-government school complaints; that would only be government schools.

**Hon DONNA FARAGHER:** That is what I thought. That is why I am just wanting to make sure that we are all clear.

**Mr Agacy:** The Ombudsman would not have a role in non-government school complaints.

**The CHAIR:** To what extent is this function new? You said that it was partly a new function.

**Mr Agacy:** I think Lisa was referring to the fact that it has now come under the umbrella of the Department of Education; previously, it was the Department of Education Services. That is true. We have 17 standards. The child abuse prevention standard is a relatively new standard—it has only been in place for two or three years—but has been informed, in fact, by interim reports of the royal commission and going back to the Blaxell inquiry.

**The CHAIR:** Presumably those standards are public and on your website?

**Mr Agacy:** They are public, yes. They are on our website and available, of course, to all schools. It is the standards under which all schools are examined. When we go out and review the school, they are assessed against those standards.

**The CHAIR:** As part of that inspection—let me backtrack a bit. Do you actually carry out inspections of non-government schools?

**Mr Agacy:** We do indeed. All schools are inspected at least five-yearly, and a root-and-branch assessment is done against the standards, which involves discussion with teachers, the school leadership, the school board, and, indeed, students and parents. It is a sort of top down, bottom-up approach.

**The CHAIR:** Would that inspection now involve monitoring that seventeenth standard on child protection?

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**Mr Agacy:** Absolutely; absolutely. It is a huge focus of ours at the moment and probably the first thing when we give our school reviewers their marching orders. It is a huge area of focus.

**The CHAIR:** Is it mandatory now for independent schools to provide protective-behaviours instruction to their pupils?

**Mr Agacy:** Absolutely. That is inbuilt into the standard.

**The CHAIR:** Are you confident that that is now being delivered across the non-government sector?

**Mr Agacy:** Reasonably confident that it is being delivered. Of course, we are not the operators of the schools, so we can go in there and ensure that the schools have all the policies and procedures in place and are operationalising their policies and procedures, but school culture is something different that we cannot control. But, to the extent possible, I believe that we have got the settings correct in terms of ensuring child safety.

**The CHAIR:** Can I repeat the question that I gave to you about the online course, which is how you measure the actual material improvement in the lives of children and young people in non-government schools because of the enforcement of that seventeenth standard? I am calling it the seventeenth standard. I do not know whether it is literally the latest one, but the standard on child protection.

**Mr Agacy:** Yes. It is very difficult when we do not have empirical data from school to school, but as a general rule we can assess to the extent that whether or not the schools are meeting the standards and whether any noncompliance is identified and whether conditions or directions or quality improvement notices are applied on schools. Since the child abuse prevention standard has been in place, we have seen a noticeable improvement in the sense that there are not as many conditions and directions and quality improvement notices being applied on schools, because the word has got out that there is indeed a standard that all schools need to meet and they must comply.

**The CHAIR:** That is like a negative compliance, so there is less negative compliance? I am sure that is a double negative, but you know what I mean? What about on the positive side? Clearly, that improves the lives of children, but are there other things that you look for? I think Mr Clery referred to levels of reporting. Does that apply to the non-government sector as well?

**Mr Agacy:** Not reporting as such, but again I emphasise that we will do a root-and-branch assessment to ensure that policies and procedures around child safety are being operationalised.

**The CHAIR:** Non-government schoolteachers are mandatory reporters, are they not?

**Mr Agacy:** Correct, yes.

**The CHAIR:** Do you keep a record of mandatory reporting in the non-government school sector?

**Mr Agacy:** When a school lodges an application for registration or registration renewal, they are required to provide a schedule of their teachers and working with children checks, criminal history checks, and also as part of our assessment against the child abuse prevention standard, we ensure that the teachers are trained in mandatory reporting legislation and their obligations to lodge mandatory reports.

**The CHAIR:** Have you seen the number of mandatory reports go up in the non-government sector? Mr Clery, I think you said that you would expect to see that in the government sector?

**Mr Clery:** It was one of the outcomes that is possible.

**The CHAIR:** Does that apply to the non-government sector as well?

**Mr Agacy:** Yes, it does.

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**Hon DONNA FARAGHER:** I just want to clarify one thing. You mentioned that at the time of registration or renewal, there is a schedule—this is my understanding, so correct me if I am wrong—that includes, I am presuming, a full list of staff and if they meet all the relevant requirements. What is the process between registration and renewal, when obviously there will be staff turnover? How does the department keep up to date with new staff coming in, whether that be teaching staff or support staff? That may be for both non-government and also government.

**Mr Agacy:** Maybe if government goes first —

**Hon DONNA FARAGHER:** Maybe non-government might start first and then —

**Mr Agacy:** Sure. It is not basically registration and put it aside.

**Hon DONNA FARAGHER:** I was presuming so.

**Mr Agacy:** We work on a risk-based approach, so for schools, of course, that are high risk, we would not wait five years to have a look at them; we would go in more frequently. Bearing in mind, in fact, also that the director general has inspectorial powers, so can go in at any time if indeed we identify a risk to—a child safety matter.

**The CHAIR:** Have those powers ever been used?

**Mr Agacy:** Yes, they have.

**The CHAIR:** Could you provide details of the use of those powers?

**The CHAIR:** Basically, if the director general becomes aware of a child safety matter, she can authorise an inspection without notice and go into the school, request documentation, interview whoever she needs to interview, through her authorised person, and effectively investigate that matter.

[11.10 am]

**The CHAIR:** So perhaps we could ask you to tell us how many times those powers have been used in non-government schools?

**Mr Agacy:** In the time that I have been associated with this role in terms of child safety concerns, the inspection without notice has only been used once.

**The CHAIR:** Right, and in what period of time is that?

**Mr Agacy:** That is about four years.

**The CHAIR:** Okay; and in the government sector?

**Ms Rodgers:** Richard, if you could perhaps provide some comment on the government sector?

**Mr Miles:** I am kind of swinging back to your question around performance measures. Part of this is around the role of the board. Part of our role is with respect to determining the fitness of teachers to practise, and where there is evidence of noncompliance, for example, with mandatory reporting, that may have a bearing on the teacher's fitness to practise as a teacher. To my knowledge, there have been no examples in the government sector of noncompliance with respect to mandatory reporting in the last five years. That gives a bit of a sense, coming to what you were saying before about a negative performance measure. It is a bit of a sense from a compliance point of view in terms of how these matters are being dealt with.

**The CHAIR:** If I can just make it absolutely clear, obviously these measures that you have put in place are impressive, but what we are interested in specifically is how you measure the department's performance on improving the quality of care or wellbeing outcomes of children and young people.

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You put in place a great training program. It might do nothing. It probably does something, but what does it do and how do you measure that?

**Ms Rodgers:** To answer the broader question: have we improved the quality of care? That comes under our school review and also, in regard to the non-government sector, because we regulate them, we do not operate them. At the moment, we are in the process of undertaking a review of that function and looking at how we might strengthen it.

**Hon DONNA FARAGHER:** Is that as a result of machinery-of-government changes or is that just more general?

**Ms Rodgers:** Part opportunity and timing, but, of course, the context will help us in our review.

**The CHAIR:** Perhaps I could now take you to a series of dot points—I think there are eight of them. The committee has pulled out quite an old report now. It is an Australian Law Reform Commission from about 20 years ago. The Australian Law Reform Commission identified eight points of measurement for the effectiveness of an oversight body. We can get them on the screen for you. The first one is statutory independence. I will just wait for them to come up. Perhaps if you would like to give the committee an idea about how you would view your agency performing against those mechanisms, some of them might not apply.

**Ms Rodgers:** Because there are different parts of the system, of course —

**The CHAIR:** I know; it is not a one size fits all.

**Ms Rodgers:** No, it is not.

**The CHAIR:** For example, if you wanted to start with the second one about adequate resources. This is not across the board for education; this is specifically in relation to child protection measures—child safety, oversight, advocacy and monitoring of outcomes.

**Ms Rodgers:** In terms of my position as the director general, in regard to adequate staff and resources, keeping our children safe is the most important thing that we have to do. We will direct resources to ensure that that is our priority. There are aspects that I have noticed within our current system that we can strengthen, and indeed we will do that. A lot of work has gone on before and it has been done with existing resources. There will be particular parts to this that we will require additional resources for and will be quite big pieces of work. In regard to the response to the overall royal commission's recommendations, that package, if you like, is being considered by DPC. We are involved in that process, we are part of that process, but, first and foremost, we must make sure that our resources are directed towards safety.

**The CHAIR:** Where are those areas that you have identified improvement is needed? Do they differ from recommendations in past reports?

**Ms Rodgers:** I would have to check in terms of past reports, but in terms of what I know, there are additional resources that will likely be needed in terms of information sharing. At the moment, some of the work that goes on with the Teacher Registration Board, for example, goes on without a supporting infrastructure, and in part could be an IT system that would require the fast and effective transmission of information to keep children safe. Certainly, those are the aspects that I would be looking at in terms of additional resources.

**The CHAIR:** I think data collection and sharing is a challenge for most agencies.

**Ms Rodgers:** Yes.

**The CHAIR:** Do you have an improvement program in place?

**Ms Rodgers:** Yes, we do.

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**The CHAIR:** If you do, does it have an end date?

**Ms Rodgers:** No. I will allow Richard to say few words here, but the work in terms of information sharing in regard to the regulatory authorities and in regard to the IT systems that support that is in its infancy.

**Mr Miles:** There is a kind of crossover here between some of the royal commission recommendations and the national review of teacher registration undertaken last year. Part of the recommendations involve information sharing, not necessarily within the state, but across the country, I guess, as well. It is about working towards the development of a common platform across the country in that space. There are already, from a child welfare point of view, very good protocols in place in respect of the sharing of child welfare information. I have, for example, in my role as director, strong relationships with Gavin's role in terms of non-government school standards, and part of that role involves the processing of critical incident reports that might come up from non-government schools. From time to time, that will elicit information around child welfare that will require further sharing within the Department of Communities and with the Western Australian police as well. We have been very judicious in terms of making sure that processes in that space are sound so that good information is basically being put in front of both primary investigators and decision-makers as promptly as possible.

**The CHAIR:** So your data sharing improvement project is not just an internal one with people like the Teacher Registration Board, it also includes other departments you mentioned—police and child protection. The Department of Health?

**Mr Miles:** It would involve the Department of Health. I do not have a regular direct interface with the Department of Health in that space. My role tends to be closer with Communities and with Western Australian police.

**Hon DONNA FARAGHER:** Perhaps this just needs to be taken on notice, but I am keen to understand. I suppose if you were to have an example of something occurring within a school or an individual that elicits a critical incident report—I will use your terminology—I would like to know what the process is in terms of making that initial report and the requirements. If the department is the first one to become aware of the incident, what are the reporting requirements then to various other agencies that might be required to be informed, whether that be Health, Child Protection, Communities or whomever is relevant, and what are those processes and the time frames in terms of providing information and all of those sorts of things? That might be something that needs to be taken on notice, but I would be keen to understand the processes that the department undertakes.

**Ms Rodgers:** Yes, sure. It is quite a lengthy argument, so there is mandatory reporting and then there is noncompliance or misconduct. Depending on which side of the fence it sits, depends, I believe, on the action that we undertake.

[11.20 am]

**Hon DONNA FARAGHER:** Hence why I am asking the question. I am happy to take it on notice, because I appreciate that there are a couple of different aspects as to how a particular situation might be handled, but I think it would be helpful for us to know.

**Mr Agacy:** If the committee will indulge me, and if it is okay with Lisa, for non-government schools, of course, those teachers are subject to mandatory reporting obligations, so if there is a child sexual abuse matter, it needs to be reported at the school level; however, they are required to submit a critical incident report within 48 hours of an incident and that information is then shared, as Richard has pointed out, with Richard's team. It is obviously relevant to his area if it involves a teacher. If it

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is a child-on-child incident or a historical incident, Richard will, of course, share that information with WA police and the Department of Communities.

**Mr Miles:** There will be an analysis undertaken, because, in some ways, if I am the first one to be referring the matter to police, there is a problem, because, normally, you would have already had a mandatory report made. So, by and large, it would be brought to the attention of WAPOL and the Department of Communities in the first instance by the school.

**The CHAIR:** Yes, because our mandatory reporting system does involve WAPOL, does it not?

**Mr Miles:** Yes.

**The CHAIR:** Do you have in place any mechanism where you ask the teachers themselves if they have been victims of sexual abuse?

**Mr Miles:** There is no mechanism. I am mindful that from time to time, and I cannot think of a specific example, but it may be brought up within the context of an investigation in terms of the behaviours of the teacher that might have prompted another incident. But from my point of view, it is not like there is any kind of systematic analysis or psychometric analysis in terms of the teacher's background to sort of prompt whether there have been any examples of child abuse in their background.

**Mr Clery:** I have just one point in relation to that regarding professional learning for teachers. It is acknowledged in that space that teachers are advised that some of this could be difficult for people based on past experience, and they are provided with contacts and information should they wish to pursue a matter as a result of that.

**The CHAIR:** So that is part of the delivery of that program, is it?

**Mr Clery:** Yes.

**The CHAIR:** Of the online program or is it —

**Mr Clery:** I would have to check specifically with the online program, but certainly I am aware of other resources and programs and professional learning workshops where that matter is certainly at the forefront.

**The CHAIR:** Although it is not directly relevant to the work of this committee, but given the evidence that we have seen in the past about that being a factor in the use of mandatory reporting and the delivery of protective behaviour programs, it seems to me, as a non-professional in this field, that it would be sensible to deliver it on the front page of that online program. Perhaps you could take that on notice and let us know. Thank you.

**Mr Clery:** Sure, yes.

**Mr Miles:** There is another important point to note just with respect to mandatory reporting, and it is a truism in some ways. The vast majority of mandatory reporting that is undertaken has, for all intents and purposes, nothing to do with activity within the school. Most of it is something that has happened at home. The teachers, in terms of undertaking their responsibilities as a mandatory reporter—that reflects the fact that it is things that are happening outside the school environment.

**The CHAIR:** It seems very clear to the committee members that Education is in a fairly unique position here and that you have to have an internal complaints mechanism, but you also have to have a mechanism for dealing with disclosures in the way that some other agencies perhaps would not be expected to have. Do you want to return to the dot points?

**Ms Rodgers:** I was going to mention the adequate resourcing in terms of making sure that we have a student voice. The issue is making sure that we have adequate forums and mechanisms in place

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to support children to have a voice and to be empowered to use that. Then there is the flipside in terms of our response. One of the aspects that we are working on at the moment is the Violence in Schools policy. This policy at the moment is generating more and more suspensions and exclusions.

**The CHAIR:** Do you include harmful sexual behaviour in that policy?

**Ms Rodgers:** Well, actually —

**Mr Clery:** No; I am sorry. I understand what you are saying.

**Ms Rodgers:** Go ahead, Martin.

**Mr Clery:** Clearly, there is a potential relationship there and that is a factor which may underpin a young person's actions and how their behaviour is manifested. Certainly, it would be expected that were it to be identified that that was an issue, then again it would immediately flip into that context of reporting and connection to the relevant services.

**Hon DONNA FARAGHER:** You mentioned the Violence in Schools initiative that was announced by the minister last year. Again, I want to refer to the commissioner's oversight report. He says that —

Practices such as suspensions, exclusions, and behaviour management, particularly the use of seclusion and restraint, should be subject to independent statutory oversight given the potential for such practices to have a significant deleterious impact on the individual child.

I am interested in perhaps what your views are with respect to that, particularly given the fact that—well, it is not necessarily a change in policy, but I know that some figures were released recently by the minister with respect to the number of exclusions and that they have increased significantly. I am aware that there are the three trial sites underway to deal with the most violent students as an alternative. But, as I understand it, they cater for only about 10 to 30 kids in total. Obviously, there are going to be more students by the sounds of it who are being excluded. From what I expect, without speaking on behalf of the commissioner, that would appear to be something of concern to him with regard to the oversight of that. Do you have a view with respect to that? Perhaps you might need to take that on notice because I have not given you notice of that question.

**Ms Rodgers:** I have reflected on this quite deeply because, in part—having worked in the education system as long as I have, excluding students from the system is something that you do not do lightly. However, what it has supported the opportunity for is that we are able to now very sensitively case manage each one of those individual students. For every one of those students, there is a story. Each one of those students are not necessarily excluded for a long period of time. It can be a short period of time, by which we are able to work with that student and their family to triage and support that student back into learning.

**Hon DONNA FARAGHER:** So that is irrespective of whether they are placed into the trial site or another behaviour management centre, if I can use those words —

**Mr Clery:** Yes.

**Hon DONNA FARAGHER:** — or if they are excluded and that they have, I suppose, nowhere else to go other than, perhaps, home or another place for that period of exclusion. Are you saying that you still provide support to that student?

**Ms Rodgers:** Yes, and every single student is individually case managed. The response to that student in regard to the intervention is tailored to their particular context. It is not a foregone conclusion that a student is excluded and then goes into one of those centres.

**Hon DONNA FARAGHER:** Well, they cannot at the moment. This is a trial site, but you are going to have a larger number of excluded students as opposed to the places available.

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**Ms Rodgers:** Yes, and for some it just is not appropriate.

**Hon DONNA FARAGHER:** Yes.

**The CHAIR:** Do you want to address any of the other dot points or can we move on?

**Ms Rodgers:** We are very happy to. We can continue.

**The CHAIR:** No, I think if you have anything that you want to add to that perhaps you could do that by way of a follow-up to the committee. I think we have probably interrogated those enough.

**The CHAIR:** Turning to the recommendations from the royal commission, I do want to include here the opportunity for you to tell us about your involvement in the development of policies and procedures on harmful sexual behaviours, because this is clearly a challenge for the state. We saw in the royal commission final report that a significant number of the incidents covered by the royal commission and the testimony that the commissioner heard related to child-on-child activity. Are you involved in the ongoing search for a suitable response to this problem?

[11.30 am]

**Ms Rodgers:** Yes, we are, and I wonder if we can address specifically some of the events that have happened and our response to that.

**Mr Baxter:** Certainly in regard to the minister's intervention, I think it was in 2017, with regard to her concerns that we had students in our schools who were on bail conditions as a consequence of sexual behaviours and that the school was unaware of that student and the support that they may have needed, but also the strategies that need to be in place in order to ensure that other students in the school were safe.

**The CHAIR:** Was the school not aware because of something to do with the data-sharing practices?

**Mr Baxter:** Information sharing.

**The CHAIR:** They were not hiding the information; there was no method of collecting it. Would that be fair to say?

**Mr Baxter:** Police and/or justice were not hiding it as such, but there was no information-sharing process available, and no connected response. Subsequent to that being brought under the spotlight, a group from within the Department of Education worked with Communities, Justice, Police, so that now, if a student in any of the sectors—Catholic, non-government<sup>1</sup> or public school—is charged with harmful sexual behaviours, bail conditions are shared with the Department of Education. If it is a public school, I immediately make contact with the relevant regional executive director who, in working with people from Martin's team, will coordinate a meeting with Communities and Police and the school in order to establish a response, so that the student who is on the bail conditions will continue their education and have support wrapped around them to assist them, but also, especially where the student who has been the victim or the alleged victim is in the same school, that they are appropriately safe. Where it is a non-government school, I make contact with Gavin, as the director, and he will make contact with the appropriate contact on the board of that non-government school. I will let him explain a little bit more if he wishes to.

**Mr Agacy:** It is ordinarily the chair of the board who I will contact and give an overview of the risk action management plan that needs to be put into place for the student. Then I will refer him or her to a key officer within our agency who can provide further information and help the school to connect with the relevant agencies, Police, Communities and others.

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<sup>1</sup> A letter of clarification about this part of the transcript can be accessed on the committee webpage.

**The CHAIR:** You have a plan that is given to both the government and non-government sector contact person?

**Mr Agacy:** Yes.

**The CHAIR:** Can we see a copy of that plan?

**Mr Baxter:** We can provide a copy of those protocols and the plans that flow from that. While we certainly were not indicating to Catholic Education or non-government<sup>2</sup> schools that they need to follow the processes that we have put in place, they could have adopted and adapted them, and they pretty much are running with what was developed. So with the Catholic Education contact, the CEO of Catholic Education Western Australia, and then she will take it from there.

**The CHAIR:** Gavin, I think you said that the non-government schools would have a similar management plan that they put in place?

**Mr Agacy:** Well the management plan that is in place for government schools is also applied to non-government schools, so it is across all sectors.

**The CHAIR:** The agencies that you mentioned I think were Police and Justice?

**Mr Baxter:** And Communities.

**Mrs J.M.C. STOJKOVSKI:** But not Health?

**Mr Baxter:** To my knowledge, we have not been working with Health.

**Mr Clery:** We certainly do connect with Health through the case management of those young people, particularly around their harmful sexual behaviours, and referrals to the specialist health services that provide support in that area. Our school psychologists—it is an area where they have also received some specific training on how to address that.

**The CHAIR:** You have ongoing input into the DPC processes on developing policy. Director General, do you participate in that group?

**Ms Rodgers:** I do, yes.

**The CHAIR:** That is the third group down, I think, in the hierarchy.

**Ms Rodgers:** I do, but I have not attended as yet, because I do not think there has been a meeting since I arrived. But, yes, we do.

**The CHAIR:** Is that the group with overall responsibility for implementing the royal commission recommendations?

**Ms Rodgers:** Yes.

**The CHAIR:** Are you also engaged in discussions specifically about harmful sexual behaviours?

**Ms Rodgers:** Yes.

**The CHAIR:** That is being driven by Communities, I think.

**Ms Rodgers:** I will have to check that.

**The CHAIR:** Yes; could you check and let us know what your ongoing involvement is with that subgroup or working group?

**Ms Rodgers:** I will, yes.

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<sup>2</sup> A letter of clarification about this part of the transcript can be accessed on the committee webpage.

**The CHAIR:** Thank you. I think that we are just about at the end of our questions. I do have one further question for you. Clearly, there are issues with particular groups of vulnerable young people who you would have in your system. One of them is children who are in out-of-home care. Do you identify those children when they come in to the education department, when they come into schools, non-government or government, and do you work with other agencies to provide services for those children or at least to monitor their outcomes?

**Ms Rodgers:** Yes, we do.

**Mr Clery:** Children in care, there is a requirement for those young people in our schools to have a documented plan. That is a plan that is provided to Communities as well. They are definitely a group for whom there is a very clear procedure; their needs need to be specifically considered and addressed at an individual level.

**The CHAIR:** You will be aware that one of our big concerns at the moment as a state is provisional oversight for children in out-of-home care, of which there is precious little at the moment. Part of that discussion—not just relating to those children but to all children—is whether you can co-locate the agencies with responsibility for oversight, complaints monitoring, individual advocacy and systemic advocacy. Does the department have a view about how those functions interact with each other, whether they are mutually informing or mutually exclusive?

**Ms Rodgers:** There are two parts to that. One is the independent oversight; the second is the co-location of services.

**The CHAIR:** Yes, particularly when it comes to systemic advocacy and individual advocacy and complaints monitoring and handling.

**Ms Rodgers:** Yes. Without a doubt, we would support independent oversight. The only thing I would add to that is that independent oversight would really need to complement our existing systems. That would be critically important, but we would welcome that. In regards to co-location, I think there is some merit to that. Having said that, I think, if we have good working procedures and we have good relationships, we do not necessarily need to be co-located. My concern would be the emphasis and the infrastructure and the resources would be going into co-location when actually, if we strengthened our relationships and worked well together, we would not necessarily need to sit in the same building. I do see evidence of those strengthening relationships and that work on a day-to-day basis in the regions.

**Mr K.M. O'DONNELL:** I have one question. There were going to be two. I was interested in the reporting procedure: if Johnny or Sally student wanted to make a complaint, what was the procedure. But when the 48 hours was mentioned, I am curious. As Martin said, many of the complaints involve outside family, home, friends, and so on. There is probably a reason for allowing 48 hours. However, if a student made a complaint at lunchtime, then by lunchtime the next day the teacher has not done anything, nothing has changed for that student that afternoon or the next morning, and they do not do anything for the next day—I dare say it is based on seriousness, but 48 hours—I thought it should be straightaway, or as soon as practicable.

**Mr Agacy:** If I can maybe clarify. The 48 hours is written into the standard, and that is no more than 48 hours. Schools, obviously, are counselled that if it is a serious matter—a critical incident—then that needs to be reported immediately, but there are other matters that might not be of that sort of intensity or importance, lower-level matters, which might not need to be reported —

[11.40 am]

**Mr K.M. O'DONNELL:** That would be up to the teacher, though.

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**Mr Miles:** Also, you have to remember that Gavin is talking about the standards of referral through to non-government schools. If you are talking about a serious matter, obviously, there would be an expectation that if it involved Communities or WAPOL, you would be looking at immediate action, so that is not 48 hours. There are no prescriptions in that way within the standard. But, to some extent, it depends on the matter.

**Mr K.M. O'DONNELL:** It depends on, by listening to it —

**Mr Miles:** The context.

**Mr K.M. O'DONNELL:** — whoever they go to will make the decision, “I don't need to pass that on straight away.” In my personal opinion, from my background, no. Take the report and pass it on. It should not be up to the teacher to make the decision, “No, she'll be right for a while.”

**The CHAIR:** In our policy, it actually says to report by phone where there is concern for the immediate safety of the child.

**Mr Agacy:** I can say without exception that in non-government schools, obviously, if it is a child welfare matter, that will be reported immediately. The obligation is on the school board to lodge a complaint. A lot of our discussions with the boards is about putting child safety matters at the top and ensuring that they are reported to us as soon as possible.

**Mr K.M. O'DONNELL:** Thank you.

**Hon DONNA FARAGHER:** I will be quick, and perhaps this one could be taken on notice. You mentioned I think in your opening remarks that there is some work being done in the safe and friendly schools framework and that consultation would commence next term. Could you take this on notice: I am keen to understand what form of consultation will be undertaken, who will be consulted, and what the time frame is for that review.

**Mrs J.M.C. STOJKOVSKI:** I also have a question on notice. We have had hearings with WAOICS recently and we brought up some questions about education at Banksia Hill, but we are missing some information. Are you able to provide us with some information about what has changed in terms of education and what is being provided at Banksia Hill?

**The CHAIR:** Yes. Do we want to say something about that, Martin?

**Mr Clery:** The education program at Banksia Hill is not delivered by Education; it is delivered by Corrective Services. We do have a relationship with them around the delivery and support of professional learning and access to similar support resources for teachers, so we can certainly provide the information there.

**Hon DONNA FARAGHER:** Has that always been the case?

**Mr Clery:** Yes, it has.

**Hon DONNA FARAGHER:** The Department of Education has never had a direct role in educating the young people there?

**Mr Clery:** Not to my recollection.

**The CHAIR:** They provide funding?

**Mr Clery:** We provide some funding support, yes, but the actual people delivering the programs and doing the teaching are not our staff.

**The CHAIR:** But they are professional teachers, are they?

**Mr Clery:** Yes, as far as we know.

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**Mr Miles:** Banksia Hill is treated as an educational venue, but I think there is a distinction to be drawn with the nature of the education that they are delivering. There would be a requirement for some of the people providing education to be registered, but others, perhaps not, in that situation.

**Mrs J.M.C. STOJKOVSKI:** If you could provide us with as much information as you can on that, I think that would be very beneficial.

**The CHAIR:** Do you have further information you can give us on notice?

**Mr Clery:** We can provide information about the exact nature of how we work with them, definitely, yes.

**The CHAIR:** Thank you, that would be very helpful.

**Mr Baxter:** I think, if you go back far enough, you will find that you could be right, and that there was a different relationship.

**The CHAIR:** I think that is as far as the time frame goes. If you could go back to the inspector's report in 2017.

**Hon DONNA FARAGHER:** We can put that in the question on notice.

**The CHAIR:** We will clarify that when we send you the written notice of the question. There was an OICS report a couple of years ago that made a series of recommendations about the education services provided at Banksia Hill.

Thank you for your evidence before the committee today. A transcript of this hearing 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 document for the committee's consideration when you return your corrected transcript of evidence.

Thank you very much.

**Hearing concluded at 11.45 am**

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