
TRANSCRIPT OF PROCEEDINGS

**COMMISSION OF INQUIRY INTO THE TASMANIAN GOVERNMENT'S
RESPONSES TO CHILD SEXUAL ABUSE IN INSTITUTIONAL SETTINGS**

**At Hearing Rooms 6A and 7A
Tasmanian Civil and Administrative Tribunal,
38 Barrack Street, Hobart**

BEFORE:

**The Honourable M. Neave AO (President and Commissioner)
Professor L. Bromfield (Commissioner)
The Honourable R. Benjamin AM (Commissioner)**

On 13 May 2022 at 10.10am

(Day 10)

1 PRESIDENT NEAVE: Ms Bennett, before we begin today's
2 hearing there's something I need to say.

3
4 Commissioner Benjamin isn't able to attend the hearing
5 this morning as he's attending the funeral of a close
6 friend. It's this Commission's intention to always conduct
7 hearings with all Commissioners present. If it weren't for
8 these circumstances beyond anyone's control Commissioner
9 Benjamin would obviously be here but, in accordance with
10 section 5A of the Commissions of Inquiry Act 1995
11 (Tasmania), Commissioner Bromfield and I are able to
12 proceed with today's hearing without Commissioner Benjamin.
13 Commissioner Benjamin will review all of the evidence from
14 today's hearing at a later time.

15
16 I would also like to make a further and very special
17 announcement about Commissioner Benjamin. Today the Chief
18 Justice of Tasmania, The Honourable Justice Blow AO, has
19 announced the appointment of two new Senior Counsel, one of
20 whom is Commissioner Benjamin. That appointment takes
21 effect from today. His appointment as Senior Counsel
22 recognises Commissioner Benjamin's experience, independence
23 and contribution to the legal professional, including as a
24 former judge of the Family Court of Australia.
25 Commissioner Bromfield and I would like to personally
26 congratulate Commissioner Benjamin on his new appointment.
27 Thank you, Ms Bennett.

28
29 MS BENNETT: Thank you, Commissioners, and of course
30 Counsel Assisting and the legal team extend our
31 congratulations on a worthy and appropriate appointment.

32
33 Commissioners, we have Mr Sam Leishman here to give
34 evidence this morning, can I ask that he be sworn in.

35
36 <SAMUEL MATTHEW LEISHMAN, affirmed: [10.12am]

37
38 <EXAMINATION BY MS BENNETT:

39
40 MS BENNETT: Q. Can you tell the Commissioners your full
41 name and we need not have your address?

42 A. Samuel Matthew Leishman.

43
44 Q. And you've made a statement to assist this Commission?

45 A. Yes, I have.

46
47 Q. Have you reviewed that lately?

1 A. Yes, I have.

2

3 Q. Are the contents of that statement true and correct to
4 the best of your knowledge?

5 A. Yes, they are.

6

7 Q. Thank you. Commissioners will have that statement in
8 their bundle. Mr Leishman, I'd just like to start by
9 thanking you for being here to give your evidence to this
10 Commission and I'd like to ask you about yourself and about
11 your family. Can you tell the Commissioners about you as a
12 young man?

13 A. Okay. Thank you. I was born in 1966 in Hobart, so
14 I'm a Hobart boy. I was the youngest of five children and
15 I was brought up in the Hobart suburb of New Town. We
16 had - I was very lucky, like, my mother and father got on
17 very well together; in fact it's probably fair to say my
18 father doted on my mother so we were very lucky in that
19 respect. I was brought up in a very busy household,
20 because I had three older brothers and a sister, there was
21 always a lot going on, a lot of people coming and going,
22 friends coming and going, family coming and going. It was
23 always a very welcoming house, the door was always open.
24 And my parents, they encouraged us as best we could to be
25 independent and sort of find our own paths in life. It was
26 a busy chaotic sort of home life and, it was never perfect,
27 we weren't the Brady Bunch or anything like that, you know,
28 there were fights and arguments, but we were close and we
29 looked after each other.

30

31 Q. And, can you tell us a little bit about your early
32 experiences of school; how did you like school as a child?

33 A. I enjoyed primary school and I was - I wasn't
34 particularly a super high achiever, but I got on well. I
35 was good particularly sort of in the more artistic
36 pursuits, and I was good at maths and I enjoyed going to
37 school.

38

39 Q. It was 1978 when you started high school, and that was
40 at your local high school; is that right?

41 A. Yes, I started Grade 7, I was 11 when I started
42 Grade 7 in 1978 at New Town High School which was
43 Tasmania's - at that time until just recently Tasmania's
44 only public high school for boys.

45

46 Q. And in your first year at school you had a science
47 teacher by the name of Darrel Harington; you say in your

1 statement "he began to gain the trust of myself and my
2 parents", can you tell us what that meant?

3 A. Yes, just to clarify something, he wasn't actually my
4 science teacher, he was a science teacher at my school, I
5 wasn't in any of his classes at the time, I just met him
6 sort of coincidentally at school. And, because I was
7 interested - he was a science teacher, he was a young,
8 youngish man at the time and quite sort of sporty and got
9 on well with most of the - seemed to get on well with all
10 the other kids in my school.

11
12 I was more into sort of musical pursuits and the high
13 school musical that year, Paint Your Wagon, he came along
14 and sang in our musical, which was kind of nice but I
15 thought it was kind of strange as well that this man who
16 couldn't sing particularly well was interested in taking
17 part in this musical.

18
19 He started learning to play the clarinet and appeared
20 in our high school band. He even started taking piano
21 lessons from my own private piano teacher. I sang in a
22 church choir at that time as well on a Sunday and he
23 started coming along - singing in my church choir, even
24 though he couldn't sing particularly well.

25
26 Q. So he did start to gain your trust?

27 A. Yes, and that of my parents as well, because of my
28 activities at school, if there was a concert or school
29 performance or whatever, my parents would come along and
30 see, as parents have to do. And, I can't give an example
31 but I just know that he would have got to meet and know my
32 parents better during that period in 1978 as well.

33
34 Q. And, he became sort of - he was known to be friendly
35 with the other students as well, or did he single you out a
36 bit?

37 A. He was popular, he was very confident and he was - he
38 could play sport and, like, if there was a teacher-student
39 football match or something, he'd be the first one lining
40 up to kick a football around with the kids. I guess I felt
41 a little bit singled out, like, he was particularly
42 interested in my activities, you know, to the point of
43 having piano lessons off my piano teacher and that sort of
44 thing, I think, yeah.

45
46 Q. And, you were 12 when he became sexually abusive
47 towards you; is that right?

1 A. Yes, that's right.

2

3 Q. And that continued for some 12 months, I think you
4 say?

5 A. Do you want me to describe?

6

7 Q. Say whatever you feel comfortable to say?

8 A. Do you want me to describe how it happened or?

9

10 COMMISSIONER BROMFIELD: Q. Only if you want to; this is
11 for you.

12 A. I'm happy to, I'll keep it brief. What happened
13 towards then of 1978, towards the end of Year 7, there was
14 one particular day, it would have been December, where my
15 parents allowed me to spend a day with him, and that was
16 fine by them, they knew him and obviously trusted him. I
17 spent the day with him, it was December, beginning of
18 summer, it was a beautiful day. I remember spending a bit
19 of time at the beach and he bought us some lunch, he bought
20 us Kentucky Fried Chicken, which I'd never had before. And
21 we went back to his - his parents had a flat, a unit in
22 Bellerive, we went back to that unit and ate the chicken.

23

24 One thing I remember, because he was a science teacher
25 he understood the anatomy of this chicken and these bones,
26 he could describe where all these bones came from, which I
27 thought was quite clever.

28

29 When we were eating the conversation started turning
30 to girls and whether I had a girlfriend, was I interested
31 in girls, did I have a girlfriend yet, and my answer to
32 that was "no". And the mood sort of quickly changed and he
33 grabbed his car keys and he said, "Come on", and we left
34 the unit and we drove - or he drove a couple of
35 hundred metres down the road to the shops, went into a
36 newsagent and came back with a rolled up magazine. Went
37 back to the apartment and we were sitting on the couch very
38 close together - I have to be clear here, this is a teacher
39 I really admired, I really liked a lot.

40

41 Q. Of course.

42 A. We were sitting very close together, the magazine gets
43 unwrapped, and it's a Playboy or something and he starts -
44 he's very, very close to me, starts flicking through
45 showing me pictures and asking me if I was being turned on
46 by the pictures that I was looking at. And, one part of me
47 was terrified but there was an excitement in me as well, I

1 have to be honest about this, because he was so close to me
2 and it wasn't particularly the pictures that I was - there
3 was this nervous, terrifying excitement about me, within
4 me, and he was asking me if I was getting aroused and
5 that's how I was feeling, and this turned into a - do you
6 want me to keep going?

7
8 MS BENNETT: Q. Say what you're happy to say, but only as
9 much as you're happy to say.

10 A. This turned into sort of play fight sort of thing, and
11 he's a big man, I'm like a 40 kilo 12-year-old, I was
12 little. And his - I was trying to resist and his hand is
13 then on my genitals, and then everything happened quite
14 suddenly, he swept me up in his arms and carried me to a
15 bedroom at the back of this unit, and it would have been
16 his parents' bedroom. I remember the curtains were closed,
17 it was dim in there, and we were on in this bed together,
18 and he sort of - I'm terrified about what's going to happen
19 and, to be honest, I stopped resisting and I felt like I
20 just submitted to it, I let him do whatever he wanted to
21 do. And it was slow, what he did, and as well - he used
22 the word "retaliate", he said, "You can retaliate if you
23 like", I didn't even know what the word meant; he explained
24 what the word meant. So, as well as submitting to this, I
25 also complied; I did what he wanted, or tried to do what he
26 wanted me to do to him. And that was that first incident
27 and he drove me home.

28
29 I remember the drive home was silent, I was sitting in
30 the passenger's seat thinking, "I have no idea what I've
31 just done or what just happened", and he dropped me off at
32 the front door of our house, and I walked in through the
33 front door, the key was always under the mat, invited
34 myself in and I could hear my parents in the kitchen and I
35 thought, "Oh my God, I don't want my parents to see me,
36 they can't see me because they will know". So, I went to
37 the bathroom and I remember distinctly looking in the
38 mirror thinking, "Oh my God, what is this disgusting thing
39 I've just done? My parents, this is written on my face,
40 they will see what I've done, this disgusting act", and I
41 was just trying to compose myself in the mirror, and the
42 door bell rang. I knew it was him, so I wanted to get to
43 the door first and, sure enough, I'm going down the hallway
44 and I could see his figure, his tall figure in the mottled
45 glass in the window. And, I opened the door about that far
46 (indicates), and he said to me, he said in a sort of
47 half-whispered voice, he said, "You looked really upset

1 when I left you, I just wanted to make sure you're okay",
2 and with that I could feel my mother coming up behind me,
3 and he basically looked over the top of me, invited himself
4 in, my parents welcomed him, and it just turned into this
5 session of beers and food with my parents while I was
6 sitting there absolutely. I didn't - I was terrified
7 initially, first of all, that he was going to tell my
8 parents of this disgusting act that I'd just done with him,
9 but he didn't, it just turned into a big drinking session
10 with my parents and, they didn't know, they thought he was
11 a friend.

12
13 COMMISSIONER BROMFIELD: Q. And you were sitting there
14 overwhelmed and confused and frightened, and it sounds like
15 still kind of blaming yourself.

16 A. I guess I'm better at not blaming myself, but thank
17 you for that observation, thank you. Do you want me to
18 talk more? Do you want me to talk more?

19
20 Q. We want you to say as much as you would like to say,
21 but don't feel compelled to say anything?

22 A. I actually want to get to a certain point.

23
24 MS BENNETT: Please.

25
26 COMMISSIONER BROMFIELD: Please, you choose.

27 A. I stayed up as late as I could until I was absolutely
28 exhausted, went to bed, and the next day I thought, that's
29 just not gonna happen again, but I just couldn't quite
30 resist. And, because he was so confident and had the trust
31 of my parents, over that summer my parents let me spend
32 time with him, even let me go away with him for days
33 sometimes on a couple of occasions, and that initial terror
34 that I had, I basically started to get more comfortable
35 with what we were doing together and the acts that we were
36 doing together became more involved.

37
38 And, towards the end of - towards the end of Grade 8 -
39 towards the end of that summer he said to me, just before
40 we're getting ready to go back to school, he said, "I've
41 really had to be really persuasive and do a lot of things
42 here, but I've managed to get your home group for the year
43 so I can see you every morning and you'll be in my science
44 classes this year so I'll be able to see some of you",
45 which I guess at the time I thought, "Oh gee, that's nice"
46 but looking back I can see what he was doing.

1 We get back to school in Year 8, in 1979 I'm still
2 12 years old, and there was a sort of sudden shift in his
3 behaviour, because I'd sort of grown what I'd thought was
4 this emotional attachment to this man - I know that sounds
5 disgusting but that's what it was like.

6
7 COMMISSIONER BROMFIELD: It doesn't sound disgusting.

8
9 PRESIDENT NEAVE: It doesn't at all, it's completely
10 understandable.

11
12 THE WITNESS: But things shifted, there was no longer that
13 connection, he was no longer at our house, but occasionally
14 there'd be moments where we would get together and things
15 would happen, or occasionally he'd whisper something to me
16 at school.

17
18 Just for an example I remember once at school he came
19 up to me and whispered in my ear, he said, "I can see the
20 outline of your dick in your pants", those sort of things.
21 Occasionally if he ever got a chance he'd give me a lift
22 home and would perform some sort of act in his car.

23
24 PRESIDENT NEAVE: Q. When you say things shifted, do you
25 mean he ceased to try to endear himself to your parents?
26 A. Yes. So, what I thought was some sort of a
27 relationship, I sensed it wasn't all of a sudden and it was
28 just a physical thing, and that left me feeling, it's tough
29 to say, but I felt pretty isolated and let down because I
30 really admired this person.

31
32 PRESIDENT NEAVE: Yes.
33 A. Sorry, it's true.

34
35 MS BENNETT: No, don't apologise.

36
37 COMMISSIONER BROMFIELD: That's the psychology of child
38 sexual abuse, that's the thing that's so hard because you
39 carry that for so long in your life, questioning the how.

40
41 THE WITNESS: I will get to the point.

42
43 MS BENNETT: Q. Please take your time.
44 A. So, I began Year 8, I was still 12 and it was just
45 sort of occasional quick get-togethers, and there was one
46 particular occasion when, I think he must have given me a
47 lift home from school and on the way home from school we

1 quickly went via his parents' unit with the intention of
2 performing a sexual act in this unit.

3
4 When we arrived at the unit there were two boys from
5 my year in the carpark kicking a ball around, just messing
6 around playing, and I thought - I just felt, "Oh my God
7 I've been spotted in a car, these boys are going to know
8 what's going on". And because he was so confident and sort
9 of blase, he just hopped out of the car, "How are you going
10 kids?", he knew their name, probably even kicked the ball
11 around, I don't remember, but I just remember standing
12 there thinking, "Oh, this is so uncomfortable". And after
13 that he starts walking away towards the door of the unit
14 and beckons me over, and I - it was terrible.

15
16 I just wanted to point this out because the next day
17 at school everything changed because I was in the
18 playground, it must have been recess time or something,
19 this group of boys there and those two that had been
20 involved who had seen me last night just called out across
21 the playground or the - words to the effect of, "How did
22 you like sucking Harington's cock last night?" And so, I'd
23 managed to sort of fly under the radar quite well until
24 that point, but when - I mean, you can imagine in Tasmania
25 in 1978 that quickly sort of bubbled and festered and
26 turned into - immediately turned into a huge problem for
27 me. Because, not only did I feel isolated by all the boys
28 in my school, I had my group of friends there, who were
29 just dorky music students, but it's awkward for them as
30 well, isn't it, because they don't want to associate with
31 someone who's being bullied to that degree, and I know this
32 Commission's not about bullying but I will get to the
33 point about isolation in my school.

34
35 Because, there's all this vocalising amongst these
36 kids about what I am and what I've done, and then a few
37 days later one of the other teachers in my school took me
38 aside, and the words effectively were, "I don't know what's
39 going on between you and Mr Harington, but obviously
40 something is and you need to make it stop".

41
42 PRESIDENT NEAVE: Q. So, you were given the
43 responsibility of stopping it?

44 A. Yes. So, I knew in my mind that kids in my - everyone
45 in school knew, teachers knew, but I felt I just had - I
46 was left to deal with it on my own. That's the point I
47 wanted to get to.

1
2 MS BENNETT: Q. And you carried it on your own for a
3 long time after that?

4 A. Ah, yes, for a long, long, long time, yes.

5
6 Q. And am I right to say that it sounds like you blamed
7 yourself for what had happened?

8 A. I have always - for any unhappiness I've had, I've
9 always - yeah, I guess I blame myself for my own misery
10 sometimes, yes.

11
12 Q. And, was there a shift in your understanding that came
13 as an adult?

14 A. There was a definite shift. I'll just speak briefly
15 about that; I was about 48, so about eight years ago, I
16 was - a few things had happened, my mother had died and I
17 was getting renovations done on my house and it was costing
18 an exorbitant amount and I wasn't able to live in my house,
19 and I was drinking really heavily and I'd lost my licence
20 for drink driving, so they are just things that happened.
21 But as well as when all of that was happening, when things
22 were going bad for me these events of my childhood used to
23 circulate more and more than ever, and I think part of that
24 was to do with me thinking, if I hadn't done all that stuff
25 when I was a kid, maybe I would have made different choices
26 and where I was in life would be different by now, so
27 blamed everything that was happening in my life now to
28 events going all the way back to when I was 12.

29
30 COMMISSIONER BROMFIELD: Q. And describing them as
31 choices that you had made as well as part of that internal
32 narrative?

33 A. I guess so, yeah. And, just coincidentally when I was
34 just feeling really low about everything that I thought was
35 wrong in my life, I just happened to grab - I happened to
36 see a grab of news and it was Julia Gillard talking about
37 the Royal Commission and how it was progressing, and I'd
38 never thought about what happened to me as child abuse,
39 funnily enough, I thought it's something that I initiated,
40 that I had done and that it was just a one-off thing that
41 this man had been attracted to me for some reason and it
42 was - it was a single thing that happened.

43
44 And, out of curiosity I got on to the website for the
45 Royal Commission, and I was - I was just staggered, because
46 by that stage there was volumes and volumes and volumes of
47 work that they had done, and story after story, and I

1 started reading through them and I thought, "Shit, that
2 happened to me", yeah. So, it was sort of like a light
3 bulb moment.
4

5 PRESIDENT NEAVE: Q. Just before you go on, going back
6 to the comments that the boys made to you: at that time
7 obviously it was widely known that he was engaging with
8 boys in the school; is that right, do you think?

9 A. Well, it was certainly - it certainly - it was assumed
10 by the groups - it was assumed correctly by the groups -
11 the group of boys that saw me who were playing with the
12 ball, they guessed correctly. Whether or not there were
13 other rumours about him circulating around the school, I
14 can't confirm that, but definitely there was a definite
15 link made between him and me.
16

17 Q. Yes, yes, I understand that. Yep, thank you.
18

19 MS BENNETT: Q. So, I think you just were telling us
20 about how during your life the experiences of your
21 childhood would come back to you again and again and, when
22 things were hard, it would be harder because of that; is
23 that fair?

24 A. Yeah, that's how it seems. If I look at the - you
25 know, I go through long periods of time being pretty happy,
26 but if things are not - you know, we all have ups and
27 downs. If I'm feeling - if I'm going through periods where
28 things aren't going so well, as well as the current issues
29 I'm thinking about, I'm also thinking about, "Oh, there's
30 all that business that went on too". It's like an
31 unresolved matter, something that hasn't ever been
32 finalised.
33

34 Q. And then, around the time when you saw Ms Gillard
35 speaking about the Royal Commission and then you looked on
36 the website and you came to - is it right you came to
37 understand a bit more about what had happened, in terms of,
38 that was child abuse?

39 A. What the statements that I was reading in the Royal
40 Commission - so many of them were just so revealing and I
41 thought if I - that sentence there, that is exactly, that's
42 exactly what happened to me; that's how that person behaved
43 with my parents; that's how they felt when they were at
44 school, and I thought, "Oh, this is not what I thought it
45 was, this was abuse", and I was - I'm not stupid, but I was
46 48 and it sort of suddenly dawned on me that that's what it
47 was.

1

2 Q. And then, were you able to speak up at that stage?

3 A. I rang the Royal Commission and that was - that was a
4 great moment for me because it was like a little bit of a
5 weight off my shoulder, and they were fantastic; they
6 arranged a hearing for me - a private session for me and
7 initiated a lot of things that eventually led to me - the
8 charges and everything against him.

9

10 Q. Was that the first time you really told your story in
11 full, at the Royal Commission in that private session?

12 A. Yes, yep; yep.

13

14 Q. And then you were helped then and supported to perhaps
15 reach out to law enforcement?

16 A. Yes. I spoke to the Royal Commission a couple of
17 times just over the phone about arranging a private hearing
18 with them, and about a week into that process - I can't
19 remember her name, but I had someone else I was
20 communicating with, she rang and she said, "Sam, the
21 Tasmania Police have been in touch and the particular
22 teacher that you're talking about, there are numerous
23 charges - numerous complaints about numerous students and
24 young boys about him", I think there were about nine other
25 complaints involving nine other boys, and she said, "I
26 really think, my advice, is for you to speak to this
27 particular police officer". And I thought about it for
28 about 24 hours and I thought, I just feel I have to do
29 that.

30

31 Q. And how was that process for you?

32 A. The police were wonderful. Again, I can't think of
33 the police officer's name, but it was - it was a really
34 supportive process, and the police get a lot of bad press,
35 but they were very good with me.

36

37 And, do you know, I think I - perhaps I helped them as
38 well, because a lot of the complaints they had about him
39 were fairly contemporary, from the 1990s, the 19 - and they
40 had a lot of gaps and all of a sudden I come along and I
41 can fill in a couple of years in the 1970s for them which
42 just showed this enormous period of abuse to them that went
43 over decades.

44

45 And, you know, the way I described it to them, they
46 could see so many similarities to what was happening with
47 people in, you know, 20, 30 years later, so it was a really

1 positive experience.

2

3 Q. Was it important to feel believed and heard by all
4 these people?

5 A. Um, yes; yes, it was and it was important to - it was
6 important to sit there and feel like I was being listened
7 to and that a lot of time was being taken in what I had to
8 say and that what I had to say was important and relevant
9 and, even though it was a long time ago, it was important
10 that it still needed to be dealt with.

11

12 Q. I think you talk about then, Harington was charged and
13 convicted; is that right?

14 A. He was charged and there was - the matter was going to
15 trial and the day before the trial he pleaded guilty to
16 most of the complaints, not all of them, but most of them.

17

18 Q. And he was sentenced?

19 A. Yes.

20

21 Q. And you talk about having made a victim impact
22 statement in Tasmania; can you tell the Commissioners about
23 what that experience was like for you?

24 A. So, I was invited to make a victim impact statement,
25 and I guess I "ummed" and "aahed" a little bit about
26 whether I would like to do it or not and I decided I would.
27 And I spoke - so, I remember clearly on the day of making
28 the statement, I was nervous about it and I didn't - I was
29 told to bring some support along and I didn't because I
30 thought, "Oh, I'll just throw up or start crying or wet
31 myself or something, I'll make a fool of myself", so I just
32 went on my own with my statement.

33

34 And I remember standing up before the judge and the
35 court, and he's over on one side with security and prison
36 officers and so forth, and standing up and starting to read
37 my statement, and this will sound a little bit up in the
38 air, but I suddenly felt like the biggest person in the
39 room. I felt like the biggest person in the room because I
40 was there standing up in front of everyone, including him,
41 speaking up for the child that I once was when I felt that
42 that had never been done before, and that was 36 years
43 after when it first started, and that's a long time.

44

45 PRESIDENT NEAVE: It certainly is.

46

47 Q. If you'd been given the option to make your statement

1 remotely, and I presume you weren't, you were in the
2 court --

3 A. Yes.

4

5 Q. -- would you have preferred to do it in the courtroom
6 or?

7 A. I would have chosen to do it, I think, because I think
8 that was going to be the stronger most impactful thing to
9 do. So, if I was given an option, I would have - even
10 though I still would have been nervous and felt sick about
11 it, I would have chosen to give it in person, yeah.

12

13 MS BENNETT: Q. I just want to read from your statement,
14 at paragraph 10, you say:

15

16 *I was able to defend a child that had been*
17 *confused, ashamed and bullied to the point*
18 *of despair, forced to manage the most*
19 *complex of emotions in isolation.*

20

21 Did it feel like - I think you say it was a proud
22 moment to be able to defend that child; is that --

23 A. I think that's a pretty fair description, that's how
24 it felt, I think that's how it felt.

25

26 Q. After he was sentenced you waited, and this is in
27 2015?

28 A. Yep.

29

30 Q. And you waited, and you thought that someone from the
31 Department of Education might make contact?

32 A. I was perhaps quite naive, but I thought, even though
33 there were gag laws and so forth in place so it wasn't -
34 what was put in the press it wasn't clear. I mean, it was
35 pretty obvious that he was an Education Department teacher,
36 and I thought I would be - if the Education Department
37 wanted to contact me, they could perhaps contact me through
38 the department, through the public prosecutor or something.

39

40 I guess that was naive to think that, but I thought
41 that the Education Department must be curious about how
42 this has happened and they must - they must at least want
43 to investigate and find out how this could have possibly
44 happened so, to me, it seemed sort of reasonable to expect
45 that perhaps they might have got in touch with me.

46

47 Q. And perhaps even to wonder about your welfare?

1 A. Yes, yeah. Yeah, just to see how I was going, sure,
2 yeah; I thought that was reasonable.

3
4 Q. And, there was no contact from the department?

5 A. No, I think I waited six weeks or so and never heard
6 anything.

7
8 Q. And, I think it was November of that year you made
9 contact, and I'll show you the letter. If I can ask the
10 operator to show us TRFS.0005.0014.0002. That's your
11 letter?

12 A. Yes, that's me, I've written that.

13
14 Q. It's without your address, but otherwise that's your
15 letter?

16 A. Yes, that's fine.

17
18 Q. And it starts off:

19
20 *In recent months, I was a witness at a*
21 *Supreme Court hearing in which Darrel*
22 *Harington, a former teacher at New Town*
23 *High School, was convicted for child sex*
24 *offences against a number of individuals*
25 *including myself. It is evident from*
26 *articles printed in the Hobart Mercury,*
27 *from television news reports, and from*
28 *Justice Porter's comments in passing*
29 *sentence, that some of the offending took*
30 *place while the defendant was working in*
31 *his capacity as a teacher ...*

32
33 What do you go on to ask for in this letter?

34 A. You'll have to - I don't know that I asked for
35 anything specific. I just basically am saying that I felt
36 that I should have the opportunity to talk to someone from
37 the Education Department about my experiences and I feel
38 that they should be reaching out to some degree to see how
39 I am and checking on my welfare; I think that's basically
40 the flavour of the letter, yeah.

41
42 COMMISSIONER BROMFIELD: And what was the date of that
43 letter?

44
45 MS BENNETT: November 2015.

46
47 COMMISSIONER BROMFIELD: Thank you.

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MS BENNETT: Q. Now, you received a response; do you remember that?

A. Yes, I did, it was in - right at the end of December.

Q. Just before Christmas?

A. Just before Christmas, yeah.

Q. If I could ask the operator to bring that document up, it's TRFS.0005.0014.0032. And again, save for the redactions, that's the letter you got?

A. Yes; yes, that's the one.

Q. And it says, in the third paragraph:

I am seeking advice from the Department of Education as to how I can effectively address your concerns, while ensuring that I do not inadvertently take any action that is not helpful to the Royal Commission process.

I hope to be in a position in the early part of 2016 to more thoroughly respond...

A. Yep.

Q. Can I ask, how did that letter land with you?

A. Well, it was fine to start with because I thought, well, 2016, beginning of 2016 I'm going to hear something from someone. You know, there's no - there was - I'm relatively easy-going about it so I thought, well, 2016, I've just got to wait a little while and I'll hear something.

Q. And, did that happen?

A. No, no.

Q. Can you tell us what happened after that?

A. I think, I can't quite remember, I think I waited until about May. I thought, well, the early part of 2016 is over now, I think it was May I wrote again, and I might have been a little bit more expressive in my disappointment that I hadn't heard anything. I certainly - I wasn't aggressive but I just wrote to say I'm a bit disappointed that I haven't heard anything and I've been left in limbo.

1 Q. And, how did the response to that come back?

2 A. I'm not sure that I got one; did I get one?

3

4 Q. I think that's right, I think there's no record of a
5 response to that one, so that wasn't a trick question.

6 A. No.

7

8 Q. Just genuinely asking about your experience. I think
9 that you had some contact in 2017; is that fair?

10 A. Yeah, I wrote to Andrew Wilkie at one point as well, I
11 thought - he's my member for Dennison at the time and he
12 wrote to Jeremy Rockliff as well on my behalf. And then,
13 towards the end of 2017, so that's two years after
14 sentencing, the Deputy Secretary for Learning was in touch
15 and said that she would have a meeting with me, which I met
16 with her, and it was - it was - you know, I felt that, you
17 know, it was about an hour and some notes were being taken
18 and it was a nice sort of two-way conversation about things
19 that had happened and I felt that I was - you know, to
20 some degree I was being listened to.

21

22 And, by that point I had questions as well: I wanted
23 to know why he was teaching at my school, what other
24 complaints they had about him, who knew what, was there any
25 record of any sort of meetings and so forth that had taken
26 place, what were the circumstances around his transfer to
27 another school: I thought they were reasonable things to
28 want to know.

29

30 Q. So, did you get that information?

31 A. No. What happened was, I got - I think it was a
32 response back from their Legal Services team saying -
33 actually no, I was told initially, for anything that - I
34 was told initially, the response was that I would need to
35 apply under the Right to Information for the answers to any
36 of my questions and that they would very kindly waive the
37 fee for me, and so, I completed the Right to Information
38 questionnaire for them with, I think, about six or seven
39 points that I wanted addressed, sent it back into them and
40 got a reply back some point afterwards, I can't remember
41 how long it took. But it basically said that one or two of
42 my questions they could possibly look into, but because
43 most of them pertained to Darrel Harington I'd need to
44 give - I need to arrange for his permission to have the
45 answers to those questions addressed.

46

47 Q. And, were you keen to seek Darrel Harington's --

1 A. I felt completely stymied by the process. I felt like
2 I was up against a wall, and I just didn't understand the
3 implications of it. How does it sit with, I've given -
4 I've been responsible for this man going to gaol, and then
5 I'm going to ask him for permission to give me information
6 about the circumstances pertaining to that: it just didn't
7 sit well at all. I thought, I just - this is a rabbit hole
8 I'm not gonna go down, I can't do it.

9

10 Q. And, was there other support that was offered to you?
11 So, I think it's fair to say if I understand, the trial
12 finishes mid-2015?

13 A. Yes.

14

15 Q. You contact the department in November 15?

16 A. Yeah.

17

18 Q. You get a response, effectively a holding response, at
19 the end of 15; and then you hear from them again in the
20 mid-to-late 17; is that fair?

21 A. Yeah.

22

23 Q. So there's the issue first of all of that delay:
24 you've reached out and they've not offered you any support
25 or assistance in that period; is that right?

26 A. No, I hadn't heard anything from them apart from that
27 one letter that you saw.

28

29 Q. And then when you had the meeting, I just want to be
30 clear in my mind, you had the meeting which you say was a
31 pretty positive meeting in the sense that the person did --

32 A. Yes, in that, I thought, here we go, we're going to
33 get a little bit of action now, yeah.

34

35 Q. And, did the action that followed meet your
36 expectations?

37 A. Well, no, because I was given no answers to anything.
38 I felt that - I felt that I was just going to be made to
39 jump through hoops and things were just going to be made
40 more and more difficult for me. And what it did as well,
41 it confirmed for me that - well, I'm not sure if I'm right
42 or not, but because they didn't give me an outright sort of
43 "no, we're not gonna answer this stuff or we've got nothing
44 to tell you", I thought, what is it, what is it? There
45 must be something that they do have to tell me and they
46 don't want to tell me: I don't know.

47

1 And the other thing I felt was, well, they haven't
2 said I can't ask those questions, so obviously I've got a
3 right to ask those questions, they must be things that I've
4 got some sort of right to have an answer to, but then
5 they're not going to give them to me.

6
7 Q. And, as we sit here today, do you have an answer to
8 those questions?

9 A. No, not fully. I still don't feel that everything's
10 been laid out on the table. I know a little bit more
11 through my sort of legal representation about his timeline
12 and his history and, you know, it's been confirmed for me
13 that he probably shouldn't have been at that school to
14 start with, so I know about historical things, but whether
15 or not there's something to be told particularly pertaining
16 to me and my time at school, I still don't know really.

17
18 Q. Now, as at the date of your statement I think you say
19 that you wanted to see some change about how people in your
20 position are responded to and you felt like you were left
21 feeling completely stymied by the process and you didn't
22 feel like your welfare was a priority for the department;
23 is that fair?

24 A. Yes, that's fair and that's how I feel, I - yep,
25 that's ...

26
27 Q. And as at the date of your statement had you received
28 an apology from the department that responded to all of
29 these things?

30 A. No, no.

31
32 Q. I understand that, in the days around this hearing,
33 that you've had an approach from Mr Bullard; can you tell
34 us about that?

35 A. Yes, he spoke briefly and offered an apology for the
36 distress that the matter had caused me and the slowness of
37 the response and so forth, and I was - I feel I was
38 gracious in accepting that apology.

39
40 Q. Can you tell us what you'd like to see next, what
41 changes you'd like to see, what steps you'd like to see
42 both for yourself and for the community more broadly?

43 A. Well, I just feel like we're always on the a back foot
44 here, we're always just, everything is reactive, we're just
45 continually waiting until something turns into a crisis
46 before we respond to it, which is why we're having this
47 Commission; things shouldn't ever have got to this state.

1 So, I mean, I don't have solutions, but I would just like
2 us to be living in a - be part of a system that is far more
3 proactive and can look at issues as they're arising and
4 before - even before they're arising and anticipate what
5 the next problem's going to be, because things are
6 changing.

7
8 In these sessions I've been listening to people
9 talking about mobile phones and online stuff - I wasn't
10 involved in any of that and it's a whole new matter that
11 everyone for tomorrow is going to have to deal with
12 because, without - with absolute certainty abuse is still
13 happening and how we deal with that in the future is really
14 important, so we need to be proactive.

15
16 Just another quick point I sort of think about
17 sometimes is, we talk about Tasmania as being a small
18 jurisdiction and a small island, and it's isolating and,
19 you know, we don't have the resources and how difficult all
20 of that is because of that and we have to look at other
21 states and see what they're doing, and what are they doing
22 and let's just do this piecemeal approach down here. I
23 sometimes think, well, why do we look at it like that, why
24 can't we look at Tasmania as being a small isolated state
25 and that's actually our advantage? We are small, we can
26 set the standards and we can be the one that says, this is
27 the benchmark that everyone else has to meet, and we can do
28 that because we're small and because we're isolated.
29 There's no reason why we can't do things better here than
30 the rest of the country.

31
32 And just --

33
34 Q. Please keep going.

35 A. Just as an example I just think about COVID and how
36 well this state managed two years of COVID when it was the
37 worst - for everywhere else in the world it was terrible:
38 because we're an island and because we're small, it was so
39 well managed, and by government, by good leadership, and I
40 hate to have to say it, by Liberal leadership, did a
41 wonderful job of it, but not in spite of us being small but
42 because of it and I don't see why child sexual abuse can't
43 be viewed as a pandemic and let's just see why can't we
44 take a similar approach to that? Strong leadership.

45
46 Q. I'm not quite sure, Mr Leishman, how you've managed to
47 leave this story on a positive note, but somehow you've

1 managed that and I think it's a testament to you and I'm
2 grateful. I don't want to, however - I just want to ask
3 the world's most open question: is there anything else you
4 want to say to this Commission?

5 A. Nothing except for, thank you very much for making it
6 happen and, you know, my wish at the end of it is that,
7 when we see recommendations, that they are taken seriously
8 and are implemented in a timely fashion and that, as well,
9 as well as whatever's implemented, we're always looking
10 forward, always on the front step going forward. Does that
11 make sense?

12
13 COMMISSIONER BROMFIELD: Absolutely.

14
15 PRESIDENT NEAVE: Do you have any questions?

16
17 COMMISSIONER BROMFIELD: I don't have any questions, I'm
18 incredibly grateful for you coming and speaking today, it's
19 been really moving and it's also, I think, really important
20 to hear, not just about the abuse and us thinking that's a
21 thing that happened in the past, but thinking about that
22 long-tail for survivors if you don't get the closure that
23 you need from the systems from where that abuse happened,
24 so I really appreciate you telling the full story.

25 A. Thank you. Thank you.

26
27 PRESIDENT NEAVE: Thank you very much indeed for all your
28 courage and the insights that you've offered us and the
29 positive ending that you've provided us with. "This is
30 something that Tasmania can tackle", and I think that's a
31 very important message, so thank you very, very much
32 indeed.

33 A. Thank you.

34
35 **SHORT ADJOURNMENT**

36
37 PRESIDENT NEAVE: Before we start. On Wednesday the
38 Commission made a restricted publication order in relation
39 to the evidence of Mr Bullard. I remind everyone that the
40 order still applies to the evidence that he gives today. A
41 copy of the order is outside the hearing room and is
42 available to anyone who needs a copy.

43
44 <TIMOTHY JOHN BULLARD, affirmed: [11.20am]

45
46 <EXAMINATION BY MS BENNETT:

47

1 MS BENNETT: Q. Thank you, Commissioner. And, of
2 course, Mr Bullard, you remain under oath from Wednesday.
3 Now, Mr Bullard, I'd like to start by reflecting on the
4 evidence we've just heard from Mr Leishman. You were
5 present for that evidence, were you?

6 A. I was, yes.

7
8 Q. Were you in the courtroom, were you in the hearing
9 room?

10 A. Yes, I was.

11
12 Q. I'll just start by asking you generally to offer some
13 reflections on the evidence that you heard while you were
14 in the room?

15 A. The evidence has made me feel personally very sad for
16 a number of reasons. I think that Mr Leishman's courage in
17 revealing the betrayal of trust that happened to him as a
18 result of an association that was made whilst he was in one
19 of our schools is very confronting to hear, but also the
20 barriers that then existed when he came forward later with
21 an expectation that he would seek and receive support or
22 acknowledgment from the Department of Education also makes
23 me feel very disappointed and I have apologised to
24 Mr Leishman and I'm very sorry, I'm very sorry for that.

25
26 Q. Just so I understand that, is it the case that you
27 would as a matter of course inform yourself about trials or
28 criminal matters that involve former teachers or former
29 students who were abused in the course of their employment
30 or in the course of their student --

31 A. So, this is by no way of excuse, but by way of
32 explanation, we have no information feed from the Director
33 of Public Prosecutions about matters that are going to
34 court that may involve either ex-employees or employees of
35 ours or students. And so, certainly part of Mr Leishman's
36 evidence demonstrates an underlying assumption which I
37 would not argue is unreasonable, that there would be some
38 information that we would be provided with around the
39 course of a trial or where a trial is at and individuals
40 that may be involved, but that did not and it continues not
41 to occur.

42
43 Q. Without having the transcript before me, my memory of
44 Mr Leishman's evidence at that point was, he said, "You
45 know, I'm not sure but I feel like it would have been
46 reasonable for them to have reached out to me", that is,
47 the department to reach out at the end of the trial, and I

1 felt like it was a pretty reasonable expectation: do you
2 think it's a pretty reasonable expectation?

3 A. I do think it's a reasonable expectation, and we need
4 to find ways that we can do that and obviously that's
5 within the remit of the Director of Public Prosecutions and
6 it's not that - and I'm not going to say what his response
7 would be to that, but it's certainly a discussion that
8 would be useful to have simply so that as a government
9 we're aware of people who are in the Criminal Justice
10 system who may be looking for support in terms of apology,
11 or redress, or counselling, or explanation, and that that
12 can be coordinated around that process; rather than running
13 the Criminal Justice process as it currently does as a
14 linear process and then there's a range of other ways that
15 you could interact with government to receive the other
16 support or information that you may wish to.

17

18 Q. Is that something that you, having heard Mr Leishman's
19 evidence, plan to take forward in your role?

20 A. Absolutely; I mean, one of the things that
21 Mr Leishman's experience has provided us with is yet
22 another example of where, for whatever reason, there has
23 been a systemic failing to put victim-survivors at the
24 centre of decisions, and one of the pieces of work that
25 we're looking at is around support and engagement through
26 government processes for victim-survivors in a coordinated
27 way to make sure that, whichever entry point you come into
28 government with - if you come in through redress or the
29 Criminal Justice system or an approach to the department -
30 that there is, if you like, a whole lot of machinery of
31 government that can then come to you and be offered to you.

32

33 PRESIDENT NEAVE: Q. I have a question about that. So,
34 you're now talking about a system for providing support in
35 situations where people have been - where there's been a
36 conviction, that was Mr Leishman's situation, and I know
37 that there was some discussion of this the other day in
38 relation to an acquittal.

39

40 But suppose you had a Criminal Justice process going
41 through which resulted in an acquittal: now, that might
42 come to you in another way as an ED5 issue, but that might
43 also be a case where some support is necessary for the
44 complainant in a case involving an acquittal. So, can you
45 just remind me, I think, of what you said about that the
46 other day?

47 A. So, certainly; and if I'm not referring to the correct

1 piece of evidence, please correct me, but the view that I
2 take in relation to these matters is that Criminal Justice
3 is a process that people can go through that may lead to a
4 number of outcomes.

5
6 Q. Yes.

7 A. It does not and should not influence the decisions
8 that we make as an agency, for example, in terms of ED5,
9 and so then you could extend that to the support that is
10 still then provided to victim-survivors. So, the failing
11 to go through a Criminal Justice - the failure to get a
12 conviction through the Criminal Justice process is not
13 necessarily the end of a process as far as we should be
14 concerned.

15
16 Q. And would you always know about that? Would you know
17 that there'd been a Criminal Justice process?

18 A. No. So, absent of searching court lists and trying to
19 reconcile what's on the public record for court lists with
20 the information that we hold, we don't have any
21 transparency internal to government of those processes that
22 are being undertaken.

23
24 PRESIDENT NEAVE: Thank you.

25
26 MS BENNETT: Q. So, that's the issue around proactively
27 reaching out. I might just pause there to say that the
28 same observation might be made in respect of Ms Katrina
29 Munting, is that fair, from Tuesday's evidence?

30 A. Yes.

31
32 Q. And, you'd agree, the evidence you heard from her is
33 contributing to that, can I suggest, determination to try
34 to fix that - what might be considered a gap at the moment
35 in the supports provided?

36 A. Yes, and I think that I provided evidence that
37 Katrina's evidence and experiences she provided provides a
38 very stark example of where, if you like, bureaucratic
39 process gets in the way of humanity and assisting and
40 supporting healing.

41
42 So, they're both really good examples of where there's
43 something else that's missing that comes with that heart
44 and compassion and understanding of the experiences of
45 these individuals, and we actually need to try and work out
46 how we then adjust the legislative or administrative
47 processes of government to achieve that rather than set

1 them up as barriers.

2

3 Q. And I think, moving on then with Mr Leishman's
4 situation, he then did reach out and wrote a courteous
5 letter in November 2015, and I think your frank evidence is
6 that that ought to have elicited a more fulsome and timely
7 response than it did; is that a fair summary of your
8 evidence?

9 A. So, that is my evidence and that is my reflection. I
10 will just reflect for the purpose of the Commission that
11 it's very difficult, and I know we have submitted the file
12 in full, it's very difficult to ascertain from the file
13 what actually led to the breaks in communication or the
14 lack of communication, but certainly looking at the facts
15 of Mr Leishman in coming to the department, and yes, very
16 courteously saying, "Is there or could I have expected or
17 should there be", there doesn't seem to be an agile
18 response to that.

19

20 Q. And that's part of the apology you've offered today?

21 A. Yes, and in fact yesterday, and I was very pleased to
22 have an opportunity to speak with Mr Leishman and to make
23 that observation and offer that apology.

24

25 Q. Is there a policy presently in place that guides
26 engagement and support for victim-survivors of child sexual
27 abuse in place in the Department of Education?

28 A. So, not so much in the Department of Education; I
29 think that through the Royal Commission and our Redress
30 Scheme as a government as a whole we're much better set up
31 to provide a point of contact through that unit for
32 victim-survivors to come through, and the strength in that
33 is the experience that the people that work in that unit
34 have, the counselling access and the referral pathways that
35 they have, and we're very active in partnering with the
36 Department of Justice in that unit to ensure that we do the
37 part that we need to play.

38

39 Q. Is that only for people who approach through Civil
40 Redress?

41 A. We would, at the moment, refer people through Civil
42 Redress as the gateway into a process where they can be
43 properly supported to access what they want and need from
44 government.

45

46 Q. So, if you received a letter like Mr Leishman's today,
47 would it be directed to the Civil Redress Unit?

1 A. Yes, we would be - we would be referring it to the
2 Redress Unit. There's a way that you do that, though, of
3 course; you're not going to write and say, "Sorry, this
4 isn't our responsibility, please go to this email box", so
5 there needs to be sensitivity and support and also an
6 explanation that, from moving you into an area that can
7 properly support you that isn't in any way removing our
8 responsibility and certainly in terms of providing either
9 personal or written apologies, information where we can, we
10 are really active in partnering with that process to ensure
11 that it is as useful as possible to victim-survivors.

12
13 Q. And that it's trauma-informed?

14 A. Absolutely, yep.

15
16 Q. Can you tell the Commissioners a little bit about what
17 you understand a trauma-informed approach to involve?

18 A. So, a trauma-informed approach has to be centred on
19 the victim-survivor, it absolutely needs to be sensitive to
20 the events that have led to the trauma, and it needs to
21 understand that there are a range of approaches that can
22 either exacerbate or assist in the healing that that
23 individual has experienced.

24
25 And, you know, the theory and evidence and science
26 behind this is constantly evolving, and certainly in terms
27 of our understanding for our young people in our system
28 it's an area that we're putting a lot of energy and effort
29 into.

30
31 Q. What about the information that Mr Leishman sought?
32 He talked today about wanting to understand about how his
33 abuser had been moved between schools, other allegations,
34 how it had been managed; you can understand why Mr Leishman
35 wants that information, can't you?

36 A. Absolutely.

37
38 Q. And it's a fair enough thing to want to know?

39 A. Yes.

40
41 Q. Is he able to get it as the structure presently
42 stands?

43 A. So, at the moment there is a legislative framework
44 through the Right to Information Act which sets out the way
45 in which someone applies for and the way in which that
46 information and the way in which that application is
47 assessed, and certainly in terms of the way in which we've

1 approached that in the department we ensure that the
2 decision-makers who are making those decisions are under no
3 influence from me or any other senior person within the
4 agency and are able to make those decisions within the
5 remit of the legislative framework.

6
7 The complexity, and Mr Leishman referred to that
8 complexity, when a victim-survivor comes forward is, of
9 course, they would like information on themselves, "What
10 happened to me when I was at school? What does my record
11 on file show? What were my reports?", et cetera, but
12 there's also over here a conduct or investigation file or
13 employee file which relates to the personal information of
14 another individual.

15
16 I think there's a real conflict in these situations
17 about how we marry all of that together. So, from my
18 understanding of Mr Leishman's application, as I think he
19 explained very well, he came in and made a Right to
20 Information application. He was then advised that there
21 was personal information of another individual, in this
22 case it was the perpetrator, that he had requested and that
23 under the Right to Information Act we would need to seek
24 the perpetrator's permission, or actually consult as to the
25 perpetrator's view as to whether or not that information
26 should be released. And, my understanding is that
27 Mr Leishman felt uncomfortable with that, and who wouldn't?

28
29 I think, as he also explained, he then proceeded
30 through a lawyer to seek that information and the process
31 proceeded. I understand that the perpetrator refused that
32 information to be released, but in the public interest the
33 decision maker agreed that some of the information should
34 proceed.

35
36 That, to me, from a third party like Mr Leishman
37 sitting there thinking he has a right to know looks like a
38 lack of accountability and transparency, albeit it is
39 operating within a legislative framework, whether or not
40 that be right or fit for purpose for these kinds of
41 situations.

42
43 Q. I just want to understand about the Right to
44 Information framework a little bit. Leave aside that
45 specific example for a moment and just assume that somebody
46 comes to you and asks for some information or documents.
47 Can you process that request outside the RTI framework?

1 A. The other way that we could process that if they were
2 documents that pertained to an individual only, so, "Can I
3 have my file?", is under a Personal Information Protection
4 Act as I understand it. And we have been talking to
5 lawyers - and I note that Angela Sdrinis was presenting
6 yesterday - about whether they would have an appetite to
7 actually move some of the applications under that Act,
8 because it's much less onerous to process an application
9 under that Act. "Can I have my school record?", "Here's
10 your school record".

11
12 Q. I think the question's a little bit more fundamental
13 than that. If I come to the department and say, "I'd like
14 a copy of a document that you have", can't you give it to
15 me unless there is a statutory prohibition which prevents
16 you from giving it to me?

17 A. We need to assess under the Act the exemptions that
18 apply and make sure that all are applied. So, I think that
19 you can't simplify the requests for information. If we
20 had, "Could I have my enrolment record for 2007?", have the
21 enrolment record, the requests are much more complex than
22 that.

23
24 Q. I accept I'm simplifying; I'm just trying to
25 understand if there's the capacity, as far as you
26 understand it, to hand over documents or information - I
27 mean, do you need an RTI request, that's the first
28 question: is that a necessary precondition to you handing
29 over any document at all?

30 A. The type of information we're talking, a right to - my
31 understanding is a Right to Information request or a
32 Personal Information Protection Act request to trigger a
33 review of the information requested.

34
35 Q. And then you can only provide it if it is permitted by
36 either the RTI Act or the, what I'll call the PIP Act but I
37 mean the Personal Information Protection Act of 2004?

38 A. That's right, yes.

39
40 Q. So, there's no scope to hand over information. What
41 about if someone asks for your annual report; you can hand
42 that over?

43 A. That's already in the public domain so --

44
45 Q. So anything in the public domain you can do, anything
46 that's private you can't without an RTI?

47 A. And also proactive disclosure and if you go and look

1 at - on our website every year there's this enormous
2 dataset, for example; well, that's information that we
3 hold, it doesn't pertain to individuals, it's statistics,
4 so we proactively disclose that.

5

6 Q. So, is it fair, to put it this way, information that
7 is confidential already --

8 A. Or you would assume may be, yes.

9

10 Q. I guess, it's not in the public domain, it's not
11 publicly available, and then so I assume there's
12 some degree of confidentiality around it, either in terms
13 of practice or formally; is that about right?

14 A. Yes, certainly, and in terms of information that may
15 pertain to child sexual abuse, a majority of that is
16 personal information of somebody.

17

18 Q. Yes, okay. So, the information is confidential by
19 reason of a statute or a practice of government; then you
20 need statutory authorisation and, so far as you're aware
21 you've got two pathways generally - I'm not asking for a
22 legal opinion - but generally the most common are the
23 PIP Act and the RTI process?

24 A. They are the most general, of course, without --

25

26 Q. Subpoenas and notices --

27 A. And Auditor-General can ask us to produce, we can be
28 asked to produce things to Parliament, so there's a whole
29 lot of other ways that we are accountable, but in terms of
30 an individual wanting to make an application for
31 information to the department.

32

33 Q. If someone makes an application for information that
34 isn't confidential, you'd say, no need for the RTI, here it
35 is?

36 A. We'd send them to the website or the annual report or
37 wherever they can find it, yes.

38

39 PRESIDENT NEAVE: Q. I've got a follow-up question on
40 that. So, within the department is there a group or a
41 person who is responsible for handling these requests, and
42 what level of seniority are they at?

43 A. So, yes, there is, and if I could just step out how
44 that looks. So, there is an administrative - there are
45 some administrative roles that are dedicated to RTI whose
46 job is to go out and gather the information, where are the
47 records, where are the files, what do we know, and pull all

1 of that together. And then they prepare that into, if you
2 like, a dossier that then goes to an authorised officer
3 under the Act to make a decision. At the moment the first
4 tranche of those officers are legal officers, so legally
5 trained individuals; I believe there's seven of them.

6
7 Q. In your department?

8 A. Yes. They're obviously doing other work.

9
10 Q. Yes.

11 A. But there is seven legally trained officers who will
12 make the assessment. Now, as I'm sure you're aware,
13 there's a right of internal review as well. There are
14 other senior people across the agency that also hold a
15 delegation; they are away from the legal team so they're in
16 totally different areas of the department at arm's-length
17 that will undertake the internal review should we be
18 requested for one. So, we do treat the process very
19 seriously in ensuring that we have people that are
20 appropriately trained to undertake the assessments within
21 the legislative framework.

22
23 Q. What, if any, role does the Solicitor-General have in
24 that context?

25 A. No role as such unless there was a particular question
26 of law that needed to be answered. I'm not aware that we
27 have, I'm not going to say that we haven't ever done that,
28 but as I've said I remain at arm's-length of all of this
29 and so I don't involve myself in the decision-making
30 processes of those individuals.

31
32 PRESIDENT NEAVE: Thank you.

33
34 MS BENNETT: Q. I'm going to in a moment ask you to
35 provide any final reflections about Mr Leishman's case
36 study, but before I do that I'd like to read from your
37 statement that you provided in response to the request for
38 a statement from this Commission.

39
40 You say, reading from the relevant part of
41 paragraph 46, and you note the meeting that Mr Leishman had
42 in 2017 which he referred to today as a reasonably positive
43 process, and then you say that:

44
45 *[Aside from that] I do not consider the*
46 *Department's response to Mr Leishman to be*
47 *trauma-informed, person-centred or*

1 *consistent with community standards and*
2 *expectations, nor is it acceptable that the*
3 *Department did not – and still does not –*
4 *have any policy or procedure in place to*
5 *assist in meeting the expectations*
6 *necessary to demonstrate support, care,*
7 *compassion and understanding of*
8 *victim-survivors' experiences.*

9
10 You go on at 48 to say:

11
12 *I personally wish to extend an apology to*
13 *Mr Leishman for the delayed response from*
14 *the Department, following his letter to the*
15 *Minister on 20 November 2015. I thank*
16 *Mr Leishman for raising his concerns about*
17 *the lack of Departmental support, which*
18 *will in turn assist us in developing*
19 *policies and guidelines to ensure*
20 *victim-survivors are supported in the*
21 *future.*

22
23 That's what you've put in your statement, I thought it
24 appropriate to read that in this forum. Is there anything
25 you'd seek to add? I'm not suggesting that is in any way
26 incomplete, I just offer you this last opportunity to say
27 anything about that before we move to other topics.

28 A. Just to reiterate what I've set out in those
29 paragraphs, which is absolutely what I genuinely believe
30 and, just to reflect that certainly as an executive we, you
31 know, have discussed how we can be more responsive and
32 trauma-informed to victim-survivors and to reflect that,
33 since the time of Mr Leishman's meeting with the Deputy
34 Secretary Learning a number of senior staff have been
35 trained in conducting those meetings in a trauma-informed
36 way and to indicate, as I think I did in one of my other
37 statements, that I too will be attending that training in
38 June.

39
40 Q. Mr Bullard, you've spoken in some of your statements
41 about the Office of Safeguarding Children.

42 A. Yes.

43
44 Q. Can you remind the Commissioners and those watching
45 briefly what that office is?

46 A. Yes. So, the Office of Safeguarding Children and
47 Young People is an office led by Liz Jack who's a very

1 senior officer who reports directly to me and has a range
2 of individuals with various skill sets including policy
3 analysis, project management, communications. That
4 office's role is to systematically address issues such as
5 have already come to light through the course of this week,
6 starting front and centre with how we build a child-safe
7 culture within our organisation, but then building on that
8 in terms of developing the necessary policies and
9 procedures and training, which we've already conceded
10 through this process we need to be working on.

11
12 So, that office, as I said, reports to me; it also
13 comes to the executive weekly to provide us with an update
14 on the progress of its work. Front and centre of what it's
15 doing at the moment is very much around ensuring that we're
16 getting on with the recommendations from the Royal
17 Commission and the 20 recommendations that came out of the
18 Professors' report as well as working across the agency to
19 ensure that where children are the subject of harmful
20 sexual behaviours in terms of peer-on-peer abuse, that we
21 have an evidence-informed approach to dealing with those
22 matters and supporting the children involved.

23
24 Q. Now, Ms Jack is coming to give evidence this afternoon
25 and I don't have an expectation that you'll have these
26 details at your fingertips, but could you tell us roughly
27 how many people are in that office?

28 A. I believe I did make that in one of my statements,
29 so --

30
31 Q. Yeah. I think it's at ninety - well --

32 A. I can indicate, there are a number and there are more
33 to come. I don't think that's probably a comprehensive
34 answer but --

35
36 PRESIDENT NEAVE: It is in your statement. I can't find
37 it either.

38
39 COMMISSIONER BROMFIELD: Paragraph 5 has got the staffing.
40 Paragraph 5 of the general statement, page 4, I think.

41 A. Yes, I would agree with that, thank you, Commissioner.

42
43 MS BENNETT: Q. So, there's six staff currently and six
44 additional staff coming?

45 A. That's right, yes.

46
47 Q. So, can you tell us a bit about - now, those six

1 staff, was there sort of an initial recruitment phase that
2 presumably you led because there was at that stage no
3 Office of Safeguarding Children?

4 A. So, as soon as we got the professors' report it was
5 very, very clear that this required significant leadership.
6 The observations and recommendations that the professors
7 made, made perfect sense to us. The objective nature of
8 their observations and the practicality in which they
9 approached the task, you could see immediately the work
10 that needed to be done.

11
12 One of their recommendations was that I should have
13 someone at a senior level who was working directly to me on
14 leading this, and I think within a number of days, if not
15 weeks, I had moved Liz Jack, who was a senior person in
16 another part of the agency, to undertake that role and I
17 charged her with responsibility and with a budget to start
18 recruiting, which you can see that she has done.

19
20 Q. So, you recruited Liz Jack and she then recruited the
21 staff under her?

22 A. That's right, yes.

23
24 Q. What are the particular checks that are imposed upon
25 people who are going to work in the Office of Safeguarding
26 Children?

27 A. So, each of the individuals, obviously, has to pass
28 our internal benchmark which everyone does of having an
29 RWVP, but we also have application in - and it's not a
30 decision that we can make around pre-checks, police checks,
31 but there's an application I believe and I would need to
32 check on whether that had progressed or not, that everyone
33 has a police check that's working.

34
35 Q. So everyone who works in the Department of Education
36 in any role has a Working with Vulnerable People
37 registration?

38 A. That's correct, yes.

39
40 Q. Does everyone have a police check?

41 A. No.

42
43 Q. How do you identify which staff need to have the
44 police check and which don't?

45 A. Police check is where we would believe that there was
46 a higher level of scrutiny required. Now, again, I would
47 need to provide you with more - I'll come back with more

1 information if you thought that was useful.

2

3 Q. That's fine, but at the Office of Safeguarding
4 Children you've obviously decided that the higher level of
5 probity is required?

6 A. That's right, yes.

7

8 Q. So you've imposed the dual obligation that you have
9 the registration and the police check?

10 A. That's my understanding, yes.

11

12 Q. Again, this is not in any of your requests so I don't
13 impose a memory test on you, but are they national or state
14 police checks, do you know?

15 A. My understanding is that when a police check's done it
16 goes through local but national, but I would need to check
17 that and maybe Ms Jack can provide more advice.

18

19 Q. Yes. Is that the highest, and leaving aside executive
20 or other kinds of security-related clearances, is that the
21 most exhaustive level of checks that are done?

22 A. Well, obviously where you're a teacher there is also
23 the check with the TRB that you registered as a teacher.

24

25 Q. Yes, okay.

26 A. So, there's a slightly higher bar because obviously
27 that goes --

28

29 PRESIDENT NEAVE: Q. So everybody in the Office of
30 Safeguarding is registered as a teacher or --

31 A. No.

32

33 Q. Sorry, I misunderstood.

34 A. I'm just talking in generalities, so base level of
35 requirement is that you have a Working with Vulnerable
36 People check. For these roles, my understanding is that
37 the police check generally in the agency, where anyone who
38 is in a teaching or teaching-related role also has to have
39 current teacher registration.

40

41 PRESIDENT NEAVE: Yes, thanks.

42

43 MS BENNETT: Q. And just to follow that logic to its
44 conclusion, so as I understand it teachers obviously need
45 to be registered with the TRB?

46 A. That's right.

47

1 Q. And it would be inappropriate, of course, to ask for
2 non-teachers to be registered.

3
4 PRESIDENT NEAVE: Yes, yes.

5
6 MS BENNETT: Q. Anyone who's been removed from the TRB
7 register for a reason, do they return to the department and
8 have other roles? Suspended or removed, do they come to do
9 desk jobs in the department?

10 A. So, let me just be very clear on that. So, there
11 would be a number of categories there. So, I'm a teacher
12 and I've let my registration lapse and I'm re-applying for
13 my registration, so that - okay, where can we accommodate
14 you in an admin and clerical role while that process goes
15 on, but you cannot be a teacher and you can't be a
16 principal, so they come and work in other agencies. "I've
17 been removed as a teacher from the register", we would need
18 to understand why and the Teachers Registration Board
19 advises us of that and then a determination would be made
20 as to your future employment in the agency. But in most
21 part where teachers have their teacher registration
22 cancelled, they are assigned as a teacher in the
23 department; not, you can work in any role, and that
24 actually leads to them being unable to fulfil their duties
25 as a teacher which leads to termination through ED6,
26 inability.

27
28 Q. But somebody under a disciplinary cloud, under
29 suspension or investigation, are they sometimes moved into
30 clerical roles away from schools or is that, they're just
31 suspended? That might be while they're under --

32 A. No. So, what happens there as a matter of course -
33 so, I just want to make a delineation because some people,
34 for a whole range of reasons, forget to pay their money.

35
36 Q. Yes, I accept that.

37 A. I'm shocked by that, but it happens, so "I'm not
38 registered because administratively I haven't done what I
39 need to do". "Where I'm a teacher and I'm suspended I
40 can't fulfil my duties as a teacher and therefore I cannot
41 be at work because I can't be in the role I'm assigned", so
42 in those cases they're actually suspended and we can't pay
43 them because they can't satisfy the conditions of
44 employment.

45
46 Q. Yes, I understand, okay. We spoke a little moment ago
47 about the Teachers Registration Board, and you heard -

1 well, did you hear the evidence of Ms Moxham yesterday?

2 A. I've read a summary of that evidence.

3

4 Q. I'm going to ask you a few questions about that and
5 then I'm going to invite you to provide your general
6 reflections about it, so don't worry, I'll come to any
7 general reflections you might have. But, is the Teachers
8 Registration Board intended to be independent?

9 A. It is, yes.

10

11 Q. And, so far as you're aware, is that the way that you
12 direct your staff to treat it?

13 A. Absolutely, and in fact in terms of how we interact
14 with the Teachers Registration Board, it has a board, and
15 the board actually directs or manages the staff and apart
16 from, you know, not even termly, maybe six-monthly,
17 three-monthly, six-monthly catch-ups with the chair and the
18 executive officer from the TRB; I have no other interaction
19 in terms of directing the board.

20

21 Q. Now, Ms - I'm sorry, I didn't mean to cut you off.

22 A. I was going to say, absent of budget discussions,
23 which I think, because we're the agency that, if you like,
24 the umbrella agency comes through us in terms of budget
25 submissions and requests to government for additional
26 funds.

27

28 Q. Ms Moxham yesterday said that she took the view that
29 the Department of Education didn't provide information that
30 would assist them in carrying out their functions,
31 including their functions that are protective of children,
32 and she referred in particular to the details of
33 investigations carried out by the Department of Education,
34 and particularly the content of some of those
35 investigations.

36

37 So, her evidence to summarise fairly so we're all on
38 the same page was that they'd be notified of a complaint or
39 investigation, and they'd be notified in due course about
40 the conclusion, but they were often missing the actual
41 evidence and that that caused them to have to go back and
42 re-interview children, and it caused some of that evidence
43 to be damaged or less available due to the effluxion of
44 time. And, I'll ask my learned friend to tell me if I've
45 fairly summarised the evidence of Ms Moxham.

46

47 Can you respond to that criticism? Is that a fair

1 criticism?

2 A. I don't know that it should be accepted as a
3 criticism. My understanding is that we provide as much
4 information as we are legally able to, and we do, because I
5 did check this, liberally interpret the sections of the
6 Teachers Registration Act regarding the transfer of
7 information about teachers of which we have concern.

8
9 I think I alluded in earlier evidence to the fact,
10 though, that some of that information might be considered
11 personal; people who have given statements and don't want
12 those statements to go any further, without their
13 permission we can't transfer those. But I was curious to
14 read Ms Moxham's reflections and I'm certainly going to be
15 following up on what else - or what else she believes we
16 may have that she does not get access to in those
17 situations

18
19 Q. Well, certainly her evidence, as I recall it from
20 yesterday, was that some statements are not provided where
21 they are obtained. Is it your understanding - again, this
22 is not a legal question so much as a question about how you
23 understand the process to work, we'll debate the law with
24 the lawyers later - that because investigation reports
25 contain, commonly contain personal information, they can't
26 be provided to the Teachers Registration Board unless the
27 consent for that provision is obtained at the time the
28 statement is taken.

29 A. Yeah, and I think just to be clear, we're talking
30 about third party information, so obviously the teacher
31 involved, their personal details et cetera, my
32 determination and the findings, go through to the Teachers
33 Registration Board. If there are witness statements taken
34 or other pieces of evidence that people don't want to be
35 released, then without their permission we can't do that.
36 I'm not saying that I agree with that position --

37
38 Q. No, I understand.

39 A. I'm not saying that I agree with that position. It
40 does seem that we end up duplicating investigations in
41 terms of, we undertake a process, I end up with a file like
42 that (gestures); it would be expedient to be able to
43 provide that through to the Teachers Registration Board in
44 full.

45
46 Q. You get a folder like that (gestures), and is it fair
47 that that goes across, a part of it (gestures)?

1 A. I think it would be different in different matters. I
2 think in some all of it goes. I would need to actually go
3 back and ask for specific examples about, here's an example
4 of where we couldn't provide anything, here's an example of
5 where we provided everything and understand why that's the
6 case.

7
8 Q. Just so I understand the framework. So, the
9 perpetrator, let's call them the perpetrator: you get a
10 statement from the child. The child says, "The perpetrator
11 came to my home, the perpetrator drives this car, the
12 perpetrator looks like this, the perpetrator lives in this
13 place", that's in the statement of child. That is then
14 personal information of the perpetrator which would need to
15 fall into an exception under the PIP Act to be provided to
16 the Teachers Registration Board; is that how I understand
17 it?

18 A. I think that we might be moving outside the realms of
19 what I can explain to you.

20
21 Q. Okay.

22 A. Because, to me, that's information around the teacher
23 involved that should go to the Teachers Registration Board.

24
25 Q. I see. The PIP Act isn't picking up on the
26 perpetrator as far as you understand it?

27 A. Yes, but again, I don't want to - I don't want to push
28 into an area which I think is sort of outside my bounds of
29 being able to explain.

30
31 Q. So your understanding is, though, that you take a
32 liberal view of what you can provide from the TRB.
33 Ms Moxham's evidence was that she disagrees with the
34 interpretation that the Department of Education has
35 adopted. Is that something that, I take it that you've
36 taken advice and you're acting, you see it, in accordance
37 with that advice?

38 A. M'hmm.

39
40 Q. And you're aware, though, of Ms Moxham's concerns;
41 have you been made aware of them before yesterday?

42 A. I - I was surprised to hear Ms Moxham express those
43 concerns here, when in my contemporary memory I can't
44 remember them being expressed, and we did have a meeting
45 with the board, chair of the board, I met with the chair of
46 the board and Ms Moxham and we were specifically discussing
47 the 32 current employees that had investigations against

1 them, and I was providing a high level overview of what my
2 approach would be, because I thought that it was respectful
3 to let them know that I would be re-investigating matters
4 of teachers who were registered with them and, therefore,
5 they may want to or need to take additional action. At
6 that point in time I don't recall that she raised concerns
7 with me around the level of information that we were
8 providing. I'm very happy to take that, though, as a
9 reflection that she now has and to follow up with that,
10 absolutely.

11
12 Q. And do you see it as a matter of concern if all the
13 information isn't going across to the TRB?

14 A. Yes, I do see that as a matter of concern, albeit it
15 would - and this is not a matter for me, it's a matter for
16 the TRB - to have from me a determination about what I
17 think the facts of the matter were and the sanction that
18 I've imposed, and then as a decision maker have to make a
19 fresh decision under a different statutory regime, but
20 that's not a problem for me, that's a matter that they
21 would need to turn their minds to.

22
23 Q. Whether or not they need to do a fresh determination?

24 A. Whether or not they would feel influenced by my
25 determination, I suppose.

26
27 Q. Is that to suggest that they don't need more if
28 they've got your determination?

29 A. No, no. No, I'm saying that they should have fulsome
30 information if that's possible, absolutely.

31
32 Q. Yes, they should have as much as possible, is that
33 right, they should have everything that went to you?

34 A. Absolutely. I think that this idea that it's
35 investigated by police, it's investigated by me, it might
36 be investigated by the Integrity Commission, it's
37 investigated by the TRB, and each of us are going along
38 expending resources on investigating exactly the same
39 matter is nonsensical. If we can streamline a process so
40 that an action that's taken by one of those parties, at
41 least has a positive impact on an action that's then taken
42 by others, I think that would be very useful.

43
44 I might just make one final reflection, if I may?

45
46 Q. Yes, please.

47 A. The TRB is by far the most powerful body in relation

1 to ensuring that teachers are safe; it has a whole range of
2 information that it can make a determination on, and what
3 we know is, if they suspend or cancel the registration of a
4 teacher, they're immediately removed from the workplace
5 and, apart from some paperwork to do an ED6 which we can do
6 relatively quickly, they're then terminated. So, from our
7 perspective the TRB's early action on these matters is
8 highly beneficial.

9
10 Q. And so, you would support any - or you would, I take
11 it, support anything that removes the barriers that this
12 Commission has been hearing about to a flow of information
13 between the various regulators?

14 A. Very supportive, yes.

15
16 Q. Let's turn to have a bit of a look at the civil
17 litigation process, I'd like to just understand some of the
18 architecture of that process. Now you tell us - now I'm
19 going to look to your general statement which is, I think
20 that's the one that was most recently updated this week
21 with additional information.

22 A. Yes.

23
24 Q. And it runs to some 87 pages and 530 paragraphs.

25 A. Yes.

26
27 Q. So, I just want to ask you a few questions by
28 reference to that, and I'll direct you to paragraph 470.
29 Now, prior to 3 November 2015 the DPP was responsible for
30 civil litigation; is that right?

31 A. That's correct, yes.

32
33 Q. And let me just understand this at a broad level.
34 Leave aside the Civil Redress scheme for a moment and let's
35 just focus on civil litigation. So, someone is suing the
36 department - well, someone is suing the State of Tasmania
37 in relation to what happened to them as a child, the civil
38 case is brought against the state because of their
39 experiences as a student. Now, the Department of Education
40 would be involved; is that right?

41 A. Yes.

42
43 Q. And they might even be the Secretary or the Minister
44 might be a defendant; is that right?

45 A. No - I'm trying to think of --

46
47 Q. It depends on the solicitors?

1 A. I'm trying to think, certainly in some matters I am
2 both a defendant and sometimes a plaintiff; I'm not sure in
3 civil matters whether they're just run in terms of the
4 Crown.

5
6 Q. Yes, okay, but in any event I'm not here, again, to
7 quiz you on the Civil Procedure Act. So, the DPP
8 until November 2015, they were the ones who had carriage of
9 litigation, they were acting as your solicitors; is that
10 fair?

11 A. That's correct, yes.

12
13 Q. So they're the ones who would file the documents,
14 draft the documents?

15 A. Yes.

16
17 Q. So a defence would be drafted by the DPP, they would
18 send it to you or to your in-house lawyers, or did you not
19 at that stage have in-house lawyers?

20 A. I think it's important to understand that the role
21 that we play - and I did move to this yesterday - can't be
22 categorised as you might conceptualise if we were a private
23 company. So, as an agency, we just are an administrative
24 arm of the Crown, and so, there is only one body, that is
25 the Crown, and the Crown organises itself in the way that
26 it sees fit in relation to these matters and, as I said
27 yesterday, the Attorney-General is the first Crown Law
28 officer and the Solicitor-General as the second do take
29 carriage of legal matters with relation to the Crown. I
30 think it's important to say that because it frames our
31 roles slightly differently.

32
33 I could see how people might say, there's a lawyer and
34 a client, certainly in the case of civil matters which is
35 where we're going with this, that is not quite so sharply
36 defined.

37
38 Q. But sometimes you're the defendant in a civil matter,
39 like the Secretary, the office of the Secretary, not you
40 specifically?

41 A. Yes, the Office of the Secretary can be and those
42 matters are dealt with by civil division of the
43 Solicitor-General's office.

44
45 Q. Yes. So, I'm just trying to understand. So, from
46 2015, before 2015 it was the DPP, then it became the
47 Solicitor-General?

1 A. That's right, yep.

2

3 Q. And let's just stick with for a moment - and that's
4 the Office of the Solicitor-General?

5 A. That's right.

6

7 Q. So, there are a number of solicitors who work in the
8 Office of the Solicitor-General in addition to the
9 Solicitor-General?

10 A. Yes, there are the Solicitor-General, the statutory
11 role of Solicitor-General, there are the advisings lawyers,
12 so if you want to think about an advisings branch which is
13 really the traditional role of the Solicitor-General,
14 lawyers that support the advisings branch, and then there
15 is a civil area which undertakes civil litigation.
16 Certainly, when I worked in the Office of the
17 Solicitor-General and the DPP ran it, it was really just an
18 administrative change, exactly the same; there was an
19 office that did civil, and they have moved the management
20 responsibility for that office from the DPP under the
21 Solicitor-General in --

22

23 Q. So let's just see how we understand this. I think at
24 472 of your statement, let me see if I can summarise this
25 and tell me how you understand it. There's the Secretary
26 of the Department of Education?

27 A. Yes.

28

29 Q. And the role really for the Secretary is to sit
30 outside the litigation process save to authorise the
31 release of funds?

32 A. To provide, through my legal officers, who I also need
33 to point out are not considered lawyers under the statutory
34 arrangement, so they're officers with legal qualifications:
35 that's important.

36

37 Q. Yes.

38 A. We're not allowed to run our own legal offices
39 internally. So, through my legal officers I am asked for
40 input and I am asked for my opinion on the matters at hand,
41 and I'm also responsible for discharging a number of
42 administrative functions in terms of discovery and pulling
43 together of files. But I would not say that I am an
44 instructing officer or a client in terms of how you might
45 traditionally conceptualise that which, if I can test or
46 say what I would understand that to be, because I just want
47 to test that we understand it, that I provide my opinion or

1 direction around how a matter should be undertaken, and a
2 lawyer --

3
4 Q. Carries out your instructions --

5 A. -- are bound to follow or carry out that instruction:
6 that is not the relationship.

7
8 Q. So, the Solicitor-General's office has decision making
9 capacity about, for example, an amount to be offered in
10 settlement of a civil complaint?

11 A. That's right.

12
13 Q. Even when you are the defendant, your office?

14 A. Yes.

15
16 Q. So, in that instance, isn't it your responsibility to
17 identify whether the matter should proceed to trial or
18 should be settled?

19 A. I can provide advice on that, and I just will
20 point out, without any opinion as to whether it's correct
21 or not, the circularity of the process. I am bound by the
22 advice of the Solicitor-General and, as I expressed
23 yesterday, there are good reasons for that, to ensure that
24 the machinery of government can continue to operate. So,
25 in doing so, I think the question you're asking is, who has
26 the final say? Once all the opinions, advice, different
27 points of view have been put into the mix, who has the
28 final say: that is the Office of the Solicitor-General.

29
30 Q. So to put to you what I put to your colleagues last
31 week, the Solicitor-General says we think it is legally
32 appropriate having regard to the exposure of the state in
33 this matter to offer to settle it for \$10,000, you cannot
34 say, "It ought to be 20 I so instruct you?"

35 A. So just to ensure that people have comfort that we do
36 due diligence, I do get my legal officers to write advice
37 as to the - to whether or not in our view that's correct
38 and that advice comes to me with the advice of the Office
39 of the Solicitor-General. The action that I then take
40 cannot be to go back and say, "I want it to be 20".

41
42 Q. You cannot instruct your lawyers to pay more than the
43 Solicitor-General recommends?

44 A. The action that I can take is to go back and say, "Can
45 we revisit the quantum because the advice that I have is
46 that for these particular reasons it should be 20".

47

1 Q. Isn't the Solicitor-General personally in each
2 instance evaluating and giving the advice about the amount
3 of the settlement, or is it the officers of the Office of
4 the Solicitor-General?

5 A. Well, the officers of the Office of the
6 Solicitor-General work under the authority of the
7 Solicitor-General.

8

9 Q. I'm just asking you - no, just my question is, is it
10 the Solicitor-General in each case or is it the officers
11 working in that office?

12 A. So, the officers working within that office are under
13 the direction and working with the authority of the
14 Solicitor-General. I understand your question --

15

16 Q. I think you're anticipating my criticism and I don't
17 think it's helpful, so I think I'd just like you to answer
18 my question, which is, is it in all cases the
19 Solicitor-General giving you the advice, or is it in some
20 instances is it officers who work in the Office of the
21 Solicitor-General?

22 A. I understand what your question is, and I'm not trying
23 to be difficult, I think we need to look at the structure
24 of the Office of the Solicitor-General and the statutory
25 role of that office. If you're asking, are we interacting
26 with people employed by the Solicitor-Generals's office
27 working under the authority of the Solicitor-General, and
28 are they providing advice, yes.

29

30 Q. And so, has the Solicitor-General seen and signed off
31 on - insofar as you're aware, is it the Solicitor-General's
32 personal advice in each instance or are you relying upon
33 that authority being somehow delegated, and I won't get
34 into the legalities of that with you, being somehow
35 delegated to the officers who are employed by that office?

36 A. I don't have knowledge of that.

37

38 Q. That's fair enough, and you don't have knowledge about
39 that, but your view is that any advice that you receive
40 from the Office of the Solicitor-General, from the
41 Solicitor-General down to the most junior solicitor there
42 employed, you are bound to follow in all respects?

43 A. Yes, we have guidance to that effect from the
44 Attorney, is my understanding - not to say that everyone
45 that works in that - but the authority of that office is
46 such that that is the legal position as stated. I don't
47 want people to think that it's as blunt as, "Here's what

1 you've got to do, go and do it", so there are, as I've
2 said --

3

4 Q. But it could be, couldn't it?

5 A. It could be, yes, it could be.

6

7 Q. And you would consider yourself to be bound to follow
8 that advice?

9 A. I am bound to follow that advice, yes.

10

11 Q. Well, I'm just asking about your understanding; we'll
12 come to the objective position another time. You
13 understand you're bound?

14 A. Yes.

15

16 Q. And you understand, therefore, that the decision as to
17 whether to take a limitation period, even when it is in
18 your own defence, even when you personally - your office, I
19 should say, is the defendant; you can't say, "Do not take
20 the limitation point, it's unfair"?

21 A. No, I can't. I can --

22

23 Q. Is that unacceptable to you? Do you find that
24 frustrating?

25 A. Well, that's the way that government has structured
26 itself. I think I pointed out yesterday that there was
27 good reasons for that, that you do need to have a single
28 point of legal authority for the Crown to operate under.

29

30 The point that you make as to where my authority
31 stops: I act as a Head of Agency within the operating
32 environment that I have, but I can provide assurance to the
33 Commission that I do have people who advise me and I do
34 advocate on that advice where we have an alternative
35 position.

36

37 Q. And, in respect of the settlement amounts, what about
38 in respect of how the lawyers are going to conduct
39 themselves at the mediation? We heard from Ms Sdrinis and
40 Mr Strange yesterday that there can be aggressive tactics
41 or that victim-survivors are not excused from attending a
42 joint session. Do you consider that it is available to you
43 in your position, as a defendant in a proceeding, to
44 instruct your lawyers to allow a victim-survivor to absent
45 themselves from a joint session?

46 A. Again, we can put forward a view as to what we believe
47 is in the best interests of those victim-survivors, but we

1 cannot instruct the lawyers as to that view.

2

3 Q. If the Office of the Solicitor-General are behaving in
4 your name in a way that you consider to be is not
5 trauma-informed, what recourse do you have?

6 A. Obviously, I can speak to the Solicitor-General
7 herself, or if I have concerns I can go through my Minister
8 to the Attorney-General on those matters.

9

10 Q. And, has that ever been necessary?

11 A. There have certainly been discussions between me and
12 the previous Solicitor-General around a course of action
13 that was being taken and, if you like, my office's view on
14 that.

15

16 Q. Thank you. Okay, so let me just understand then,
17 let's go to - but you provide the factual instructions,
18 that's right, as I understand that's at 456 and 457 of your
19 statement?

20 A. 456, are we talking about draft defence?

21

22 Q. Just trying to - you fact-check the statements?

23 A. Yes, so far as possible we try and pull together as
24 much information as we can possibly find on a matter, so in
25 terms of discovery, and make sure so far as we can that
26 it's factually correct. We are also required to identify,
27 if you like, potential redactions that may need to be made
28 and to provide those back as well. So, if you like, we're
29 in an information-gathering role in that part of trying to
30 get the files, the records, the information together across
31 the agency; give it a first pass, if you like, and make
32 some assessments as to which things might need to be
33 redacted or not provided; provide an explanation as to why,
34 and then pass that through to the Office of the
35 Solicitor-General.

36

37 Q. And, do you have any reflections you'd like to make to
38 this Commission about the evidence of Ms Sdrinis or
39 Mr Strange from yesterday? You need not if you don't feel
40 you want to.

41 A. No.

42

43 Q. I also said earlier that I would give you the
44 opportunity to respond generally to Ms Moxham's evidence,
45 and I think I omitted to do that. Is there anything that I
46 haven't covered that you wanted to address arising out of
47 her evidence of yesterday?

1 A. There were just a number of matters that I think it
2 would be worth clarifying for the Commission.

3
4 Q. Yes.

5 A. The first is in relation to investigations, and I
6 noted that she was concerned around some delay around
7 getting our final determination and investigation file to
8 her. And, absolutely, I'm following up on that, so to
9 assure the Commission of that, but also to observe, there's
10 nothing stopping Ms Moxham or the TRB from commencing their
11 own investigation as soon as I alert them to the fact that
12 we have a matter of concern.

13
14 So, you might recall there are two instances where we
15 communicate formally: one is where I send, actually send my
16 initial letter of breach or alleged investigating alleged
17 breaches; the second is where I provide the investigation
18 file back.

19
20 My understanding from Ms Moxham's evidence is that she
21 awaits my full investigation file before she then starts a
22 process, and I just wanted to be very clear that, when I
23 raise a matter of concern, she could commence
24 investigating.

25
26 The second matter that did really concern me was
27 Ms Moxham's observations that in some way the changes that
28 were being made to the regulatory arrangements regarding
29 the TRB and the other statutory regulators, being the
30 Education Act and the assessment and accreditation body,
31 were bringing the TRB closer to government; in fact, it is
32 the reverse.

33
34 So, under the regulatory arrangements which have been
35 passed by both Houses of Parliament Ms Moxham's board will
36 move from a representative board, so a union gets a seat, a
37 teacher gets a seat, the independents get a seat, the
38 Catholics get a seat to a skills-based board and we believe
39 that from a department perspective - and this is a view
40 that is shared by my colleagues in Catholic Education and
41 independent schools - that in fact this brings a higher
42 level of scrutiny and regulatory oversight to the
43 activities of the TRB.

44
45 Q. Did you hear the evidence, and I'm conscious you've
46 absorbed a lot of evidence this week, of Ms Girvin and
47 Ms Sanders, and these concern the models in operation in

1 Victoria and South Australia?

2 A. No, I didn't unfortunately.

3

4 Q. Can I just test with you about, the South Australian
5 model had in place a centralised Investigations Unit.

6 A. Yes.

7

8 Q. And I wanted to ask you if that's something that, in
9 your view, is within the capacity of the Department of
10 Education of Tasmania, or if that's something that would
11 require a whole-of-state response?

12 A. I think my observation, and I might have made it on
13 day one, is that we are very, very supportive of that
14 model, but I would question whether it is actually
15 something we could apply to the whole State Service.

16

17 I was reflecting on the suggestion which some of my
18 officers briefed me on. I think that the South Australian
19 Department of Education has 60,000 employees; the Tasmanian
20 State Service only has 30,000 employees in total, so you
21 could ask whether, if you could replicate that model,
22 whether it would be something that could be useful to the
23 whole State Service.

24

25 COMMISSIONER BROMFIELD: I think we've certainly noted
26 that suggestion.

27

28 MS BENNETT: Q. In terms of the Civil Redress scheme,
29 can you just explain how your office interacts with Civil
30 Redress at this stage?

31 A. Yes, certainly. So, in terms of the Civil Redress
32 scheme, again, that is coordinated through the Department
33 of Justice and we get a template form, if you like, with
34 information that sets out matters pertaining to individuals
35 that may have been involved in the claim and we provide,
36 again, evidence and information that we can find, and
37 sometimes through the redress that might be as simple as
38 being able to place through school records and timetables
39 the fact that that teacher did have an interaction with
40 that student and at other times it will be far more
41 voluminous.

42

43 So, we do pull all of that information together, so
44 that's one role that we have. The other role is obviously
45 around providing apologies. So, an important part,
46 I believe, of that scheme is the ability for a
47 victim-survivor to request an apology and, as I think I

1 alerted or alluded to earlier, we have people trained in
2 the provision of those apologies, both face-to-face but
3 also in writing, and I am going to undertake that training
4 myself.

5
6 Q. On apologies: as I understand that, the present
7 position is apologies can be given on behalf of the
8 department at the conclusion of the Civil Redress process
9 or civil litigation; is that right?

10 A. Yes, I believe that's right, yes.

11
12 Q. Is that, again, the result of legal advice, and please
13 don't feel you need to --

14 A. I'm not sure what that's the result of.

15
16 Q. Is there any reason that apologies couldn't be
17 provided at a time that might best suit the person who's
18 the victim-survivor?

19 A. So, can I give a personal response to that rather than
20 a legal one?

21
22 Q. That's what I'm asking for, please?

23 A. Absent of what the lawyers may say, absolutely.
24 People are coming to these matters at different stages in
25 their lives and they will - to assist their healing they
26 need to get what they need when it's required, not when
27 it's comfortable or legally appropriate within some
28 administrative process.

29
30 I think one question that has been raised internally
31 is, why do we wait till the end? But that's something that
32 we need to explore further with the office that undertakes
33 redress.

34
35 Q. Your personal preference would be to offer an apology
36 when you see it as being appropriate to offer, and absent
37 any legal impediments, that's what you'd like to do?

38 A. Well, that's actually what is the right thing to do,
39 yes.

40
41 Q. And you'd like to do the right thing?

42 A. That's right, yes.

43
44 MS BENNETT: Those are the matters, Commissioners, that I
45 would like to raise with Mr Bullard and I extend the thanks
46 of Counsel Assisting for Mr Bullard making himself
47 available over the three days.

1
2 PRESIDENT NEAVE: Thank you. Thank you, Ms Bennett. We
3 also thank you very much for making yourself available over
4 those three days and for your evidence. Any questions?

5
6 COMMISSIONER BROMFIELD: Q. I just had one to wrap up
7 and it was just really reflecting on what Mr Leishman said,
8 which was - you were in the room so I'm going to very
9 poorly quote him - but he talked about, really, Tasmania
10 should be able to aspire to do it well and to really
11 capitalise on the fact that it's small and, I guess, the
12 agility that that might bring. I wondered if you had any
13 thoughts about that or reflections?

14 A. I absolutely agree with that. One of our strengths is
15 that we're a small State Service, and we have shown - and I
16 think COVID was provided as an example - how agile we can
17 be when we give things the urgency and importance that they
18 deserve. And so, I'm very, very supportive of
19 Mr Leishman's observations and I would absolutely support
20 that statement, yes.

21
22 PRESIDENT NEAVE: Q. I have a follow-up question. It
23 does seem to me, having heard from many of the survivors
24 about their experience, that it might be useful for the
25 department to think about ways in which that experience
26 could be drawn upon to improve your systems, and I wondered
27 whether you had contemplated including perhaps survivors in
28 your processes of redesigning systems?

29 A. Yes, we have, and I am certainly looking to Ms Munting
30 and Mr Leishman about their willingness, without any
31 pressure whatsoever, to continue to inform our processes.
32 But there have been approaches from other victim-survivors
33 who have indicated their willingness to help, and it is
34 only with the lived experience of people who have been
35 through it we'll make sure that we're able to ensure that
36 that's not repeated.

37
38 PRESIDENT NEAVE: Thank you very much indeed, Mr Bullard.

39
40 **SHORT ADJOURNMENT**

41
42 PRESIDENT NEAVE: Yes, Ms Norton.

43
44 MS NORTON: Good afternoon, Commissioners. Over the past
45 four and a half days, Commissioners, we've heard a lot of
46 evidence about gaps and failures in the past and some that
47 continue to the present day within the Department of

1 Education.

2

3

4

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6

7

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11

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13

<KERRYANN MARIE WALSH, affirmed: [1.37pm]

14

15

<ELIZABETH HAMILTON JACK, affirmed:

16

17

<EXAMINATION BY MS NORTON:

18

19

20

21

MS NORTON: Q. Professor Walsh, I'll start with you, could you repeat, please, your full name, your professional address and your occupation?

22

23

24

25

26

27

PROF WALSH: My name is Kerryann Marie Walsh, I'm a Professor in Education at the Queensland University of Technology; I'm a teacher/educator by trade, yeah, and my work address is Victoria Park Road at Kelvin Grove in Brisbane.

28

29

30

31

MS NORTON: Thank you, Professor Walsh. You've prepared a statement to assist the Commission, it's a statement dated 15 April 2022; is that correct?

32

33

PROF WALSH: Yes.

34

35

MS NORTON: Have you recently reviewed that statement?

36

37

PROF WALSH: Yes, I have.

38

39

40

MS NORTON: And are its contents true and correct to the best of your knowledge and belief?

41

42

PROF WALSH: Yes.

43

44

MS NORTON: Thank you.

45

46

47

Ms Jack, can I ask you to state your full name, professional address and occupation?

1
2 MS JACK: My full name is Elizabeth Hamilton Jack. My
3 address is 4 Salamanca Place, Hobart, and my role is
4 Executive Director, Safeguarding Children and Young People
5 within the Department of Education.
6

7 MS NORTON: Thank you, Ms Jack. Now, you have prepared a
8 statement at the request of the Commission; have you
9 reviewed that statement recently?
10

11 MS JACK: I have.
12

13 MS NORTON: Now, I understand, Ms Jack, that you have some
14 changes that you would like to make and I have them here.
15 The first change is to paragraph 21 of your statement;
16 that's where you identify the full-time equivalent - I'm
17 sorry, the additional positions that are yet to be
18 recruited in your office, and is it the case that the
19 reference there to "four additional positions" should be to
20 "three additional positions"?
21

22 MS JACK: That's correct. I actually list three
23 positions, but use the number "4".
24

25 MS NORTON: Thank you, you do indeed. And then, at
26 paragraph 22, and it's a corresponding change I suppose,
27 you say:
28

29 *The office will be directly and indirectly*
30 *supported by 14 staff not 12.*
31

32 MS JACK: That's correct.
33

34 MS NORTON: Can I ask you there, that insertion of the
35 word "indirectly", can you just explain what you mean by
36 direct and indirect support?
37

38 MS JACK: Yes, when I re-read it I thought it was probably
39 not quite correct because some staff that are supporting
40 the work of the department and the work of the office of
41 Safeguarding Children and Young People in particular don't
42 sit in the Office of Safeguarding; they might be systems
43 staff, they might work in our broader policy team, but they
44 provide direct support to us from the point of view of
45 working on safeguarding matters, but they aren't part of
46 our team.
47

1 MS NORTON: Thank you. Then the final change is at
2 paragraph 83 where there's an incorrect cross-reference,
3 and in the beginning of the second line the reference to
4 "paragraph 77" should read "87"; is that correct?

5

6 MS JACK: That's correct.

7

8 MS NORTON: With those changes having been made, are the
9 contents of your statement true and correct to the best of
10 your knowledge and belief?

11

12 MS JACK: It is.

13

14 MS NORTON: Now, Ms Jack, you have a background in
15 coaching elite sports persons in Canada, but you've lived
16 in Tasmania, you returned to your birth place of Tasmania
17 in the 1990s, early 1990s and you've held a range of
18 executive roles within the Tasmanian State Service. I'll
19 just invite you to summarise for the Commissioners the
20 professional experience that you have that you see as
21 relevant to your current role.

22

23 MS JACK: Before I speak about my professional experience
24 I think, first and foremost, I can say I'm a mother of two
25 girls, two young women, who I largely brought up as a
26 single parent, and so, I know how important keeping them
27 safe and protecting them from harm, while helping them to
28 grow and develop and push the boundaries, it's so critical;
29 and so, for me as a mother and as a human being hearing the
30 testimonies of the many victim-survivors that we've heard
31 over the last two weeks has been immensely heart-wrenching
32 and quite confronting, as well as the conversations that I
33 have had directly with other victim-survivors with whom I
34 have had some considerable engagement in some cases, and on
35 all those occasions they have been so generous with their
36 time, their thoughts, their input and shown such
37 resilience. I mean, even the last testimony of Mr Leishman
38 was incredibly moving and impressive.

39

40 So, I think that, along with my driving passion to
41 make a difference in people's lives through collaboration
42 and a concerted collective effort to achieve an outcome, I
43 think, are probably more even important than my
44 professional experience.

45

46 But if I were to talk about my professional
47 experience, I have - I spent 15 years as a diving coach,

1 not just as an elite coach, I had children from the ages of
2 5 and 6 as Learn to Dive children. It was a full-time
3 role, full-time professional role for 10 years and, while I
4 was first and foremost appointed because I was there to
5 build their technical skills, I was also responsible for
6 them, sometimes without their parents being present, on
7 week-long trips away where their safety and their wellbeing
8 was my primary concern.
9

10 My experience in the State Government has been in
11 senior positions across a broad range of areas and I think
12 those experiences are more about my understanding of the
13 way the government works. My leadership skills, my passion
14 for change management, and my ability to lead change in
15 some of those places where I've worked, as well as my
16 ability to think strategically at a whole-of-organisation
17 level, and I have worked quite considerably with Mr Bullard
18 as the Secretary of Education in other roles outside
19 Education, and I think he knows of my passion and my drive
20 to make a difference, so hopefully he considered that when
21 he appointed me to this role.
22

23 MS NORTON: Thank you. Now, this role, Ms Jack, was
24 really created in response to the report of Professors
25 Smallbone and McCormack. I just invite you to begin with
26 to offer any reflections that you have on that report and
27 the work that lies ahead of your office in making Tasmanian
28 schools safer for students.
29

30 MS JACK: I'll start by saying I welcome the report and I
31 welcome this Commission of Inquiry. It's a shame that it's
32 taken that much to drive the change we need, but if that is
33 what is the catalyst, then it's a good thing.
34

35 There are some really fantastic recommendations,
36 practical recommendations, in the report by the two
37 professors. I've only met with them once, I've spoken with
38 one of them on the phone as well, but they have offered to
39 provide me with any additional support or advice I would
40 like, which I think is important.
41

42 It is going to be challenging, yes, but I've never
43 walked away from a challenge and I do believe this is a
44 challenge that we must face and we must get right.
45

46 MS NORTON: If I can take you perhaps, Ms Jack, to your
47 first challenge which was to in fact create the office that

1 you need to support the work you've been charged with
2 doing, and I should just note for the transcript that
3 you've been in this role since August of 2021?
4

5 MS JACK: The middle of August, about 15 August.
6

7 MS NORTON: Right, so we're coming up to eight months in
8 the job?
9

10 MS JACK: Yes.
11

12 MS NORTON: You talk in your statement, at paragraphs 19
13 and following, about the unit or office, and you have 14
14 staff members. What process did you follow to recruit
15 people to those roles?
16

17 MS JACK: So, I currently have six staff including myself.
18

19 MS NORTON: Sorry, yes, some are yet to come.
20

21 MS JACK: I'd like to have 14 now. When I was appointed
22 the principal policy analyst who works in my area who had
23 already been doing some investigatory work around the
24 outcomes from the Royal Commission, the recommendations
25 from that, and looking at ways that we could work more
26 strategically as a department, so she automatically came
27 into my office.
28

29 MS NORTON: Into which role, was that?
30

31 MS JACK: Principal policy analyst. And she has been
32 invaluable because I walked in with very little background,
33 a huge passion to make a difference, but I needed to get up
34 to speed so it was basically the two of us until we had -
35 really working with the Secretary and the executive members
36 of the department, until we had determined what we might
37 need in terms of staffing and what our approach might be
38 into the future. I then went about recruiting other staff
39 that we identified as being very important, and they are
40 staff in the project space, project management, project
41 officers.
42

43 But also, I have now a senior communications and
44 engagement consultant who has been really important in
45 helping us plan our communications and engagement approach
46 to start to build and strengthen the message that we need
47 to get out to, not only all staff and volunteers in the

1 department, but also to the broader community.

2

3 Safeguarding children is everybody's responsibility,
4 all our staff: our volunteers, from the education facility
5 attendant, to the librarian, to the Secretary need to
6 understand and live that, so that role has been critical.
7 So, I've put in place the most important roles first;
8 that's the team of six, I have an executive officer who
9 runs the office day-to-day, and then we have planned out
10 other positions that I am hopeful we will have filled in
11 the next three or four months.

12

13 MS NORTON: Yes, I wanted to ask about that, because it
14 seems to me that you have lot of work to do and a
15 relatively limited timeframe in which to do it, I'm sure
16 the work will continue on beyond your current contract, but
17 your contract is through to the latter part of next year as
18 I understand?

19

20 MS JACK: Yes. My contract - I came across on my existing
21 contract, I was already working within the department; I
22 was the head of Libraries Tasmania, responsible for
23 libraries and archive services, and so, I was moved across
24 on my existing contract.

25

26 MS NORTON: I see, thank you, that's helpful
27 clarification. Can I just go back to the recruitment that
28 you've done so far and the recruitment that you're yet to
29 do. Have those positions been advertised externally, what
30 are the key skill sets you've looked for in staffing your
31 office?

32

33 MS JACK: They have indeed been advertised externally, and
34 when I say I have six staff currently, they don't all work
35 full-time, and that's why you'll see in my statement I've
36 tried to put down the number of FTEs that I have that that
37 equates to. So, if I sound a bit vague in terms of numbers
38 and people, that's probably why.

39

40 MS NORTON: You won't be able to give us exact numbers,
41 thank you.

42

43 MS JACK: But I have definitely advertised externally. We
44 have had some applicants that have come outside of
45 Tasmania, but at the moment everybody on my team has come
46 from not just within the department but from within the
47 state.

1
2 Since I have started I have included requirements for
3 additional conviction checks for our staff and they are
4 national police checks.

5
6 MS NORTON: Thank you.

7
8 MS JACK: So, that is something that I want to continue
9 because I think it's extremely important for people working
10 in our office.

11
12 MS NORTON: Can I ask you: this came up in Mr Bullard's
13 evidence this morning and I think this is the evidence he
14 gave but I'll check with you to make sure it's correct,
15 that all staff in your office are required to have a
16 Working with Vulnerable People registration?

17
18 MS JACK: Yes.

19
20 MS NORTON: And you're saying a national criminal record
21 check?

22
23 MS JACK: Yes, however, my position was created before I
24 had started that, and the principal policy analyst was
25 already in place in the department and her statement of
26 duties didn't incorporate that, so I'm now looking at
27 retrospectively putting that in place because I can't very
28 well expect everybody else to have that without that role.

29
30 MS NORTON: So, you don't currently have that registration
31 and that check but --

32
33 MS JACK: For the Registration for Working with Vulnerable
34 People, there is not one person within the department that
35 is able to work there without that check being done.

36
37 COMMISSIONER BROMFIELD: So it's gone through the
38 administrative process to ensure that the two existing
39 positions, including your own, are required to have the
40 National Police Check as a way of modelling what you expect
41 to see?

42
43 MS JACK: Absolutely; I think it's entirely appropriate
44 and incredibly important. I would love to just have a
45 blanket requirement that all our statements of duties
46 automatically have that within them, I asked for that, but
47 I've been told that I need to - each time I create a new

1 position I need to put that request forward.

2
3 MS NORTON: I understand.

4
5 MS JACK: And so far it's not been turned out.

6
7 PRESIDENT NEAVE: Q. Sorry, I didn't hear what you said
8 before about where the people who you have recruited come
9 from. Did you say they all come from within the state?

10
11 MS JACK: Yes.

12
13 PRESIDENT NEAVE: Currently.

14
15 MS JACK: Currently.

16
17 PRESIDENT NEAVE: Right, thank you.

18
19 MS JACK: But we do advertise broadly.

20
21 MS NORTON: And you said you have some interstate
22 applicants?

23
24 MS JACK: Yes.

25
26 MS NORTON: Professor Walsh, I haven't forgotten you, can
27 I turn to you? I'd like now, having explored some early
28 matters in relation to your office, Ms Jack, I'd like to
29 now turn to some of the specific ways in which the work of
30 your office might increase the safety of students in
31 Tasmanian schools.

32
33 And, Professor Walsh, can I ask you to speak about the
34 need to educate, not just teachers and staff within schools
35 but also students in relation to child sexual abuse
36 prevention?

37
38 PROF WALSH: Yeah, sure. So, multiple enquiries have
39 shown that sexual abuse prevention education is an
40 important part of a broader suite and system of
41 interventions and prevention activities. So, standing
42 alone child sexual abuse prevention programs can't really
43 achieve what we would hope for them; they need to be
44 implemented with a - alongside a range of other measures,
45 environmental, structural issues, big issues that children
46 and families don't have much control over but policymakers
47 and other leaders in the field do, politicians and so on,

1 so this kind of broader environment needs to wrap-around
2 children and families and schools, and sexual abuse
3 prevention programs sit in there.
4

5 Sexual abuse prevention programs aren't only delivered
6 in schools, they're delivered by some other child-serving
7 organisations in different kinds of forms. So, broadly,
8 they have existed since the 1980s, 70s, 80s. First
9 developed in the US in response to people in schools
10 noticing or identifying rape of children. So, they were
11 first developed by women's Rape Crisis centres in the US
12 and then began to be developed and disseminated more
13 widely. In the US they're delivered very widely and 27 of
14 the 50 states require - have in legislation that they're to
15 be taught in schools and funding is hitched to that.
16

17 In Australia, there are only two states, South
18 Australia and Western Australia, that require - will have a
19 legislative requirement for and a policy requirement for
20 sexual abuse prevention programs to be taught in schools.
21 The other states don't have that.
22

23 MS NORTON: I want to come to lessons that might be
24 learned from interstate and the importance of mandatory
25 education, but before we get there, Professor Walsh, can
26 you just explain for the benefit of the Commissioners and
27 people here today what the key elements of the sort of
28 education that you're referring to?
29

30 PROF WALSH: Yes. So, sexual abuse prevention education
31 can be thought of as having multiple components. There are
32 first of all the content areas that are to be taught, that
33 should be taught, and high level studies that have
34 identified over time fairly consistently several key kind
35 of headline topic areas that need to be covered in programs
36 to enable them to be successful, and they're things like
37 teaching children about body integrity, which may or may
38 not include consent; education as we would know it, but
39 teaching children, "My body belongs to me, nobody can touch
40 my body without my say so", so that kind of concept of body
41 integrity and that you're a separate person from those
42 around you.
43

44 They also teach several rules, for example, body
45 safety rules that children might learn; they teach children
46 the difference between safe and unsafe touching, safe and
47 unsafe secrets, so they try to plug into the, I guess, the

1 features of sexual abuse as a phenomenon so that it
2 involves secrecy, so teaching children the difference
3 between types of keeping - you know, that secrets should be
4 told; that sexual abuse can occur in private, so teaching
5 children about safe adults who are there to tell if that
6 were to occur, and it teaches them help-seeking strategies
7 as well; help-seeking strategies are a big part of the
8 programs, teaches children to identify who some trusted
9 adults might be, and they often include teachers. They
10 help children know how to tell, so the words they need to
11 start telling someone, to keep telling until someone
12 listens, yeah, those kinds of things.

13
14 Secondly, there are teaching strategies that are part
15 of component parts of programs, and these are not to be
16 underestimated because they play a key role in the
17 program's effectiveness. So, those are things
18 like ...(Zoom screen freezes)... active involvement of
19 children, so electives with children in the assembly
20 hall --

21
22 MS NORTON: Apologies, Professor Walsh, we just lost you.
23 Can I just take you back to the beginning of the point that
24 you were making about the second feature?

25
26 PROF WALSH: So, the second feature is about teaching
27 strategies and they're not to be underestimated because
28 they often are the mechanism or the thing that makes the
29 difference with whether a program is successful or not.
30 So, successful teaching strategies for these programs have
31 been shown to be group delivery, active involvement of
32 children in the program, so children doing things and
33 participating; so, a lecture in an assembly hall, for
34 example, is likely to be less effective than a program that
35 goes over several weeks and might help children engage with
36 the content.

37
38 Children need opportunities to have strategies
39 modelled for them, demonstrated, they need opportunities to
40 practice those, so again, that's about active engagement of
41 the kids; and they need reinforcement and feedback on how
42 they are going with that, so not every response is okay,
43 there are certain ways of doing things that are better than
44 others, you know, and these kind of pedagogues or teaching
45 strategies kind of make sense - make a lot of sense to
46 teachers because they're what good teachers do everyday
47 anyway, so they're the effective methods.

1
2 And then there are delivery resources that can be
3 used. So, current programs are often multimedia programs,
4 they're not just someone standing and delivering messages
5 to children, they might involve images, animations, info
6 graphics and things like that that really engage children
7 and hit children at their level.

8
9 MS NORTON: Can I ask you about that reference to "at
10 their level". At what stage in a child's life should they
11 begin receiving this sort of training or this sort of
12 education?

13
14 PROF WALSH: It would be my view that they should begin at
15 birth and that - but that obviously can't begin with
16 school, but parents contribute to that, and parents can do
17 that by, you know, teaching their children about their body
18 integrity from an early age, teaching children the names of
19 their body parts so they can correctly report safe and
20 unsafe touches on those body parts. Teaching children
21 about safety about, you know, declaring to the children
22 that, "I love you no matter what, you can tell me anything
23 no matter how yucky or uncomfortable and I will still love
24 you", there's lots of messages that parents can give
25 children in those first five years of life that also feed
26 into sexual abuse prevention education and then get taken
27 up in school curricula.

28
29 MS NORTON: And so, it follows from your response there
30 that this sort of education should commence as soon as
31 children enter the school system?

32
33 PROF WALSH: Yes, absolutely, and before school,
34 definitely before school. If you think about childcare,
35 daycare, long daycare, kindergartens, children and adults
36 are engaged in a lot of intimate care routines with
37 children at those times, children need to have a voice and
38 need to be empowered to say what makes them feel safe and
39 unsafe and that sets them up then - that set of skills can
40 set them up then for programs that occur later.

41
42 MS NORTON: Now, I cut you off with that question; was
43 there anything else you wanted to highlight in terms of the
44 key elements of protective education?

45
46 PROF WALSH: Yes, probably one key thing about resources
47 that are used to deliver the programs, and they need to be

1 age appropriate. So, there are programs for very young
2 children can involve puppets and plays, and theatre
3 productions, songs, dances, rhymes and so on, so they can
4 be very engaging.

5
6 And the final thing would be that another key element
7 that's been found is the resource of homework. So, while I
8 don't mean, you know, them going home and doing their times
9 table, simply sending an information sheet with some
10 activities home with children helps to engage their parents
11 and let their parents in on the content and helps parents
12 be able to reinforce the messages that the kids are
13 receiving in a program at school, which is like an extra
14 dose or a booster shot, if you like.

15
16 MS NORTON: Yes.

17
18 COMMISSIONER BROMFIELD: Professor Walsh, can I follow up
19 on that idea of, kind of like, the booster shot? So, if
20 they start with formal programs in pre-school or kinder,
21 when would they finish? Would once be enough?

22
23 PROF WALSH: Yeah. So, the Australian curriculum at the
24 moment tends to differentiate safety from the respectful
25 relationships space, not really distinctly but it's built
26 into the health and physical education curriculum. So,
27 lessons in the first four years of school in particular
28 will focus on those things that I've mentioned. Before in
29 Year 5 and 6 in primary school they will switch to learning
30 more about respectful relationships, they begin to have
31 lessons on pre-puberty education at that time, so it flips
32 more to the relational aspect rather than the kind of
33 safety aspect in the early childhood years. Does that
34 answer the question?

35
36 COMMISSIONER BROMFIELD: It does. Can I infer from that
37 then, that best practice is that this education commences
38 at the start of schooling and goes right through to the end
39 of schooling?

40
41 PROF WALSH: Absolutely, yes.

42
43 COMMISSIONER BROMFIELD: Thank you.

44
45 MS NORTON: Professor Walsh, last week the Commission
46 heard evidence from Associate Professor Tim Moore in
47 relation to some research that he's doing with a colleague,

1 Professor Morag McCarthy, they've been interviewing
2 Tasmanian students in relation to their experience of
3 safety, Tasmanian students among a broader cohort of
4 children and young people, and one of the matters that he
5 mentioned in his evidence coming out of those conversations
6 is a concern that sex education within schools, when it
7 talks about unwanted sexual advances, it still focuses on
8 the unwanted sexual advances on the part of peers, not on
9 the part of adults. Is that something that should be
10 covered in sex education in schools, do you think?

11
12 PROF WALSH: Yes, it probably should be, but I don't think
13 we understand yet the best ways of doing that; it's
14 sensitive, it's really sensitive, that's really hard for
15 teachers to do. It's really difficult - you know, there
16 would need to be experimental studies done to figure out
17 the best way to delivering this material to kids in
18 schools. Because of that it's often avoided.

19
20 So, in a study we did 10 years ago we found that
21 grooming strategies by adults, for example, was completely
22 left out of programs along with a lot of content around
23 online safety because it just wasn't a tradition that had
24 been, you know, taught in those programs.

25
26 So I think that, yes, we need to teach it, but perhaps
27 the avenue for doing that may be to get parents on board.
28 Now, having said that, I'm conscious that not every child
29 has a parent who is willing and able to do that with them,
30 so it leaves a significant proportion of children without
31 those messages, so school is probably the place where they
32 need to get that; I'm just not sure of the best way of
33 being able to introduce that to children without creating
34 the fear.

35
36 MS NORTON: Yes.

37
38 PROF WALSH: Having said that as well, the evaluations of
39 the sexual abuse prevention programs, and multiple
40 evaluations over time, tend to show that the programs don't
41 increase or decrease children's fear or anxiety as a
42 general kind of statement across the board, and as programs
43 have improved over the years and become more sensitive to
44 children and more developmentally appropriate the risk of
45 them doing that is lower.

46
47 I think there is, in relation to the kind of crossover

1 or overlap between broader sex education and sexual abuse
2 prevention, harmful sexual behaviour addressing and
3 respectful relationships, online safety, this big program
4 landscape. I think sex education - it's my view that sex
5 education should be delivered by experts rather than
6 expecting the everyday classroom teacher to be able to
7 deliver this material.

8
9 Because, when we leave it to everyday classroom
10 teachers, it falls off the agenda; it's easy to avoid, it's
11 not like addition and subtraction and all the steps you
12 take to teach that that can - yeah, some teachers will
13 never be comfortable with this content and perhaps should
14 not be required to be comfortable with it. Mindful that
15 the greatest proportion of teachers are female, there's
16 higher incidents and prevalence of abuse, sexual abuse
17 amongst females, yeah.

18
19 And we have teachers increasingly from diverse
20 cultural backgrounds who may have different levels of
21 comfort in addressing this material, so I think there is a
22 place for experts and I think Family Planning Tasmania
23 might be one, we have the equivalent up here in Queensland
24 known as True Relationships and Reproductive Health who are
25 really expert in delivering this material in schools, but
26 it comes at a cost.

27
28 MS NORTON: Thank you. Before I turn back to Ms Jack to
29 ask about the availability of prevention programs in
30 Tasmanian schools, at the outset of your discussion on this
31 topic you referred to mandatory training only being in
32 place in South Australia and Western Australia. Can I
33 invite you to speak about the importance of mandatory
34 training? Mandatory education, I should say.

35
36 PROF WALSH: Yeah, it is actually mandatory everywhere in
37 Australia if we hitch it to the Australian Professional
38 Standards for Teachers. So, Standard 4 is about safe
39 environments, teachers being able to demonstrate that they
40 can create and maintain safe environments in schools, and
41 4.4 relates to children's safety in particular.

42
43 So, to be registered as a teacher, to graduate from a
44 teacher education institution, one - we can assume that -
45 yeah, pre-service teachers need to have some content in
46 that area, and then to be registered as a teacher they need
47 to have some kind of training.

1
2 I'm not sure that's consistent yet throughout the
3 states and territories because, of course, it's the states
4 and territories who are the regulatory authorities in
5 registering teachers rather than the Australian
6 Professional Standards for Teachers which is Federal.
7

8 So, in Queensland at the moment there's - to be
9 registered as a teacher an applicant simply needs to be
10 able to demonstrate that they've had some kind of training.
11 In South Australia they need to provide evidence that they
12 have had an 8-hour training program, I believe, or a
13 one-day training program which I think is delivered online
14 now since COVID.
15

16 So, I think it is incredibly important that teachers
17 begin their careers, you know, in classrooms, with some
18 level of training. And I sometimes refer to this as a
19 wedge of content where we begin in pre-service with some
20 content and that wedge of content then grows as teachers
21 progress through their careers and as they move into
22 management positions and so on and need to have more
23 knowledge, but I think making training mandatory means it
24 will happen, yeah.
25

26 MS NORTON: And can I ask you then, in a similar vein, is
27 it important that these education programs that you have
28 been describing for children are also mandatory? Is that
29 important in your view?
30

31 PROF WALSH: So, I think it's a double-edged sword to have
32 the program delivery as mandatory. I think in South
33 Australia that works because they've had a program that's
34 been developed over many years, it's very comprehensive,
35 it's been revised over time, and it's had - the Department
36 of Education there have been really open to expert
37 influence so have sought out expert advice and input.
38

39 So, I think, again, the requirement for a mandatory
40 curriculum might need to go alongside other elements being
41 present. So, if it were mandatory in Tasmania, for
42 example, now, who would be responsible, what curriculum
43 would be delivered? Would it be just any? How would you
44 regulate that? How would you know/quality assure what
45 children are receiving, yeah.
46

47 MS NORTON: You've referred there to South Australia; are

1 there any other jurisdictions that you could point the
2 Commissioners to which you think are doing a good job in
3 this space?
4

5 PROF WALSH: So, Western Australia have over time
6 developed a Child Protection portal on their Department of
7 Education website. It's hard for us to get into that now
8 because you need to be - it's for staff only, it's hard to
9 get access.
10

11 From what I can tell and from what I know, Western
12 Australia also - so, Western Australian Catholic Education
13 also deliver the South Australian Keeping Safe curriculum
14 as far as I know, or when I was last notified, and Western
15 Australia have different kinds of mandatory training in
16 place for mandatory reporting, for curriculum delivery and
17 so on.
18

19 I think the South Australian model is the soundest
20 that we have at the moment because it's been so well
21 thought through because it's been developed over time, and
22 teachers have to actually do the training on the curriculum
23 before they receive the curriculum materials, so they can't
24 get access to those materials - they could beg, borrow and
25 steal them, but they can't technically get access to those
26 unless they do the training, which I think is a nice
27 strategy for quality assuring for who gets to do the work,
28 yeah.
29

30 MS NORTON: Ms Jack, I note you've been taking down notes
31 as Professor Walsh has been speaking. Can I invite you to
32 reflect on the sexual abuse prevention programs that
33 currently exist in Tasmanian schools?
34

35 MS JACK: I'm not the expert on what's being delivered
36 from a curriculum perspective, but as I have provided in
37 one of my statements, which I believe Professor Walsh has a
38 copy of those programs --
39

40 MS NORTON: Yes, I'll ask Professor Walsh shortly.
41

42 MS JACK: I would welcome any comments or suggestions she
43 might have on that, but it's quite a range, but they have
44 been assessed by our curriculum staff within the
45 department; they are not mandatory, other than what's
46 mandatory within the Australian curriculum through the
47 health and physical education.

1
2 Schools tend to use the programs that they believe
3 work best for their context because all our schools are in
4 different environments, they're a different size, they
5 might have different issues within their student cohort.
6 The principal and the school leaders normally make that
7 determination. So, there will be professional support
8 staff, for instance, that might contribute to that so that
9 they determine what is best to be run in their school.

10
11 But in terms of what we are rolling out in our schools
12 the advice I have internally within the department is that
13 these are appropriate, they are accredited or they have
14 been reviewed and are seen to be appropriate, but if
15 Professor Walsh has a different view I would welcome it,
16 because we are not getting everything right, we have a long
17 way to go and we are at the start of our journey.

18
19 And, I will be following up with South Australia and
20 also Western Australia and lots of other things that I've
21 been noting during the course of these two weeks because
22 there have been some incredible experts up here that have
23 given me lots of things to think about.

24
25 MS NORTON: Can I just ask a few questions, and if you
26 can't provide the detail, I understand, you can perhaps
27 take it on notice. You've referred to schools having
28 discretion about which programs to offer. And I should
29 say, Commissioners, for your assistance, Annexure 6 to
30 Ms Jack's statement contains a table outlining all the
31 prevention programs that are available in Tasmanian
32 schools.

33
34 MS JACK: I'm sorry, Ms Norton, if I could just also
35 mention there are a couple, and it is noted in the
36 annexure, that were run previously and have been superseded
37 and replaced, so I think it's only two, but there might be
38 a couple that are no longer run.

39
40 MS NORTON: Thank you, there's certainly a lot of
41 information in the table. Can I ask this: you've talked
42 about the discretion that individual schools have in terms
43 of what they offer. Is it possible for a school not to
44 offer any of the programs, and I put to one side the
45 mandatory programs in relation to relationships and sexual
46 education and health and physical education, but in respect
47 of the voluntary programs, is it possible for a school not

1 to offer any of them?

2

3 MS JACK: I would have to take that on notice. I can't
4 give you a categorical yes or no, but it's my understanding
5 the expectation is, every school offers something depending
6 on the context. I have not had a conversation with anyone
7 in the department yet who has told me otherwise.

8

9 MS NORTON: Well, perhaps I think it would be useful --

10

11 MS JACK: I will provide that information.

12

13 MS NORTON: -- to know if that expectation is borne out
14 and if the Department of Education monitors whether or not
15 schools are going beyond the mandatory education.

16

17 COMMISSIONER BROMFIELD: Can I ask a follow-up question on
18 this one? We heard from, I think it was Ms Carter, the
19 principal from one of your schools --

20

21 MS JACK: Yes.

22

23 COMMISSIONER BROMFIELD: -- about a school-based fund that
24 they used for things that they were talking about - she was
25 talking about a social worker that they had at a particular
26 faction. Is it the same fund that pays for this mandatory
27 training, so is it a school level? Does it come from the
28 school level budget? There you go, I got my question out.

29

30 MS JACK: This is something, because I'm not responsible
31 for school budgets or that side of what happens in the
32 department, that's another - that's something else I would
33 have to take on notice. I'm very happy to get the
34 information, it's probably a very simple answer and if the
35 Deputy Secretary learning was sitting here, she would be
36 able to answer.

37

38 COMMISSIONER BROMFIELD: I'd appreciate the answer and
39 I'll let you know the intent for why: I'm curious as to
40 whether schools could be making choices about the
41 curriculums that's best for them based on the cost of the
42 curriculum, where the lowest cost might win.

43

44 MS JACK: I do know there is some funding that is
45 allocated to providers under a terms of a grant deed, so
46 whether schools have additional funding they can put to
47 other prevention programs is what I'm not sure of. So, for

1 example, SASS, the Sexual Assault Support Service, is
2 provided with funding through the department by a grant
3 deed; they also have funding from other Tasmanian
4 Government agencies, from the Department of Communities
5 Tasmania to deliver certain services and programs. So,
6 some of it is definitely wrapped up in broader funding;
7 what I don't know is whether schools themselves have
8 additional funds that they can use through their resource
9 packaging to allocate as well.

10
11 PRESIDENT NEAVE: I've got a follow-up on that. As I
12 understand it, as you mentioned SASS and I think Laurel
13 House have got some funding to offer programs, and as I
14 understand it also, Ms Norton might correct me if I'm
15 wrong, it's a certain number of - programs to a certain
16 number of schools per year. What I don't know, I don't
17 think, is whether the school says, "We want to have some of
18 that", or whether the department says, "These are the
19 schools you should go to", or how that distribution is
20 worked out. What is it that dictates whether the school
21 gets access to one of those programs offered by SASS or
22 Laurel House, or is it some other process, and it would be
23 helpful for us, I think, to understand how that actually
24 works.

25
26 MS JACK: It's something that we have within Safeguarding
27 Children and Young People identified; it's not one of the
28 areas that we have focused on because there have been some
29 more immediate needs in terms of supporting particularly
30 our staff, the teachers, and giving them the tools they
31 need to deal with, you know, mandatory reporting, to
32 understand what to actually do when there's been child
33 sexual abuse, a suspicion or an allegation of child sexual
34 abuse in their school. So, we've tried very hard to get
35 into giving teachers the practical tools. We have
36 identified prevention programs as an area of focus for us.
37 I'm not sure how those programs are identified.

38
39 I have spoken a couple of times with the CEO of SASS
40 and also of Laurel House and talked to them about the fact
41 that I would like to get some more information from them
42 and build a really strong working relationship so we can
43 understand from our perspective. I don't get - I don't
44 want to interfere in the way Learning Services in schools
45 manage their budgets, but if there is a way that can be
46 recommended that might be better, then that's something we
47 would do. I will find the information out in relation

1 to --

2
3 PRESIDENT NEAVE: I've got a follow-up question then, and
4 I understand that this might be regarded as a Learning
5 Services issue rather than an issue that relates to your
6 office, but how does that coordination work? Because we've
7 heard evidence from Professor Walsh and others about how
8 this prevention exercise is terribly important in terms of
9 safeguarding children, so it does seem to me at this
10 preliminary stage that having those two things working
11 hand-in-hand are very important, the Learning Services and
12 the role that your office takes.

13
14 MS JACK: The way we work across the department, not just
15 with Learning Services but with every part of the
16 department, is going to make or break the way we end up
17 safeguarding and protecting the children and young people
18 in our care. So, I am working very closely with staff
19 within Learning Services, the Student Support Team in
20 particular, staff within our systems areas, Child and
21 Student Wellbeing, that space as well; we need to make sure
22 that we are not working in silos which - and also not
23 working in silos across government. It's something that I
24 feel very strongly about, so I do not for one second intend
25 to sit back and say, "Learning Services can deal with that
26 and that's on their watch", but I don't want to overstep
27 the bounds and be making calls without having the
28 conversations with them or without determining who is
29 responsible for what part of the decision that needs to be
30 made.

31
32 PRESIDENT NEAVE: Thank you.

33
34 MS JACK: I hope that answers the question.

35
36 PRESIDENT NEAVE: Yes, thank you.

37
38 MS NORTON: Ms Jack, before I return to Professor Walsh;
39 Professor Walsh talked before about protective behaviours
40 training for teachers and said that it tends to - it's only
41 when it's mandatory that it tends to happen. Is protective
42 behaviours training for teachers mandatory in Tasmanian
43 schools currently?

44
45 MS JACK: The only - as I'm aware, the only training of
46 that nature that's mandatory is mandatory reporting. And,
47 I'm not sure, Professor Walsh, what you meant by protective

1 behaviours training because there's a lot of training that
2 I believe our staff, not just teaching staff but all staff
3 need to be able to safeguard and protect the children in
4 our care. And that's one of the things that our office is
5 working on right at this moment: (a) I think it's fair to
6 say that there has not been the same rigour around the
7 mandatory reporting training that there could be, and we
8 are about to introduce a new module that will be compulsory
9 and will be put onto our - an online system where every
10 single person in the department will have to do it
11 every year and we will know who has and who has not done
12 that training.

13
14 We are also working on training for, in the first
15 instance, principals and aspiring principals on their
16 obligations and the requirements to safeguard and protect
17 our children, the rights of children, in particular their
18 right to an education, their right to be safe and their
19 right to be heard, so that in the first instance principals
20 and our school leaders understand what those obligations
21 are and understand why we have those obligations in place,
22 and will give them tools and training on red flag
23 behaviours that you might pick up through, you know,
24 grooming behaviours; what to do if you're seeing something
25 that doesn't look right; it's fairly basic training but
26 it's the first step to then building that into something
27 much bigger and also rolling it out right across the
28 department.

29
30 MS NORTON: Thank you, Ms Jack. Professor Walsh, is there
31 anything you'd like to say following on from Ms Jack's
32 evidence just now?

33
34 PROF WALSH: Yes. I think Ms Jack's role is, you know,
35 organising training is complex, in that, there's mandatory
36 reporting training, there's the component that I was
37 referring to before which was about the teaching of sexual
38 abuse prevention - training teachers to teach sexual abuse
39 prevention in schools, and then there's kind of the
40 leadership training that school leaders, even counsellors,
41 and from Annexure 6 I noticed the key role of school nurses
42 in delivering several of the prevention programs in
43 Tasmania, which I think is really interesting and a bit
44 different to what might happen in some other states.

45
46 I think a register of training so that you can track
47 who's receiving which training, you know, and how

1 frequently is really essential to understanding how - you
2 know, to being able to get a pulse on how many of the staff
3 are actually trained and who's due to be trained and who's
4 missing that training.

5
6 I guess the only other thing I would mention is that
7 there are some existing training programs, evidence-based
8 training programs, that have been used in the US. One of
9 them is called Stewards of Children that deals not only
10 with understanding sexual abuse as a concept, understanding
11 how it happens and it as a phenomenon, and how to report
12 it, but also moves then on to modules to do with teaching
13 children to keep themselves safe.

14
15 So, I think we haven't tried that program in
16 Australia, I've tried to get funding to do it several times
17 here, but it is an evidence-based program, it's been
18 evaluated by some of the best in the field and shown to
19 be - to have effect, even at state level, so entire states
20 have been studied: Georgia, for example, in the US where
21 this program has existed for a number of years and they've
22 looked at reporting rates on sexual abuse before and after
23 the introduction of the program and shown increases, but
24 also a lot of increase in general community awareness
25 because schools are such a hub of activity and what's
26 happening in schools ripples out into wider communities.

27
28 There's another program that trains teachers to
29 deliver sexual abuse prevention in their classrooms and
30 teachers are about integrating it into everyday classroom
31 activities, which given that teachers are under so much
32 pressure and the curriculum is so condensed and there's so
33 much pressure to cover literacy, numeracy, science - that
34 program's called Second Step, I believe, and is also used
35 in the US but hasn't been delivered here.

36
37 So, in Australia I think we've missed opportunities or
38 not taken them for some reason, we have different states
39 and territories, education departments develop their own
40 materials because for some reason we all think we're
41 unique, when there's probably not that much difference in
42 how teachers should be handling sexual abuse across the
43 board, and I include for children with disability in that
44 and children from indigenous communities; there are
45 certainly some nuances there but it's probably something
46 that all teachers should be aware of.

1 Yeah, I think that would - oh, and regarding the
2 funding models I did notice on Annexure 6 that there is the
3 model where a not-for-profit, an NGO such as Alannah &
4 Madeline or SASS, might be delivered or receive a contract
5 to deliver programs in schools. I actually think that's
6 quite a sound approach, but there's no - I had a quick
7 search for literature around this just this morning and I
8 couldn't find anything on it. And I know Alannah &
9 Madeline deliver eSmart Schools here in Queensland and it's
10 in a similar way.

11
12 But leaving the funding model to schools to decide
13 what they will do and how they will spend their budget, I
14 think the literature would tell us that they will only look
15 for a sexual abuse prevention program when they have an
16 incident; it will be reactionary why they do it. So, that
17 is very hard for schools to do when they commit their
18 budget at the start of the school year, there's just no
19 wriggle room in budgets to suddenly get somebody in to
20 deliver a program when an event happens, even though we
21 know that's not what should happen but in practice that's
22 often how it plays out. So, I think they are some of the
23 barriers. The cost for individual schools to receiving
24 programs is definitely a barrier.

25
26 MS NORTON: Thank you, Professor Walsh. Can I just go
27 back to something you said earlier. You observed in
28 respect of Annexure 6 that a lot of the training programs
29 are delivered by school nurses --

30
31 PROF WALSH: Some, yes, some of them.

32
33 MS NORTON: -- and that that was interesting and
34 different. Can I just invite you, if you like to,
35 elaborate on whether there's any difficulty with that
36 delivery model?

37
38 PROF WALSH: I don't think there is, but there were a lot
39 of programs there that mentioned that school nurses were
40 doing it, so there's a lot for school nurses to do, they're
41 assisting really with curriculum delivery there. So, I had
42 questions around how many FTE nurses are there that would
43 do this work, how might they prioritise this over the
44 everyday kind of practical, you know, broken arms and
45 bleeding noses that they might have to also deal with in
46 schools? How common are nurses? Does every school have
47 access to a full-time nurse? I wouldn't think that would

1 be the case.

2

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10 MS NORTON: Yes, thank you. I might stick with you,
11 Professor Walsh. You talk in your statement about the
12 importance - and this is at about paragraph 45 - you
13 discuss the importance of specialist portfolios. Can I ask
14 you to elaborate on that for the Commissioners?

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I think leadership roles in safeguarding in each school as well as, you know, a digital safety lead might be a model that could be tried. Often schools have Child Protection or safeguarding leads but those people are just doing it as part of their everyday work; it isn't something that they're given additional credit for, that they get additional pay for, that they have additional status for or even a title often, so I think those kind of basic industrial elements might be - might incentivise or might help raise the status of safeguarding in schools to some extent.

I can't point to models where that's happened well, it's an idea and it's untried, but it works in other areas, and the digital safety lead; it might not exist as a kind of "safety oriented digital lead" but there are digital leads in schools. There's an example of a school here in Queensland with a digital lead who began as a straight digital lead but who has become a digital safety lead in addition and doing absolutely marvellous things across the

1 school in designing entire programs where the kids are
2 learning about being safe online, including sexual safety
3 online, from when they enter - it's a secondary school, so
4 when they enter secondary school, and then they're doing
5 peer mentoring and the kids are deciding what the content
6 is that happens in the school, and this digital lead, they
7 are leading that work. Whereas, left to everyday classroom
8 teachers to fit it in with their other roles, it just
9 simply wouldn't happen. So, in my mind it would give time,
10 it would give status, it would give acknowledgment that
11 this work requires time and requires dedication, yeah, it
12 would lift it.

13
14 MS NORTON: Thank you, Professor Walsh. You mentioned
15 there that this is a model that hasn't yet been done
16 elsewhere. The Commission heard evidence earlier today
17 from a witness who encouraged Tasmania to lead the way on
18 reforms, and so, with that in mind I'll come to you,
19 Ms Jack.

20
21 I wonder if you could comment, having regard to what
22 Professor Walsh has been talking about, on the need for
23 specialist portfolios, and in particular whether the School
24 Safeguarding Officers that are intended to be introduced as
25 recommended by the professors in their report might be a
26 place for specialisation?

27
28 MS JACK: My thoughts went exactly to where yours did
29 because I heard Mr Leishman, I think it was, talk about the
30 opportunity for Tasmania being small, and I think I made
31 comment in my own statement; I was asked about barriers and
32 I did say that, you know, when - and I know I'm going
33 slightly off track, but with RCIRCSA, the recommendations
34 from the Royal Commission, some of the not barriers, but
35 challenges are that some of the education-related
36 recommendations required a whole-of-nation approach and we
37 might end up rolling something out that looks slightly
38 different because of our size and the scale of our
39 programs. But I also said in my statement that we have
40 some real benefits in being a small state because we can -
41 should be able to and can - collaborate better, we can work
42 together more easily, we have easier connections with
43 people, and through that I think there are some real
44 opportunities for us to be more agile and, as Mr Leishman
45 suggested, take the lead, and perhaps this is one way.

46
47 We are still mapping out what - or what the specifics

1 of the Safeguarding Officer roles are, but we do not
2 intend - and I have stated this from the beginning - we
3 will not target staff who are already working in schools
4 and either give them the title or an expectation that they
5 have an additional role in safeguarding without adequately
6 resourcing that. So, it may be that we take some of an
7 existing roles or an existing person's role away and give
8 them the safeguarding role if they are the right person, or
9 it might be a recruitment of new staff depending on the
10 skills and experience we require.

11
12 We cannot expect staff to do more with no additional
13 resources and we can't expect schools to do that. So that,
14 the Safeguarding Officer will be there to help the
15 principal lead the work we're doing to put children and
16 young people at the centre of every decision and action we
17 take. They will be there to help with the development of
18 risk assessment plans and monitor those plans so that we do
19 have some ideas on the role. We had not even thought of
20 digital leads, I will be honest - or sorry, digital
21 safeguarding leads, but that is something else that we
22 should be looking at.

23
24 MS NORTON: And, I appreciate that you're still working
25 out these roles and what they would look like, but have you
26 given any contemplation to, or could you, consider the
27 additional remuneration and status that Professor Walsh has
28 referred to both as recognition of expertise but also as an
29 enticement, an incentive, for people to do extra training
30 and take on this additional responsibility?

31
32 MS JACK: The title will be there regardless because we
33 think it's important, not just in terms of recognising that
34 person or acknowledging them or adding "status", it's about
35 getting the message out to everybody, not just our staff
36 and volunteers, not just the children that go to our
37 school, but the broader community that safeguarding is a
38 priority within our department.

39
40 The Rights of the Child are already highlighted in our
41 strategic plan as one of our improvement drivers, and that
42 is the right to an education, a right to be safe, and a
43 right to be heard, and they are not just words on a piece
44 of paper. We have to enact that, we have to embed the
45 national principles in everything we do, so the role will
46 be a role that is recognised and identified through that
47 title.

1
2 As to remuneration, we haven't even gone down that
3 track and I have to be careful with that because we are
4 subject to the State Service Act and we already have
5 statements of duties that require certain roles and
6 responsibilities to be pitched at a certain level with
7 aligned remuneration, so I can't - I would love to sit here
8 and promise extra dollars, but I would have to take that on
9 board and look at it.

10
11 MS NORTON: Yes, thank you, Ms Jack. I'd like to speak to
12 you both about harmful sexual behaviours within schools.

13
14 Ms Jack, I might just stick with you for the minute.
15 The Commission has heard evidence this week and last week,
16 and indeed in other evidence that's come to the
17 Commission's attention about concerns that support services
18 working in this space have about the ability of staff
19 within Department of Education schools to properly
20 recognise and respond to harmful sexual behaviours. Do you
21 have any reflections on that as a difficulty within the
22 current system?

23
24 MS JACK: Within the Student Support Team we have
25 considerable expertise in that space, and our student
26 support - senior student support staff have built strong
27 connections with a large number of experts in the field and
28 they have established a harmful sexual behaviours working
29 group that is building, not only its own knowledge bank in
30 terms of harmful sexual behaviours, but is also working to
31 build the skills and capacity of all staff in that area.
32 So, professional support staff like our school psychologist
33 and social workers.

34
35 I have heard and I have heard quite often in evidence
36 that one of the concerns is that there just aren't enough
37 of them, and we take that very seriously, and I have had
38 considerable discussions with the Secretary and we have -
39 we acknowledge that that is a need. As I've had
40 conversations with student support themselves, and it's not
41 just around the harmful sexual behaviours, it's across the
42 board in all our schools, and we are doing everything we
43 can to put forward the arguments to build the case for more
44 support in that area.

45
46 MS NORTON: Thank you. Professor Walsh, I might come to
47 you. As Ms Jack continues the work of building

1 capabilities within the department in relation to harmful
2 sexual behaviours, can I invite you to comment on best
3 practice responses in that area?
4

5 PROF WALSH: Yes, so the best - this is not - so, I will
6 say that harmful sexual behaviours is something I've come
7 to later in my career to understanding and to working with,
8 and the experts on that really are from the University of
9 South Australia and my colleague, Dr Leslie Ey, who is
10 currently working on this, on a new model to development a
11 new model that will help schools and other agencies working
12 with children with harmful sexual behaviours, it will help
13 each party understand what each other is doing, but it will
14 also develop a greater nuance to existing models, for
15 example traffic light models which is the predominant model
16 that teachers have been provided with to understand harmful
17 sexual behaviour to date, and that model goes along the
18 lines of, green light behaviours are everyday appropriate
19 sexual behaviours with students. A student might
20 mistakenly use or mistakenly do something when they're very
21 young, for example, and don't understand that the context
22 isn't appropriate for that behaviour and the occurrence of
23 that behaviour presents a teachable moment that can be
24 addressed in everyday teaching.
25

26 Yellow light behaviours or orange light behaviours are
27 those behaviours that make teachers prick up their ears and
28 go, "M'mm, what might be going on here?" And red light
29 behaviours are those that are repeated, might involve
30 coercion, might be - might involve manipulation, grooming
31 or perhaps even violence. So, Dr Ey, is working on a model
32 that would add greater nuance to that.
33

34 So some teachers across Australia, depending on where
35 they are and depending on what training they've been
36 exposed to, may have received training in the Traffic
37 Lights Model or they may not have. It's considered at the
38 moment to be ... [Zoom cuts out] to be a best practice
39 framework, if you like, for responding, recognising and
40 responding to children's harmful sexual behaviour, but it
41 has some limitations and it's - I guess it's rich within
42 Australia across, whole school systems just hasn't been
43 there.
44

45 The Royal Commission recommended greater attention be
46 paid to this and I understand there are different things
47 happening around Australia in addressing this, but there

1 isn't a coordinated - everyone's off doing their own thing
2 as I believe.

3
4 MS NORTON: Thank you, Professor Walsh.

5
6 COMMISSIONER BROMFIELD: Sorry, just for the record and to
7 avoid any potential perception of conflict, I just wanted
8 to acknowledge that I'm a co-chief investigator with Dr Ey
9 on the South Australian research that Professor Walsh just
10 mentioned.

11
12 MS NORTON: Thank you.

13
14 COMMISSIONER BROMFIELD: You carry on.

15
16 MS NORTON: I have finished my questions, thank you,
17 Commissioners.

18
19 MS JACK: Ms Norton, if I could just add along with what
20 Professor Walsh has said: there has also been significant
21 work done in the UK by, I think he's a professor, Simon
22 Hackett, and our staff do use Hackett's Continuum, which
23 while not a red light/green light system, it's very similar
24 and identifies behaviours along a spectrum from the green
25 light to the red, without using those, and we are hopeful
26 of being able to roll out training from that program, which
27 is the AIM program as I understand it, because we
28 understand that that is also another best practice model.

29
30 MS NORTON: Commissioners, you recall that Renae Pepper
31 from SASS gave evidence about that model earlier in the
32 week. Commissioners, are there any questions you have for
33 the witnesses?

34
35 COMMISSIONER BROMFIELD: No further questions, thank you.

36
37 PRESIDENT NEAVE: Thank you very much both of you, that
38 was a most interesting session, we've been very well
39 informed on the issues that you've spoken about today, so
40 thank you.

41
42 **SHORT ADJOURNMENT**

43
44 PRESIDENT NEAVE: Ms Bennett.

45
46 MS BENNETT: Commissioners, at the end of each hearing
47 week your Counsel Assisting will offer some brief

1 observations about what we can take from the evidence that
2 we've heard this week and how it connects with the work of
3 the Commission overall.

4
5 This week, Commissioners, we heard from four very
6 courageous victim-survivors and I reiterate the thanks of
7 your assisting team that they've shared their experiences
8 with us, and I'd like to begin by revisiting the powerful
9 evidence of those victim-survivors.

10
11 The week commenced with the evidence of Ms Kerri
12 Collins, a person whose young life was rocked by the abuse
13 that she suffered at the hands of a teacher. She talked
14 about her first attempt at making a disclosure, first to
15 the school counsellor who created a safe environment for
16 her to make a disclosure. Then to the principal and deputy
17 principal. She was asked to sit on the lap of the deputy
18 principal to show how she was sitting when she was abused.
19 She didn't feel believed by them. She said that the
20 interaction had an impact on her, Commissioners. She said:

21
22 *It was really difficult because all of a*
23 *sudden you were seen as different, or*
24 *other, or a liar ... that was my final year*
25 *of primary school ... not only had that in*
26 *my formative years of primary school but in*
27 *the final years.*

28
29 The perpetrator, who we referred to as "John", was
30 present at school the next day. Shortly after, Ms Collins'
31 father and parents of other children who alleged abuse by
32 John went to discuss John's ongoing presence at the school.
33 John did not return after that.

34
35 So far as Ms Collins was concerned, there was no
36 further support from the school. Even with the benefit of
37 her supportive home life, Ms Collins had to attend each day
38 of school with the feeling that she was not believed.

39
40 She gave her first statement to the police when she
41 was 11. It was in a small, window-less room with a male
42 police officer sitting nearby. She was alone, being too
43 embarrassed to speak about the abuse in the presence of her
44 father.

45
46 Ms Collins heard nothing else and did her best to get
47 on with her life. She says she was not told until this

1 week that the police analysis of the charges at the time
2 was based, in part, on their view that corroboration was a
3 legal requirement for the case to proceed. We heard this
4 week, Commissioners, that it is the current position of the
5 DPP that this view was incorrect at the time.

6
7 She heard nothing further until 2001, when police
8 contacted her and asked her to give assistance in giving
9 evidence against John. She gave an account of her abuse to
10 the police for a second time. This time her interaction
11 with police was trauma-informed. The police officer went
12 to her, the environment for the discussion was improved,
13 and she could disclose at her own pace.

14
15 John was charged and committed for trial by a
16 magistrate. Not long before the trial was due to commence,
17 the DPP decided not to proceed with the prosecution. The
18 reasons for the decision not to proceed were not clearly
19 communicated to Ms Collins at the time having regard to the
20 impact of her trauma, including the compounding impact of
21 that decision to not proceed.

22
23 Her significant disappointment with that decision was
24 overlaid by an urgent concern that John would continue to
25 teach.

26
27 What has now become apparent, Commissioners, that is
28 following the decision to discontinue the trial the
29 Department of Education sent a letter to the Teachers
30 Registration Board advocating for John to be permitted to
31 continue teaching. That took place without any analysis or
32 investigation of John's suitability by the Department of
33 Education at the time in 2004. That conduct was condemned
34 in the course of this week, Commissioners, by the
35 current-day Secretary of the Department of Education and
36 the registrar of the Teachers Registration Board.

37
38 Ms Collins went to the Teachers Registration Board and
39 was told she would need to attend an in-person hearing with
40 John. Understandably, she was scared of facing her abuser
41 and she was frightened she would be sued for defamation if
42 she "lost".

43
44 She contacted a Minister, she engaged a private
45 lawyer, all in a desperate attempt to protect other
46 children. She felt stymied at every turn and, ultimately,
47 she says she gave up. The need to ensure that John was not

1 permitted to continue to teach, Commissioners, is not a
2 burden Ms Collins should have been asked to bear.

3
4 We have now learned from the materials provided by the
5 Teachers Registration Board that Ms Collins' advocacy led
6 to widespread changes to the processes and procedures of
7 that body. Inextricably, Commissioners, those changes did
8 not lead to a re-examination of John's teaching status.
9 Ms Moxham, on behalf of the Teachers Registration Board,
10 described that as "a nasty black stain" and apologised on
11 behalf of the Teachers Registration Board.

12
13 Commissioners, Ms Collins did not give up on
14 protecting children. She became a social worker and she
15 started working with children, and she is now a senior
16 social worker with the Department of Education. In that
17 capacity she talked about the inability of her teams to
18 provide proactive care and attention for students who
19 should have it. She told us that they are stretched even
20 in responding to category 1 incidents, that is, critical
21 incidents, for students.

22
23 She told the Commission that her staff provide a
24 safety net for students who have no other access to
25 services, including alleged victims of violence, abuse,
26 neglect.

27
28 The practical difficulties in accessing the services
29 and support were also described by Ms Collins, including
30 the long drives in rural areas. She talked about the
31 difficulties she has in recruiting staff, including because
32 of the way that leave and entitlements are prioritised.

33
34 She said that in her experience there had not been
35 sufficient priority given to the protection of children
36 from child sexual abuse. She talked about her experience
37 of the ARL and the variable response that she had observed.
38 She felt that there was insufficient response to imminent
39 safety issues that she and her staff had raised, leading to
40 her and her staff liaising directly with police. She
41 emphasised that rural staff "got nothing" by way of
42 support.

43
44 On Tuesday, Commissioners, we heard from Katrina
45 Munting, who I acknowledge is present in the hearing room
46 today. Ms Munting now teaches at an independent school,
47 but was a student at a public high school in the late

1 1990s. Ms Munting described herself as a student who was
2 eager to do well at school and to please her teachers. A
3 bright student, she had hopes of being the first person in
4 her family to attend university and she applied herself to
5 her studies accordingly. She had a large group of friends,
6 she loved primary school and the early part of secondary
7 school.

8
9 Ms Munting spoke of her contact with a teacher who we
10 referred to as "Peter" in Year 9. She described his
11 relaxed attitude to students and his "very friendly, very
12 familiar way". Looking back now as an adult and as a
13 teacher she regards his interactions with students as
14 concerning and considers that in some respects Peter was
15 canvassing which students may have been "available" to him.

16
17 Peter was assigned to assist Ms Munting on a school
18 project and they worked closely together for that project
19 in a confined space. At first, Peter brushed past her in
20 ways that seemed accidental and, over time, the contact
21 became more deliberate. The change was subtle, but
22 Ms Munting came to realise the sexual nature of Peter's
23 behaviour. She was shocked but felt powerless to escape,
24 and Commissioners, the abuse continued for the remainder of
25 Grade 9, including on a school camp.

26
27 It continued through Grade 10 and it was about halfway
28 through term two, Commissioners, that a teacher, a senior
29 teacher, took Ms Munting aside during a class in the
30 library. The teacher said that he had noticed that she was
31 spending a lot of time with Peter and that it "wasn't
32 normal". Commissioners, she was horrified that the abuse
33 had been noticed and she felt blamed for it. She ran from
34 the room and cried her eyes out in the toilets, terrified
35 that the abuse was or would become widely known, with dire
36 implications for her marks and aspirations to go to
37 university. Another burden, Commissioners, that no child
38 should be asked to bear.

39
40 Ms Munting's anger that the senior teacher had raised
41 the matter with her in class in a way that held her
42 responsible for abuse was palpable. She was later told
43 that around this time someone did speak to Peter and that
44 he wasn't told to stop the abuse, just to "watch himself".
45 In the words of Ms Munting, he was given the message to
46 "keep doing it, just be better, so no-one notices, will
47 you?" And the impact of that on Ms Munting was immense.

1 Her evidence was this:

2
3 *It is beyond devastating, it is beyond*
4 *mortifying, it is beyond horrific; I can't*
5 *find a strong enough word to reflect my*
6 *disdain for the school, for the Education*
7 *Department, in the way they let me down.*
8

9 Ultimately, Ms Munting was able to extract herself
10 from the abuse, however she was then taught by Peter in
11 term 3 of Grade 10 and she described his angry and verbally
12 abusive conduct towards her at the time, and she put her
13 head down and got on with things as best she could.
14

15 The abuse was some years later reported to the school.
16 Ms Munting told us that neither the school nor the
17 department contacted her parents; not at the time the
18 senior teacher was spoken to, not at the time the abuse was
19 formally reported to the school, not even at the time that
20 Peter was charged and pleaded guilty to criminal charges;
21 not even, Commissioners, when Ms Munting went to the media
22 after amendments were made to section 194K of the Evidence
23 Act. And, Mr Bullard acknowledged appropriately, in my
24 submission, that this was a failing by the Department of
25 Education.
26

27 In 2020, Ms Munting wrote to the Minister for
28 Education at the time seeking a meeting with him, and she
29 wrote, the Commissioners heard, every week for 16 weeks but
30 her request was not granted. She had a meeting with a
31 Deputy Secretary of the legal branch who listened to her
32 account and offered her a personal apology. While she
33 appreciated that apology, it did not satisfy her need for
34 an acknowledgment from the very top of the ways in which
35 the Department of Education failed her. In light of her
36 experiences she regards the government's rhetoric as hollow
37 if it is not accompanied by real change.
38

39 Ms Munting also shared with the Commission her
40 powerful suggestions for change from the perspective of a
41 survivor and teacher.
42

43 On Wednesday the Commission heard from a person
44 identified as "Rachel". Rachel told the story of how she
45 was groomed and abused by a charismatic teacher at her
46 school in a small community. We refer to him as "Wayne".
47

1 Rachel talked about the way that Wayne encouraged her
2 to engage differently outside of school from inside of
3 school. He encouraged her to attend extracurricular
4 activities with him.

5
6 Rachel's mother observed some of Wayne's inappropriate
7 behaviour towards her daughter while they were on a trip
8 interstate that was connected with those extra-curricula
9 activities. Rachel told the Commission that what her
10 mother observed was by no means all of the conduct.
11 Indeed, Rachel said that she was confused and that she felt
12 it was her responsibility to protect Wayne. She said:

13
14 *I felt in a way [that I needed to] protect*
15 *him ... that's how I was advocating for*
16 *him, I was protecting him in the beginning.*
17 *I was so confused because I was torn; I'm a*
18 *people-pleaser ... I just wanted it all to*
19 *go away ... and I thought, by not speaking*
20 *up and saying anything back then it would*
21 *go away, but it just didn't, it just kept*
22 *going.*
23

24 And that confusion contributed, Commissioners, to
25 Rachel's sense of fear and uncertainty when she met with
26 Department of Education investigators. And, I can't
27 summarise any better than the evidence of Rachel herself,
28 Commissioners. She said:

29
30 *So, there were, from what I remember, two*
31 *men in suits in a small office in*
32 *school ... it wasn't a safe place for me*
33 *reflecting back because I wasn't willing to*
34 *come out with anything, but I just felt*
35 *like this little person with these men in*
36 *suits hovering over the top of me, and*
37 *scared, I feared it.*
38

39 She recalls about four interviews. Her mother came
40 with her to some, at others she did not have her choice of
41 support person present. She said that she could not
42 disclose the full conduct in those circumstances.

43
44 She told the Commission that when she went home after
45 each time she spoke with investigators she cried and tried
46 to talk herself into making further disclosures the next
47 time: another burden the child should not have to bear.

1
2 Commissioners, Rachel was invited to a "close out"
3 meeting in 2007, two years after her initial complaint.
4 She was shaking as she attended and was told that no breach
5 of the State Service Code of Conduct had been found. She
6 told you of her response:
7

8 *I was absolutely mortified because I just*
9 *feel like everything was sitting on deaf*
10 *ears, but at that stage they only had my*
11 *mother's version ... I broke down crying*
12 *and I admitted to them what had actually*
13 *happened.*
14

15 She then disclosed substantial detail of her abuse,
16 and she told for the first time that he had kissed her a
17 number of times, he rubbed his hand up her thigh and to her
18 vagina, she talked about him have her suck his finger and
19 put her phone down her pants on vibrate for when he
20 messaged and being shown inappropriate videos at school.
21

22 Commissioners, Rachel left that meeting without
23 knowing what was going to happen next. She went to the
24 police and they asked her to handwrite her complaint,
25 again, in a small room at the police station. She was told
26 it was too late to charge him with an offence related to
27 his conduct.
28

29 Rachel believed the Department of Education would at
30 least investigate her allegations. Instead, a few weeks
31 later, she came across a statement in the local newspaper.
32 It read:
33

34 *The following is an agreed statement*
35 *between the Department of Education and*
36 *Wayne.*
37

38 *After an extensive investigation the*
39 *Department of Education has determined that*
40 *Wayne has not breached the State Service*
41 *Act 2000 Code of Conduct. Wayne has been*
42 *appointed to a position within the*
43 *department and he took up that position in*
44 *2007.*
45

46 The impact on Rachel was substantial. In a small town
47 she felt disbelieved. She said she wanted to be "under a

1 rock". She left the town where she was born and where her
2 mother and she had lived their whole lives.

3
4 The following year, in 2008, Rachel provided her
5 statement to the Teachers Registration Board and this was a
6 process to which she had very little insight. She met with
7 the TRB and they told her that Wayne would be suspended.
8 She found out later he had successfully appealed.

9
10 Throughout the process Rachel felt peripheral,
11 Commissioners. She received no support from the Department
12 of Education, and she described the impact in stark terms.
13 She said:

14
15 *[Both of my] daughters ... I will not let*
16 *them go to a state school, I am firm on*
17 *that. I have been diagnosed with PTSD, I*
18 *have been diagnosed with major depressive*
19 *disorder, I need sleeping tablets, I have*
20 *restless legs, I have nightmares, I have*
21 *flashbacks.*

22
23 *Every sort of relationship that I have had*
24 *in my life I struggle with. I struggle*
25 *with trusting people, I struggle with being*
26 *in a room with men that do have power. My*
27 *current career is immensely affected by my*
28 *abuse, I can't handle certain noises, I*
29 *can't function some days ... I am very*
30 *fearful of being around too many people,*
31 *very intimidated if a male challenges me.*
32 *And, I am so over-protective and*
33 *hypervigilant of my daughters.*

34
35 The issues concerning the treatment of Rachel was the
36 subject of further information as the week progressed,
37 Commissioners. Mr Bullard agreed that two years to
38 complete the ED5 investigation into Wayne was too long. He
39 also acknowledged the way the matter was investigated was
40 unacceptable, and he said, Commissioners:

41
42 *I absolutely accept that part of the impact*
43 *that this matter had on Rachel was*
44 *compounded by the way in which the matter*
45 *was investigated and the approach that*
46 *those investigators took, and I do not*
47 *accept that we could say that that was in*

1 *any way acceptable.*

2
3 He said:

4
5 *The Department's response to this was*
6 *woefully inadequate.*
7

8 Mr Bullard also acknowledged that, had Rachel's
9 allegations been fully investigated at the time and
10 substantiated, Wayne would not have been allowed near
11 children and that there were significant failings of the
12 systems and processes of the department, including,
13 Commissioners, misrepresentations by the Department of
14 Education to the Teachers Registration Board and to the
15 public about the investigations into Wayne's conduct.
16

17 Mr Bullard said there was no evidence that there had
18 been any intention to mislead anyone, including the
19 Regulator. He accepted, however, that there has never been
20 an investigation into that question, and we are therefore
21 unable to reach a conclusion, Commissioners, about how such
22 serious failures occurred.
23

24 Ms Moxham confirmed that the TRB received Wayne's
25 application for registration in 2007 and made enquiries
26 with the department about his appropriateness to be
27 registered.
28

29 There were various hearings before the Teachers
30 Registration Board and he was ultimately granted a 12-month
31 registration and there was subsequent renewals over time.
32

33 In 2021, the Teachers Registration Board was notified
34 that Wayne had been suspended by the department and it
35 became aware of a possible third victim.
36

37 On 22 October 2021, the Teachers Registration Board
38 sought advice from the Solicitor-General around legalities
39 of re-opening an investigation into Wayne given the
40 identification of further matters. That advice, we were
41 told by Ms Moxham, has not yet been provided. We
42 understand that Wayne has since resigned.
43

44 That chronology, Commissioners, should be the subject
45 of reflection for anyone who would suggest that the matters
46 explored in respect of Wayne were merely of historical
47 interest.

1
2 Mr Sam Leishman gave evidence this morning about being
3 sexually abused by Darrel Harington when he was a student
4 at a high school in the late 1970s. He was 12 when the
5 abuse began and he spoke of his shame and concern that he
6 had "done a terrible thing". The abuse was known amongst
7 his peers who bullied and ostracised him, and staff at the
8 school. Echoing evidence given by Ms Munting earlier this
9 week, Mr Leishman gave evidence that he was spoken to by
10 another teacher at the school and made to feel that it was
11 his problem to fix.

12
13 It was not until he was in his 40s and became aware of
14 the work of the National Royal Commission that Mr Leishman
15 understood that he had been sexually abused by Darrel
16 Harington. It was the start of a process that saw
17 Mr Leishman share his experience with the National Royal
18 Commission and to engage with Tasmania Police.

19
20 His abuser was convicted of multiple offences both in
21 relation to Mr Leishman and others. Mr Leishman described
22 his experience of giving a victim impact statement in the
23 Supreme Court. He said this morning that it was a proud
24 moment and he felt like the biggest person in the room, he
25 felt that as an adult he was able to stand in defence of
26 his 12-year-old self.

27
28 We hear his evidence, Commissioners, as a call to this
29 Commission and to the Department of Education to stand up
30 in defence of young children and young people today.

31
32 Following the criminal conviction of his abuser,
33 Mr Leishman thought the Department of Education would
34 contact him to enquire about his welfare, and Mr Bullard
35 accepted that this was a reasonable expectation. After
36 waiting some weeks, he sent a letter to the then Education
37 Minister and received a holding response just before
38 Christmas of 2015. He expected to hear further in the New
39 Year.

40
41 Commissioners, he waited until May 2016 before
42 Mr Leishman sent another letter. He was feeling
43 unsupported by the response, both to his written
44 communication and to his very reasonable attempts to gain
45 access to information to help him piece together what had
46 happened.

1 Responding to Mr Leishman, Mr Bullard said this, this
2 morning:

3
4 *Mr Leishman's courage in revealing the*
5 *betrayal of trust that happened to him as a*
6 *result of an association that was made*
7 *while he was in one of our schools is very*
8 *confronting to hear, but then the barriers*
9 *that existed when he came forward with an*
10 *expectation that he would seek and receive*
11 *support or acknowledgment from the*
12 *Department of Education also makes me feel*
13 *very disappointed and ... I'm very sorry*
14 *for that.*

15
16 In terms of the work ahead, Mr Leishman expressed his
17 dismay at the tendency to regard Tasmania's size and
18 isolation as a downside and to look to other states for
19 solutions in a piecemeal way.

20
21 He went on to say:

22
23 *I sometimes think, well, why do we look at*
24 *it like that? Why can't we look at*
25 *Tasmania as being a small, isolated state*
26 *and that's actually our advantage? We are*
27 *small, we can set the standards, and we can*
28 *be the one that says, this is the benchmark*
29 *that everyone else has to meet, and we can*
30 *do that because we're small and because*
31 *we're isolated. There's no reason why we*
32 *can't do things better here than the rest*
33 *of the country.*

34
35 Mr Bullard agreed that the small size of the Tasmanian
36 State Service meant that it could be agile when it
37 approaches matters with the urgency and importance that
38 they deserve. And, Commissioners, it is difficult to
39 imagine a matter of greater urgency or importance than that
40 of making schools a safe place for all students.

41
42 We now move to the witnesses who have given evidence
43 in an exclusively expert or professional capacity. We
44 heard on Monday afternoon from Professors McCormack and
45 Smallbone who had been commissioned to carry out an inquiry
46 into the Department of Education's response to child sexual
47 abuse.

1
2 They explored the kinds of issues they found in the
3 course of their review, including the substantial
4 difficulties with records and the delicate balance between
5 permitting proper discretion to principals and avoiding an
6 ad hoc approach that leaves child safety to chance. They
7 spoke of the natural gravitational pull back to the
8 interests of adults when dealing with allegations of sexual
9 abuse and the need for the best interests of children to be
10 embedded in the responses to allegations of sexual abuse.
11

12 We heard in the afternoon from Ignatius Kim, a Senior
13 Mental Health Nurse at CAMHS. He spoke of the enormous
14 impact of betrayal trauma which can arise where an
15 institution not only fails to protect children in its care
16 but also responds to their disclosures in a way that is not
17 trauma-informed.
18

19 Conversely, his evidence, Commissioners, was that when
20 a trauma-informed response is on display there can be a
21 positive healing experience for children.
22

23 Mr Kim also acknowledged the work and commitment of
24 those who operate the ARL, but spoke as well of the real
25 structural problems within that service.
26

27 On Tuesday, the Commissioners heard from Ms Pepper, a
28 representative of SASS, who identified a range of training
29 supports that they have developed. She explained that SASS
30 often receives requests for advice from schools about how
31 to respond to harmful sexual behaviours. She said that
32 SASS provides different categories of support, including
33 therapeutic supports and training supports.
34

35 The appetite for training around these issues is,
36 Commissioners, telling. These are issues which are of
37 increasing significance and it appears that there is not
38 yet enough in the way of training and support around these
39 matters at a school level. What training there is,
40 Commissioners, appears to us at this stage to be piecemeal.
41

42 This was reinforced later on Tuesday in a panel
43 comprised of individuals working on the ground in
44 student-facing roles. In that session the Commissioners
45 will recall that Mr Russell, a teacher of long experience,
46 talked powerfully about his experience in attempting to
47 manage the aftermath of an incident of harmful sexual

1 behaviour in his classroom. He talked about how the
2 conduct arose and how a serious sexual assault was preceded
3 by challenging conduct, but the practice of keeping
4 children in the classroom at all times left few options for
5 the teachers as the child's behaviour escalated.

6
7 He talked about the impact on him of not being able to
8 guarantee the safety of the children in the classroom and
9 that impact being in addition to the impact on the victim,
10 the perpetrator, and the rest of the class.

11
12 He described returning months later to a classroom
13 where there were the two groups of boys separated: those
14 who had supported the perpetrators, those who had not, and
15 in an image which I cannot get out of my mind,
16 Commissioners, there were the girls grouped together taking
17 refuge at a table in the front of the class, the safest
18 part of the room.

19
20 Ms Carter is a principal who spoke about an incident
21 of harmful sexual behaviour where she felt that at the time
22 there were no clear policies or procedures to assist her in
23 how to respond. She said that very recently there have
24 been some policies and procedures in relation to these
25 issues. Ms Carter was, in our submission, an example of
26 the positive impact that school leaders can have on
27 improving responses to these difficult issues.

28
29 Ms Drake is a social worker in the north west region
30 who provides support to around 38 schools. She described
31 how her peers are spread thin attempting to respond to the
32 issues raised in relation to child welfare, including child
33 sexual abuse.

34
35 The panel observed there were a number of systemic
36 flaws in the education system from their perspective. They
37 reinforced the lack of utility in the current computer
38 system, noting it was cumbersome and ill-suited to dynamic
39 record-keeping. They observed that it did not enable links
40 to be made between multiple complaints against a single
41 teacher. Ms Carter said that she had stretched her school
42 budget to afford a social worker; first, half a day a
43 fortnight, then one day a fortnight.

44
45 Xris Reardon, the LGBTIQA+ Lead Schools Inclusion
46 Coordinator at Working It Out gave evidence about the
47 particular concerns that can arise for students who

1 identify as LGBTIQA+. They spoke about the additional
2 barriers to safety that these children can face, of the way
3 that harassment of queer and gender diverse kids are
4 sometimes "written off" as curiosities. Xris explained
5 that inclusive schools are safer environments for LGBTIQA+
6 students and all students.

7
8 Mr Smith of the Australian Education Union gave
9 evidence about the issues of child sexual abuse and
10 discipline from the perspective of the union. He agreed
11 that the first issue is the child, but noted the role of
12 the union is to support members to assert their right to
13 natural justice and fair process.

14
15 Mr Smith's attention was drawn to a letter of support
16 that the AEU sent to the Teachers Registration Board in
17 support of Wayne in 2009. The letter said in part:

18
19 *[We, the Australian Education Union] are*
20 *confident from the evidence that the board*
21 *can be satisfied that Wayne has learned his*
22 *lesson and will not re-offend in the*
23 *future.*

24
25 The AEU accepted that this sort of advocacy on behalf
26 of an educator accused of child sexual abuse was entirely
27 inappropriate and gave an assurance it would not happen
28 again.

29
30 Following this, we had the benefit of hearing about
31 how other jurisdictions, such as South Australia and
32 Victoria, had grappled with the challenge of fairly
33 balancing child safety with the rights of employees whose
34 conduct has come into question. We were assured that these
35 concepts need not be seen as mutually exclusive.

36
37 Implementation of the recommendations of the 2012
38 DeBelle Inquiry in South Australia has profoundly shaped
39 the culture and practice of that state's Education
40 Department as it relates to child safety. Ms Girvin's
41 evidence about the impact of the review was powerful,
42 passionate and urgent. She spoke about the specialist unit
43 and procedures that were established to provide a robust
44 and clear process where issues of child sexual abuse are
45 raised.

46
47 Ms Sanders spoke with equal force about Victoria's

1 Reportable Conduct Scheme, which provides their
2 Commissioner for Children and Young People with broad
3 powers to monitor and oversee how institutions engaging
4 with children, including schools, respond to allegations of
5 Reportable Conduct, including sexual misconduct and abuse.
6

7 We heard from them both about what good investigations
8 look like; the importance of centring and listening to
9 children within the process, and the process being fair and
10 transparent to employees and volunteers, but flexible and
11 responsive enough to properly manage risks to children.
12

13 They reminded us, Commissioners, that the priority of
14 these processes are to be protective rather than punitive.
15

16 Mr Tim Bullard gave evidence on Wednesday afternoon,
17 Thursday morning and earlier today. He acknowledged the
18 courageous evidence given by former students in relation to
19 abuse they had suffered while in the care of the
20 department. He apologised for the abuse and the various
21 ways in which the department's responses had compounded
22 their suffering.
23

24 Although steps have been taken in recent times to
25 improve the department's response, Mr Bullard frankly
26 acknowledged capacity issues in relation to independent
27 investigations and suggested there would be merit in the
28 creation of a centralised Investigations Unit to conduct
29 Code of Conduct investigations across the State Service.
30

31 Mr Bullard gave evidence about the experience of the
32 operation of the State Service Code of Conduct and the way
33 it interacted with ED5 investigations.
34

35 At a high level, it may be said that an ED5 is an
36 investigation process that is designed to facilitate a
37 determination by the Secretary of the question of whether
38 an employee has breached the Code of Conduct. Mr Bullard's
39 evidence is that the ED5 process requires significant
40 modification to deal effectively with issues related to
41 child sexual abuse.
42

43 Commissioners, it may be the evidence suggests that it
44 is not a process that is fit for purpose if the purpose is
45 protecting children.
46

47 Mr Bullard said that the custom and practice has been

1 that section 9(4) of the Code of Conduct is engaged when
2 there has been a finding of a breach of Australian law as
3 found by a court, and when it was suggested that it might
4 be engaged where he is satisfied that there has been a
5 breach of Australian law on the balance of probabilities,
6 Mr Bullard said it hadn't come up and he would need to seek
7 advice if that issue arose.

8
9 The evidence of Mr Bullard as it relates to the case
10 studies highlighted a range of deficiencies in the
11 department's handling of child sexual abuse allegations in
12 the past. The extent to which those deficiencies have been
13 addressed in a sustained way at a systems level is, in our
14 submission, open to question.

15
16 When asked what system changes had been made in
17 relation to investigations, he said that all investigations
18 are now independent, but conceded there were no formal
19 changes to ensure a gender balance or evidence of
20 trauma-informed practice by those carrying out the
21 investigations, although these are the matters which he
22 gave evidence are under active discussion.

23
24 He identified further changes that he said had taken
25 place to ensure that what was captured by the phrase "in
26 the course of employment" was expanded, and he pointed in
27 this respect to expanded definitions in departmental
28 policy. He spoke of a general direction to raise issues of
29 concern with him directly. He said that he had a clear
30 expectation that he had communicated to staff that all
31 complaints would be directed to him through the Workplace
32 Relations Unit and escalated to him personally. He said
33 there would be additional training.

34
35 Mr Bullard accepted that these changes were dependent
36 upon his personal commitment, and while this Commission no
37 doubt welcomes and supports that commitment, it is a matter
38 that needs to be embedded and systematised. And, in our
39 submission, that's a matter that was properly acknowledged
40 by Mr Bullard.

41
42 Mr Bullard said that in the past there had been a
43 tendency to look to external bodies to determine fitness to
44 teach, but that he now takes no signal from an external
45 body, and he takes responsibility for decisions himself.

46
47 In the course of some further case examples,

1 Mr Bullard accepted additional issues and failings in. In
2 relation to the matter of Jeremy, there were boundary
3 breaches that went unrecorded in 2012 and, when there had
4 been further conduct in 2016, there was no record on the
5 school systems of the course of conduct.

6
7 In the case of Brad, again a pseudonym, there was very
8 concerning conduct that evolved to become more overt over
9 time. This conduct took place over 2018, 2019 and 2020,
10 and it went undetected, Commissioners, because of a lack of
11 systems to record the conduct. Brad was a relief teacher
12 who was entitled to keep teaching because his name was on
13 the register of relief teachers. The part of the
14 Department of Education that was dealing with the
15 individual issues as they arose did not know that he could
16 be removed from that register. As a relief teacher, he was
17 not susceptible to an ED5, so there was simply no sanction
18 and his entitlement to teach went on uninterrupted. This
19 is a recent example, Commissioners, of the way in which the
20 system failings continue until recently.

21
22 Mr Bullard further noted that it was his understanding
23 that the Personal Information Protection Act prevented
24 disclosure of all relevant information to the TRB and
25 Working with Vulnerable People register. He talked about a
26 work-around, being that people were interviewed and at the
27 time of their interview were told that their statement
28 would be or might be provided to the Teachers Registration
29 Board or other body. The evidence of Ms Moxham casts doubt
30 on the efficacy of that work-around, and this is an issue
31 to which we anticipate inviting you to return,
32 Commissioners.

33
34 Mr Bullard frankly acknowledged that the ED5 process
35 was not best practice and that it had at times fallen short
36 of community standards expectations. He said that there
37 remain improvements for the department around culture, the
38 provision of support for children, and a further emphasis
39 on training.

40
41 On Thursday afternoon, the registrar of the Teachers
42 Registration Board, Ann Moxham, gave evidence that the
43 board's ability to regulate for the welfare and best
44 interests of students was hampered. The factors that she
45 identified included restrictions on what information could
46 be shared with the board under its own Act, as well as what
47 she perceived to be restrictive interpretations of the

1 PIP Act, and the Commissioners will know that that
2 characterisation was a matter with which Mr Bullard took
3 issue earlier today.
4

5 Ms Moxham also said that resourcing and staff issues
6 made it difficult for the board to fulfil its role. She
7 described as "scary" the fact that the board was unable to
8 adequately keep track of the location of particular relief
9 teachers where they were teaching on any given day due to
10 gaps in its legislation. There were a range of other
11 concerning matters raised by Ms Moxham in her evidence.
12

13 Commissioners, you then heard from a panel of
14 plaintiff lawyers, Mr Warren Strange and Ms Angela Sdrinis,
15 and they talked about the options available to
16 victim-survivors, including the National Redress Scheme and
17 civil litigation. They emphasised the importance of having
18 options available as the adversarial system can be "blunt
19 and cruel" for survivors. They expressed their concern
20 that the National Redress Scheme is due to end in 2028.
21

22 Both Mr Strange and Ms Sdrinis emphasised how
23 important it is that these legal processes are
24 trauma-informed. They reminded us that when survivors make
25 claims against these institutions which are responsible for
26 the abuse they have experienced, dealing with these
27 institutions can re-trigger their trauma experiences.
28

29 While both witnesses agreed and accepted that
30 institutions have right to make legal arguments to defend
31 their matters, they can elect to do so in more
32 trauma-informed ways or less trauma-informed ways. Indeed,
33 we heard that the model litigant guidelines, which apply to
34 the Tasmanian Government when defending child sexual abuse
35 claims, are broadly consistent with trauma-informed
36 practice.
37

38 Ms Sdrinis recounted some disturbing examples where
39 the Office of the Solicitor General had perhaps elected to
40 be more adversarial and less trauma-informed when adopting
41 technical and legalistic arguments to defend claims.
42

43 Mr Bullard this morning said these were matters
44 entirely within the determination of the Office of the
45 Solicitor General. He said that even where he or his
46 office were a defendant in the matter, he could not
47 instruct lawyers with carriage of the matter to take a

1 particular approach, even if that approach were, in his
2 view, in the interests of victim-survivors.

3
4 Both Ms Sdrinis and Mr Strange gave evidence of their
5 opinion that it is fundamentally important for the
6 Tasmanian Government to be advised, rather than directed by
7 its lawyers, in their actions as it takes the actions and
8 steps that it takes in civil litigation and Civil Redress.

9
10 In our last session for the week, Commissioners, we
11 heard from Professor Walsh from the School of Early
12 Childhood and Inclusive Education at the Queensland
13 University of Technology. Professor Walsh was joined by
14 Ms Jack, the executive director Safeguarding Children and
15 Young People at the Department of Education. Ms Jack's
16 role has been created to lead the department's response to
17 the report of Professors Smallbone and McCormack.

18
19 The evidence led in this session focused on the
20 importance of mandatory prevention education in school
21 curriculums as well as mandatory Protective Practices
22 training for school staff.

23
24 Professor Walsh spoke of the potential benefits of
25 specialist portfolios to recognise and reward the expertise
26 involved in safeguarding children. Ms Jack said the school
27 Safeguarding Officer roles that are to be created in
28 response to the education report might fill this role.

29
30 She also heard about the need for appropriate
31 training. We also heard, Commissioners, about the need for
32 appropriate training and support to assist schools to
33 respond to harmful sexual behaviours within schools.

34
35 Commissioners, in due course consideration will need
36 to be given to a range of findings which might arise out of
37 the vast body of materials that are before you. At this
38 stage, we propose to identify only some of the most
39 immediately apparent issues which may arise from the
40 evidence that has been highlighted this week and they are
41 not exhaustive.

42
43 But these matters are urgent, Commissioners. We want
44 to give some notice of what, in our submission, is
45 available as a preliminary position before further
46 information or proposed findings are provided in due
47 course.

1
2 As we set out at the start of this week, we are
3 focused on the role of the Tasmanian Government in
4 preventing, identifying and reporting and responding to
5 child sexual abuse. We are not seeking to make findings
6 about any criminal responsibility of any individuals; those
7 are properly matters for the police and the courts.

8
9 But in relation to the various case studies, it
10 appears to us, Commissioners, as a preliminary position
11 that it is open to this Commission to find that the
12 Department of Education failed to properly respond to or
13 investigate the complaints made by Rachel in 2007; that the
14 Department of Education took too long to investigate the
15 allegations and complaints by Rachel; that it misled the
16 Teachers Registration Board and the public by implying or
17 stating that investigations brought to its attention about
18 Wayne had been fully investigated when there were a number
19 of outstanding matters that it had not investigated.

20
21 In relation to Ms Collins, it is open to find that
22 there were a range of failings, including that the
23 Department of Education failed to provide support to
24 Ms Collins either as a child when allegations were made or
25 following the commencement of legal proceedings in 2001;
26 that the letter from the Department of Education to the
27 Teachers Registration Board in October 2004 urging the
28 registration of John was entirely improper; that the
29 Teachers Registration Board's registration of John and
30 dismissal of the concerns of Ms Collins is properly
31 described as a "black stain" on the record of the Teachers
32 Registration Board. It is a monstrous failing,
33 Commissioners. It's open to find, I should say.

34
35 In relation to Brad, the Department of Education
36 inappropriately failed to remove Brad from the register of
37 relief teachers after being notified on multiple occasions
38 that there had been concerns about his conduct related to
39 children.

40
41 In relation to Mr Leishman, there was a failure to
42 proactively provide support after the Department of
43 Education became aware that he had suffered child sexual
44 abuse while a student, and that communications with him
45 were unjustifiably delayed. It may be open, Commissioners,
46 to make the same findings in relation to the response of
47 the department to the matters raised by Ms Munting.

1
2 We anticipate that, following further review of
3 documents and other materials and consideration of any
4 submissions which may be made by the Department of
5 Education, there may be further or different findings that
6 the Commissioners feel it's appropriate to make.
7

8 We feel it appropriate at the same time to identify
9 other areas for concern that it might be the Commissioners
10 instruct us to return. The Teachers Registration Board,
11 for example, appears to believe it is underfunded and
12 under-staffed to carry out its duties as they relate to the
13 intersection of teacher regulation and protecting children
14 from child sexual abuse.
15

16 It may be, Commissioners, that the Teachers
17 Registration Board lacks the legislative power to
18 adequately ensure that teachers who pose a risk to students
19 and do not comply with the Teachers Registration Act are
20 appropriately penalised.
21

22 It may be the Teachers Registration Board feels it is
23 fettered by the interpretation or operation of the Teachers
24 Registration Act and the Personal Information Protection
25 Act as they apply to the provision of information by the
26 Department of Education to the Teachers Registration Board.
27

28 We also expect to return to the issues surrounding the
29 question of whether the Department of Education fails to
30 provide all of its investigative material to the Teachers
31 Registration Board and whether, if that is the case, that
32 impedes the Teachers Registration Board in carrying out its
33 functions in a trauma-informed way or at all.
34

35 We recognise, and applaud, that Mr Bullard accepted
36 that there had been multiple failures by the Department of
37 Education over time, particularly prior to him being
38 Secretary. We also recognise that he has specifically
39 identified opportunities for improvement, and we heard from
40 Mr Bullard about the leadership he is seeking to exercise
41 and the culture he is trying to build within the
42 department, and we welcome and we anticipate that the
43 Commissioners welcome a commitment to a child-centric
44 approach.
45

46 At the same time, as I noted earlier, we are concerned
47 that many of the changes depend upon the leadership of a

1 particular Secretary, and Mr Bullard acknowledged this
2 risk. We will continue to consider whether and how
3 fundamental change within the department can be embedded in
4 a way that does not rely on one or more key individuals in
5 a context of a large organisation with perpetual success
6 session. This is a particularly important matter in light
7 of the recently announced merger of the Department of
8 Education and the Department of Communities.
9

10 Commissioners, we will continue to consider more
11 broadly the other matters that have arisen this week,
12 including the role of the Office of the Solicitor-General
13 and issues which arise where it provides the sole source of
14 advice to Tasmanian Government departments and agencies, as
15 well as its role in the conduct of civil litigation; the
16 role of the ARL and the Child Safety Service in receiving,
17 reporting and responding to notifications that could
18 trigger concern over institutional child sexual abuse, and
19 whether that system is fit for purpose; the flow of
20 information generally between organisations tasked with
21 carrying out regulatory oversight functions within
22 Tasmania; and impediments to keeping children safe from
23 child sexual abuse due to limitations that might be imposed
24 or read into information sharing between Tasmanian
25 Government departments and agencies.
26

27 We will continue to ask whether the current
28 disciplinary processes provide a framework for departments
29 with responsibility for children to take appropriate action
30 in relation to the actions of relevant state servants, and
31 we will continue to consider the difficulties faced by
32 victim-survivors in obtaining information from different
33 government bodies in relation to their disclosures,
34 investigations into those disclosures, and the action or
35 lack of action against the alleged perpetrator of the
36 abuse. Underscoring this in all of our enquiries,
37 Commissioners, will be, "Does it help?", and, "Does it help
38 on a human level?"
39

40 Commissioners, this week we heard from
41 victim-survivors who generously and courageously shared
42 their terrible experiences that have changed their lives.
43 We have also heard how, through their careers and advocacy,
44 they have sought to make a difference and to keep children
45 safe.
46

47 We also heard of a commitment by the Secretary and the

1 department to improving policies, procedures and culture.
2 We will continue to examine and consider that commitment,
3 how it manifests in laws, policies and procedures, and how
4 all of these are implemented in reality so that any
5 improvements endure.

6
7 If the Commission please.

8
9 PRESIDENT NEAVE: Thank you very much, Ms Bennett.

10
11 **AT 4.00PM THE COMMISSION WAS ADJOURNED TO**
12 **TUESDAY, 14 JUNE 2022 AT 10.00AM**
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