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**TRANSCRIPT OF PROCEEDINGS**

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**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.

47

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.

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

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

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

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

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

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

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

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

And, out of curiosity I got on to the website for the Royal Commission, and I was - I was just staggered, because by that stage there was volumes and volumes and volumes of 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

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

2

3

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

4

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10

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

11

12

A. Yes, yep; yep.

13

14

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

15

16

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

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Q. And how was that process for you?

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

33

34

35

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37

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

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

46

47

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

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

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

42

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

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

38

39 Q. No, I understand.

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

46

47 Q. You get a folder like that (gestures), and is it fair  
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.

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

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

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

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

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

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

#### SHORT ADJOURNMENT

PRESIDENT NEAVE: Yes, Ms Norton.

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

1 Education.

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<KERRYANN MARIE WALSH, affirmed: [1.37pm]

14

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<ELIZABETH HAMILTON JACK, affirmed:

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17

<EXAMINATION BY MS NORTON:

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19

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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

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

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

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

MS JACK: I have.

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

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

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

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

MS JACK: That's correct.

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

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

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.

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

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

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

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

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

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

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

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

MS NORTON: Thank you.

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

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

MS JACK: Yes.

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

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

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

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

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

MS JACK: Absolutely; I think it's entirely appropriate and incredibly important. I would love to just have a blanket requirement that all our statements of duties automatically have that within them, I asked for that, but 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.

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

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

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

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

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

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

PROF WALSH: Yes, probably one key thing about resources 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.

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

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

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

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

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

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

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.

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

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

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

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

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

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

47

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

3 So, I think placing that responsibility, at least  
4 they're departmental staff, and it would relieve teachers  
5 to a certain extent, but there was a lot that seemed to be  
6 going their way or that they were expected to contribute  
7 to, so I wondered whether it would be important to hear  
8 from them about how that's working.

9

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?

15

16 PROF WALSH: Yeah. So, I think a key way to incentivise  
17 safeguarding in schools is to attach status and reward to  
18 those positions in schools, and probably at departmental  
19 levels, you know, in head office levels as well. I think  
20 that those roles carry additional risks that some other  
21 school leadership positions like curriculum leadership  
22 don't carry. I think it would ensure that the right kind  
23 of people get into those roles as well, so people who are  
24 both ambitious, have drive, want to make a difference, but  
25 also have some content area knowledge or are prepared to  
26 get that content area knowledge.

27

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

39

40 I can't point to models where that's happened well,  
41 it's an idea and it's untried, but it works in other areas,  
42 and the digital safety lead; it might not exist as a kind  
43 of "safety oriented digital lead" but there are digital  
44 leads in schools. There's an example of a school here in  
45 Queensland with a digital lead who began as a straight  
46 digital lead but who has become a digital safety lead in  
47 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:

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

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

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

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

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

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

At the same time, as I noted earlier, we are concerned 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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<b>\$</b>	<b>2001</b> [2] - 1125:7, 1143:25	<b>456</b> [2] - 1090:18, 1090:20	1121:18, 1140:43	1131:28, 1133:5, 1133:6, 1134:47, 1135:9, 1135:10, 1136:33, 1137:9, 1137:26, 1137:44, 1138:5, 1138:19, 1138:20, 1138:41, 1139:11, 1141:26, 1141:34, 1143:5, 1143:44, 1144:14, 1145:18, 1145:23, 1145:36
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