Select Committee on Personal Choice and Community Safety — Final Report — "Community Safety: For the Greater Good, but at What Cost?"

Resumed from 12 May.

Motion

Hon AARON STONEHOUSE: I move —

That the report be noted.

I am delighted to have an opportunity to speak on the select committee report. I have been eagerly awaiting this opportunity. I have been watching the notice paper as committee reports slowly fell away, anticipating when I would have an opportunity to actually speak on this report. In fact, I was a little concerned that we might not have a chance to consider this committee report during this Parliament, which would have been a travesty, because the members of the select committee worked very hard for more than a year to produce this report. A lot of thought and effort went into it.

Hon Alison Xamon interjected.

Hon AARON STONEHOUSE: It is worth noting, of course, that the Parliament did vote for and request that this committee be established and that this inquiry be undertaken and this report produced.

I am quite proud of some of the recommendations and the findings that came out of this report. From the outset, I know that some people will perhaps think that some of the topics covered in this report are trivial and do not warrant a parliamentary report, but I would like to draw members' attention to the last two chapters, which I think took a rather mature, measured and balanced approach to questions around legislative and regulatory scrutiny, and the balance between overbearing paternalism and personal responsibility. The report really tries to get to the heart of questions around when it is appropriate for the government to step into somebody's personal life and make decisions on their behalf or to coerce them or restrict their choices for their own good and their own safety. I refer members to chapters 6 and 7, where some very useful findings and recommendations were made. I point members of the Committee of the Whole House to paragraph 6.34, which deals with the Nuffield Council on Bioethics' view of stewardship. The committee looked at the Nuffield ladder of intervention, which is a tool used primarily for health policy, but I think it is possible to apply it to other areas of regulation. That is what the committee did in this case—it looked at the ladder of escalation of intervention when it comes to regulation.

I refer members to the ladder of intervention detailed on page 99 of the report, which outlines the various options available to agencies and regulators when it comes to changing people's behaviour. It starts at the bottom of the ladder with —

Do nothing or simply monitor the current situation.

That is kind of a radical idea. When we think about the problems in society and the silly mistakes that people tend to make, quite often there is an impulse to have the government step in and solve the problem. It is interesting that there might actually be a possibility that the government can do nothing in some cases—that it might be most appropriate for a government to do nothing. The ladder goes up. The next recommended option is —

Provide information. Inform and educate the public, for example as part of campaigns to encourage people to walk more or eat five portions of fruit and vegetables per day.

Again, that is a rather radical suggestion for some agencies, whose initial impulse is to control, coerce, prohibit, fine or ban. The idea that we might provide members of the public with information and the ability to make their own decisions is rather radical today. In fact, it is rather relevant to a bill that we will perhaps debate in coming weeks—the Ticket Scalping Bill. The government had various options available to it, starting, of course, with doing nothing. The evidence that I have seen around ticket scalping suggests that there is not really a problem. There are fraudulent sales from time to time, but there is nothing to really warrant the government inserting itself into that area. The government had multiple options available to it. The preferred option of the commonwealth Treasury department was to provide consumers with information—to equip consumers with the tools they need to make informed decisions about buying second-hand tickets or tickets from third party sources. The state government could have gone down that route or down the route of banning and putting in place price caps, fines and penalties. Of course, it went down the route of applying fines and penalties. It seems that rather than trying to inform the public about the risks associated with buying tickets from third party sources, the government has gone a few steps ahead of itself and adopted a policy of fines, penalties and coercion.

The ladder of intervention goes up through various options of varying degrees of paternalism, until it arrives at the final rung of the ladder, which is the elimination of choice. It states —

Regulate in such a way as to entirely eliminate choice, for example through compulsory isolation of patients with infectious diseases.

That is the final rung on the ladder; that is the most severe intervention that the government can take. The ladder of intervention is interesting. Recommendation 12 of the committee report is —

> Government agencies have regard to the Nuffield Council on Bioethics' intervention ladder when developing policies and regulation.

That is a very sound recommendation, if I do say so myself. The government provided a response to recommendation 12, which was that it noted it, and —

> Government agencies as a matter of course apply principles of proportionality in developing policies and regulation as they relate to public health.

I remain a little sceptical about that. I am not so sure that agencies do because I have not found anywhere that such principles are articulated. That was something that the committee noted. The committee spent some time looking at the regulatory principles that New Zealand applies, and New South Wales has some similar regulatory principles. The New Zealand principles are referred to as New Zealand's Regulatory Stewardship, which exist under the State Sector Act 1988, which requires a government department to exercise stewardship of the legislation it administers. There is a list of expectations that New Zealand applies and the New Zealand government believes —

> … that durable outcomes of real value to New Zealanders are more likely when a regulatory system:
>
> - has clear objectives
> - seeks to achieve those objectives in a least cost way, and with the least adverse impact on market competition, property rights, and individual autonomy and responsibility
> - is flexible enough to allow regulators to adapt their regulatory approach to the attitudes and needs of different regulated parties, and to allow those parties to adopt efficient or innovative approaches to meeting their regulatory obligations
> - has processes that produce predictable and consistent outcomes for regulated parties across time and place
> - is proportionate, fair and equitable in the way it treats regulated parties
> - is consistent with relevant international standards and practices to maximise the benefits from trade and from cross border flows of people, capital and ideas …
> - is well-aligned with existing requirements in related or supporting regulatory systems through minimising unintended gaps or overlaps and inconsistent or duplicative requirements
> - conforms to established legal and constitutional principles and supports compliance with New Zealand's international and Treaty of Waitangi obligations
> - sets out legal obligations and regulator expectations and practices in ways that are easy to find, easy to navigate, and clear and easy to understand, and
> - has scope to evolve in response to changing circumstances or new information on the regulatory system's performance.

Those are rather sensible regulatory principles. In fact, I draw members' attention to the point that the regulatory systems should be proportionate, fair and equitable in the way regulated parties are treated. It is interesting to note that although New Zealand has those principles, Western Australia does not. It does not have a statutory set of regulatory principles or even as a policy document a set of regulatory principles.

Hon PIERRE YANG: It is a great pleasure to make a few remarks on this report. As members know, Hon Aaron Stonehouse and I were elected in the same election in 2017 and we have the privilege of representing the good people of the South Metropolitan Region. Obviously, Hon Aaron Stonehouse is the leader of the Liberal Democrats in this place and is well known for his firm, staunch beliefs in libertarian ideals. When I have previously talked about them, I have commended him for standing up for his beliefs.

In 2018, I was made aware that Hon Aaron Stonehouse was going to move a motion to establish a select committee to look into a range of issues that may affect the freedom and liberty of the people of Western Australia. I was immediately interested in finding out more. Later, as we know, I was able to participate as a member of the Select Committee on Personal Choice and Community Safety. I have to say that that was the first select committee that I participated in. At the time, a number of new members were appointed as members of select committees. I was very interested in finding out what the processes involved in a select committee were like and how different they were —

A member interjected.

Hon PIERRE YANG: Honourable member, this is a very serious issue. He is a funny man, and I really love his humour, but this is a very important issue.

I am sorry, Mr Chair, I was on the topic of my interest in participating in this select committee. I was very lucky to be appointed by the Parliament to participate in this committee.

The committee was formed on a motion of Hon Aaron Stonehouse with Hon Dr Sally Talbot as deputy chair, who is away on urgent parliamentary business, now; Hon Dr Steve Thomas; Hon Rick Mazza, who is also on urgent parliamentary business with Hon Dr Steve Thomas; and me. The committee was ably supported by advisory officers Ms Denise Wong and Ms Irina Lobeto-Ortega and David Graham as the committee clerk. We worked together over the next 20 months during numerous hearings and deliberated and produced this report.

I refer to the back of the report and the terms of reference for the work of this important committee. The committee was appointed by this house on 29 August 2018. The terms of reference state —

> The Select Committee is to inquire into and report on the economic and social impact of measures introduced in Western Australia to restrict personal choice 'for the individual's own good', with particular reference to —
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> (1) risk-reduction products such as e-cigarettes, e-liquids and heat-not-burn tobacco products, including any impact on the wellbeing, enjoyment and finances of users and non-users;
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> (2) outdoor recreation such as cycling and aquatic leisure, including any impact on the wellbeing, enjoyment and finances of users and non-users; and
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> (3) any other measures introduced to restrict personal choice for individuals as a means of preventing harm to themselves.
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> The Select Committee is to report by no later than 12 months after the Committee has been established.

The last part on the back page of the report states —

> By order of the Legislative Council on Wednesday 29 August 2018, membership of the Select Committee on Personal Choice and Community Safety shall be:
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> – Hon Aaron Stonehouse (Chair)
> – Hon Dr Sally Talbot (Deputy Chair)
> – Hon Dr Steve Thomas
> – Hon Rick Mazza
> – Hon Pierre Yang.

I think it was the first time there were two members of a select committee with the title of doctor. As we know, doctors can bring unique insight to a committee's inquiry.

Several members interjected.

The DEPUTY CHAIR (Hon Matthew Swinbourn): Members!

A member interjected.

The DEPUTY CHAIR: Order, member! I am speaking and I would appreciate you respecting the Chair. Members, you may not appreciate the contribution of Hon Pierre Yang, but he has every right to give it and it should be given in silence, apart from the honourable member who has the call.

Hon PIERRE YANG: Thank you, Mr Deputy Chair. I must say that I could not hear the conversation across the floor.

The DEPUTY CHAIR: Just ignore it, honourable member, and continue your contribution.

Hon PIERRE YANG: I shall. Even if I wanted to hear it, I sometimes find it hard. I spent 10 years in the Australian Army Reserve and on many weekends throughout the year we had military exercises in which I fired ammunition—blank ammunition, obviously. Sometimes, I find it is pretty difficult to hear background noise. I think Hon Peter Collier is having another conversation, but that is okay. I shall move on to my contribution on the report and the aspects we looked into.

The committee looked at a number of issues, which Hon Aaron Stonehouse touched on. I will say that I think they were all important issues for the committee to look at. Not for one second was I of the view that any of them were trivial; none of them were. They were selected based on community feedback. We advertised that the committee was seeking public submissions and the issues contained in the report were based on the community's submissions and views. The first was mandatory bicycle helmet laws; the second was e-cigarettes; the third was vehicle modification in Western Australia; the fourth was safety in water; and the other issue was the assessment and scrutiny of regulatory reform, which was touched on by Hon Aaron Stonehouse during his contribution today.

The committee made a total of 26 findings and 14 recommendations. I am very much looking forward to having another opportunity either today or on Wednesday next week to continue my contribution because, as I said, this is the first time that I have been involved in a select committee. In the remaining 34 seconds that I have for my

contribution, I want to give a shout-out to Hon Aaron Stonehouse. The way he chaired the committee was very impressive to me. As members would have seen, the way he conducted the public hearings was very fair and very efficient. I will continue on this because I have only two seconds left. Thank you very much.

Hon Nick Goiran interjected.

The DEPUTY CHAIR: Hon Nick Goiran, once again, I am speaking and you should not be. I am going to give the call to Hon Martin Pritchard, who I noted stood to seek the call at the same time as Hon Pierre Yang and Hon Aaron Stonehouse. Hon Aaron Stonehouse, I note that you have stood again. I will give you the call the next time.

Hon MARTIN PRITCHARD: I will just make some brief statements. I want to talk on this report in more detail, but today I will make some brief statements because I know that many people want to speak. I enjoy going to citizenship ceremonies. The part of the citizenship ceremony I enjoy the most is when people talk about not only their rights, but also their obligations. I want to talk a little about cycling helmets because I think that too often people are too interested in what their rights are—even if they are not rights—and not interested enough in the obligations that they have, both moral and legal.

Going back a few years to when I was growing up, most cars did not have seatbelts, so people would jump in a car and drive it. Today, people would think that that was ridiculous. It was only through bringing in regulations that the public's perception of wearing seatbelts was changed. I think this is exactly the same. Adults need to lead the way in setting an example for the young. People who are younger than myself would not even think about driving a car without putting on a seatbelt, unless they were a hoon. That is because generation after generation has realised the importance of the safety that provides to people. It might be all well and good to say to a hoon that they can drive without a seatbelt but, of course, the consequences of doing that can be quite catastrophic, not only for themselves, but also for their families and first responders. Wearing a bicycle helmet is similar. It adds to the safety of riding a bike and means that people are less likely to suffer injuries—particularly head injuries. It might be well and good for someone to say that they do not mind whether they hurt their head, that they are happy to ride a bicycle and that if they hurt themselves, that is their fault. If they are a father, that might impact upon their families and their children. There will also be an impact on first responders who have to attend an accident. It is all well and good for people to say that they have rights. In recent times, I have heard some ridiculous statements about what rights people have, such as that they have a right not to wear a mask even if they put other people at risk. If people live in a society, they have obligations. As a father, I see that one of those obligations is to make sure that my kids and I wear cycling helmets to contribute to an orderly and good society rather than worrying about my right to hurt myself if I wish to.

I am very pleased that the committee understood through its hearings that having to wear bicycle helmets is not the main reason that people do not ride bikes. I understand the committee's concern about trying to encourage an active community, which is a great objective, but that can happen in other ways, particularly through the improvement of cycling paths, which I believe this government is doing. I am glad that the government responded to the recommendation to have a trial on a place like Rottnest Island in the way it did, by saying that it was ridiculous to have a trial of that nature because it would prove nothing. I am very pleased with the government's response to that. People who wish to ride, particularly adults, should set an example. They should wear their helmets, do the right thing by their kids, and stop this nonsense of saying that they have a right to ride without a cycling helmet.

Hon AARON STONEHOUSE: When I first spoke on this report, I outlined New Zealand's regulatory principles. I was about to get to New South Wales' regulatory principles, which are a little simpler and shorter. I will read them out now. These are regulatory principles that New South Wales puts in place for any change to legislation, regulation or policy that will have a substantive effect on its population. The seven principles of better regulations, as they are called, are —

- Principle 1—The need for government action should be established. Government action should only occur where it is in the public interest, that is, where the benefits outweigh the costs.

That implies a cost–benefit analysis of any action the government takes —

- Principle 2—The objective of government action should be clear.

I think this is very important. Here in Western Australia we have acts of Parliament that have no stated objectives. It is important that government objectives are clear according to the better regulation principles of New South Wales. The next principle states —

- Principle 3—The impact of government action should be properly understood by considering the costs and benefits (using all available data) of a range of options, including non-regulatory options.

That comes back to the ladder of intervention that I mentioned earlier. The first option is, of course, to do nothing. They continue —

- Principle 4—Government action should be effective and proportional.
- Principle 5—Consultation with business and the community should inform regulatory development.

I know that a lot of us will say that that principle is applied by government, but it is certainly not the case in practice. Quite often, this Parliament deals with pieces of legislation and regulations on which no consultation has been undertaken. They are election promises or something that was agreed to at a party conference. Legislation is rushed in without any consultation. The next principles state —

- Principle 6—The simplification, repeal, reform, modernisation or consolidation of existing regulation should be considered.
- Principle 7—Regulation should be periodically reviewed, and if necessary reformed, to ensure its continued efficiency and effectiveness.

I am quite proud to be part of the fortieth Parliament in which we have insisted, as a Parliament, time and again, on review clauses—statutory reviews of pieces of legislation that pass this house of Parliament. It is very important that regulation is regularly reviewed, and that is a principle enshrined in New South Wales' "Better Regulation Principles".

It is worth noting that when the committee had public servants from Treasury in for hearings, Treasury advised the committee that it was looking closely at the operation of regulatory principles in other jurisdictions in order to inform the development of similar principles here in Western Australia. The committee was told by Treasury that Treasury was in the process of developing its own regulatory principles. That is fantastic. In fact, to somewhat aid Treasury's work, the committee made recommendation 13. It states —

> The Government develop regulatory principles which:
>
> (a) are based on international best practice
>
> (b) require the consideration of the potential adverse impact of regulation on personal choice and responsibility.

The committee was looking for regulatory principles based on best practice, and it gave the examples of New Zealand and New South Wales, but also regulatory principles that do not deal with just the economic impact of regulation, but also the impact on people's ability to live their lives freely outside an economic context—the ability of people to make their own choices. Recommendation 13 was based somewhat on the advice the committee received from Treasury that it was already in the process of developing some regulatory principles. That is very strange, because the government's response to recommendation 13 was out of step with the advice that the committee received from Treasury. The government's response to recommendation 13 was supported, which might sound good, but the explanation it gave was —

> When scrutinising legislation, fundamental legislative principles are always applied to ensure consideration is given to the potential adverse impact of the regulation on personal choice, whilst also balancing an agency's responsibility for community safety.

I do not think so; that is clearly not true. They are not. Time and again, we get pieces of legislation in this chamber in which no consideration is given to the impact on personal choice. No regulatory impact assessment has been gone through, or at least, if it has, the result of that regulatory impact assessment has not been made publicly available. Reference is made to fundamental legislative principles. If the government's response—perhaps someone from the government could clarify this for me—is that fundamental legislative principles are always applied by the Standing Committee on Legislation, that is not the case. Of course, the Standing Committee on Legislation really only conducts an inquiry into a piece of legislation when it is referred by the Legislative Council. The principles are not always applied. It may be internal policy for some agencies to apply fundamental legislative principles, but it is not codified. It is not enshrined anywhere. There is no statutory requirement. There is no cabinet requirement that proposals brought to government are subject to the application of fundamental legislative principles.

The committee looked into the matter of fundamental legislative principles. They are not in the standing orders of the Standing Committee on Legislation, as I am sure most members would be aware. The fundamental legislative principles are borrowed from the Queensland Parliament. They were developed by the Queensland Parliament and, through convention and tradition, they have been inherited by the Standing Committee on Legislation. They are fairly good principles, but not quite as comprehensive as the principles of New Zealand, and they do not touch on all the issues that the principles of New South Wales cover. However, they do cover some important things such as the requirement that the committee consider bills that make rights, liberties or obligations dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; that they are consistent with the principles of natural justice; and things such as they do not adversely affect rights and liberties or impose obligations retrospectively, among a slew of other principles that deal with the scrutiny of legislation. Those are helpful, but they are not enshrined in the standing orders and they are not statutory principles. They are very far away from anything resembling a bill of rights or a statement of rights, and that is good. I think that recognises, appropriately so, the parliamentary sovereignty that the Parliament of Western Australia enjoys. Ultimately, these principles may guide the scrutiny of legislation. They may be principles that agencies apply in the development of legislation, but, ultimately, the Parliament is sovereign and it can legislate within the powers granted to it under the Constitution, of course. The principles are not written down anywhere, so it is my view, and

I think members reading the committee report may form the opinion that it was the opinion of the committee to some extent, that these fundamental legislative principles ought to be enshrined somewhere. It is not so much for the Parliament—Parliament does an adequate job of reviewing and scrutinising legislation through its various standing committees—but it is for agencies to have some kind of principles.

When it comes to parliamentary review, the committee made a couple of findings. Finding 25 states —

> When scrutinising legislation, fundamental legislative principles provide a point of reference that may aid in the consideration of matters of personal choice and community safety.

That gets right to the heart of the terms of reference of the inquiry. The committee went on to make finding 26, which states —

> Fundamental legislative principles are a useful tool for legislators when scrutinising legislation. However:
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> (a) they are absent from the terms of reference of the Standing Committee on Legislation and the Standing Committee on Uniform Legislation and Statutes Review
>
> (b) only a selection of the principles are captured in the terms of reference of the Joint Standing Committee on Delegated Legislation.

The inquiry into personal choice and community safety made recommendation 14, which states —

> The Standing Committee on Procedure and Privileges inquire into amending the *Standing Orders of the Legislative Council* to include fundamental legislative principles in the terms of reference for the Standing Committee on Legislation, the Standing Committee on Uniform Legislation and Statutes Review and, where appropriate, the Joint Standing Committee on Delegated Legislation.

I think that is a rather sensible recommendation.

HON MARTIN PRITCHARD: There should be plenty of time. I want to make only a quick reference to e-cigarettes. Going through the issue of people's rights, I like to think back to when cigarettes were first invented and whether we would have believed that people had a right to smoke in public. If we knew then the devastation it would cause many people—not just the people who smoke, but also innocent bystanders—would we have made more regulations for smoking? The reason I compare the two is that e-cigarettes, as I understand it, are relatively new and unknown. I think the committee touched on that. I am an ex-smoker but I have never tried e-cigarettes. I am not speaking to the government response; I am just talking to my own concerns with regard to e-cigarettes. It would seem to me that any move to further deregulate and provide people with the ability to smoke e-cigarettes, such as making the actual pipes legal for sale in Western Australia, would only condone and encourage further use of e-cigarettes. I believe the committee debunked the myth that e-cigarettes may prove to be a less harmful alternative to tobacco cigarettes and that people may be able to lever off smoking by moving to e-cigarettes. I do not believe that. The hardest thing I ever did in my life was give up smoking, and I think that if people smoke e-cigarettes, they will not provide a substitute for tobacco cigarettes.

I am concerned about the situation in which people believe they have a right to smoke e-cigarettes. I have seen them in the streets, with the big plume of vapour coming off; it is obviously not smoke. I again think of the fact that when a person does that to their own body, they are taking a risk, but it is proven that the risk of smoking means that the community will pay the cost. If a person becomes ill, it will not be at their own cost, in many cases, but at the cost of the community. If e-cigarettes prove to have exactly the same sort of negative impacts on both the people who say that it is their right to smoke them and on the broader community, they will be banned from usage in the same public places and buildings as tobacco cigarettes are.

We need to move down this path very cautiously indeed. We should not take any steps to try to facilitate the smoking of e-cigarettes. Indeed, it would be wise at this juncture to again think of the community and people's obligations rather than their rights. Any steps the government can take to reduce the potential harm of e-cigarettes, particularly when it is relatively unknown how harmful they are to individuals and the community, would, I think, do the community a great favour.

It has taken a lot of money and work to reduce the trend of people smoking tobacco and young people taking up the smoking of tobacco, and that has only been through the responsible lead of governments and, indeed, people in the community giving it up and setting a good example for the younger generation. The committee has not made too many recommendations with regard to the legalisation of e-cigarettes, although there is some encouragement down that path. Personally, I think it is a disgusting habit, as is smoking, and I think if people want to have those rights, they should not live in a community; they should go and live on an island somewhere.

Hon AARON STONEHOUSE: I was just talking about recommendation 14, which is that the Standing Committee on Procedure and Privileges inquire into the possibility of adopting fundamental legislative principles into the standing orders of the standing committees for legislation. I think that is rather a commonsense approach, and it would merely codify what it already does but also ensure some continuity and ensure that some of those fundamental

legislative principles are somewhat set in stone and are applied by future committees. A lot of parliamentarians who come into this role are sensitive to concerns about people's rights and liberties. However, that is not always the case, so codifying certain principles in institutions like the Parliament and the standing committees would go a long way towards ensuring that parliamentarians who perhaps are not sensitive to concerns about rights and liberties can be somewhat guided in that direction. That is all I will say on that for the moment; I might resume comments on the scrutiny of legislation and regulation when we get an opportunity to consider this report later.

I would now like to touch on some of the recommendations on electronic nicotine delivery systems—vapes, or e-cigarettes, as they are commonly referred to—because some comments were made on that topic just now by Hon Martin Pritchard and it would be remiss of me if I did not touch on it somewhat in the time remaining. The honourable member was right: the committee did not go as far as to endorse electronic cigarettes as a substitute for smoking, but it made some rather balanced, moderate yet nevertheless important recommendations. I do not have time to go through all the findings now, but to summarise, the committee found that there are serious risks involved in the procurement of liquid nicotine through what is effectively a grey market. The committee heard that people who currently use e-cigarettes rely on an online grey market. They import this stuff from overseas; sometimes from China, sometimes from New Zealand. However, the quality of the product and the likelihood of it being free from contaminants depends upon where they import it from. The committee therefore recommended that the government look into putting in place some commonsense regulations to reduce the risk to consumers, particularly children. The committee heard evidence of cases in other jurisdictions in which children have got their hands on a bottle of liquid nicotine, which, in small doses, is relatively harmless, but in large doses, can be incredibly toxic. There have been cases of children getting hold of these containers, opening them and drinking the contents, not realising that it is dangerous, and there have actually been fatalities. That is in part because these containers of liquid nicotine are not subject to regulations providing that they should have child-safe locks and warning labels about the poisoning risk.

The committee recommended that the government consider adopting some commonsense and proportional regulations around the packaging of liquid nicotine. Recommendation 6 states —

> The relevant Acts be reviewed to examine the regulation of e-liquids, particularly those containing nicotine, including the imposition of child-safe packaging and labelling requirements.

The government's response to recommendation 6 was that it did not support it. Child-safe packaging and labelling requirements for a potentially dangerous substance was not supported. In its response, the government stated —

> At the Federal level appropriate infrastructure and a regulatory framework currently exist to carry out a range of assessment and monitoring activities to ensure that goods which make therapeutic claims are of an acceptable standard and that their use is well-supported by sound scientific evidence. The Government adopts the packaging and labelling requirements of the national Poisons Standard by reference. The Australian Government is well-positioned to regulate nicotine and e-liquids, including the most appropriate child-safety and labelling requirements.
>
> The WA Government will continue to monitor closely the determinations of Federal agencies.

That was rather disappointing to see. Clearly, the federal government is not doing its job in this space, evidenced by the fact that poisonings are happening. Because liquid nicotine is not imported as a therapeutic good, any regulation of it as a therapeutic good does not apply; it is completely pointless in this case.

The committee also made some recommendations on how people access this substance. Part of the problem is that they access it through a grey market, as I said; they are importing it from overseas. If a person has a prescription from a doctor, they can, through the personal importation scheme, import liquid nicotine. However, of course, the Australian Border Force may intercept that package. If a person can prove that they have a prescription, Border Force will let it come through, but if they cannot, it will typically confiscate and destroy it. However, not a lot of people realise that they are supposed to have a prescription; a lot of people just import it illegally. Therefore, the committee's recommendation was that the government consider informing consumers that if they want to import liquid nicotine, they need to get a prescription. They can legally import it, but people cannot be protected if they do it illegally. That was the committee's recommendation to the government. Recommendation 5 states —

> The Government investigate the safety and harm-reduction benefits of increasing awareness about the legal requirement to obtain a medical prescription before importing e-liquid or e-cigarettes containing nicotine under the Personal Importation Scheme.

The government's response was —

> **Not Supported**
>
> The Personal Importation Scheme is overseen by the Australian Therapeutic Goods Administration … and the Australian Border Force … At the Federal level, appropriate infrastructure and a regulatory framework

> currently exist to carry out a range of assessment and monitoring activities to ensure that goods which make therapeutic claims are of an acceptable standard and that their use is well-supported by sound scientific evidence.

Here is the real kicker —

> Awareness of the legal requirements of the Personal Importation Scheme, including the requirement to obtain a medical prescription, are matters for applicants, the TGA and the ABF.

People are exposing themselves to risk—the risk of poisoning, faulty devices and contamination. The committee asked the government to make sure that people know about the risks and that they are told about their legal obligation to obtain a prescription before they import liquid nicotine. The government's response was no, that is a problem for the TGA, for applicants and for the ABF. That is incredibly sad. We are talking about rights and responsibilities. The Western Australian government has a responsibility to ensure at least some level of safety for its residents. This is a problem that the Western Australian government and the Department of Health could address, but they have said, "No. That's the TGA's problem."

The DEPUTY CHAIR (Hon Matthew Swinbourn): The time for debate on committee reports has expired.

Consideration of report adjourned, pursuant to standing orders.

Progress reported and leave granted to sit again, pursuant to standing orders.

Sitting suspended from 4.13 to 4.30 pm