

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

REVIEW OF THE FUNCTIONS EXERCISED BY THE COMMISSIONER

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
FRIDAY, 19 FEBRUARY 2016**

SESSION FIVE

Members

**Ms L.L. Baker (Chair)
Hon Robyn McSweeney (Deputy Chair)
Ms E. Evangel
Hon Sally Talbot**

Hearing commenced at 2.22 pm

Mr RICHARD STRICKLAND

Director General, Department of Education Services, examined:

Ms JOANNE TAGGART

Acting Director, Education Regulation and Review, Department of Education Services, examined:

Mr RICHARD MILES

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

The CHAIR: On behalf of the Joint Standing Committee on the Commissioner for Children and Young People, I would like to thank you for your appearance. The purpose of the hearing is to assist the committee in its review of the functions exercised by the commissioner. I would like to introduce myself, Lisa Baker, the chair. On my immediate left is Hon Robyn McSweeney, member for South West and deputy chair; Eleni Evangel, member for Perth; and Hon Dr Sally Talbot, member for South West. This hearing is a formal proceeding of Parliament and commands the same respect given to proceedings in the house itself. Even though the committee is not asking witnesses to provide evidence on oath or affirmation, it is important that you understand that any deliberate misleading of the committee is a contempt of Parliament. This is a public hearing and Hansard will be making a transcript of the proceedings for the public record. If you refer to any documents, please use the full title.

I will ask you a series of quick questions. Have you completed the “Details of Witness” form?

The Witnesses: Yes.

The CHAIR: Did you read the notes at the bottom of the form about giving evidence to a parliamentary committee?

The Witnesses: Yes.

The CHAIR: Did you receive the witness information sheet?

The Witnesses: Yes.

The CHAIR: Do you have any questions?

The Witnesses: No.

The CHAIR: Let me spend a couple of minutes paraphrasing why we asked you back. We have been on a long journey with this incredibly complex review trying to get together all the information. I think we have done most of that now and we want to send you a flavour of that, first of all, because we were so deeply impressed by your understanding of the area and we greatly respect your input on these things. We wanted to send you our initial thoughts about the report and what we might be recommending. You would have picked up that there are three prongs to what we are recommending. I do not know whether you have prepared an overview, but this is an opportunity for you to come back to us, having had a look at what we are suggesting, and tell us whether we are completely off track or give us your views on where we are up to.

Mr Strickland: We did not prepare something, but each of us might just give an overview.

In terms of the outreach, I think that is an important role and, obviously, the commissioner through the work that is done in that role will have a good understanding of children’s perspective and one of the key things I think will be in terms of making a contribution in regards to raising awareness on

what a child-safe organisation should actually be. I think that is a very important role that could be improved in the system. Also, obviously, to be out there educating generally institutions, parents and children through different media et cetera about the aspects of child abuse and where and how things should be treated and what sort of referrals et cetera is a very important one.

One that I particularly want to emphasise from the DES perspective is the oversight role. I think we have a complex system when you look at the various institutions—just to name a few, obviously, police, Child Protection, the Department of Education and the Department of Education Services. I am just looking from the education perspective. In my department, for instance, we have regulation of non-government schools, but we also have teachers' registration. It is complex. We are all trying our best to reach better practice in what we are doing to communicate with each other, but there is still potential for things to fall between the cracks and for parts of the system to be better than other parts et cetera. Having someone in the system who can sit above that and look out for those inconsistencies and gaps, especially from the perspective of the child, and also provide an educative role in terms of what better practice might be and, at the moment, we have tried to chase that by looking locally, nationally and internationally. I think we would all be better off if there was someone else doing that and providing us with the sort of advice that we could then bring ourselves, where we can be, into line, given that we all have different legislation to administer, different jurisdictions and things like that. That is my overview. I do not know whether Richard or Joanne have anything to contribute.

Ms Taggart: I think the emphasis on having the local expertise is really important because even though I think we are quite thorough in the way in which we do our research in terms of what is available, it would be very helpful for us if we could get that advice locally. The other thing, I think, that a local approach will bring is more consistency and a better, consistent understanding of what the system is and how to access the system and so on, not only from the perspective of parents and children, but also in terms of agencies having a better understanding of how the system work as well.

The CHAIR: I perhaps I would ask you something that we just finished the previous—I cannot talk about what we talked about in the previous hearing. I have an entirely new question for you that has no relationship at all to any previous hearings! One of the things that we found interesting is the lack of data collection on how many of the teaching staff have been through a child protective behaviours course or have been trained in recognising that. I am looking at you, Richard, because of your teacher registration cap. What we suggested—and it was a public hearing so I can talk about that—was had they thought about having some sort of rule that says, “For all the new teachers that we employ, you will have completed a protective behaviours course within the first 12 months of your employment with the Department of Education” and subsequent to that every two years, you would need to reaccredit that in some fashion. Have you thought about that kind of a system?

[2.30 pm]

Mr Strickland: Richard and Joanne are more across this than I am. My understanding is that we accredit the teacher preparation courses or the Teacher Registration Board does. It often responds to what happens at the national level through AITSL and the ministers et cetera. But, basically, the Teacher Registration Board determines what it believes the standards should be and recommends them to the state minister. They will look at what is happening nationally and ask whether that fits in Western Australia. But as part of the accreditation, in terms of the curriculum that people doing those courses are supposed to undertake, it is my understanding that protective behaviours is supposed to be part of it. Is that right, Joanne?

Ms Taggart: Well, it is certainly part of our standards, so we would have an expectation that teachers are delivering protective behaviours curriculum and would be adequately prepared when we look at the professional training that they would get to deliver that in non-government schools.

The CHAIR: There are two questions there. The first is: who is looking at the royal commission outcomes and ensuring that what you do is aligning with what is coming out of the royal commission, which is about trauma-informed practice, changing the culture and making sure that teachers are confident in their capacity and willing to accept disclosures? We have had evidence given to us that that is not always the case with teachers, and you would know that. We would love it to not be the case, but some people do not know how to or are frightened of the ramifications. How are you ensuring that what is coming out of the royal commission is being inculcated into the good practice that you are asking of your teachers? Secondly, how do you know then who is getting that training and which courses they are having and whether it is best practice?

Mr Miles: I do not have a ready answer in that space, but I know that, for example, in South Australia they have gone through a process with respect to the way professional standards are implemented in that jurisdiction, that they have mandated that that kind of training be undertaken. Richard has made sure that in terms of the operations of the royal commission and what is coming out of the royal commission, obviously, we have a very strong eye on the outcomes of that process and it will be something that, I suspect, will be exercised in the mind of the board in Western Australia.

The CHAIR: Okay, so you will think about how to inculcate that in the work that is being done.

Mr Strickland: One comment I would like to make is that in terms of teachers' reporting, one of the difficulties that they have is trying to surmise whether what they are seeing constitutes child abuse or not because they are going to be reporting on another teacher and the like. One of the learnings that we got—because I was the only state witness in one of the cases here and the focus was very much on grooming. They brought an expert across to talk to the commission about grooming et cetera and part of what he recommended was that it is easier for teachers to report on breaches of codes of conduct if the codes of conduct break grooming down. A code of conduct is that you do not give children gifts and you do not sit children on your knee.

The CHAIR: So you are talking about teachers who might be perpetrators?

Mr Strickland: In other words, it is hard for a teacher to look at someone with a child on their knee and say that person is committing child abuse.

The CHAIR: I totally understand.

Mr Strickland: But if it is school code of conduct that you do not sit a child on your knee on your own in a classroom, that is quite clear and they are to report that, that makes the job a bit easier for them, so part of what we are doing in the non-government school regulatory environment is heading towards that. In other words, we have codes of conduct that have to prescribe grooming behaviours. They have to be reported and they will have to be reported to me, because it will be regarded as a critical incident. My role now is as a decision-maker in terms of registration of non-government schools and critical incidents have to be reported to me within 48 hours. We have an MOU with the Teacher Registration Board, which we also support, so as I get critical incidents of that sort, although it might not be child abuse, not sufficient evidence for it, it goes on the person's file, so if they leave that school and go somewhere else and there is another incident, we can start to put together a pattern that does start to add up to that there is some significant —

The CHAIR: Very valuable.

Mr Miles: We operate quite a number of important interfaces, both with WA Police and also with DCP in terms of making sure that the plumbing, for want of a better way of putting it, with respect to child protection information coming into DES is outflowing the right way as well. The other thing I will just briefly say, concurrent with what Richard was pointing out, the board is also in the process of developing a set of guidelines with respect to professional boundaries, so the idea is basically to cut into what Joanne was pointing out in terms of what teachers can be comfortable

with. It is about trying to provide them with some clear guidance about what ought to be considered acceptable behaviour when we are dealing with children.

Hon ROBYN McSWEENEY: As long as the world does not go mad. I mean, children go to school at four years of age, they fall over, a teacher picks them up, gives them a cuddle, sits them on their lap.

Mr Strickland: Exactly.

Hon ROBYN McSWEENEY: One would not want that to be called grooming, because obviously it is not, so you have to have —

Mr Strickland: The requirement will be that the principal investigates that to determine if it was a breach or not, but generally a teacher would —

Hon SALLY TALBOT: It is actually about the removal of doubt, is it not? I thought you explained it very clearly. It is to remove the moment at which the observer thinks, “Should I report this or not?” Even in the case that you have just described, that question does not even arise.

Hon ROBYN McSWEENEY: Yes, but it does if that is in the standards.

Mr Strickland: They have to report it, but then the principal will investigate it, find there was a good reason and decide it is not a critical incident and not have to report it. The whole touching thing even, in terms of how that would be handled, one of the experts told us that lifesaving and ballet teaching et cetera have particular rules about touch. It is okay to touch certain areas, but not between here and here et cetera. In terms of those, you can make sense of them, but then they should be investigated by a principal to see whether there was any truth or any reason to believe it might have been more than that.

Ms Taggart: I think the other thing we have learnt is that there are certain practices that should prevail in circumstances like that. In a first aid situation, for example, you need to touch a child. Where possible, we would expect someone to do that. Rather than taking a child into a room and closing the door, they might be sitting outside the first aid room where others can see that they are applying a bandaid or doing whatever they need to do there. Wherever it is possible to ensure that you are not in that sort of situation, it would be good practice in a school.

Mr Strickland: But teachers who cover the window over their door and have the door shut and have someone on their knee and another teacher comes in, those are the sorts of things that happen and it becomes quite obvious that something is happening that should not be happening.

[2.40 pm]

The CHAIR: Thank you; that is very clear.

Another aspect of this that we are interested in is that any staff you employee in a school may be interpreted by a child as someone they trust, so they disclose to them. If we are not talking about just teachers picking up behaviours from other teachers and the like or the teacher’s own behaviour, which might be grooming—if I am saying I am a young teacher just out and a child says to me something that I think: oh, is that something I should be reporting? It is that element as well as what happens when a child discloses to you, and that is the problem that we have got, I think it is a problem, within the broader education system—I am not including you in that, I mean the public education system—that we do not actually know whether those teachers are being encouraged or mandated to complete a protective behaviours training course on recruitment or on appointment or within 12 months of appointment, or whether that is being refreshed over every couple of years or something. So that is particularly what I was referring to when I said, “Should you mandate some sort of training for teachers in how to deal with that?”

Mr Strickland: Can I just make a couple of points, mainly from the non-government school perspective?

The CHAIR: Sure.

Mr Strickland: First of all, an important thing that has happened is the minister had the legislation changed so that now in the standards there is a child protection standard. What we had that addressed this was —

Ms Taggart: In the new standards.

Mr Strickland: Yes, but the legislation has changed. What the minister has agreed to, because the sector said it needs a year to prepare, is we are going to be publishing those standards when the minister agrees to them, probably in the next couple of months, so that Catholic schools and independent schools can start preparing towards them. But that will bring it all together, and that is going to be very much looking at a sort of cultural thing, then our reviewers go out to see that it is happening. Part of it will be along awareness-raising with teachers. We see it as something that really needs to be like fire drills. You do not just do it once; you do not just give them an induction manual, but the suggestion will be that you will be required to do that on an annual basis at least. In terms of protective behaviours curriculum, my understanding is that we are heading towards where this should be at all levels of schooling and that therefore every primary school teacher would and should be teaching protective behaviours, so not just hearing about it themselves, but they actually need to be able to teach protective behaviours. Certainly in our standards, where we are heading, is that that protective behaviour curriculum will be a mandated item.

Ms E. EVANGEL: Would it be from early childhood right through?

Mr Strickland: Yes, every year, and adjusted, obviously, for the age of the children.

Ms Taggart: We can follow up on that in several ways. Schools have renewal of registration visits on a regular basis, so we would expect that when the new standard comes in, there would be a very strong focus on that because we see that as being a high-risk area. Our independent school reviewers are very experienced people; they are typically school principals or senior executives from Catholic Education and so on. They can be quite forensic when they are doing a review of a school in relation to certain things. They will ask to see evidence of training, evidence of curriculum being implemented—for example, “Show us the portfolio of students’ work about the protective behaviours curriculum.” It is not just a matter of putting it in the standard. If, for example, there were a critical incident in a school and we thought that perhaps this matter had not been attended to, then Richard can authorise an inspection on notice or without notice to go in and look at those sorts of things.

Mr Strickland: The other intervention—we started talking about teachers’ registration—is that we do have the ability to ensure that, through the accreditation of teacher programs, certain things are being taught, so that is the Teacher Registration Board. Every teacher has to be renewed every five years and they have to have shown that they have done appropriate professional development, and it could be mandated that that includes the training you are talking about. That covers not just non-government schools; teacher registration covers all schools, anyone who is —

Ms E. EVANGEL: So are you saying that for teachers, in their training to become teachers, the protective behaviours is compulsory in the first year of teaching, or once they have become teachers? Personally, I think that if you are entering into a career where it is compulsory for you to teach these kinds of—these are very sensitive areas and it is not really something that everyone would feel comfortable teaching. Personally, I think this is something that needs to be introduced in the first year of one’s teaching education, well and truly before they are a career teacher.

Mr Strickland: My understanding is that it was heading towards that they would all have that training while they were doing their degrees. It is a four-year degree et cetera, so that is where it should be. Then, of course, when they start to become a teacher, they should be also delivering that.

The CHAIR: I think we have probably kept you long enough. It is a complex area, as I said at the beginning. I think what you have been able to offer us are some very valuable insights and I thank

you very much for that. I hope we have been able to give you some information, too, from our understanding. We will work forward with exactly what you have said and with the three areas, because I think we are pretty close to being of like mind in this.

I am just worried about the time, so I want to get you guys on your way. Thank you very much.

Mr Strickland: Thank you.

The CHAIR: Thank you for the evidence before the committee. A transcript of the hearing will be forwarded to you for correction. Any corrections must be made within 10 days of the letter attached. If it is not returned, we will deem it correct. New material cannot be added in corrections and if you want to send us anything else, stamp it with “supplementary submission” and we will accept it. To the three of you, thank you so much.

Hearing concluded at 2.46 pm
