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## **TRANSCRIPT OF PROCEEDINGS**

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**THE HON RONALD SACKVILLE AO QC, Chair**  
**THE HON ROSLYN ATKINSON AO, Commissioner**  
**DR RHONDA GALBALLY AC, Commissioner**  
**MS ANDREA JANE MASON OAM, Commissioner**

**THE ROYAL COMMISSION INTO VIOLENCE, ABUSE, NEGLECT AND  
EXPLOITATION OF PEOPLE WITH DISABILITY**

**10.00 AM, THURSDAY, 15 OCTOBER 2020**

**DAY 4**

**DR KERRI MELLIFONT QC, Senior Counsel Assisting**  
**MS ELIZABETH BENNETT, Counsel Assisting**  
**MR ANDREW FRASER, Counsel Assisting**  
**MR BEN POWER, Counsel Assisting**

CHAIR: Good morning. I invite, again, Commissioner Mason to perform the Acknowledgment of Country.

5 COMMISSIONER MASON: The Disability Royal Commission acknowledges the First Nations people as the original inhabitants of the different lands on which this hearing is being held. The Gadigal people of the Eora Nation, Turrbal and Jagera Nations and the Wurundjeri people of the Kulin Nations. We pay respect particularly to our elders with disability, past and present, and we give  
10 acknowledgment to First Nations young people with disability who one day will take their place as elders in the future.

CHAIR: Thank you very much.

15 Yes, Ms Bennett.

MS BENNETT: Chair, this morning we are going to hear from Sharon and Alex about their son Jack. You will find the statement of Alex at Tender Bundle A, Volume 1, Tab 1. In due course I will tender that statement and ask that it be marked  
20 Exhibit 7.116. The statement of Sharon is at Tender Bundle A, Volume 1, Tab 2, with some marked documents at Tabs 4, 9 and 18, and in due course I will tender that statement and ask that it be marked Exhibit 7.117 and the reference material as 7.117.1 to 7.117.3.

25 Chair, there is also a bundle of relevant material that I tender and ask to be marked as Exhibits 7.118 to 7.163.

**EXHIBIT #7.116 - STATEMENT OF MR ALEX**

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**EXHIBITS #7.117 - STATEMENT OF MS SHARON**

35 **EXHIBITS #7.117.1 TO #7.117.3 - ANNEXURES TO STATEMENT OF SHARON**

**EXHIBITS #7.118 TO #7.163 - BUNDLE OF RELEVANT MATERIAL**

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MS BENNETT: Chair, before proceeding to ask that Sharon and Alex be sworn in, I would like it noted that this evidence may include references to suicide and self-harm and may be particularly distressing to some. We strongly encourage people to look after themselves and to put their safety first. If people wish to stop following the  
45 hearing for this section of the evidence, it is likely to take up to 1 hour and 20 minutes which will then be followed by a 20-minute break. The next session is scheduled to commence at 11.40 am Queensland time. And, of course, anyone needs

to speak to someone about the issues raised they can contact the National  
Counselling and Referral Service on 1800 421 468, Lifeline on 13 11 14 or Beyond  
Blue on 1300 224 636.

5 So, Chair, those being the matters, I ask that Sharon and Alex be called.

CHAIR: Yes, thank you.

10 Sharon and Alex, if I may refer to you in that way, thank you very much for coming  
to give evidence today to the Royal Commission. We appreciate your attendance. If  
you wouldn't mind following the instructions of Commissioner Atkinson's Associate  
who will administer the affirmation to you. Thank you.

15 I think you are probably on mute.

**MS SHARON, AFFIRMED**

20 **MR ALEX, AFFIRMED**

CHAIR: Thank you very much. Ms Bennett will now ask you some questions and  
hopefully we will be able to hear your answers.

25 MS BENNETT: Before we do that, Chair, I might ask that Alex be sworn in as well.  
Or perhaps I missed Alex's response.

CHAIR: Alex, you acknowledged the affirmation, I think.

30 MR ALEX: Yes, I did, yes.

CHAIR: Thank you very much, Alex.

35 **EXAMINATION-IN-CHIEF BY MS BENNETT**

40 MS BENNETT: All right. Sharon, you have made a 17-page statement to this Royal  
Commission dated 25 February 2020, is that right?

MS SHARON: That's right.

45 MS BENNETT: Alex, you have made a 13-page statement dated 29 August 2020, is  
that right?

MR ALEX: Yes, that's correct.

MS BENNETT: And are the contents of those statements true and correct to the best of your knowledge and belief?

5 MR ALEX: Yes.

MS BENNETT: All right.

Sharon, can you tell us something about your family?

10

MS SHARON: Alex and I have been married for 28 years. We have three sons, Christopher's 27, Ben's 24 and Jack is 19 next week, actually. We have two granddaughters and a new little bub that's due tomorrow, actually, a new little grandson, which is just lovely. We're very close. We all live up here in Townsville together, so --- well, different houses, but, yeah.

15

MS BENNETT: Thank you. We're here today to talk about your son Jack in large part. I understand you received a text message from him this morning. Would you like to read out what he wanted you to say to the Commission?

20

MS SHARON: Yes, he sent me this text message when he was hiding in his room. "You and Dad don't be too nervous. You're there fighting for me and I'm too unwell to go. You're there to let people know I've been wronged and that it's ruined me, and also let everyone at the Commission know that I say hi and thank you for the opportunity to help others and make something of myself."

25

And then he said, "If you can't say that that's okay."

MS BENNETT: Thank you for saying that, Sharon, and pass on our thanks to Jack for talking to us in that way.

30

CHAIR: And from the Commissioners as well.

MS BENNETT: Tell us about Jack. What was he like as a kid?

35

MS SHARON: Jack was really full on as a kid, very inquisitive, very busy.

MR ALEX: A full-on daredevil.

40

MS SHARON: Yeah.

MR ALEX: He's the one that always had to get on the scooters, jump jumps, hurt himself all the time, climb fences, trees, always outside.

45

MS SHARON: The typical boy, yeah. Typical boy.

MS BENNETT: Was he similar to your other sons?

MS SHARON: Jack was a lot busier than the other two, and there were also a lot of quirks that we noticed about Jack that were very different to the other two boys. Probably from the age of 2 that he noticed he was a terrible sleeper, he was picky with eating, he was picky with what clothes he wore. Very demanding. He used to do things like bite and pinch and somersault on the couch for no reason. He'd do a lot of those things and we'd go, "That's just Jack. That's just what Jack does. It's just a bit quirky." We didn't think too much of it at that age, yeah, when he was really young.

10 MS BENNETT: Education is fairly important to your family, is that right?

MR ALEX: Definitely.

15 MS BENNETT: Alex, tell us about your experience of education.

MR ALEX: I had a hard life through foster care and stuff. I moved around a lot, no fault of my own, just the parents. They were divorced at a young age and I went to, like, 56 primary schools. So education to me was major. As for Sharon, my goal was I wanted my kids to go to one school and then high school, and that was it. Pretty much the oldest boys have done that, but then, you know, that's the sort of life that I wanted for them, to give them a chance. I didn't learn to read or write until maybe 23 when Sharon taught me how to do that. But yeah, it was a pretty tough time. I never wanted any of my kids to go through what I had to go through, yeah.

25 MS BENNETT: And so you sent your sons to what I will call the first primary school, and they had a good experience there, the elder two sons, is that right?

MR ALEX: Yes. Sports, just normal kids.

30 MS BENNETT: And when it came Jack's time to go to that school, they were taught by the same teacher that taught your older sons, is that right?

MS SHARON: (Inaudible)

35 MS BENNETT: Sorry, we've lost the audio.

MS SHARON: The same teacher in her last year of teaching before retirement, so she was delighted to get the last of our children. We trusted her, lovely teacher. So, yeah. So it started off really well.

MS BENNETT: I'd like to, if I could, just hear Jack's voice about that start to school, and ask the operator to play IND.0004.0002.0005.

45 And Alex, I should say this is a recording that you took with Jack when you were talking to him about his life, is that right?

MR ALEX: Yeah, myself and one of his carers. Jack didn't want to be put on camera so we sat there for a little while and I just asked random questions about his life and schooling and this is what's happened.

5 MS BENNETT: And he's content for us to play these clips today?

MR ALEX: Definitely. Yes.

10 MS BENNETT: If the operator could play that clip, that would be great.

### **VIDEO CLIP OF JACK INTERVIEW STARTED**

15 JACK: .... And she was, she was good. A lot of calming methods, even for the other kids. Like, middle of the day, since they weren't full days, but in the middle of the day, there was a relax time where you'd put out mattresses and you'd lay down and there'd be --- like, she was obsessed with eucalyptus.

20 FATHER: Yeah.

JACK: But she was good. She understood. She got along with mum and dad, very patient with me, more like a family friend.

25 SPEAKER: And so, what about in her class, if you can think back, way back then, how about, like, your study, your work? Did you do a lot of work or anything?

JACK: No, because back then, it was --- in prep you didn't --- you didn't do work.

30 SPEAKER: Okay. Playtimes, Did you feel like a part ---

JACK: It was just playtime.

35 SPEAKER: You didn't feel left out of the whole class or anything?

JACK: Yeah, no, no. We just played playdough.

SPEAKER: Okay.

40 After that did you go to any parties or birthday parties, do you remember, or anything like that? The kids' birthday parties.

JACK: No.

45 SPEAKER: But when there was a birthday in the classroom you celebrated with cake and that with all the rest of the kids?

JACK: Oh, that would rarely happen.

SPEAKER: Okay.

5 JACK: Yeah, no.

SPEAKER: Okay.

10 FATHER: You mentioned that she treated you really well ---

JACK: Hmm-mm.

FATHER: Yeah, was there occurrences when you felt that's when she was doing it, when something was different or ---

15 JACK: Well, the only time that --- it wasn't bad, it was just her being a good adult, was when --- I'm sure dad would recall it --- when I stole the little toy mammoth and I was forced to go back in and I got scolded.

20 FATHER: Yeah.

JACK: But other than that, you couldn't even wrong her.

25 FATHER: Okay.

JACK: She became a relief teacher later on and seeing her, and her seeing me, it was just, yeah, it was good.

30 SPEAKER: It was good.

JACK: Like seeing an old friend.

SPEAKER: Okay.

35 So that first grade prep and she didn't, she could tell then that ---

JACK: I was quirky.

40 SPEAKER: You were quirky.

**VIDEO CLIP OF JACK INTERVIEW CONCLUDED**

45 MS BENNETT: All right, was Jack assessed in that year, can you tell the Commissioners about that?

MS SHARON: Yeah. His teacher came from (inaudible) noticed he (inaudible) fine motor skills. Also not sitting on his bottom in the class, he was struggling with learning to write, and she suggested that perhaps we get him assessed.

5 We did have a person from Child Youth and Mental Health come to our home, watched Jack play on the floor for about an hour, said he was fine and that was the end of the assessment, I guess, and nothing further was done.

10 MS BENNETT: Okay. So he progressed to the next - or he repeated that year of primary school again, is that right?

MS SHARON: (Inaudible).

15 MS BENNETT: I'm sorry, Sharon. I'm going to pause you there because we're having difficulty hearing you. I think you will need to lean forward and speak up. I'm sorry.

20 MS SHARON: His teacher suggested that he repeat, purely because of the challenges that he was facing, and strongly recommended that he stay down and repeat the year.

MS BENNETT: And he had a new teacher this time?

25 MS SHARON: That wasn't quite so tolerant of Jack. He was up at the back of the class a lot, put next to another young boy in the class who had a disability, left out a lot of the activities. We constantly got into trouble. She said he rocked on his chair, he made noises, he wouldn't sit still, so we had a lot of visits up to the office during that year. Alex, in particular, went up and spoke to the principal of the school when he noticed some discrepancies, I guess, in the photos that were taken of activities that  
30 were done in the class.

MS BENNETT: Alex, can you tell us about that?

35 MR ALEX: Basically I started noticing when Jack would go into the classroom and we'd put his lunchbox in the fridge. Now it sounds silly, but he would look at the teacher to be recognised, to say hello, and she pretty much turned around her back and talked to some other child. And to me, that was like a flag. That's the first thing that I noticed. And then going back through the photos of the Father's Day, the  
40 Easter photos and all the different things that they do in a classroom, Jack was actually --- I went through the photos and I saw that Jack was put up the back with another child and they were always up the back, these two boys. They were never in the circle.

45 So I confronted the Principal, and so then we had a meeting with the teacher and the Vice Principal at the same time as well, and he told me then that his staff don't do that sort of thing to children. But it wasn't until I showed him the photos, "Please explain the photos", and then he sort of said to me, "Okay, I'll deal with it." And



nothing had changed from that. Yeah, that I could see.

MS BENNETT: So far as you saw, how was the school responding to Jack's  
behaviour at this stage? Did they see him as a naughty kid or did they see him as  
5 quirky or how do you think they saw him?

MS SHARON: It was basically pushed back to us that we weren't disciplining him  
enough. It was all called bad behaviour. He was basically targeted as a naughty  
child, that we didn't discipline correctly. So it all came back on our shoulders to go,  
10 "You need to do something about your son because he's just a naughty little boy."

MR ALEX: Could I add to that?

MS BENNETT: Yes.  
15

MR ALEX: When we say this, we had a middle child in the same school at that  
stage, and Jack would be ready for school at 7.00 in the morning. Even though he's  
being treated like this, he was keen to attend at that stage.

20 MS SHARON: Because he had friends.

MR ALEX: He had friends, and he'd try to get in the car at 7.00 in the morning. So  
just shows you the difference. He didn't understand what was happening to him.

25 MS BENNETT: Again, let's hear from Jack about this time. If the operator could  
find clip IND.0004.0002.0006, we could hear from Jack around this time of his  
primary school career.

30 **VIDEO CLIP OF JACK INTERVIEW STARTED**

ALEX: You're in this prep 2 part. The teachers. Was there a big difference in the  
teachers, who helped you and ---  
35

JACK: --- (overspeaking) --- like I said --- I can't remember the second teacher's  
name very well but there's one thing I can definitely remember is her being very,  
very irritated.

40 ALEX: What, with you or the class?

JACK: Yes.

ALEX: With you.  
45

JACK: Like a very --- couldn't --- didn't tolerate me, kind of thing. I wouldn't say  
snapping, it's not like as soon as I opened my mouth she would be at me, but --- I

don't know, the looks I kind of got and received.

MR ALEX: Was that, like, I mean I know you were young and you're older now so you know that's -

5

JACK: It's a look of annoyance.

MR ALEX: You didn't feel really welcome in that class with her?

10 JACK: I mean even the concept of her not being a nice person, like wouldn't have even registered to me back then. I think I probably at the most noticed that I was being treated differently but I didn't know why.

MR ALEX: Okay. And what about your ticks and stuff, how did they start to react around these times?

15

JACK: A lot of facial tics, so nose scrunching, eye twitching, stretching my mouth and like I got little noise all the time, like continuously.

20 MR ALEX: This is in prep?

JACK: This is the second year in prep, yeah.

MR ALEX: And you couldn't sit still?

25

JACK: No way.

MR ALEX: We have to say that you never could sit still.

30 MALE SPEAKER 1: You said you had sleep times. Was there much difference between the first and the second as to were you more --- you needed to sit in certain places or so you were still going through sleeping?

JACK: I think they were getting a bit more - I think they might have been getting more serious with the education for the young ones. I think - I might just -

35

MALE SPEAKER 1: Between the first and the second, yeah.

JACK: .... like hippy stuff on the stereo and you'd fall asleep or what not. You'd fall asleep I think it was for like 45 minutes.

40

MAN: Can be different depending on teachers and what they do.

JACK: Yeah, I wish I could remember her name.

45

**VIDEO CLIP OF JACK INTERVIEW CONCLUDED**

MS BENNETT: So at this stage, is there any learning plan in place for Jack?

5 MS SHARON: No. No, there was nothing. He wasn't treated any differently to the rest of the class. It was just the fact that, you know, he was naughty in their eyes.

MS BENNETT: Yes. I think that the next year, I think in your statement you say that Jack's teacher engaged well with him, is that fair?

10

MS SHARON: Yes, that is fair to say. Jack was still very popular in that year and had a lot of friends. We had quite a few meetings that year regarding Jack's bad behaviour again. During all that, we're still taking him to doctors, to a paediatrician. I remember that year we took him to a paediatrician. He sort of measured his height and weight and then told me to take him home and give him a good flogging, which clearly we didn't do. Yeah, but we really sort of got no suggestions from the school leader on how to help him. We'd get brought into the meetings and told he was naughty and nothing more than that. There was no offer of any information on what we could do, how they could support him further or anything like that.

15

20

MS BENNETT: And were you getting called to the school sometimes to pick him up at this stage?

MS SHARON: Jack started head-butting desks (inaudible) ---

25

MS BENNETT: Sorry, Sharon, please finish what you were saying. I didn't mean to interrupt.

MS SHARON: That's okay. He started the self-harming at a very young age so we had to go to the school quite a bit, yes.

30

MS BENNETT: Shall we hear from Jack about this time in his life.

Operator, this is IND.0004.0002.0010.

35

### **VIDEO CLIP OF JACK INTERVIEW STARTED**

40 JACK: .... I believe that in grade two I was - I know --- I know that I was in the detention centre a lot, not just because of the skipping work ---

FATHER: Yeah. But, just not catching up?

45 JACK: Yeah, and bad behaviour. I think I got into quite a lot of trouble.

FATHER: Sorry, I just wanted to know what would you describe as trouble?

JACK: Like why I got in trouble?

FATHER: Yeah?

5

JACK: Well, let's just give the example that even when I had to go to the detention centre ---

FATHER: Yeah?

10

JACK: --- because I was in trouble, I didn't skip that.

FATHER: Okay, so you weren't necessarily - yeah.

15 JACK: Yeah. I can't really remember. Maybe just things like continuously rocking on the chair would be one.

FATHER: Okay.

20 JACK: And not --- purposely not doing the work.

FATHER: Yeah.

JACK: That was one throughout all my school time I got in trouble a lot for that.

25

FATHER: Well, those --- those are some key areas right there.

JACK: Yeah, there were big things that I just skipped. I just - nice, dad, I just ---

30 FATHER: Would you have thought if you had an aide working during that time would that have actually - because you talk about being able to catch up with the schoolwork, would that have been beneficial?

JACK: I think that for the most part to stop me from being distracted --

35

FATHER: Yeah.

JACK: So, once I was rocking on my chair or I was in the corner picking at something or, you know, playing with a power point or something.

40

FATHER: Okay.

JACK: You know, for there to be a teacher's aide to be like, "Hey, go back up in your seat and I'll help you do your work".

45

FATHER: Yeah, okay.

JACK: Or "This means this, this means that." Because there was --- all the time I just couldn't --- or I could remember very - sometimes, I can't remember which teacher it was, sometimes at school they'd have a teacher's aide and she'd just copy down everything that was written on the board. And then the trouble kids, the kids  
5 like me, very rarely would it happen, very rarely would it happen, but she would come by and let you copy it off her book.

FATHER: Okay.

10 JACK: I don't remember the lady's name; she was a red-haired lady.

FATHER: Yeah.

JACK: She would write down her thing and she would go by the other kids and let  
15 you copy it off --- because they always write it down and rub it out really quick --

FATHER: Yeah, that happens.

JACK: --- and expect you to be, you know, supersonic when you're in writing.  
20

FATHER: Yeah, move on to the next part, yeah.

JACK: Yeah, no. I can't remember her name.

25

### **VIDEO CLIP OF JACK INTERVIEW CONCLUDED**

MS BENNETT: Now, Sharon and Alex, I'd like to talk to you about the following  
30 year. This was the year that Jack was diagnosed. Can you tell us about how that year was for you and your family?

MS SHARON: At home it was really difficult. His behaviour was worsening, you know, he'd have meltdowns, he was quite violent, quite destructive, he was smashing  
35 up our house. He was going to the point where he was in full refusal so he didn't want to go at all. So that was a really, really tough year. That was the year that the teacher finally agreed that there was something about Jack that needed to be investigated further and they referred us to Child Youth and Mental Health for an assessment.

40

MS BENNETT: Tell the Commissioners about that assessment?

MS SHARON: They went through about 12 months of assessments so they did the Connors sensory seeking and sensory sensitivity kind of assessments, all these  
45 assessments we'd never heard of. They also told us that we needed to do nine weeks of parenting classes. And they said if we didn't do the parenting classes then we wouldn't get any support at the Child Youth and Mental Health Centre either. And it

was very - it was a very stressful time. We had, you know, two other boys at home dealing with this at the same time that we were trying to find out what was wrong with Jack, which for any parent to find out that there's something wrong with your child is a really difficult time to deal with because you've got to go through the  
5 process of finding it out and then learning about it and then getting angry and then grieving and, you know, you never really kind of accept it and you work on the hope that maybe one day that he's going to be okay. Even now we kind of hope there's a bit of a light at the end of the tunnel which is probably not realistic.

10 MS BENNETT: At the end of those assessments he was diagnosed with Tourette's, is that right?

MS SHARON: Taken into a room with a psychiatrist who told me to give Jack the best life possible. So when he grows up he doesn't go to jail, which quite distressed  
15 me because we're good, honest people, we don't have anything to do with the police and why would she think my --- I think he was an 8, 9-year-old --- child would end up in jail which is quite a bit of a strong statement, I thought. Yeah.

MR ALEX: I could add to that, too, please. When you dropped Jack at school you  
20 had to physically pull him out of the car and he'd be pleading, punching and kicking and every other child in the school would be watching this. That's not normal. You'd have to leave him walking to a classroom crying still. You'd have to leave him there. Even I'd drive down the road with tears in my eyes because it was  
25 horrible.

MS SHARON: It was called tough love. Tough love to follow your child and get him to go to school.

MS BENNETT: And only two years earlier he was up at 7.00 am sitting with his  
30 bag at the door.

So you got some information from Tourette's Australia.

MS SHARON: Yes, I did what any mother would do and researched and researched.  
35 They sent me an information pack to send to the school, and an information pack for us. I went to the school, handed over the information pack to them, said "This is all the information you can learn about Tourette's. Here's the best way to teach a child with Tourette's and this is not what to do." They dismissed it and said "Tourette's is not a disability, it didn't fit into the "top six" of disabilities." I didn't realise there  
40 was a top six, I didn't realise there was a competition going on with that. And strongly suggested that we take Jack back to the doctors and get him diagnosed with autism as well, because then they would give us the funding for a teacher's aide and then they would help us.

45 MS BENNETT: Did anyone explain to you why an autism diagnosis would help?

MS SHARON: (Inaudible). Jack, in the teacher's eyes, Jack exhibited traits of

autism and I think my sarcastic response was "I didn't know you were a clinical person so how can you determine that about my child?"

5 MS BENNETT: And so you tried to get - did you try to get a diagnosis for him, an autism diagnosis for him?

10 MS SHARON: We took Jack back to the paediatrician which wouldn't be satisfied with just the Tourette's, she also diagnosed him with co-morbidities such as depression and anxiety and a learning disorder. Then she then suggested we go to a clinical psychologist for a full clinical assessment, which we did, and at the end of that, she did diagnose Jack with traits of Asperger's syndrome but still did not put him on the ASD or tick that box that the school wanted us to tick, because she, you know, clinically she just couldn't say he had full-blown autism, and I remember being really angry with her because I felt like that she'd taken away the last chance we had to get Jack help at school. But at the same time I was relieved because I didn't want him to have yet another label.

20 MS BENNETT: And so how did you feel when you felt that you couldn't tick that box? How did that feel for you and for Alex?

25 MS SHARON: Nowhere else to go, to be honest. We didn't know what else to do. We kind of felt really, really lost. You know, and during all of this, our child's still going nuts at home, going nuts at school, and then we sort of had no more sort of ideas on what to do then.

MS BENNETT: And how were you paying for these assessments?

30 MS SHARON: We paid for them privately, so out of our own money. Alex ended up having to go and get a job that paid more money just so we could simply keep Jack in therapy and in treatment and so forth.

35 MR ALEX: With, like, just say you go to one doctor and it's \$3,500 just for a letter. You know, it's \$1,500 to another doctor. So I left a good job, I was there for about eight years and I had to chase bigger money, and now I drive up and down the highway, the Bruce Highway, and I had to stay away and sleep in the truck there through the week and that was really tough. That was a tough time for the whole family, not only on Jack; Sharon and the other two boys had to step up and the other two boys had to step up and sort of be a dad sort of thing as well, when I wasn't there.

40 When I did come home on weekends, you know, you got bombarded by the two boys, the other two boys and Sharon, that, you know, "You're the dad, not me", that's what one of the boys said to me once. And you're still trying to do the sports with those guys, and just the amount of money, like the medicines that Jack would be on. Like go to the psychiatrist, that would be twice a week and that's \$400 a week. You just can't do these things, yeah. We'd lose the house otherwise as well.

MS BENNETT: And so did Jack keep getting in trouble at school?

MR ALEX: Yeah, for sure.

5 MS SHARON: That was a constant. That never ended. I remember also I went ---  
we were kind of really desperate on what to do with Jack, and then I heard a  
specialist in Tourette's was coming to Townsville for a deep brain stimulation  
session, so I went to that so I could meet this professor and ask him for help because  
10 we didn't know what else to do. We weren't getting any help from the school, we  
weren't getting any help from doctors, so I went to this session and at the half-time  
break I went up to the professor and said, "Can you please help me? We have a son  
with Tourette's, plus we're losing him, what can you offer that we can do further to  
help him?" And he was very lovely. He gave me the name of a specialist down in  
15 Brisbane, a psychiatrist that specialises in Tourette's syndrome. So we finally sort of  
thought that we found something that might make his life a little bit easier.

MS BENNETT: Now Jack's Tourette's, he sometimes has ticks, doesn't he? And  
how is the school responding to him having those ticks through the day?

20 MR ALEX: Well, I know one case there that he said "mongrel" for one of these ticks  
that he said, you know, for a few weeks there, and they can't stop saying it. And one  
of the teachers heard him say that and she grabbed him by the ear and dragged him  
up to the Principal's office by his ear in front of all the children at lunchtime, and just  
things like that happened pretty often. They put him in the naughty corner as a kid.  
25 But they didn't want to look into that he had a disability. It was just like a naughty  
kid all the time, that's what they saw, you know. And he just couldn't stop.

MS BENNETT: Sorry, Alex, I didn't mean to ---

30 MR ALEX: I said yeah, he just didn't stop, yeah.

MS SHARON: She suggested once that he should learn --- he needed to learn how  
to control his Tourette's in public, which I found quite, yeah, not very happy when I  
heard that. It's like telling a child not to sneeze.

35 MS BENNETT: We've got a clip from Jack around this time. That's at  
IND.0004.0002.0011. Before we play it, Sharon, I'm just getting a note to ask if you  
could pause and lean forward before answering because there's often a delay in the  
audio feed coming through. Thank you.

40 Operator, could you please play that clip.

**VIDEO CLIP OF JACK INTERVIEW STARTED**

45

FATHER: .... and you would think, you know, how much information that you were



given, to all the students, how much do you think that you actually took home?

JACK: If I'm ---

5 FATHER: On a, you know, 100 per cent --

JACK: If I'm --

10 FATHER: You know, if you thought another student ---

JACK: --- being generous ---

15 FATHER: Yeah, because you mentioned that you weren't doing the homework process ---

JACK: No.

20 FATHER: --- but during the day, if you didn't have --- well, that's --- what would you think, how much do you think that you actually were able to absorb during a class day?

JACK: No, if I'm being generous, I could literally hear a teacher say a word ---

25 FATHER: Yeah.

JACK: --- that I might not understand, and I might take that back.

FATHER: Okay.

30 JACK: So if she is explaining indigenous --- ancient indigenous culture.

FATHER: YEAH.

35 JACK: I wouldn't have known what "indigenous" meant and, you know, then I'd come home and that's probably all I'd take back.

FATHER: Yeah. So you wouldn't say that you were getting anywhere near the 100 per cent, walking home with all the information.

40 JACK: Like the simple things like "you", in grade --- I've gone back to grade one, but "you", like, I'd remember that that was spelt with a "u", not an "a". Stuff like that.

45 FATHER: Yeah, okay. Sorry to interrupt.

**VIDEO CLIP OF JACK INTERVIEW CONCLUDED**

MS BENNETT: All right, let's talk about the following year. I think Jack really liked his teacher the following year in Grade 4, do you remember that?

5

MS SHARON: I'm just trying to remember Grade 4. Oh, yes, that was the young teacher. Very, very young teacher, straight out of university.

MS BENNETT: And at that time you were still trying --- I'm sorry, did I interrupt you?

10

MS SHARON: No, sorry, sorry, I'm on the wrong teacher. So that year he had an amazing teacher. Excuse me for my error. She did everything she could to make Jack's life easier. She developed special little tools in the classroom to help him with his work. I do remember that she used to print out the work in dot-to-dot form so instead of Jack having to write or copy off the board, he'd just trace over the letters. And he really, really liked her. He did everything he could, to --- yeah.

15

MR ALEX: And when we used to drop Jack off at school in the morning and he'd be screaming and kicking, this particular teacher would come to school earlier so she could be there in the carpark, and we'd drop Jack right next to her car. So she would walk in with Jack. And just little things like that made her absolutely amazing.

20

MS BENNETT: And you were still getting assistance from different doctors and specialists to try and help Jack around this time, is that right?

25

MS SHARON: Jack was continuing, once he had the assessment done with the clinical psychologist, Jack continued to see her every week, for therapy.

MR ALEX: And also we've got to remember that he was going through so much medication. Doctors didn't understand Tourette's, not very many do. And Jack's body was just full of different sorts of drugs at the time to try and ease his anxiety, all different sorts of things, so his moods would change with that as well. So there was a lot of stuff going in his body, too.

30

MS BENNETT: I think you say, Sharon, that you asked the school for an aide around this time, for a teacher's aide. How did the school respond to that?

35

MS SHARON: Like they always had responded, that Jack didn't fit the top six criteria for disabilities, and we weren't eligible. I know at one point I asked if I could pay for an aide out of our own pocket, and they told me it didn't work like that. They were very clear that the funding that the school got for teacher's aides were allocated to individual students that were hand-picked for the money.

40

MS BENNETT: That was that "top six" disabilities again, was it?

45

MS SHARON: That's correct. That came up every time we asked for help.

MS BENNETT: Now the following year was another difficult year. You introduced yourself early to Jack's teacher, Sharon. Can you tell us about how that went?

5 MS SHARON: Yes. I met her on the very first day of school and sort of said to her, "You know, you'd know about my son, I'm sure they've explained that he's got some special needs and, you know, that you need to be aware of", and she didn't. She was very young, straight out of university, very lovely young teacher, way out of her depth. I know that she tried really hard with Jack. I know she'd send me a lot of  
10 emails, they started a communication book. That year was probably on the really downward spiral with Jack. He was self-harming at school, trying --- you know, broke a sharpener and tried to cut himself with the razor, he'd swallow pieces of pencil and pieces of rubber to make himself sick to try and come home. She caught him trying to strangle himself with the computer cord underneath her desk. He did  
15 spend an awful lot of time that year asleep under her desk because that was his safe place to be.

MS BENNETT: Alex, how was that year for you?

20 MR ALEX: That was pretty bad. I think it's just frustrating, you know. I think in the end, I can't remember if that was the right year or not, but they might have given him an iPad or a beanbag and just left him there all day. Sorry.

MS BENNETT: No, don't apologise.

25 MR ALEX: Yeah. But it's just the trauma you see your kid come through every day, yeah.

MS BENNETT: Again, we've got a recording from Jack about this time. This  
30 recording we won't play publicly. It will just be heard by those in the Commission room. It's at IND.0004.0002.0013.

**[VIDEO CLIP PLAYED]**

35

MS BENNETT: Now, I think, Alex and Sharon, that it was around this time that Jack did the whiplash tick. Can you tell the Commissioners about that time?

40 MS SHARON: The whiplash tick involved Jack flicking his head back really, really fast and really far. You can't mimic it if you try, and it was such a dangerous tick, and it could have been life-threatening --- well, it looked life-threatening. He was at risk of either becoming paralysed or dying. So we had to take him down to Brisbane to his psychiatrist to get some urgent medical intervention. So Dr Morton put him on  
45 a really strong antipsychotic drug that stopped the tick, but unfortunately Jack put on a lot of weight in a very short amount of time because of that.

Yeah, so then the bullying and everything like that at school just increased terribly. Because now you've got a kid who has terrible anxiety, doesn't want to be at school, is learning nothing, and now he's fat. So, yeah, that was the beginning of the end, really, wasn't it? Yeah.

5

MR ALEX: And that wasn't food, that was the medication that put that weight on. His diet never changed. And she did say that, that was the biggest side effect.

CHAIR: May I just ask a question, if you don't mind, at this point. You've explained, I think, that Jack didn't qualify for a teacher's aide and so forth because he didn't satisfy any one of the six criteria. Was that still the position at this stage?

10

MS SHARON: Yes, it is.

CHAIR: It was?

15

MS SHARON: That had never changed.

CHAIR: Did you know what the six criteria were at this stage?

20

MS SHARON: I remember --- I probably --- I know autism was definitely there. Blind, deaf, intellectually impaired.

MR ALEX: Disabled.

25

CHAIR: I didn't mean to test your knowledge!

MS SHARON: That's okay! That's pretty much all I remember, but I do know that Tourette's was definitely not on the list.

30

CHAIR: What is on the list, at least from some other evidence, is speech/language impairment, which, as I understand it, is often a characteristic of Tourette's syndrome. Was that ever explained to you?

MS SHARON: No, it never was, no.

35

MR ALEX: And we actually had a guidance counsellor, we got in touch with those at school, too, and they promised the world and nothing ever --- there was no school plan, there was nothing ever come from it.

40

CHAIR: And nobody ever suggested to you --- and I don't know from my own knowledge what would have happened, but nobody suggested to you that one of those criteria might be filled because of the category of speech/language impairment?

MR ALEX: Not once.

45

MS SHARON: No, never.

MR ALEX: Not once. The first time I've heard about it is from you, basically.

CHAIR: Thank you.

5

MS BENNETT: Did you report Jack's concerns about bullying to the school?

MS SHARON: Yes.

10 MR ALEX: Yes, over and over.

MS BENNETT: And how was the response to those concerns?

15 MS SHARON: Nothing was ever done. There was nothing ever done with Jack. I think by that stage he was just put in the too-hard basket and left in the corner.

MS BENNETT: And how was he reacting to school by this stage?

20 MS SHARON: That --- he got more frightened of the kids. He got it into his head that, you know, apart from them thinking he was a "freak" already because of his Tourette's, he was now a "fat freak", so that exacerbated his feelings of anxiety and depression, and he was fearful to go to school. He didn't want to be there at all.

25 MS BENNETT: I think, Sharon, you say in your statement you think around this time he tried to harm himself, is that right?

30 MS SHARON: So Jack tried to --- I walked into his bedroom and he was on the bed with a coat hanger wrapped around his neck, he was purple. So of course, you know, I rushed over, took it off him, took him to the doctor's. There was only superficial bruising, and at that point I just couldn't see him suffer anymore. So we made the decision to pull him out of school early so we could focus on his mental health, because then we were just so afraid of him doing something like that again. And by then I was that desperate, and didn't know where to go or what to do, that I ended up writing a letter to the Premier of Queensland and then I sort of, you know, or an email, and I CC'd in everybody that I Googled because I didn't know anybody, so the Minister for Education, the Minister for Disabilities, just whatever I could think of, and all our local politicians, and I just sent it all to everybody.

40 And I said to my husband, "If this doesn't do anything then we'll have to go to the media because we have no other avenues to explore." And the media's always been the last --- it was always the last thing that we wanted to do to protect him.

45 MS BENNETT: But you did get a call from someone from the Department. Lesley Theodore got in touch, is that right?

MS BENNETT: That's correct. One of the loveliest ladies I've ever had the pleasure to meet. She told us I sent the letter to the right person, which was apparently

Premier Campbell Newman at the time. And then the Queensland Education --- well, Lesley was the Queensland Education representative that stepped in to have a talk to his first school, find out where all the issues were and what was not being done to support our child.

5

I know she had a meeting with the school that we went to go to, yeah, but things did change once Lesley had been to see the school.

MS BENNETT: All right, what sort of things changed once Lesley was involved?

10

MS SHARON: So they introduced an individual education plan for Jack. They gave him an iPad to learn on because at the time he was --- his books were --- like Jack said earlier, his books were empty. And they also gave him a teacher's aide for a few hours a week.

15

MS BENNETT: And did these things help Jack?

MS SHARON: Basically no. I think it was too little too late. The damage was done by that point. So really nothing that they were doing was working, and I know that we spent --- Jack spent a lot of time on a beanbag in the corner of the classroom playing games on his iPad, and I questioned that once, and said "Why is Jack playing frog game" --- I don't know what it was called, some frog game, --- "on his iPad?" They said, "We haven't downloaded any educational apps on it." I said, "Well, wasn't that the whole point of the iPad, to help him learn?" There were only games on it, and nearly every time we went to school to pick him up he was in the corner on the beanbag with his iPad, or asleep under the teacher's desk.

20

25

MS BENNETT: What was it like getting Jack to school around this time?

30

MS SHARON: Horrendous. Yeah, it didn't improve. He still didn't want to be at school. He was so afraid of that one particular teacher that manhandled him a couple of times, and he was just --- he was done, really, wasn't he? He was just --- he was at the end of his tether, really.

35

MR ALEX: And it seemed to be that one particular teacher --- I actually confronted the Vice Principal at one stage and I actually --- it was only him and I there, and I did bring her name up, and then he sat --- the way he is going to fix the problem, and he sat Jack next to her all day. And Jack said it was the worst day of his life. He was absolutely shaken, he just didn't trust her and that was their fix. He said it was just

40

MS BENNETT: Now I have a clip from Jack, it's about five minutes long, that I would like to play at this point and I think it relates to around this time that we've been talking about. It's at IND.0004.0002.0014 and once again, I understand that this will be played only for those in the Commission virtual hearing room and not more broadly.

45

**[VIDEO CLIP PLAYED]**

5 MS BENNETT: And so Sharon and Alex, around that time I think Jack just mentioned he ended his school year a bit early.

MS SHARON: Yes.

10 MS BENNETT: Did you feel like he'd come to the end of the road with the school by that stage?

MS BENNETT: That's the first school, absolutely. I know I went into the Principal at the time and told her that we were pulling Jack out of that school, and she actually  
15 said to me that she wasn't surprised in the slightest. So, yeah.

MR ALEX: But then on the other hand, too, we did try private tutoring, and no one wanted to take him on because he had Tourette's. So we were prepared to put money into that, to get him educated one-on-one, and no one wants to take him either. It's  
20 not like we're not trying to get him educated.

MS BENNETT: Then Lesley Theodore gave you a suggestion about a new primary school that you followed, and how did that go, what was that school like for Jack?  
The second school.

25 MS SHARON: That was a wonderful school. Wonderful teacher that he had, and the principal was just marvellous. Very tolerant. They, right from the beginning, they accepted all of our advice and information about Tourette's, and they were just so willing to help Jack. It still wasn't a perfect year. We still have to fight to get him  
30 to school. He still self-harmed a lot, he broke his hand that year, he broke his foot that year. The Principal rang me one day at work and said, "I'm sorry, I've had Jack down at the back of the school for two hours in a meltdown and you will have to come and get him because he won't move."

35 And I remember just being so cranky at Jack and the amazing tolerance of this poor man, dealing with him for two hours, and they just tried really hard. They accepted the fact that Jack yelled out strange words in the class. I know one of his ticks that year, that he used to play the cup song, and it's like a beat with your hands and you beat on the table or whatever, and he did that over and over and over and drove the  
40 teacher nuts. But the teacher just let it go because she knew it was part of his Tourette's and he couldn't help it.

On particular days, you know, the Principal would send text messages to me telling me if Jack had a good day or if there had been any issues. Between that teacher and  
45 the Principal, they could teach other teachers an awful lot.

MR ALEX: I'll just add, too, the teacher in his classroom, because the school itself

was only 125 kids and there was only, like, nine teachers for the entire whole school and the principal. This particular teacher had a red ace and a black ace on his desk, and so if he was feeling anxious or something, he would turn the red one over, and she wouldn't have to say nothing, he might need to go out where the bags were hanging, and have a breather. And he just had to turn the card, nothing was ever  
5 said, and she just let him go out the door. It just made a big difference.

MS BENNETT: We've heard evidence this week about teachers viewing their students positively and seeing the best in them. Is that your experience of the  
10 difference between those two schools?

MR ALEX: Oh, yeah.

MS SHARON: Absolutely. They don't just look at Jack as a disability, they looked  
15 behind the disability and saw our Jack that we see. And accepting him ---

CHAIR: If you need a break at any time, Sharon or Alex, please tell us and there is no difficulty about having a break if you need to.

20 MS SHARON: Thank you. I'm okay, thank you.

MR ALEX: The hardest part of that school there was when he graduated.

25 MS SHARON: I'm going to cry now.

MS BENNETT: You mean he had to leave that school when he finished, that was what was the hardest thing about it?

30 MS SHARON: That was one of the best days of our lives, to be honest, for Jack, was the graduation night. His brother and daughter --- sister-in-law came as well, and they had to sing a song and I thought oh --- and Jack, there's no way Jack's going up and singing this song with the class. And we were sitting in the audience watching all of his class walk in, and then right at the back comes Jack, and I just lost it, cried and cried, it was such a proud moment, and he actually got up there and he  
35 sang the song with his class. And it was funny because we were sitting there and when they were walking up to get their graduation certificate and I heard someone behind us go "Oh, there's that kid with Tourette's" I nearly turned around and punched them, I thought, "That's my son, he's not just all about Tourette's". I mean, after the play he did go outside and have a meltdown, but he did it, and that was just  
40 amazing to see after the years that he'd been through, that he'd got the courage to do that, so Alex and I were ---

MR ALEX: And just his schoolmates, they all accepted him for what he was. Like he had Tourette's, and that was the biggest thing. We wish had have found that  
45 school years ago.

MS BENNETT: That was going to be my next question. Did it turn it all around for



Jack?

MS SHARON: Not completely. I think Jack kind of was living in the moment of, you know, the graduation and the success on leaving Grade 7. He didn't ---  
5 academically, that was the best year. So he passed, I think, two subjects that year, which was amazing. He got an A for Maths. I don't know how he did that because Alex and I can't do that. But, you know, the high school was a whole different ball game.

10 MS BENNETT: Let's talk about that. He was moving onto high school now and you had a chat to Lesley Theodore about the different schools?

MS SHARON: We did. Lesley is really just amazing because she didn't --- she did this kind of out of her scope because she dealt with the primary schools, but she was  
15 just so involved with helping us with Jack and supporting us with Jack. So she suggested schools. I did ring a lot of the private schools thinking that there may be a better option. They all told me they don't take children like my son. I also rang the special school and said maybe that's where he needs to be because his grades are so poor but his IQ was too high, and then in the end it was suggested by Lesley that ---

20 MS BENNETT: That he go to a high school.

MS SHARON: The most suitable one for him, and so that's where we went. Yeah.

25 MS BENNETT: And you met with the school about having Jack enrolled?

MS SHARON: Yes, that's correct. I took all the information that I had about Jack to the school and asked for a meeting. It was quite daunting because there was about  
30 12 people in the room when I went in, but nevertheless he's my son, so you do what you have to do. Explained to them about Jack, and said "This is what you need to - the triggers that you need to be aware of. You're going to know if he's getting anxious because of the things, you know, the particular thing that he's doing."

35 So I actually left the meeting feeling fairly positive because they seemed to really take on board what I was saying. But then I kind of found out later that it was probably not the case.

40 So the second day of high school, Jack got told to shut up twice by two different teachers when he had a vocal tick, and then he came home and said that he was refusing to go back to school because it brought back memories of the teacher that was awful to him in primary school and he couldn't cope with that.

45 So I insisted on a second meeting with the school. They pushed back and said that I'd had one. I pushed back harder and said, "No, you obviously didn't listen the first time so I need another meeting." And then, yeah, basically Jack was in almost complete school refusal by then, and this particular morning, like I can't even remember, he'd only been at school for a little bit, he had a big meltdown that

resulted in a panic attack. And my --- our middle son, Ben, had to put Jack down and hold him down on the floor and the ambulance was called and the police came, which was awful because the police never come to our house, and they took Jack up to the hospital and I spent a good hour listening to the mental health registrar up  
5 there telling me that I have to make my son go to school. And I'm like "Wow, that's how I ended up here." So, yeah, it really wasn't a very nice experience after that.

And I know that I contacted his clinical psychologist and said, "what do we do"?  
10 And that's when they recommended that Jack be put into an adolescent mental health unit.

MS BENNETT: All right, let's hear --- I'm sorry, Alex, did you want to add anything about that time?

15 MR ALEX: Being on the road as a dad, and hearing your middle child doing what you should be doing is pretty hard. I mean, the family's falling apart, that's what it sort of feels like, you know? Yeah, and that's just definitely not where we wanted to go in our life, sort of thing. And it might be hard for us but it's hard for Jack, and that's all we ever had to think about, what's going through in his head.

20 The school itself, even I went up there a few times and had meetings with them. Yeah, but it's just like deaf ears.

MS BENNETT: We've got another clip from Jack around this time. Operator, it's at  
25 IND.0004.0002.0018 and this is broadcast publicly.

### **VIDEO CLIP OF JACK INTERVIEW STARTED**

30 JACK: It was the next Monday and this is after the teacher rousing at me and the kid doing the thing.

SPEAKER: Yeah, yeah, yep.

35 JACK: The next Monday I had probably one of the biggest meltdowns I've ever had, previously beaten record but probably one of the biggest meltdowns which was --- I just --- I refused to go back to high school.

40 SPEAKER: This is in the morning when you're just getting ready, yeah?

JACK: I was meant to be getting ready, yes.

SPEAKER: Okay. And what happened?

45 JACK: Mum insisted and kept insisting. She's like, "You have to, you have to, you have to, you have to." You know, it's --- it was illegal to not go, kind of thing.

FATHER: Yeah, no, it's just the concept.

JACK: Ben was still with us at the time, I believe.

5

SPEAKER: Yeah.

JACK: And I was that distraught that I think before it all kicked off, I was even vomiting, that's how panicked I was.

10

FATHER: Yeah.

JACK: And it always --- it just goes from --- certain people can go from sad to angry to nervous to angry and that's how it was. I just blew up.

15

SPEAKER: Then what happened?

JACK: It just got to the point where I was that violent that my brother, my middle brother, had to pin me down on to the ground and lay on top of me because I was going to --- I had already cut my arms and he had to lay on --- cut up my arms and he had to lay on top of me to stop me from hurting probably even mum at the time. And mum called an ambulance. But since I was 13 --- yeah, I was 13, turning 14 --- they considered me a young adult almost. Well, not a young adult, but they --- I was a danger.

25

FATHER: Yeah.

JACK: I could have been a danger to the paramedics, so they were accompanied by police and the police came in first and they had to make sure that I wasn't violent. But I had already pretty much passed out on to the bed. The paramedics came in and checked my pulse, checked my heartbeat, put me in the --- and then they took me up to the hospital. Even then I can't really remember. My whole brain was just blurred.

30

SPEAKER: Okay, so now we're not going to go back to school.

35

JACK: Now we're not going back to school.

#### **VIDEO CLIP OF JACK INTERVIEW CONCLUDED**

40

MS BENNETT: As Jack says, he didn't go back to school after that, did he?

MS SHARON: No, he did not, no.

45

MS BENNETT: I think you took him to --- or he went to the adult - sorry, the adolescent in-patient unit in day service, is that right?

MS SHARON: Yes, yes. So he was sent there for some therapy and to try to re-integrate him back into school. He went as a day patient. So four days a week. And their focus in there was exposure therapy. So, you know, most of these kids had  
5 such terrible anxiety that they wouldn't leave --- they didn't want to leave the house. So they forced these kids to do things that they hated doing, so going shopping and going into crowded shopping centres, and also they had a whole numeracy and literacy program in there, but it was very basic, just to keep the kids up to speed. And there was obviously lots and lots of therapy and things like that.

10 MS BENNETT: Alex, after that, you managed to get Jack enrolled in Flexi, tell us about that?

MR ALEX: The Flexi Learning Centre is pretty much where all troubled youth go, if you get kicked out of every school. And so this is just an opportunity I heard, and I went down there and they actually teach them life skills, they do a bit of education, but it's mainly life skills and stuff they learn, things with their hands, try to give them a bit of hope.

20 It took a few week --- few weeks to get him in there, I just kept nagging and nagging. Eventually they said yes. Jack went down and met the teachers and that was okay. Then he got offered drugs and stuff in there and he saw horrible violence, and he just pulled himself out of it. He used to go down the road, and we'd pick him up down the road, about two blocks away. He went there for two months, maybe, he went  
25 there for a little bit, and when he got offered the drugs and saw the violence, he said, "That's not for me."

MS SHARON: He couldn't understand why he had to go to school with criminals when he wasn't one himself.

30 MS BENNETT: Alex, sorry, was Jack still enrolled at the high school that he'd attended briefly?

MR ALEX: Yes. He was enrolled all the way through (inaudible) and the idea of that was to go back to high school the following year. And I think he actually --- I think we went in there the following year, before he went to Flexi, I did go in there and have a meeting and so forth. And I was pretty much --- and I was told by the Vice Principal that we need to sign him out. And I said "Why is that?" And they said because it looks back on our records that he's absent all the time. And I said,  
40 "But he's still a student, he needs to be enrolled somewhere", and that's what they said to me "Yeah, but not on our books, it looks bad we've got an absentee person all the time." That day I was pretty cranky, said a few beautiful words and signed him out, basically.

45 MS BENNETT: When you say signed him out, do you mean unenrolled him?

MR ALEX: Unenrolled him. I was told to. Literally un-enroll him.

MS BENNETT: After Jack stopped going to Flexi, is it fair to say that was it for him for formal education?

5 MS SHARON: We did have a look at teaching him remotely but I figured the kid --- they told me it would be about \$1,800 and I'd have to leave work, so it wasn't financially viable for us to do that, and I figured if the teachers couldn't teach Jack or get Jack to do schoolwork, there was no way I was going to be able to. Any sort of  
10 mention to Jack about learning, he just shuts down. Even now, even at the age of almost 19 (inaudible).

MS BENNETT: So how old was Jack when he finished formal education?

MS SHARON: 14, I think he may have been. 13, 14.  
15

MR ALEX: 13, I think.

MS BENNETT: And was there follow-up from the Department of Education about him after that?  
20

MS SHARON: No. We heard from nobody, actually. I kind of --- I was a bit afraid that somebody would knock on the door or have even the Department of Child Safety come and knock on the door and say, "You know, you're failing as parents, your son needs to be in school" and take him off us. So that was always in the back  
25 of my mind but we never heard from anybody. So we just worked on keeping him alive and keeping him trying to build him back up again. And we're still working on that now.

MS BENNETT: I'm going to play a clip from Jack, talking about where he was a few months ago, when this clip was recorded. I'm going to ask you about how he's doing now. The clip I'm going to play is at IND.0004.0002.0024.  
30

Thank you, Operator.

35

**VIDEO CLIP OF JACK INTERVIEW STARTED**

SPEAKER: What are you doing now with yourself?  
40

JACK: Like what am I doing or what do I want to do?

SPEAKER: Yeah, what are you doing now? Like what are you doing with your life now? What are you doing?  
45

JACK: Well, my life consists of a lot of sleep, probably an extra five hours more than necessary, maybe even six, sometimes even eight to nine. Sleeping, showering,

toilet, going in my room, reading and watching shows.

SPEAKER: Okay.

5 JACK: And seeing --- I do have my carers, which I will sometimes go out to eat with at sushi, but even then, I kind of follow behind them like a penguin or a child.

FATHER: We had a moment in our last trip ---

10 JACK: At sushi?

FATHER: Yeah.

15 JACK: Yeah, where I couldn't see --- my sister-in-law was there, at sushi with us --- not with us but she was in the same, you know, shop and I literally had to hide because I was panicking and fretting over the thought of, you know, confrontation of any kind.

20 FATHER: Engaging in conversation?

JACK: Engaging, yeah.

**VIDEO CLIP OF JACK INTERVIEW CONCLUDED**  
25

MS BENNETT: How is Jack doing now?

30 MS SHARON: Jack is probably the most unwell that he's ever been. He does have the NDIS which we're so thankful, and has carers that come. Jack has got --- been diagnosed with agoraphobia now, so he very, very rarely leaves the house. Like he said, he sleeps a lot. He's got clinical Obsessive-Compulsive Disorder which is pretty much ruling his entire life right now. He said to me the other day that, you know, because I say "You must be so lonely, Jack", he said, "I'm so used to being  
35 alone that I'm not lonely." But I think that he is.

40 Jack has no concept of how to do any life skills. He's got no concept of how to manage money, how to pay bills. At the moment he's got no concept of how to step outside, actually, but he's just --- he's not in a good place. So we do everything that we can to try and keep him here. He's still having therapy but the bottom line is we've been told he needs to be in hospital to try and get some sort of treatment in there before anything will change.

45 MR ALEX: Can I just add, too, that the biggest thing with Jack as well is that if he does come out and we go to the shops, he left school a long time ago, many years ago, if he sees a kid in a school uniform, his head goes down, his shoulders are shrunk and he pretty much wants to hide. And then he gets that anxious that he feels

sick and he needs to go home. And he just comes up to us now and says "I've got to go. I've got to go." There's no shows, there's no going out. It's very rare to get him out of the house.

5 So that affects our life as well, you know. Because we don't leave him there, because ---

MS SHARON: Especially at night.

10 MR ALEX: Parties, families, we've lost friends, family, because of that reason, because we don't go to family functions. And he's that anxious, it's not funny.

MS BENNETT: In a moment I'm going to finish by hearing from Jack about what he hopes from this Royal Commission, but before I do that, before I play that clip, I'd  
15 like to ask you what you would like to tell the Commissioners about what you hope from this Royal Commission.

MS SHARON: I think you need --- the Commission needs to understand that the education system doesn't work for all of these children. These children aren't defined  
20 by their disability, that's just part of them. You need to see, you know, most kids --- a lot of kids won't do well in mathematics and you know what, that's okay because they might shine in another area. You've got to stop focusing so much on all these tests and things that you do with these kids because when they leave high school, like when they leave school. None of that matters.

25 What matters is they've been taught to have confidence in themselves and to be proud of who they are and, you know, not be afraid to have an opinion and not be afraid to go, "Oh yeah, I got a D for Maths but I don't mind because I'm amazing at English, and I'm not going to use too much Math when I step outside of this school."  
30 You know, you just need to recognise that what you do to these kids and, you know, once a word has been thrown, that word can affect their entire life, because you look at my son now, and he's trapped in our house because of things that happened to him when he was a young boy, and it doesn't matter how much we used to try to build him up when he came home, and tell him how wonderful he is and how funny he is  
35 and, you know, and how empathetic and such a beautiful soul he is, he would go to school the next day and get beaten down. So whatever we tried to do that night, it was gone by the next day, and we're still trying to find that now to make him feel like he's a worthwhile person. He's only got Grade 4 English and Math skills, he can barely write his own name, but you talk to Jack and he's just so eloquent in his  
40 speech and he's such a gentleman and, you know, you get onto a subject that he's interested in, like animals or the universe, and he will talk for hours to you about it whether you want to listen or not, because he will make you listen. We have to let him because he doesn't talk to anybody else.

45 And his perception of friendship is the people that he talks to over his earphones when he's playing X-Box, and that's really, really sad. So, you know, there's so much beautiful to our son that --- and everyone's missing out on that. He's not just

Tourette's and he's not just, you know, noises and, yeah, and, you know, funny movements and things, some of it is hilarious, don't get me wrong, it's funny but at the same time it's just debilitating. And he's just lost out on so much. He doesn't know how to socialise.

5

So if the Commission can do anything is stop focusing on what the kids are good at -- sorry, what the kids aren't good at and what focus on what they are good at. That's all I really wanted to say.

10 MS BENNETT: Alex?

MR ALEX: Well, I sort of believe that these kids --- I mean these teachers that are in university now need to know what an effect they have on kids. It doesn't matter how old these kids are, they've got to be taught that, you know, if you do something or say something to these children, you know, that can either turn them good or bad, you know, make their life hell.

I mean, at the end of the day, I sort of look at it and I think, who is going to employ Jack? What life does he have now because he can't read, write, he's got Grade 4 education. I mean, not many people are going to employ him. And I think as a dad that's hard.

MS SHARON: And what happens to Jack when we're not here, too, really?

25 MS BENNETT: I'm going to finish the questions that I have for you by playing the final clip of Jack at IND.0004.0002.0026 and then I will ask the Commissioners if they have any questions for you.

30 **VIDEO CLIP OF JACK INTERVIEW STARTED**

SPEAKER: What would you say to him?

35 JACK: I would say that Mr Royal --- or Mrs Royal Commissioner ---

SPEAKER: Sorry, he or she.

JACK: Yeah, sorry, yeah, jeez. Or both, I don't judge, the generation is a bit weird.

40

FATHER: Yeah.

JACK: I would say that kind of like when someone makes a joke, you've got to take into consideration that you, you know, say you make a cancer joke, yeah.

45

FATHER: Yeah.



JACK: You've got to take into consideration, you don't know if one of their relatives had just recently passed away. Or you can't make a joke about a child, you know, being injured or something because you don't know if that person has gone through something. I think it's completely unfair --- teachers need to be more open-minded.  
5 They can't just see a child making a funny face or, you know, making a noise or has his head down on the desk or, I don't know, is having a panic attack or screaming and yelling, it's not just a "naughty child".

FATHER: Yeah.  
10

JACK: Or a "dumb child". That child might not be depressed, or he might be depressed but he might also just be exhausted for reasons. He might not just be making a face to be funny, he might be doing it because he can't help it. Even like with dyslexia, he might not be --- he's not stupid, he just doesn't know how to write  
15 because of his dyslexia.

### **VIDEO CLIP OF JACK INTERVIEW CONCLUDED**

20 CHAIR: Thank you. If it's all right with you, I will ask the Commissioners if they have any questions, is that okay with you?

MS SHARON: That's fine. Thank you.  
25

CHAIR: I'll ask first Commissioner Atkinson, who is in Brisbane.

COMMISSIONER ATKINSON: No, I don't have any questions, but I do want to say thank you very much for the evidence you've given today. It's very important and it's very important to us to hear what you have to say. Thank you. And Jack, of course, as well.  
30

CHAIR: Commissioner Mason?

35 COMMISSIONER MASON: No, thank you.

CHAIR: Commissioner Galbally?

40 COMMISSIONER GALBALLY: I have no questions, but I also want to thank you very much for the evidence today. Thank you.

CHAIR: Sharon and Alex, as you've just heard, the Commissioners want to thank you most sincerely for sharing your story and for sharing Jack's story with us today. It is very important and I want to convey our appreciation and admiration to you for what you've done over the years and for appearing today and giving evidence to us  
45 and I would like you, please, to convey to Jack our appreciation for his contribution. It is something that we will remember and it is really very important to us and he

should know that. Thank you so much.

MR ALEX: Thank you for the opportunity and letting us have our say, basically. Hopefully we can help a lot of other kids, too.

5

**THE WITNESSES WITHDREW**

10 CHAIR: We hope so.

Ms Bennett, shall we now take an adjournment?

15 MS BENNETT: Yes, Chair, an adjournment will be great, thank you. 20 minutes, if that's convenient?

CHAIR: 20 minutes, we will do that.

20 MS BENNETT: Thanks, Chair.

**ADJOURNED** [11.32 AM]

25 **RESUMED** [11.51 AM]

CHAIR: Yes, Dr Mellifont.

30 DR MELLIFONT: Thank you. The next witness is Lesley Theodore. You will find her statement at Tender Bundle Part C, Volume 1, Tab 4. I tender that statement and ask it be marked Exhibit 7.164 and the annexures thereto as 7.164.1 through to 7.164.4.

35 CHAIR: Yes, thank you.

**EXHIBIT #7.164 - STATEMENT OF MS LESLEY THEODORE**

40

**EXHIBITS #7.164.1 TO #7.164.4 - ANNEXURES TO STATEMENT OF LESLEY THEODORE**

45 DR MELLIFONT: Ms Theodore is in the witness box here with us in Brisbane.

CHAIR: Ms Theodore, I'm just waiting for you to come onscreen so I can see you.

Is that going to happen --- yes, thank you. You've miraculously appeared, thank you very much. Thank you for appearing at the Royal Commission to give evidence. If you would be good enough to follow the instructions of Commissioner Atkinson's associate and she will administer the oath or affirmation, as the case may be.

5

**MS LESLEY THEODORE, AFFIRMED**

10 CHAIR: Thank you, Ms Theodore. If you wouldn't mind paying attention to Dr Mellifont and she will ask you some questions. Thank you.

**EXAMINATION-IN-CHIEF BY DR MELLIFONT**

15

DR MELLIFONT: Do you hold a Diploma of Teaching in Primary and Special Schooling, majoring in hearing impairment, and you've got that in 1979?

20 MS THEODORE: That's correct, yes, I do.

DR MELLIFONT: And you have a Graduate Diploma of Occupational Health and Safety, 2007?

25 MS THEODORE: That's correct.

DR MELLIFONT: And you started teaching in 1980?

MS THEODORE: You did.

30

DR MELLIFONT: I gather you've seen a few changes over the last few decades?

MS THEODORE: I have.

35 DR MELLIFONT: What's your current role?

MS THEODORE: I'm a Principal Education Officer, Student Services.

DR MELLIFONT: Within the Department of Education, Queensland?

40

MS THEODORE: Yes.

DR MELLIFONT: It says also you were a state-wide Validator in 2007, what's that?

45 MS THEODORE: That's a position within the Education Adjustment Program which provides, I guess, some oversight over the regions, the schools, their education adjustment profiles that they complete for students that they are correct and that the

documentation that schools provide actually match up with the adjustments that schools say they are providing in the education adjustment profile. It's a bit of an auditing tool.

5 DR MELLIFONT: Okay, so I'll come back to that. Can I ask you, does that position, although you don't hold it, does that position still exist?

MS THEODORE: Yes, it does.

10 DR MELLIFONT: Is there only one of them?

MS THEODORE: There's two or three.

DR MELLIFONT: State-wide?

15

MS THEODORE: State-wide, yes.

DR MELLIFONT: And you did that for a period of time within 2007, before then moving to the role of Principal Education Officer?

20

MS THEODORE: That's correct. Six months I did that.

DR MELLIFONT: Thank you. So, since 2007, apart from a period in 2018 in the Central Office in the Disability and Inclusion Team as a Senior Adviser, you've held the role of Principal Education Officer?

25

MS THEODORE: That's correct.

DR MELLIFONT: PEO.

30

MS THEODORE: Yes.

DR MELLIFONT: That was first in Townsville?

35 MS THEODORE: Yes.

DR MELLIFONT: And more recently in metropolitan Brisbane?

MS THEODORE: Yes.

40

DR MELLIFONT: So when for Brisbane?

MS THEODORE: The beginning of 2019.

45 DR MELLIFONT: In your statement you describe PEOs as having a variety of responsibility which differs on the needs of the region they are assigned to. I wanted to ask you, though, what's their key function as you understand it?

MS THEODORE: It is such a broad role, it's hard to pin down a key function. But it's around supporting the region, so regional officers, and schools, to provide an inclusive education for students and schools. So it's work with regional officers, it's work with principals, it work with school staff.

DR MELLIFONT: And precisely what that might look like on a day-to-day basis will vary region to region and PEO to PEO, is that right?

MS THEODORE: Correct, yes.

DR MELLIFONT: And you described in paragraph 9 of your statement that the work is really about legislation and policy, is that correct?

MS THEODORE: That's a very big part of the work, yes.

DR MELLIFONT: All right. And is that work about trying to help the educators in the regions, teachers and principals, to navigate their way through the education policies and procedures and legislation?

MS THEODORE: That's a very good way of putting it, yes.

DR MELLIFONT: Okay. But there's no precise description about how you as a PEO must do that?

MS THEODORE: No.

DR MELLIFONT: So you agree with me?

MS THEODORE: Yes.

DR MELLIFONT: So it comes down to the individual PEO as to how they're going to try and demystify or explain the overall policies and procedures of the Department, correct?

MS THEODORE: Yes, that's correct.

DR MELLIFONT: And to advise and provide guidance to the educators within the region about legislation.

MS THEODORE: Yes, that's correct.

DR MELLIFONT: Including the DDA and the DSE.

MS THEODORE: Yes.

DR MELLIFONT: That's a lot.

MS THEODORE: Yes.

5 DR MELLIFONT: And there's not --- there's quite a bit of a demand, quite a bit of demand on your time --- sorry, put it a different way. From your perspective, would you like to have more PEOs to be able to carry the burden of that work?

MS THEODORE: From my perspective ---

10 DR MELLIFONT: Yes, your perspective.

MS THEODORE: I would like there to be more PEOs when we are trying to support over 250 schools in my current region, and we have three PEOs. So we're spread very thinly across all of our schools, I guess reducing our ability to respond to some of them as we would like to.

DR MELLIFONT: Okay. And so far as you're aware, to hold the position of PEO, there's no formal qualification required, is that your understanding?

20 MS THEODORE: That's my understanding, yes.

DR MELLIFONT: Okay. And your statement says that in 2007, at that stage as PEO, you had carriage of supporting students with disability, students in out-of-home care, migrant and refugee students and students with mental health concerns, and you describe it like anyone who had challenges came through PEOs who were considered --- and I'm summarising --- Jack-of-all-trades without any specialist knowledge?

MS THEODORE: Yeah. So how it appeared at the time was that any student who presented with difficulties, the PEOs were the ones that schools would contact effectively to ask, you know, what do we do? How do we deal with this?

30 Now, with the PEOs, with our varied backgrounds, we didn't necessarily have experience in that particular area that they would be asking about. So, you know, particularly in the mental health area. I have no particular background in that and I would be going to other people and asking advice and then I would be coming back to respond to the school. So it was probably not a really focused support at that time.

DR MELLIFONT: I want to understand from your experience do some of those challenges or problems still exist to current time?

40

MS THEODORE: Yes.

DR MELLIFONT: In what way?

45 MS THEODORE: So there are still students who have mental health concerns. Sorry, can I just confirm for you, do you mean for myself or ---

DR MELLIFONT: Yes. You're speaking for yourself. Let's start with that ---

5 MS THEODORE: In this role. Okay. For this role, I'm sorry, no, there are not the same challenges in that respect because the Department has now provided additional advisers, experts, coaches, in some of those areas that I now am not required to try to go sourcing. I know that if someone phones me, a school phones me about a concern for a student with some mental health conditions or concerns, there is a mental health - a principal adviser for the mental health area, so I can refer to them. So I don't have to be as much of that Jack-of-all-trades.

10 DR MELLIFONT: Okay. There's still a lot of diversity required of you, though, in your current role, yes?

15 MS THEODORE: Yes.

DR MELLIFONT: What are you finding the continuing challenges are, or the existing challenges are for you in this role?

20 MS THEODORE: Probably that despite a lot of the --- what is provided by the Department around guidelines and policies and procedures, are not being followed in schools and there is that constant challenge of how to work with the school without brandishing a big stick at them, but developing that relationship with them, to then be able to advise them that there are new guidelines and how are you going with those, it's --- you just have to find creative ways of, you know, supporting schools in that way. But that's a big challenge is the changed environment that many people are just  
25 --- don't seem to be still aware of.

30 CHAIR: Ms Theodore, sorry to interrupt, but at the moment I don't have quite a clear understanding of what your current role and responsibilities are. Would you mind just explaining? I understand that it's not the Jill-of-all-trades that you had to perform previously, but obviously there must be responsibilities, what are they, if you don't mind encapsulating them for us.

35 MS THEODORE: Certainly. So wide-ranging, we support --- we have some supervision kind of requirements around supporting advisory visiting teachers, the Heads of Special Education in schools. And for those we try to - we answer a lot of their questions. So they may not be quite sure of procedure or where to find something, some information or a policy or what should they do in certain cases. So a lot of our role is around providing advice to those people who contact us, building  
40 their capability to be able to do that for themselves, show them how to research stuff like that for themselves.

We have some operational responsibilities. So I don't know if you've heard of Early Childhood Development programs. We provide a lot of support and supervision to  
45 those. We are the --- make recommendations to whether children are eligible for early childhood programs, and there are quite a lot of applications that come in. We are the approvers for transport assistance under the School Transport Assistance

Program for students with disabilities, in this region that amounts to several thousand applications and reviews every year.

5 There are Department actions or procedures every year that we provide the oversight  
of in our region, the Nationally Consistent Collection of Data on School Students  
with Disabilities. Most of the PEOs are the overseers of that in our regions, and we  
provide professional development to the schools, we support them through the whole  
10 process in collecting their data and getting that into Central Office. We monitor the  
Adjustment Information Management System which is our disability database,  
effectively. We monitor that, we keep an eye to try and assist schools to identify  
when there might be some extra work they need to do or that there's something they  
need to follow up at their school at various times. We are the conduit -

15 CHAIR: Are your responsibilities limited to students with disability?

MS THEODORE: For the most part, but within students with disabilities we also  
have students in out-of-home care who have disabilities, we have students who are  
migrant or refugees who have disability. So we do still touch across many areas.

20 CHAIR: And there are three of you for 250 schools to do all these things?

MS THEODORE: That's in the metropolitan region, yes. Every region has an  
allocation of ---

25 CHAIR: Sounds like you don't have a lot of trouble filling in your workday!

MS THEODORE: No, we don't.

30 CHAIR: No, okay.

Sorry, Dr Mellifont, please continue.

DR MELLIFONT: Thank you.

35 All right, I'm going to come back to some of those things. So, the people seeking  
your advice, that might be principals, correct?

MS THEODORE: Yes.

40 DR MELLIFONT: Teachers?

MS THEODORE: Yes.

45 DR MELLIFONT: And Heads of Special Education Service?

MS THEODORE: Yes.



DR MELLIFONT: Sometimes called HOSEs for short?

MS THEODORE: That's right.

5 DR MELLIFONT: But some people who hold that position, it's entitled Heads of Inclusive Education or whatever?

MS THEODORE: That's correct.

10 DR MELLIFONT: So in terms of the language, some schools are within the "special education" language and some schools are within the "inclusion of education" language.

MS THEODORE: That's correct.

15

DR MELLIFONT: And that comes down to the individual school choice on what to call the job, is that right?

MS THEODORE: That's correct.

20

DR MELLIFONT: Sometimes families contact you directly.

MS THEODORE: Yes.

25 DR MELLIFONT: How do they get your number?

MS THEODORE: I know in North Queensland it used to be passed around. Once you'd made contact with a family, we didn't have call blocking, so they could see the number and then they had you, so they would just ring directly.

30

DR MELLIFONT: And did this occur, in your experience, for families who felt that they weren't getting traction within the school?

MS THEODORE: That's correct, yes.

35

DR MELLIFONT: Okay. Can I take you to --- and I ask for this to come up on the screen. It's your statement which is STAT.0080.0001.0001 at page 4, and it's paragraph 13. So if we can just bring up paragraph 13. You've got your statement in front of you so you can read it.

40

MS THEODORE: I have.

DR MELLIFONT: Can I get you to orientate yourself to paragraph 13 and you start there by mentioning that PEOs receive requests, but I want to go over to the next  
45 page, and the part I want to ask you about is the second line, which is:

*We strive to build the capability of HOSES and advisory teachers and give*

*them the right tools and information to assist families rather than becoming directly involved with families ourselves.*

First, what's an advisory visiting teacher?

5

MS THEODORE: So advisory visiting teachers are teachers who have been seconded to regional areas so they don't belong to a specific school. They sit within a region, and they move about to different schools on demand, like at our request or on demand.

10

DR MELLIFONT: Okay, so help me understand the difference between an advisory visiting teacher and an inclusion coach.

MS THEODORE: An advisory visiting teacher will - can spend more direct time at a school, probably. They may become involved for a specific child for a specific purpose. The inclusion coach, my understanding is they are more general and look at the entire school and journey around inclusion.

DR MELLIFONT: Okay. You say your understanding. Where does that understanding come from?

MS THEODORE: Previous introduction to the role years ago. I haven't read up on their role description recently and also working with an inclusion --- Principal Adviser, Inclusion, the name change, currently. So we work together when we identify a situation, does it require the inclusion coach or does it require something more direct specifically for a student, it may be an advisory teacher.

DR MELLIFONT: Okay. So your understanding of the respective roles is what you pick up from your day-to-day work as opposed to, say, a formalised teaching or training or dissemination from the Department, is that correct?

MS THEODORE: Several years ago I would have read those role descriptions, but then each region, again, slightly adjusts what they require them to do.

DR MELLIFONT: Okay. I take it it's not possible to keep up with what each region's doing and the way they're doing it, you have to go with what you can.

MS THEODORE: And what I tend to do, from my experience, is what I have in front of me is what I deal with. I don't try to know everybody else's job. I know roughly what they do and will speak with them if there is something that I believe they could help the situation I'm dealing with, and together we would work out a way forward.

DR MELLIFONT: Can I take you back into this statement and the part which talks about giving them the right tools and information. What don't they have that they're coming to you looking for?

MS T

HEODORE: Probably it's a solid knowledge of the policies, procedures, guidelines, ways of doing things. And sometimes I don't have that either but together we work through it. So I will often say to them "Are you in front of your computer?" And they say "Yes." I say "Okay, let's do this together." And I step them through how to  
5 access a procedure or something.

A good example would be a Head of Special Ed phoned me recently and said, "I just want to make sure that we're doing this part-time attendance right." And I asked  
10 "Have you accessed the guidelines? Are you using the plan?" "Oh, um." So I said, "Okay, so from that I guess you don't know. So while you're there", and I would step her through the pathway to actually get to that, and she said, "Oh my goodness, this is great. I'm going to go away and read this now and I'm going to take it back to my leadership team."

15 DR MELLIFONT: Okay. I'm sorry. There you're speaking about the part-time attendance guideline which was promulgated 2020 by the Department of Education, is that correct?

MS THEODORE: Yes, that's correct.  
20

DR MELLIFONT: Do I take it from that communication that she was not aware of the specific guideline until you told her about it?

MS THEODORE: She may not have been. We do put out --- in our region, we do  
25 put out communication when there is something new, so we would, at the start of every term we send out, the PEOs, send out an email and just advise our contact in every school of anything that might be new or that, you know, they need to be aware of. So I do recall that we did put that into our very first email. I can't guarantee you that everybody reads every bit of that or clicks on every link.

30 DR MELLIFONT: No, no, and I'm not asking you to step into the mind of that person who rang you, but I take it from the fact that she was asking you about it, and you told her that it's online and had to teach her about that, that that was information she just didn't have --

35 MS THEODORE: That's correct.

DR MELLIFONT: --- didn't appear to have before then.

40 MS THEODORE: That's correct.

DR MELLIFONT: And you just said that there is an email out to your contacts. What's that mean?

45 MS THEODORE: So we have set up in this region, and I know most regions do this, a contact person in every school. Mostly it's the Head of Special Education but if there is no Head of Special Education, it may be a teacher, it may be the principal, it

may be a deputy principal, but we have a contact in every school so that we make sure that necessary information from the Department, so that, like this email that tells them what's coming up this term, can get into that school.

5 DR MELLIFONT: Okay. Is that a single point of contact per school?

MS THEODORE: Yes.

10 DR MELLIFONT: And is there a mechanism which follows up to make sure they've got it and they've passed it onto their school?

MS THEODORE: No. That's really up to them. We leave that to them.

15 DR MELLIFONT: Yes, I understand. I'm not suggesting you need to be contacting. --

MS THEODORE: Yeah, no.

20 DR MELLIFONT: --- 250 people to make sure they've done it personally.

Can I ask you, please, again, if we can have paragraph 13 up. You give an example of when a HOSES might contact you as being an enquiry about providing a transfer note, on this occasion it was requested by a non-State school. And you explained it was in the enrolment procedure. I actually want to understand what a transfer note is.

25 MS THEODORE: Okay. So when a student moves schools, in order to facilitate transfer of information about particularly a student with a disability but any student, a school can request a transfer note from the previous school. So that is a document that provides that --- provides information that may be helpful to the receiving school to assist them to get support in places --- in place as quickly as possible.

30 DR MELLIFONT: To your understanding is that compulsory at both ends, that is, compulsory from the receiving school to get a transfer note, and compulsory from the previous school to provide one?

MS THEODORE: It's not compulsory for them to request it, but if you are asked to provide it, then it's in our procedure and I would expect schools to do that.

40 DR MELLIFONT: Okay. What's AIMS information?

MS THEODORE: The Adjustment Information Management System --

45 DR MELLIFONT: Which is what?

MS THEODORE: --- which is our database, and you can run a variety of reports off that that you're able to provide to the receiving school.

DR MELLIFONT: Is that different to a part of one school?

MS THEODORE: It is part of one school.

5

DR MELLIFONT: Is that where you would expect adjustments to be recorded?

MS THEODORE: Correct, yes.

10 DR MELLIFONT: In your experience, that's not always perfectly or completely recorded?

MS THEODORE: I will qualify that. That is one place. So that's where the information around adjustments for the purposes of our Education Adjustment Program are stored in AIMS. There is also within, just within the OneSchool platform, there is a place where schools can record plans, adjustments, they can upload and store those things in a support tab.

20 DR MELLIFONT: Okay. And each of those depends for their completeness on the information being input by humans in schools on a regular and complete basis, is that correct?

MS THEODORE: Correct, yes.

25 DR MELLIFONT: And you would have experienced occasions in which it appeared to you that that information was, in fact, incomplete?

MS THEODORE: That's correct.

30 DR MELLIFONT: Not infrequently? It's a bit subjective. It certainly happens more than you'd like it?

MS THEODORE: Yes, more than --- yes, more than I'd like there to be.

35 DR MELLIFONT: Okay. I just want to understand something about complex needs, and your statement reflects that each region has its own processes, but sometimes that PEOs are included in considering applications from schools for additional staffing, usually teacher's aides for students with complex needs, is that correct so far?

40

MS THEODORE: That's correct.

DR MELLIFONT: Is that known as a complex needs application?

45 MS THEODORE: No, it would vary in all the regions what it's called. In the metropolitan region at the moment it's called a request for support.

DR MELLIFONT: A request for support, okay. So we heard from "Sarah" about a complex needs submission and she explained that her understanding was there was an application that a school could make for extra funding and resourcing.

5 MS THEODORE: That would be correct.

DR MELLIFONT: So your understanding matches her understanding?

MS THEODORE: Correct.

10

DR MELLIFONT: Okay.

MS THEODORE: We try to be consistent with the terminology that we use at region. We can't always guarantee that that terminology is used exactly in schools. So schools may use different terminology but for the same process.

15

DR MELLIFONT: Right. And that terminology might find itself in OneSchool by way of an entry, yes?

20 MS THEODORE: It may.

DR MELLIFONT: And people reading that later have to discern what that terminology means?

25 MS THEODORE: Yes.

DR MELLIFONT: Okay. Remind me, what did you call it a request for?

MS THEODORE: Request for support.

30

DR MELLIFONT: So I must say that I've read a fair bit of information about the funding within Queensland and it kind of did my head in. So can you explain to me the difference between a request for support and a complex needs application?

35 MS THEODORE: In metropolitan region, it would be the same thing.

DR MELLIFONT: Okay. But for the rest of the Queensland it could be different?

MS THEODORE: It could be different.

40

DR MELLIFONT: Okay. And within complex needs applications for metropolitan Brisbane, what's your understanding as to who can apply for that kind of funding?

MS THEODORE: So, schools will apply on the basis of the complexity they're experiencing within their environment. If they are having difficulty with the student for a range of reasons, and I guess even what I just said then, I don't like saying it in that way --

45

DR MELLIFONT: I understand.

5 MS THEODORE: --- but that's the basis they will - they feel they are having difficulty for some reason, and they will put in the request for support. It may be disengagement, it may be that the child is acting out in a variety of ways and they don't necessarily know how to deal with it, and often the default position is to ask for a teacher aide. So we'll put in a request for support.

10 DR MELLIFONT: Yes, okay. Now, I'm going to come to parts of your statement which speak about student behaviour so that people watching this will understand that the language here differs from your language in the statement, in that you demonstrate your understanding of it being about the child --- sorry, that it's not really acting out as such.

15 MS THEODORE: No.

20 DR MELLIFONT: So we'll be --- I just wanted to put that on record, that we will come to that part where you explain your very clear understanding, okay? So, what I do want to ask you about here is, with this complex needs funding, is it incumbent on the parent or caregiver to put that in train, or is it the school?

MS THEODORE: No, it should be the school.

25 DR MELLIFONT: And if it's granted, does the money --- does the funding have to go to the child in respect of whom the application is made?

30 MS THEODORE: If an allocation is made and it's not money, it's a number of teacher aide hours or a full-time equivalent in teacher time sometimes, the school - there would be an expectation that the school would use it in the way that they have explained they would use it in the application, which is usually directly involved with the student who they're applying for.

35 DR MELLIFONT: Okay. So it's an expectation that it would be for that student, and that usually would occur but there's no obligation and it doesn't always occur in that way. Is that your experience?

40 MS THEODORE: I would expect there is an obligation, but once the region has made the allocation, I guess we don't have control over what happens.

DR MELLIFONT: Okay. And there is no audit that you're aware of that makes sure that the funding applied for was used for the purpose stated in the application?

45 MS THEODORE: No.

DR MELLIFONT: So you agree with me?

MS THEODORE: Yes.

DR MELLIFONT: Okay.

5 CHAIR: You've said that there was, in your view, there is an obligation. Where is that obligation contained in writing?

MS THEODORE: It's not in writing.

10 CHAIR: There does seem to be quite a lot in folklore within this program, is that right?

MS THEODORE: I guess. You could say that.

15 DR MELLIFONT: Can I just focus on that word "obligation" as you use it, so I can understand how you meant it. Were you saying that from your perspective they ought to be using it in that way?

MS THEODORE: Yes.

20

DR MELLIFONT: Okay. As compared to it is your understanding that there is a formal requirement within the Department of Education that mandates that it is used in that way?

25 MS THEODORE: That's correct. There's no mandate there.

DR MELLIFONT: Now, with these applications, there's actually no requirement at all for a PEO to be involved, is that right?

30 MS THEODORE: No. It is a regional process, and in our region we establish a panel who looks at the applications. When we do that, it's not just the written application that we are provided, we look at OneSchool. So at the OneSchool records we look at the behaviours, we look at the support plans that are in place, we look at absences, we look at records of contact, just so that we get a really full picture  
35 of what's happening for that student at that school.

DR MELLIFONT: Okay.

40 MS THEODORE: And we use all of that to make a recommendation to the actual decision-maker on the allocations to schools.

DR MELLIFONT: Your statement speaks about involving reading multiple applications. What's multiple?

45 MS THEODORE: So, some weeks we will have 30, some of those may be reviews, and it may be half a dozen of those are reviews.



DR MELLIFONT: So I think I can probably stop you there. So you mean "multiple" in the context of different applications, not multiple applications for the one student?

5 MS THEODORE: That's correct.

DR MELLIFONT: Thank you. I just needed a clarification of that. So when you get an application in and you're looking into OneSchool, and it occurs to you or it appears to you that the information there is incomplete, to your understanding, is there an obligation on you to go looking for information to fill those perceived gaps?

MS THEODORE: So our process is that someone in the panel - on the panel will approach the school, will phone the school and ask for more information.

15 DR MELLIFONT: Okay. And what if the school doesn't bring itself to bring that information to you?

MS THEODORE: Then we can't progress that application, that request.

20 DR MELLIFONT: Does that happen sometimes?

MS THEODORE: It does occasionally, but also we --- they may apply for an additional resource or be asking for additional teacher aide time but through our investigations in OneSchool, we identify that they may actually get some value out of having one of our principal advisers or our coaches making contact with them. So we do take that upon ourselves then to make that person to make contact with the school, and just explore a bit further if there is more that we can do to support the school.

30 DR MELLIFONT: Okay. So you might in that process identify things that the school haven't thought of or haven't pursued yet?

MS THEODORE: That's correct.

35 DR MELLIFONT: And you might make suggestions to the school about that?

MS THEODORE: Yes.

DR MELLIFONT: But they're not always taken?

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MS THEODORE: No, that's correct - sorry, yes, you're right, it's not always taken.

DR MELLIFONT: And you yourself have experienced circumstances where, for example, you've recommended adjustments be made, is that correct?

45

MS THEODORE: Yes.

DR MELLIFONT: Okay, which are - which suggestions are not always taken up?

MS THEODORE: That's correct.

5 DR MELLIFONT: In fact, you've had one principal say to you "I appreciate your advice, Lesley, but I'm going to do it anyway"?

MS THEODORE: Correct. That one - that particular was around a suspension.

10 DR MELLIFONT: Around a suspension?

MS THEODORE: Yes.

15 DR MELLIFONT: Thank you. So some of this will largely depend upon the principal, the teachers, the HOSEs in the particular school?

MS THEODORE: That's correct.

20 DR MELLIFONT: As I understand your evidence and what you've informed the Commission of, some are excellent, yes?

MS THEODORE: Yes.

25 DR MELLIFONT: And some are not?

MS THEODORE: Yes.

DR MELLIFONT: And everything in between?

30 MS THEODORE: That's correct.

DR MELLIFONT: Even for the ones, the principals, teachers, Heads of Special Education, even for the ones that are very good, motivated, skilled, they might still have a bad day?

35

MS THEODORE: Yes.

40 DR MELLIFONT: Okay. So to your knowledge and understanding, is there a clear mechanism in place for determining where principals or Heads of Special Education, et cetera, are not taking up recommendations for adjustments?

MS THEODORE: We don't have any formal monitoring in place for that. So the place we find - when we find out that there are issues is usually through complaints.

45 DR MELLIFONT: Okay. So I just want to - I don't want to touch on complaints for a moment, excuse me.

So at the school level, is the first port of call the Principal for a complaint?

MS THEODORE: It should be. Sometimes it's not.

5 DR MELLIFONT: Okay. And in what circumstances isn't it?

MS THEODORE: Parents might feel that they - and this is just my opinion - parents may feel they're not getting a good hearing, so they may phone the Region. They may bypass the Region and go to their local Member. It varies.

10

DR MELLIFONT: It varies, okay. And have you in your experience had parents voice concerns to you that they can feel a little intimidating or stressful to have to make the complaint within the school to the principal?

15 MS THEODORE: I haven't had anyone say anything like that directly to me.

DR MELLIFONT: All right.

MS THEODORE: It not to say it isn't the case, but it's not my experience.

20

DR MELLIFONT: I want to go to the EAP which you've touched on already, and as I understand it it's a process to verify students into six disability categories --- autism, intellectual disability, speech/language impairment, vision impairment, physical impairment and hearing impairment. In your experience, that does not capture all students with disability that come within schools?

25

MS THEODORE: That's correct.

30 DR MELLIFONT: And is it your understanding that even if the EAP's been gone through and a student has received an EAP verification, there is no guarantee of funds flowing to the student in consequence?

MS THEODORE: No.

35 DR MELLIFONT: You agree?

MS THEODORE: There does not have to be, yes.

40 DR MELLIFONT: So it's left to the school level to decide how that money is to be spent?

MS THEODORE: That's correct. Again, it's usually not money, it's usually teacher and teacher aide time.

45 DR MELLIFONT: Can it be money, though, or is that -

MS THEODORE: The student - the funding - resourcing model is around, for

students with disability is around teacher and teacher aide time. Within there, there is also an allocation, a money allocation to schools through a grant that they receive every year, and that's based on teacher full-time equivalent at that school. But then the teacher full-time equivalent is based on the students at the school. So it varies across schools. But the base amount is consistent.

DR MELLIFONT: Just want to ask a couple more questions before I move to the next topic. Are you aware of a precise mechanism in place within the Department to track the impact of funding?

MS THEODORE: No, I am not.

DR MELLIFONT: To your knowledge and experience, tell me if this is outside your knowledge and experience, do principals in Queensland disaggregate key data sets for all students and analyse the performance of cohorts of students including students with a disability in this funding context?

MS THEODORE: To my knowledge, Principals do interrogate their data. Whether they interrogate their data alongside their funding I couldn't tell you.

DR MELLIFONT: Okay.

CHAIR: Dr Mellifont, I'm sorry, I know you've left the topic of reasonable adjustments, but I'm afraid it may be because of my own lack of understanding, I don't follow certain things that I would like clarified, and if you don't mind, I would like to ascertain from Ms Theodore if she can help me.

If we take a theoretical case of a student in, let us say, primary school, who, according to the school, is creating difficulties for the school because of behavioural issues and the school wants to assist because it can perceive that the child requires some form of adjustment, they're not entirely sure what is needed but they're pretty sure it's not just a teacher's aide, that there are other issues involved with the child. What actually happens in practice? What does the school do? Who does the school contact? What are the options available, whether it's you or your equivalent or others?

MS THEODORE: So there are a number of support services within every region. The Department provides us with a range of different support services from the coaches that I mentioned, there is an allocation for behaviour support services, and, again, every region will -

CHAIR: Just take your own. Obviously I don't expect you to know what the position is elsewhere. But what is available to you in your region, which I take it from what you've said is the Brisbane region.

MS THEODORE: Yes. So we have behaviour support services -

CHAIR: What does that mean? Sorry? This is what I'm trying to understand, what are the behaviour support services that are available?

5 MS THEODORE: So behaviour support services is a team of teachers with particular expertise in working with schools in behaviour supports for students. They provide professional development, they provide direct service into the schools, they - they're probably the main things. There are senior guidance officers who also provide that advice to schools. They provide some -

10 CHAIR: Are they part of the behavioural support team or are they separate?

MS THEODORE: They're separate to the behaviour support services.

15 CHAIR: Sorry, can we just come back to the behaviour support services. How many do you have in the Brisbane region?

MS THEODORE: I'd have to take that on notice. I actually can't give you the answer to that.

20 CHAIR: Do you have lots or too few?

MS THEODORE: Well, there are quite a few, but are there enough? Possibly not. And from my understanding, a certain level of that is school-purchased. So the schools actually provide some funding to Region to employ those behaviour specialists.

CHAIR: And if the school wants a behavioural specialist they come to you, or your equivalent, to ask for a behavioural specialist or does it happen ---

30 MS THEODORE: Not to me, no. Sorry, not to me, that's a separate area and they have different requests for that.

CHAIR: So who processes such a request or who determines such a request would be appropriate to be made?

35 MS THEODORE: So the schools themselves would put in a request. There is a manager for our behaviour support services. That person would be the one who would deal with that.

40 CHAIR: I see. So how does the school know whether they should go to you or to the behaviour support people if they're not entirely sure of how the particular issue should be handled?

45 MS THEODORE: So often, if it's about behaviour, they will go directly to behaviour support services. Some people have, I guess, it's a bit about the relationship you build with the leaders in the school, and so they may phone me directly, and I can advise if it's something, if it's about --- only about behaviour, I

could direct them to the behaviour support services, but I could also investigate a bit further whether it's about --- actually about disability, not necessarily the behaviour. And there's a big difference between something that's, you know, because of a disability, and something that is just an outright behaviour.

5

CHAIR: Isn't that what behaviour support should be asking?

MS THEODORE: They do that, too. They would ask that question but they are more focused on the behaviour. If they recognise it's more to do with a disability, they will refer back to the school to put in a request for support through our complex case or - but the request for support.

10

Now that request for support is not just for teacher aide time. It is also for access to coaches.

15

CHAIR: Who are also employed by the Department?

MS THEODORE: Correct, yes.

CHAIR: And with the --- and I have to say, I'm sorry if I'm being dense about this, but it often happens, I should tell you, what do the behavioural support people actually do when they get to the school?

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MS THEODORE: That's not in my experience so I really can't speak to that, I'm sorry.

25

CHAIR: Thank you.

DR MELLIFONT: Okay. In your statement at paragraph 17 you say:

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*Currently, there is a focus on schools understanding the layers of funding that are provided to support students with disability.*

In your experience, is it the case - have you experienced that educators and families don't understand those layers of support well?

35

MS THEODORE: That's correct.

DR MELLIFONT: Is it your experience that educators - I'm talking about some, obviously - educators and families believe that if they get through the EAP and get a verification that the money will come to their child, or the resource will come to their child?

40

MS THEODORE: That's often the understanding, yes.

45

DR MELLIFONT: Okay. And you've spoken in your statement of Principals being typically responsible for deciding how resources allocated to the school will be used

for students. It's correct to say, isn't it, that you, in your position, have little influence, that is you don't have - you can't force your influence on schools as to how resources are allocated?

5 MS THEODORE: That's correct.

DR MELLIFONT: And you have experienced occasions on which your recommendations about allocations, and how the resources are to be allocated, have been disregarded?

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MS THEODORE: Or how the resources could be used.

DR MELLIFONT: Yes.

15 MS THEODORE: So they're really suggestions, not about how they are to be.

DR MELLIFONT: Yes.

MS THEODORE: So I can only suggest.

20

DR MELLIFONT: Okay. But some of those suggestions have not been taken up.

MS THEODORE: That's correct.

25 DR MELLIFONT: Okay. And your statement reflects in paragraph 9 that despite you suggesting to schools that they can use their resources flexibly, some may have responded with "That's not fair to the other students who miss out." Can you tell me what that suggestion looks like in practice?

30 MS THEODORE: So, a school - someone from a school may contact -

DR MELLIFONT: Paragraph 19.

35 MS THEODORE: A school may contact me and say - do you want an example, sorry?

DR MELLIFONT: Yes, I'm trying to understand in what context the response might be "That's not fair to the other students who miss out."

40 MS THEODORE: So a school may contact me in terms of, you know, how do we get extra resources for this particular child who are having difficulty. And I may talk to them about how are you using your current allocation, and they would explain to me. I might suggest that they think flexibly about how they use their resources, and allocate to the students with the highest needs first and, you know, less for or none  
45 for some of the other students who may not require it, may not require actual face-to-face teacher aide time but to reallocate that and use it a bit more flexibly with the students who need it more. And occasionally the response is "That's not fair to

the other kids."

DR MELLIFONT: Can I take you to paragraph 21 of your statement, please. Now, within that statement you reflect that when you believe a school isn't providing a student with appropriate supports, you speak with the principal about their obligations under the policies, procedures and legislation, you speak about sometimes having to escalate it, and you do so by speaking to the regional director and seeking advice. There's actually no formal requirement on you to escalate, is there?

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MS THEODORE: No.

DR MELLIFONT: So if a PEO is aware of a problem like that, that is comes to the view that a school is not providing appropriate adjustments, there's no obligation on that PEO to escalate?

15

MS THEODORE: No. I would call it a moral obligation --

DR MELLIFONT: No, but I'm talking about a -

20

MS THEODORE: --- but not a formal Department requirement.

DR MELLIFONT: --- a formal obligation on you as part of your work as PEO that if you form the belief in your professional judgment that a student is not given the adjustments that they needed, there's no formal obligation on you to ramp that up?

25

MS THEODORE: No.

DR MELLIFONT: Do you agree with me?

30

MS THEODORE: Yes.

DR MELLIFONT: I used a lot of double negatives. But you say you do and I'm not doubting that.

35

MS THEODORE: Yeah, I would say most PEOs would do that.

DR MELLIFONT: But again, staff change from time to time, and it depends on the skill set, the work capacity -

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MS THEODORE: The circumstance that it comes into you as well, that you become made aware of that. So if it's something that comes in from a parent, you do need to treat it very seriously because, you know, we don't want --- we want school to be happy places for students, not - yeah, I won't.

45

DR MELLIFONT: That's okay.



MS THEODORE: Not unhappy places. But --- so if it comes from a parent you follow it through to the school. And it may come through from the school themselves. And you try to just give them some background, some words, a way of trying to manage that within their own school.

5

DR MELLIFONT: Yes. So as I understand it, your practice is you become aware of the issue, howsoever it comes to you, you try to do something about it?

MS THEODORE: Usually, yes.

10

DR MELLIFONT: Okay. And that depends on --- sorry, I will just leave it there. I think we've exhausted the point.

MS THEODORE: Okay.

15

DR MELLIFONT: But I'm just mindful, Chair, that I've completely messed up my timings but we will try to get through the balance of the issues.

I want to come to part-time attendance and I've already referred to the fact that there's a part-time educational program guidelines 2020 of this year. And I'll come back to that. But over the past period, as a PEO, you have seen students being on part-time arrangements for a number of reasons?

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MS THEODORE: Yes.

25

DR MELLIFONT: You, in fact, describe that in your statement as mostly being for behaviour under the guise of transition.

MS THEODORE: Yes.

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DR MELLIFONT: How does that work?

MS THEODORE: Often it will be children coming in, in prep whose behaviour is - the schools find difficult to manage. And so they suggest the transition and in the form of part-time attendance with a view to increasing that time, and it does not --- previously there has been no mechanism to necessarily try to ensure that that part-time increases to full-time.

35

DR MELLIFONT: Okay. And you've reflected your experience, some possible views as to why that might be happening. School might not be coping, school might not want to commit additional support, or school might not know how to do it.

40

MS THEODORE: Correct.

DR MELLIFONT: And your experience in the past, and I appreciate this is not a precise data analytic, but --- is that students with autism have been over-represented in those part-time arrangements.

45

MS THEODORE: That would be correct, yes.

5 DR MELLIFONT: But there's not consistency about that particular fact across schools?

MS THEODORE: No.

10 DR MELLIFONT: And indeed, not consistency about the way in which schools and the extent to which schools employ part-time arrangements?

MS THEODORE: No.

15 DR MELLIFONT: Okay. And your experience in the past has been that there was no formal policy and you describe the process as being somewhat organic.

MS THEODORE: Organic?

20 DR MELLIFONT: You don't use that word, I'll express it a different way. In the past, without a policy, these part-time arrangements might come into being in an informal way.

MS THEODORE: Yes.

25 DR MELLIFONT: For example, a school calling a parent in saying "We keep sending your child home at 11.00, let's make that happen from here on." Correct?

MS THEODORE: Yes.

30 DR MELLIFONT: Now, the policy's new, 2020. One part of that --- one part of that policy, I'm sorry, can we bring up paragraph 32 of the statement on the screen. You speak there about your experience about some schools having used part-time attendance because of a student's behaviour, and you reflect that having seen OneSchool behaviour records justifying those arrangements because of behaviour but on closer scrutiny, it appears there's usually an explanation for that behaviour that rests in adjustments or lack of adjustments that have been provided up until that point.

40 MS THEODORE: Yes.

DR MELLIFONT: Okay. Are you still seeing that?

MS THEODORE: Yes.

45 DR MELLIFONT: Can I have paragraph 33 up, please? You describe in paragraph 33 that:

*Some student behaviours are quite extreme such as throwing chairs and desks....*

Et cetera, and you speak about it being:

5

*.... understandable that students and staff become nervous and upset .... as they are not acceptable in any school.*

But then you say:

10

*But, in the absence of adjustments, and understanding that behaviour is in some instances a way for the student to communicate, the behaviours are almost inevitable. In my experience, some staff can unknowingly exacerbate the anxiety and physical responses of some students, thereby providing the excuse to put the student on part-time attendance.*

15

Are we still seeing that to some extent now?

MS THEODORE: Certainly they're we're seeing those behaviours without actually going in and interrogating the OneSchool data. I really - I had seen it previously. Recently I have not been interrogating to that extent.

20

DR MELLIFONT: Okay. Your statement deals in some detail about past circumstances pre the policy that where you become aware that a student's on part-time enrolment and you engage with the principal to find out what's going on, that you have had circumstances where there was not a plan in place for bringing the child back in to school on a greater basis, is that correct?

25

MS THEODORE: That's correct.

30

DR MELLIFONT: And you've had to encourage -

MS THEODORE: Yes.

DR MELLIFONT: - the Principal for that to happen?

35

MS THEODORE: Yes.

DR MELLIFONT: Was that advice sometimes not followed through on, to your knowledge?

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MS THEODORE: The cases that I had, they did follow that through.

DR MELLIFONT: Okay. Are you still seeing or is it too early to say, since the inception of the guidelines, are you still seeing that issue, that there aren't plans in place to bring the child back in?

45

MS T

HEODORE: For the most part there are plans.

DR MELLIFONT: What does that mean?

5 MS THEODORE: So, the plan is there for students to increase. Whether the increase actually occurs, that's not necessarily the case.

DR MELLIFONT: Okay. You've seen some things which indicate to you that the plans may not actually be being implemented?

10

MS THEODORE: No, no, well, that the increase may not be happening.

DR MELLIFONT: Okay.

15 MS THEODORE: The plans are in place but when they do their review, a decision is made not to increase the time at that review.

DR MELLIFONT: Right, okay. Probably need a lot of time to drill down on that.

20 MS THEODORE: Probably would.

DR MELLIFONT: I'm going to have to leave it.

School leavers -

25

COMMISSIONER ATKINSON: Sorry, can I interrupt there.

In the policy about part-time enrolment you've given, there's an example of a boy/girl/child called Corbin who has been diagnosed with Autism Spectrum Disorder, and in order to help this child adjust to going to school, there's an agreement he will start school, he will schedule to start school part-time initially and then increase attendance over the next four weeks. Is what you're talking about where that increase doesn't happen?

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35 MS THEODORE: That's correct.

COMMISSIONER ATKINSON: Thanks.

DR MELLIFONT: May I reflect on the record that your statement does, with respect to the case of Jack we heard about this morning, speak to a number of areas in which you identify might have been done differently.

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I want to, in my remaining time --- and Chair, I'm going to ask for some indulgence to go a little bit past 1.00 but I will keep it as short as I can.

45

CHAIR: You can have the six minutes that my interventions took so as to erase any possible problems it may have caused.

DR MELLIFONT: Thank you.

5 Can I have paragraph 47 up on the screen, please? In your statement you say that  
you'd like to see change in universities and I want to take you to the last part of that  
paragraph. You say:

10 *I have seen the look on the faces of pre-service teachers when they realise that  
they are going to have students with disability in their classes. They know they  
are not prepared for it.*

Are you still seeing that?

15 MS THEODORE: I made that statement based on the fact that in - when I was in  
North Queensland, I provided a guest lecture at James Cook University each year,  
and spoke in front of pre-service teachers. I have not done that since 2018 so I can't  
say that I'm still seeing that.

20 DR MELLIFONT: Okay, all right. But that's certainly the perception you had at  
that point ---

MS THEODORE: At that time.

25 DR MELLIFONT: And it's something that resonated with you sufficiently that you  
would like to see more preparedness at university stage for our teachers?

MS THEODORE: Yes.

30 DR MELLIFONT: Okay. Now - excuse me for one minute.

Can you let me know whether or not, in respect of the Restrictive Practices document  
which has been released by the Department this year, have you received specific  
training in that?

35 MS THEODORE: Yes.

DR MELLIFONT: Okay. Do you know whether that training has been rolled across  
to all educators within Queensland?

40 MS THEODORE: I couldn't answer that.

45 DR MELLIFONT: Okay. Can I ask you also, with respect to the Student Code of  
Conduct requirements, which operate from 2020, whether you are aware of the  
extent to which schools have incorporated the mandate about preventing bullying?

MS THEODORE: Could you repeat the question, please?

DR MELLIFONT: Do you know the extent to which, where the schools have, in fact, to your knowledge and experience, incorporated the mandate in the student code of conduct requirements for the prevention of bullying?

5 MS THEODORE: I don't have knowledge of that.

DR MELLIFONT: Okay, thank you. Is it the case, in your experience, that there still currently is not very clear processes to ensure consistency of implementation of adjustments in Queensland schools?

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MS THEODORE: There is not consistency, that's correct.

DR MELLIFONT: But again it comes down to school level?

15 MS THEODORE: It comes to school level and teacher level. Yes.

DR MELLIFONT: With my six minutes, Commissioner, I will leave it there.

CHAIR: Thank you. I will enquire whether Commissioners have questions.

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Commissioner Galbally?

#### 25 **QUESTIONS BY THE COMMISSIONERS**

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COMMISSIONER GALBALLY: Thank you.

I would just like to ask a little more about when there's a plan to increase children's time from part-time and it's not - there's no action on that plan, what, in your experience, what are the reasons for that?

30

MS THEODORE: To be honest, I don't - I haven't been given those reasons. Often I'm told by parents that that's the case but, I'm sorry, I can't speak to the reasons.

35

COMMISSIONER GALBALLY: And there's no monitoring and reporting on that, I take it?

MS THEODORE: Now there is under the new Guidelines. There will be monitoring if the part-time attendance is to extend past 10 weeks, then the principal is to speak with the Assistant Regional Director about the circumstances around that. So that will be the monitoring point.

40

COMMISSIONER GALBALLY: And the third question, is there a mechanism for parents to raise concerns and complain about that if they think it's unfair and inappropriate?

45

MS THEODORE: Yes, they can come to Region.

COMMISSIONER GALBALLY: Right, thank you.

5 CHAIR: Thank you.

Commissioner Mason, do you have any questions?

COMMISSIONER MASON: I was just going to ask a general question.

10

Thank you very much for coming today to speak to us. I'm interested in First Nations students with disabilities, and just in your experience around the benefit of taking advantage of the supports available for First Nations children with disabilities in schools, just in your experience and what you've seen, observed over the years, is that take-up commensurate with what we generally know as the level of disability across young people in the community, particularly here in Queensland? Are we tracking well? Is there much work to do in regards to families and students taking advantage of what's available?

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20 MS THEODORE: I think, from my - in my experience, schools are very good at identifying students, both First Nations students and others, and trying to support the families to, I guess, have identified specific issues. There does not have to be any diagnosis of any disability but a recognition of, you know, the fact that a student may have even an implied disability, an imputed disability. So I think the schools actually do pick that up.

25

I am not sure whether they rely or they assign support more through the First Nations within school or through the disability side within schools. Is that what you were asking?

30

COMMISSIONER MASON: Yes, because people who do work in the - in services and supports for First Nations children in schools, often talk about they are often seen as choosing between disability or First Nations, and to me this is the interesting question around intersectionality, and actually the interconnection is actually the question as opposed to either/or. It's actually together, because the experience of then leaving school means that it's a stronger transition out as opposed to the choice.

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MS THEODORE: And I think it's like everything else we do, some schools do it really well and some don't.

40

COMMISSIONER MASON: Thank you.

CHAIR: Commissioner Atkinson?

45 COMMISSIONER ATKINSON: No, thank you. No questions.

CHAIR: Ms Theodore, just one more thing from me. In your paragraph 32 which

Dr Mellifont took, you said:

5 *I have seen OneSchool behaviour records which justify this arrangement [of part-time attendance] because of a behaviour, but on closer scrutiny there is usually an explanation for the behaviour....*

How do you know from the records whether something might need further explanation or exploration?

10 MS THEODORE: That's probably an experience thing. So over time, we tend to - the PEOs and regional staff tend to interrogate what is on OneSchool, and experience in the area of disability we can recognise when behaviours are exacerbated because of something that someone may be doing, and I guess the best way is to describe an example where I've read a student was, what they call trashing  
15 the classroom, throwing everything off the shelves. And the agreed plan was that the teacher aide would shadow the student and calmly speak to them and tell them what they need to do. And when you followed that, the entire explanation of what happened, that just caused to keep the student carrying out that behaviour. And it was only when they pulled back that the student stopped. So, in fact, you could see  
20 that that may not have been the correct adjustment for that student in that circumstance.

CHAIR: And you could tell this from the OneSchool information itself, you didn't have to go further?  
25

MS THEODORE: No, that's correct. They record very well on OneSchool.

CHAIR: Right, thank you very much. Thank you, Ms Theodore, for attending and giving evidence. I'm sorry we've kept you a little longer, as Dr Mellifont will  
30 confirm, it's entirely my fault but you are now free to go and have some lunch. Thank you very much.

We will adjourn now, which is at 1.10, I believe, Brisbane time, and resume at 2.00 pm.  
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Is that convenient, Dr Mellifont?

**THE WITNESS WITHDREW**  
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DR MELLIFONT: Yes, it is, Chair, thank you.

CHAIR: Thank you.  
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**ADJOURNED**

**[1.09 PM]**



**RESUMED**

**[2.00 PM]**

5

CHAIR: Yes, Dr Mellifont.

DR MELLIFONT: Thank you. The next witness is Ann Howlett who is here in the witness box in Brisbane. You will find the statement of Ms Howlett at Tender  
10 Bundle Part C, Volume 1, Tab 3. I tender that statement and ask it be marked 7.166, and the annexures thereto as 7.166.1 through to 7.166.4. Might they be tendered.

CHAIR: Thank you. Yes.

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**EXHIBIT #7.166 - STATEMENT OF MS ANN HOWLETT**

**EXHIBITS #7.166.1 TO #7.166.4 - ANNEXURES TO STATEMENT OF ANN  
20 HOWLETT**

DR MELLIFONT: Thank you. We have Ms Howlett ready to take her affirmation.

25 CHAIR: Yes, thank you, Ms Howlett, for attending the Royal Commission. I will ask you, please, to follow the instructions of Commissioner Atkinson's associate who will administer the affirmation to you. Thank you very much.

30 **MS ANN HOWLETT, AFFIRMED**

CHAIR: Thank you, Ms Howlett. Dr Mellifont, who I think is in the same room as you are, will ask you some questions.

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**EXAMINATION-IN-CHIEF BY DR MELLIFONT**

40 DR MELLIFONT: Thank you, Chair.

Will you state your full name, please?

45 MS HOWLETT: Ann Margaret Howlett.

DR MELLIFONT: Do you hold a Masters in Teaching and another one in Special Education?

MS HOWLETT: Yes.

5 DR MELLIFONT: Did you work for the Queensland Department of Education for approximately 38 years?

MS HOWLETT: Yes.

10 DR MELLIFONT: Did you retire in the middle of this year?

MS HOWLETT: Yes.

15 DR MELLIFONT: Over that career you worked in various positions which are set out in your statement, but I might briefly summarise, I hope to do it justice.

20 You worked as a secondary school art teacher, then a teacher in Behaviour Management Alternative Education Program, you were a Guidance Officer for 10 years, you were a Senior Adviser and a Principal Adviser for students with disability for five years, and you were a Senior Guidance Officer within the metro region and you also worked as part of a federally-funded More Support for Students With Disability project and delivered training in the DSE, is that right?

MS HOWLETT: Yes.

25 DR MELLIFONT: Thank you. Today I want to focus on your role as Senior Guidance Officer and to some extent the role of guidance officers. What were your roles and responsibilities as a senior guidance officer?

30 MS HOWLETT: There are many roles for a senior guidance officer. My primarily responsibility was to supervise a group of Guidance Officers in secondary schools in metropolitan Brisbane North. I also provided professional development for guidance officers and some school staff. I provide clinical supervision to guidance officers and - I'll just refer to what I've written because there's so much in the role.

35 DR MELLIFONT: Can I assist a little with that? At paragraph 10, you also conducted cognitive assessments.

MS HOWLETT: Yes.

40 DR MELLIFONT: And you interpreted them to determine if a student met the EAP criteria?

MS HOWLETT: Yes.

45 DR MELLIFONT: You also did work in critical incident management and planning in response to death and suicide?

MS HOWLETT: Yes.

DR MELLIFONT: And you provided advice about how to best work with students with challenging behaviours and disabilities?

5

MS HOWLETT: Yes, advice and support on the ground in the schools, meeting with parents.

DR MELLIFONT: Okay. That's a snapshot, isn't it?

10

MS HOWLETT: Yes.

DR MELLIFONT: It was a very big job.

15

MS HOWLETT: Yes.

DR MELLIFONT: In your statement you explain how guidance officers and senior guidance officers are involved in the EAP verification process. Can you give me a summary of what that is, please?

20

MS HOWLETT: The only verification categories that we are involved in is intellectual disability and speech/language impairment and that is looking at the criteria of meeting a category for verification, doing the assessments required, the cognitive and adaptive behaviour assessments to see where the student's cognitive functioning is and then working with staff, maybe speech pathologists as well, to work out what adjustments are required for that student to access education on the same basis as the other students.

25

DR MELLIFONT: Okay. And in your experience, what scope was there for parents or caregivers to challenge a decision declining an EAP verification?

30

MS HOWLETT: Parents don't have to have verification. It is totally up to them. They need to sign to say that they do want their students assessed, and so the guidance officer would explain to them what that means and what that entails. If they're not happy with it, they don't go ahead with it and many parents don't, or some parents don't. If there is an assessment done and the parents challenge the outcome of that assessment, at a meeting later on with the guidance officer and the student going through what the meaning is and looking at breaking it down to see what it means, they're very welcome to go to the senior guidance officer to get further information, go to another specialist, or just have more discussion about what it means.

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Mostly, it's about parents being concerned that their child is labelled for life with the disability, and what that will mean for them in the future. So usually once we allay their fears and say this is not a diagnosis, we're not diagnosing anything, we're just seeing if you meet criteria to see if you can get support and educational adjustments, once they understand that, generally that's okay. A lot of parents think that once their

45

child is labelled that, you know, when they leave school it's kind of on their record forever that they have an intellectual disability, and that's not the case. But it is a concern that we understand.

5 DR MELLIFONT: So what we understand to be the position - is that if a student does receive an EAP verification, that does not necessarily - that does not mean that funding or resource comes directly to the student, but rather it comes into the school?

MS HOWLETT: That's correct.

10

DR MELLIFONT: In your experience in interacting with parents, was it your experience that parents thought that if they went through the verification process, got the verification, that the funding would come to or the resource would come to their child?

15

MS HOWLETT: Some parents did think that, and that's how it used to be years and years ago when it was called "ascertainment" before it was called "verification", so there's a little bit of a hangover from that. But generally, I think most parents understand that it doesn't go directly to their child.

20

DR MELLIFONT: All right. Can I ask you, what period of time were you a senior guidance officer for?

MS HOWLETT: The last five years before I retired.

25

DR MELLIFONT: All right, thank you. Now, it's your understanding, isn't it, that students with disabilities don't necessarily fall within an EAP category, correct?

MS HOWLETT: Yes.

30

DR MELLIFONT: And this can include, that is students who don't fall within those categories can include severe mental health issues, learning disabilities, brain injuries and social emotional disorders?

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MS HOWLETT: Yes.

DR MELLIFONT: Is that correct? Thank you. Now, was it your understanding working for the Department that WSS-SLR, which is Whole School Support - Student Learning Resources, was it your understanding that money from there was to be limited to students with disabilities?

40

MS HOWLETT: No.

DR MELLIFONT: Okay. Did you understand it to come in as whole of school to be spent according to how the principal decided?

45

MS HOWLETT: Yes, for support for all students.

DR MELLIFONT: In your statement at paragraph 29, you speak of principals being required to submit a spreadsheet, this is principals in the metropolitan region, being required to submit a spreadsheet to Regional Office with a number of staff such as  
5 guidance officers, therapists and other support staff, they will be staffing in their schools using WSS-SLR. Are you aware of there being any requirement for principals to report that funds brought into the school are used specifically for disability?

10 MS HOWLETT: No.

DR MELLIFONT: In the course of your work, did you observe there to be gaps in support?

15 MS HOWLETT: Yes.

DR MELLIFONT: Related to funding?

20 MS HOWLETT: Well, definitely, yes.

DR MELLIFONT: Okay. In what respect?

25 MS HOWLETT: Well, the funding for supporting all students, so it includes students with disability, students in out-of-home care, students from First Nations, refugee students, students from non-English-speaking backgrounds, all of those students were included and sometimes schools would decide that an extra deputy principal or an extra head of department or an extra - some other bureaucratic position in the school would best support those students, and the funding would be used for that.

30 DR MELLIFONT: Okay. Was it your - did you form the view in the course of your work as a senior guidance officer, and guidance officer, for that matter, that schools struggled with anything social or emotional in respect of supports which were needed?

35 MS HOWLETT: Yes. You mean support for students with social and emotional needs?

40 DR MELLIFONT: Yes, I do. I'm sorry for my very badly expressed question, that's exactly what I mean. Can you tell us what your experience was?

45 MS HOWLETT: Students with mental illness in particular, or social needs, specific social needs, students from traumatic backgrounds, children from out of care who generally have a history of trauma, schools did struggle with that particularly if they couldn't - if they couldn't easily put a label of disability on it, they would think we don't have - there's nothing we can do. Also, there's a lot of fear about mental illness and trauma, a lot of teachers in schools and principals don't feel they have the skills

or ability to understand and deal with that and they're fearful of what might happen. They're extremely fearful of a student self-harming while they're at school because not only the risk to the student and the other students, but the impact on this school of that happening.

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DR MELLIFONT: Can I hold you there for one moment.

Just to observe, Commissioner, I should have said this a couple of minutes ago, some of the content of this evidence does mention suicide and self-harm, and to reflect that on the warnings that we have been giving throughout the week that some of the evidence that will be heard can be concerning and upsetting, and that there are places to go for help which are on our website, but we will be on this topic for a few minutes so people who might find it upsetting might wish to turn off the webstream for a little while.

10  
15

Sorry to interrupt, that was my fault. I should have done that before. Did you want to continue?

MS HOWLETT: No.

20

DR MELLIFONT: Okay. So can you tell me whether it was your experience, did you come across circumstances in which children expressing suicidal ideation and/or self-harm were sent home with instructions to the parents or caregivers not to come back until they got a letter from their psychologist stating that they don't kill themselves?

25

MS HOWLETT: Frequently.

DR MELLIFONT: Okay. Now, you're aware of something called regional complex case funding?

30

MS HOWLETT: Yes.

DR MELLIFONT: Is that what we call a complex needs application?

35

MS HOWLETT: Yes.

DR MELLIFONT: Is that how you knew that term? We've heard it called something else different for metropolitan Brisbane.

40

MS HOWLETT: Yes, I knew of it as "complex case application".

DR MELLIFONT: And your understanding of the circumstances in which you could make such an application, please?

45

MS HOWLETT: Any situation where the school felt that they were unable to meet the needs of the student and they needed extra resources.

DR MELLIFONT: Did you make such applications in the course of your work?

5 MS HOWLETT: The areas I worked in, it had to be --- there had to be a senior guidance officer involved in the application, but it was signed off by the principal. So I frequently filled out the application and forwarded it to the principal, and they signed it and submitted it, and then there was a panel in Regional Office to examine the application and I was usually there at the table to explain, in more detail, the situation.

10

DR MELLIFONT: And respect - with respect, in particular, to student with disabilities, in respect to such separations that you're aware of, did you come across occasions where those applications were knocked back?

15 MS HOWLETT: Yes.

DR MELLIFONT: And were there emerging reasons or themes in the reasons coming back for the refusals?

20 MS HOWLETT: Yes.

DR MELLIFONT: What were they?

25 MS HOWLETT: Frequently it was --- the manager making the decision would look at the financial position of the school and say, "Well, they've got so much money underspent in their budget anyway, they can easily afford to meet this need themselves out of their own money." Other cases, it could be that the school has asked for too much money. Other cases, it could be that the school may not have a very good history of meeting the needs of students with disability, and they need to learn to do that.

30

DR MELLIFONT: I see. Now, your statement speaks about a large part of your role involved acting as the case manager for students who have been proposed for exclusion?

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MS HOWLETT: Yes.

DR MELLIFONT: And that was the case in reality, although not part of your role description?

40

MS HOWLETT: Yes.

DR MELLIFONT: And when we use "exclusion" here, we're talking about expulsion?

45

MS HOWLETT: Yes.

DR MELLIFONT: Okay. What was your involvement in that process?

MS HOWLETT: Well, I would receive an email automatically generated from OneSchool, the database platform that the Education Department uses, just telling me  
5 that I've been allocated as a case manager for a student, and then I would usually not receive anything further from the school, I would have to get into OneSchool, have a look at what the documented situation was. Sometimes I knew these students already because they had been complex and I'd been involved in talking with  
10 guidance officers about them in their supervision. But I would just have a look at the situation, look at the history, look at their adjustments if they had disability, whether they were Aboriginal and Torres Strait Islander, and so get as much of a picture as I could about the student, and then after a couple of days, after the family had had time to come to terms with what happened, I would contact the family, meet with them,  
15 the student and their family, and we would - I asked the student to tell me what --- in their words, what happened, and then we would go about the process of whatever they wanted me to do. And usually it was to just explain what happens now, you know, what the time frame is, what's likely to occur, that they needed to provide additional information back to the school within five days if they wanted the principal to consider that in his or her decision about whether they go ahead with the  
20 exclusion. So we would sometimes help them write an email, or I'd come along to a meeting at the school with them to support them.

Then we would have to wait until the decision was made, and so the student was usually suspended for 20 days, but sometimes it took the school five days to even  
25 assess all of the information and suspend them, so they could have been home for a week already. So we'd wait for the 20 days and then wait for the outcome, and I would have prepared the family and been in contact with them during that 20 days anyway about where to --- what should we do, think about what happens if you go back, what do we need to do differently. If you can't go back to that school, what  
30 would we do and outline their options and meet with them again.

DR MELLIFONT: Let me break down a couple of those things.

35 So the process involved a notice being issued by the principal of possible exclusion, correct?

MS HOWLETT: Yes.

40 DR MELLIFONT: The student would be suspended pending that final decision?

MS HOWLETT: Yes.

DR MELLIFONT: 20 days to make the decision for the principal?

45 MS HOWLETT: Yes.

DR MELLIFONT: What was your experience as to how much of that time had



ordinarily run before you'd get a decision from the principal?

MS HOWLETT: Usually 20 days.

5 DR MELLIFONT: So right towards the end?

MS HOWLETT: Usually.

10 DR MELLIFONT: So a student who - in that process, can you start to take steps to find another school just in case the student does get excluded?

15 MS HOWLETT: Families try to do that, and they get turned away from any prospective school because they're still enrolled and there's no decision made. I have tried to approach principals of other schools early if I know that the family is not keen to go back to that school anyway, even if the exclusion doesn't go ahead, to have a fresh start, but they're not interested unless they know the outcome of the exclusion. So we really have no choice but to wait, unless the families go to a private school and that has sometimes been the case, they've just moved into the independent sector, or Catholic sector.

20

DR MELLIFONT: Can I take you now to the situation where the principal does decide to exclude.

25 And so you have a role, then, in trying to help the student enrol into a new school, is that correct?

MS HOWLETT: Yes.

30 DR MELLIFONT: And in that respect you would make referrals and try to support the new enrolment at the new school?

MS HOWLETT: Yes.

35 DR MELLIFONT: As you saw fit?

40 MS HOWLETT: Yes. Well, during the suspension period, the 20 days, I would have made referrals to external agencies for support if the family needed that and the student wanted that. So, yes, after the 20 days we would look at what the school, what local schools --- and it depends on siblings' and parents' working arrangements. So I would usually take their first choice and then I would approach the principal at that school and provide all of the information transparently, the OneSchool record for the student and request consideration for enrolment.

45 DR MELLIFONT: Okay. In the course of your work, obviously you have different attitudes from different schools depending on principals, correct?

MS HOWLETT: Yes.

DR MELLIFONT: Some do it well, some do it not so well?

MS HOWLETT: Yes.

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DR MELLIFONT: So did you experience, in the course of your work trying to get students re-enrolled, any reluctance by some schools or principals to do so?

MS HOWLETT: Usually that's the case.

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DR MELLIFONT: And what reasons did you see commonly - sorry, what reasons were you commonly given for that reluctance?

MS HOWLETT: Usually the reluctance started by not returning my phone calls or emails, and so I'd just have to wait - it often took a couple of weeks, even to get any response at all. But I must say some principals were quick off the mark and said "Yes, I've got to take this one, no doubt, and bring it on and let's make a meeting." But that was rare for me in the area that I worked in, but I'm only secondary too, it's a little bit different in primary.

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Usually the answer was "That year level is full for us" or we have - "It's too far away, that is not the next local school, we're not the closest after the excluded school", or "We've already taken five or six exclusions this year and we haven't excluded anyone" or "We've only excluded two", it's trying to weigh the balance. So, you know, pick something else. Or it was sometimes, more often than I would like it to be, "We don't have the resources to support that student."

25

DR MELLIFONT: Okay. In your experience for students with disability, and again, I don't wish to generalise, but some students with disability, at least, did you observe such students who had been excluded having difficulty in reintegration into a new school?

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MS HOWLETT: Yes, it's traumatic. It's absolutely traumatic for the student because they already feel that there's something wrong with them anyway. When they lose their school, they're broken. The kid's absolutely broken. It's heart-wrenching, the family is in tears, kids are crying. They have no idea, really, what's happened and where to from here. The families have usually are at the point of total disempowerment and disengagement from the school because they've tried everything and it hasn't worked.

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When they start at a new school, everything's different. They have no kids that they know generally, the whole system is different, the structure of the school is different, the rules quite often are different, the uniform, and --- it is very traumatic, and then usually if they have a disability, normally the school wants to start them off on a part-time attendance to see how they go and so that interferes, then, with the parents' work arrangements on top of the suspension that they've had, and it's just very complex for everyone. So if a kid at a high school is only working a part-time

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timetable where they're only there until, say, midday, not every day is exactly the same in a high school. So they might go to English on Monday and then not have English again until Friday, so they haven't done their homework because they didn't even know there was homework. So that makes it even harder for them, because they're behind already even if they start fresh and think, "I'll be okay, I'll be able to do it."

DR MELLIFONT: Thank you. If a student's been excluded, then senior guidance officers are to check on that at three months and six months, correct?

MS HOWLETT: Yes.

DR MELLIFONT: But there's no obligation to do so beyond that?

MS HOWLETT: No.

DR MELLIFONT: To your understanding at the time, there's no mandatory obligation on, say, a Flexischool or some other alternative path the student might have gone into, to notify the school, the first school, or the Department if they'd dropped out of that?

MS HOWLETT: No, they wouldn't do that because this would be a breach of confidentiality, it's a different system.

DR MELLIFONT: Okay. That was a badly asked question. So if you are to keep up with excluded students to see where they are at three months and six months, in that period of time, to start with, was there, to your understanding, a mandatory obligation on, say, a Flexischool the student was going to in the meantime to tell you, actually, they're not coming to the Flexischool either.

MS HOWLETT: They wouldn't tell me anything because of the privacy restrictions. So I would contact the families. That's what I did in the first instance, anyway, contact the families to see how they're going, because you don't always get exact information from schools or whoever you talk to might not know. So chasing up the family is the way to follow that up, for me.

DR MELLIFONT: Thank you. Excuse me for just a moment.

Ms Howlett, I want to thank you for your comprehensive statement which does contain a lot more information than we've gone through today here. Can I just ask if the Commissioners have any further questions for you?

CHAIR: Thank you. Commissioner Atkinson?

COMMISSIONER ATKINSON: No, thank you.

CHAIR: Commissioner Mason?

COMMISSIONER MASON: No, thank you.

CHAIR: And Commissioner Galbally?

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## QUESTIONS BY THE COMMISSIONERS

10 COMMISSIONER GALBALLY: I just wanted to ask the question about the student going to the new school, the decision to have them only come part time, it seems like the continuation of an exclusion, of the part-time exclusion, how are those decisions made and on what basis?

15 MS HOWLETT: Those decisions are presented to the family on enrolment as a way of transitioning the student into a new environment in a less anxiety-provoking way. That's how it's presented.

COMMISSIONER GALBALLY: Sorry, you go on.

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MS HOWLETT: Families are usually so pleased to actually get an acceptance of an enrolment into a new school they're prepared to agree to anything at that point.

COMMISSIONER GALBALLY: Thank you.

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CHAIR: In paragraph 43, Ms Howlett, you say that:

*Whilst students are suspended awaiting the outcome of the exclusion decision the school is required to provide curriculum work to the student at home ....*

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Where does that requirement come from?

MS HOWLETT: That is in the policy of the Education Department of Queensland about exclusions and suspensions and school disciplinary absences, that student's education cannot be negatively impacted by suspensions and exclusions. That's one of the statements in that policy.

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CHAIR: You then go onto say that in this experience this rarely occurs, extending to sometimes emailing worksheets. What's the experience that you use as the basis for that statement?

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MS HOWLETT: Well, usually after the student has been suspended for a couple of weeks and they still haven't heard about the exclusion, they start getting really worried about their exams and their assignments, and so do the parents, and so they contact me and say "We haven't got any work. There were exams, there were assignments due, haven't heard anything from the school." And they say, "We've rung, we've asked, can you help us?" So I then email and call the school, and I try to

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get some work sent home as well.

CHAIR: So in those cases, the school has not, in fact, provided the excluded student with work for that student to do at home?

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MS HOWLETT: That's right.

CHAIR: What then happens as far as the failure of the school to comply with the Departmental policy?

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MS HOWLETT: Nothing happens.

CHAIR: Thank you. That's a pretty clear answer. Thank you very much, and thank you, Ms Howlett, for your appearance today and for giving evidence to the Royal Commission. We appreciate your assistance and appreciate the statement that you've provided to us. Thank you.

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**THE WITNESS WITHDREW**

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CHAIR: Dr Mellifont, what is to happen now?

DR MELLIFONT: A three-minute adjournment while we re-orientate the hearing room up here.

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CHAIR: Thank you. We'll adjourn for a short time to allow the changes to take place.

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**ADJOURNED**

**[2.32 PM]**

**RESUMED**

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**[2.35 PM]**

CHAIR: Yes, Dr Mellifont.

DR MELLIFONT: Good afternoon, Chair. Can't hear you.

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CHAIR: Can you hear me now?

DR MELLIFONT: Yes, thank you.

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CHAIR: In that case, Dr Mellifont.

DR MELLIFONT: Thank you. The next witness is Emma Haythorpe. We are

grateful she's here with us in person in Brisbane. You will find the statement of Ms Haythorpe at Tender Bundle C, Volume 1, Tab 1. I tender that statement and I ask it be marked as Exhibit 7.165. There is one annexure to that statement. I ask it be tendered and marked 7.165.1.

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CHAIR: Yes, thank you.

**EXHIBIT #7.165 - STATEMENT OF MS EMMA LOUISE HAYTHORPE**

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**EXHIBIT #7.165.1 - ANNEXURES TO STATEMENT OF EMMA LOUISE HAYTHORPE**

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CHAIR: Thank you, Ms Haythorpe, for attending today to give evidence. Would you be good enough, please, to follow the instructions that will be given to you by Commissioner Atkinson's associate for the purposes of taking the affirmation. Thank you.

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**MS EMMA LOUISE HAYTHORPE, AFFIRMED**

25 CHAIR: Thank you, Ms Haythorpe.

Dr Mellifont, who I think is in the same room as you, will ask you some questions now.

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**EXAMINATION-IN-CHIEF BY DR MELLIFONT**

DR MELLIFONT: I am, thank you.

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Your full name, please.

MS HAYTHORPE: Emma Louise Haythorpe.

40 DR MELLIFONT: You have a Bachelor of Education in Psychology, you are a registered teacher, a registered psychologist, and an AHPRA board-approved supervisor for psychology, and you're able to provide technical supervision to psychologists, correct?

45 MS HAYTHORPE: Yes.

DR MELLIFONT: Your first job with a school after your studies was as Head of

Special Education Services at Bowen, is that correct? And you held that role from 1999 through 2003, correct?

MS HAYTHORPE: Yes.

5

DR MELLIFONT: Okay. In that role you were responsible for teaching and coordinating the special education needs for 26 students aged 4 through 15?

MS HAYTHORPE: Yes.

10

DR MELLIFONT: We're going to need you to speak up just a little bit.

MS HAYTHORPE: Sure.

15 DR MELLIFONT: Thank you. From 2005 you worked for Child Youth Mental Health Service in Townsville?

MS HAYTHORPE: Yes.

20 DR MELLIFONT: And in 2009 you were employed as a guidance officer in the Department of Education?

MS HAYTHORPE: Yes.

25 DR MELLIFONT: A Guidance Officer, generally the role in brief terms?

MS HAYTHORPE: Counselling, crisis counselling, at the particular school that I was at enrolment interviews, academic IQ and adaptive behaviour assessments for the verification process for the EAP. Notifications to child safety, that sort of ---  
30 subject selection and university course selection. It was a large role.

DR MELLIFONT: Okay, and work with respect to enrolments?

MS HAYTHORPE: Yes, every morning --- two enrolments every morning.  
35

DR MELLIFONT: In 2012 you started working at the ACT Department of Education as a school psychologist?

MS HAYTHORPE: Yes.

40

DR MELLIFONT: And your role in 2017 was as a Senior Guidance Officer for Queensland Education?

MS HAYTHORPE: Yes.

45

DR MELLIFONT: That was in Brisbane and Ipswich?

MS HAYTHORPE: Yes.

DR MELLIFONT: You had, under your supervision, nine guidance officers across seven schools.

5

MS HAYTHORPE: Yes.

DR MELLIFONT: You left Queensland Education in August 2017?

10 MS HAYTHORPE: Yes.

DR MELLIFONT: And for your sins you are doing a law degree?

MS HAYTHORPE: Yes.

15

DR MELLIFONT: And you're in your final year.

MS HAYTHORPE: Yes, I am.

20 DR MELLIFONT: Why did you leave the Department?

MS HAYTHORPE: I really disagreed with the practices around excluding students and the difficulties that my fellow senior guidance officers and I had in trying to enrol the students in another school, and just that consumed the role, and it took away from my ability and time that I could spend doing proper supervision of the guidance officers, which was very much required. The case management for the complex cases after exclusions took up about 90 per cent of my time, and even more so because of the amount of --- the difficulties of trying to get principals to accept the enrolments.

30

DR MELLIFONT: Okay. Now, you set out the roles in which you were involved in EAP applications in your statement but in short, it was in the role of HOSES, in the role of guidance officer and as a senior guidance officer?

35 MS HAYTHORPE: Yes.

DR MELLIFONT: Okay. The EAP application was complete, in your experience, or near completed with a HOSES or a special education teacher? Okay. Now, we've heard a number of times in the Commission, there's six categories, students with a disability may not fall within those categories. So what about students, in your experience, students with complex behavioural disorders, or mental health diagnosis such as students with Oppositional Defiance Disorder or ADHD?

40

MS HAYTHORPE: They were just left.

45

DR MELLIFONT: You mean by that they didn't fall within the EAP?



MS HAYTHORPE: They didn't fall within the category so they didn't get support. I think the guidance officers who were able to offer support were too busy doing other things, and so they probably didn't have access to guidance officers to support their mental health conditions or the guidance officers would be consumed with crisis counselling. And so that - those students would have complex needs that would never be met, which means they would have complex behaviours, which would then lead to expulsion, and the cycle continues.

DR MELLIFONT: Okay. Now, you use language of generality, but do you mean to express by that in some cases these things didn't happen? Where would you put it on the range of none through to all of the time?

MS HAYTHORPE: I would say all of the time, in my experience. Short amount of experience, ten months in that role, it was overwhelming.

DR MELLIFONT: Okay.

MS HAYTHORPE: And that might be a marker of the district that I was in. In my role in other, like, districts, it wasn't that bad. So that might be a marker of the area that I was in.

DR MELLIFONT: Okay. This EAP six category, did you observe it to have an impact in respect of approach to diagnoses?

MS HAYTHORPE: Yes.

DR MELLIFONT: And what specifically was that?

MS HAYTHORPE: Well, in regards to intellectual impairment, it meant that I think deputy principals would put a lot of pressure on guidance officers to assess, to try to squish kids into a category, and so there would be over-assessment, and IQ assessment shouldn't be done frequently, and so you would come across students who had had too much exposure to the testing. And if you didn't fall within that category, well then you didn't get the funding and then you were sort of left.

DR MELLIFONT: Okay. And you're aware of a particular instance where a child received a diagnosis of autism where, in your view, a better diagnosis, a more accurate one would have been a different diagnosis?

MS HAYTHORPE: Absolutely.

DR MELLIFONT: A diagnosis which didn't fall within the categories?

MS HAYTHORPE: Yes.

DR MELLIFONT: And in your experience as a psychologist, one of the - you regard one of the adverse consequences of an incorrect diagnosis is that they might be

exposed to labels? Yes?

MS HAYTHORPE: Yes.

5 DR MELLIFONT: Sorry, we just have to speak up for the transcript, okay?

And they might get treatments which aren't appropriate for them?

10 MS HAYTHORPE: Yes. And a perception of themselves that is different to what is accurate, I think, more importantly as well.

DR MELLIFONT: Okay, perception of self, did you say?

MS HAYTHORPE: Yes.

15

DR MELLIFONT: All right. Now, in that EAP work as a senior guidance officer, one of the things you needed to do was - I'm having trouble with my singular and plural – psycho-educational assessment for the EAP process?

20 MS HAYTHORPE: Yes.

DR MELLIFONT: And how long might that take up?

25 MS HAYTHORPE: I'm experienced in them and so from whoa to go I would do them in two days, but inexperienced guidance officers can take weeks.

DR MELLIFONT: So for you it was two full days.

MS HAYTHORPE: Two full days for one assessment.

30

DR MELLIFONT: Sorry, we're speaking across each other, let me make sure I've got it.

Two full days, perhaps more, for one assessment?

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MS HAYTHORPE: Yes.

DR MELLIFONT: Now, part of your role was case managing the complex cases associated with school exclusions, is that correct?

40

MS HAYTHORPE: Yes, that's right.

DR MELLIFONT: And what would trigger your involvement in an exclusion?

45 MS HAYTHORPE: We would get an email alerting that a student was proposed for expulsion, and so then we would just have to wait and see if that expulsion was going to be followed through. So it was a monitoring sort of a situation for a few weeks.

In that time, probably make contact with the parent, I would look at the catchment area and try and work out where their location is, the next three closest schools, transport - I would work it out via car, via public transport, and all that type of stuff, and prepare an email up to the three closest school principals to let them know to be aware that "This student has been proposed for an expulsion, I may approach you shortly to see if this student can enrol."

DR MELLIFONT: Okay. So part of your role would be to try to guide families through an appeal?

MS HAYTHORPE: Yes, if that's what they wanted to do.

DR MELLIFONT: If that's what they wanted to do, okay. And whilst you were there, your experience is that exclusion decisions would usually be taken by the principal?

MS HAYTHORPE: Yes.

DR MELLIFONT: Now, you speak to some particular examples in your statement as to the level of discretion you observed principals to have. You speak of exclusion of a student for verbal misconduct, a student with an intellectual impairment, and that the exclusion stood despite a letter of apology from the student and to you --- sorry, no, no, I haven't finished the sentence. To you, you regarded that particular expulsion as being a disproportionate response.

MS HAYTHORPE: Absolutely.

DR MELLIFONT: Why?

MS HAYTHORPE: Because it was for swearing. The boy had an intellectual impairment that was quite a severe intellectual impairment. I thought that that was too much, considering how much the dad and the son worked on the apology they made, how sincere they were, and the detrimental effect of going to another school for that student. That school was within walking distance, the other siblings were at that school, the father didn't have transport, it was, you know, too much.

DR MELLIFONT: Was there IQ testing done for that student?

MS HAYTHORPE: Yes.

DR MELLIFONT: What did it reveal, to your recollection?

MS HAYTHORPE: It was extremely low. Low, like you don't come across that low very often.

DR MELLIFONT: Like, 60? Six-zero?

MS HAYTHORPE: Yes.

DR MELLIFONT: Is that what it was in this case?

5

MS HAYTHORPE: Yes.

CHAIR: Was there any adjustment for that child - it's the Chair here speaking to you from Sydney - was there any adjustments for that child in the school before his expulsion?

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MS HAYTHORPE: He was under an EAP process plan so he would have had - he had access to the Special Education Unit. So, yes, he did formally have that but I don't know if the supports were adequate.

15

CHAIR: Did, to your knowledge, anybody investigate whether the supports were adequate before an expulsion decision was made?

MS HAYTHORPE: No, they wouldn't, no. And that was part of the --- you know, writing the letter.

20

CHAIR: You're saying that you know from your knowledge that there was no consideration of the extent to which supports were provided?

MS HAYTHORPE: No. Yes.

25

CHAIR: You're agreeing with me, in other words, it's just a ---

MS HAYTHORPE: I am agreeing with you, sorry.

30

CHAIR: Thank you.

Yes.

DR MELLIFONT: I want to turn to another topic and your statement obviously deals with a lot more things in detail than we're able to do here. But you speak about being involved in the process for re-enrolment?

35

MS HAYTHORPE: Yes.

40

DR MELLIFONT: So you would identify the next closest school after an exclusion and arrange an interview, is that correct?

MS HAYTHORPE: Yes.

45

DR MELLIFONT: Okay. And did you observe any trend or general theme in terms of the school's timeliness in responding to your request?

MS HAYTHORPE: Absolutely.

DR MELLIFONT: And what were they?

5

MS HAYTHORPE: Delay, delay, refusal. There was only one school I worked with that said "Yes, get the family to ring me, we'll put in an appointment next week."

DR MELLIFONT: Did you experience occasions on which you were told that an enrolment interview would be granted if another school took on another student?

10

MS HAYTHORPE: Yes.

DR MELLIFONT: And you've experienced, in some circumstances, getting through those steps, getting a child re-enrolled, but still conditions being placed on enrolment?

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MS HAYTHORPE: Definitely, yes.

DR MELLIFONT: Such as?

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MS HAYTHORPE: We won't accept that student - a lot of no, absolutely no, until I elevated it two levels above myself, and then the principal realised that there was a court order for that student that said that he had to be at school. And so it was only once it had been elevated, and she realised that the student had a court order to say that he had to go to the school, that she started to agree, and then she said would only accept the child if he had a reduced timetable, and the complex case funding was given to the school.

25

DR MELLIFONT: Okay. Now, in your statement, you do set out your hope for this Royal Commission, and that's in your statement. I might just reflect that that includes a recognition of a broader range of disabilities.

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MS HAYTHORPE: Absolutely, please.

35

DR MELLIFONT: And for greater flexibility to be taken in respect of approach to education of students with disability?

MS HAYTHORPE: Absolutely.

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DR MELLIFONT: Thank you.

Commissioners, that is all I have to ask Ms Haythorpe about here. Thank you.

CHAIR: Thank you. I'll ask Commissioners if they have any questions, commencing with Commissioner Atkinson?

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COMMISSIONER ATKINSON: No, I have no questions except to wish Ms Haythorpe good luck in her new chosen career.

MS HAYTHORPE: Thank you.

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CHAIR: Commissioner Mason?

COMMISSIONER MASON: No, thank you.

10 CHAIR: Commissioner Galbally?

### **QUESTIONS BY THE COMMISSIONERS**

15

COMMISSIONER GALBALLY: Would it have been better, from your point of view, if there was less discretion from principals about the entry of the child who had been excluded into the new school?

20 MS HAYTHORPE: Yes, definitely, and less discretion for principals to actually exclude.

COMMISSIONER GALBALLY: Thank you.

25 CHAIR: Ms Haythorpe, thank you very much for coming and giving evidence. I, too, wish you success in your final year of studies in law, and in what I hope for you will be a successful and rewarding career in that best of all professions.

MS HAYTHORPE: Thank you very much. Thank you.

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### **THE WITNESS WITHDREW**

35 DR MELLIFONT: No bias there.

CHAIR: None whatsoever.

40 DR MELLIFONT: Might we have an adjournment, please, until 3.10 Queensland time?

CHAIR: Yes, we can do that. We'll adjourn until 3.10 Queensland time, thank you.

45 **ADJOURNED**

**[2.54 PM]**

CHAIR: Yes, Dr Mellifont.

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DR MELLIFONT: The next witness today is Professor Linda Graham. Professor Graham is present in the hearing room in Brisbane. Her statement is at Tender Bundle B, Volume 1, Tab 3. I tender that statement and ask that it be marked as 7.167. Annexures to Professor Graham's statement are at Tender Bundle D, Volume 10 2, Tabs 11 through 26, and I ask they be marked as 7.167.1 through to 7.167.16.

CHAIR: Yes, that can be done. Thank you.

15 **EXHIBIT #7.167 - STATEMENT OF PROFESSOR LINDA JAYNE GRAHAM**

**EXHIBITS #7.167.1 TO #7.167.16 - ANNEXURES TO STATEMENT OF LINDA JAYNE GRAHAM**

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CHAIR: Professor Graham, thank you very much for coming to give evidence today. You are, I think, in the Brisbane hearing room. If you would be good enough to follow the instructions of the associate to Commissioner Atkinson and she will 25 administer the affirmation to you.

**PROFESSOR LINDA JAYNE GRAHAM, AFFIRMED**

30

CHAIR: Thank you, Professor Graham. Dr Mellifont will now ask you some questions.

35 **EXAMINATION-IN-CHIEF BY DR MELLIFONT**

DR MELLIFONT: Thank you, Chair.

40 State your full name, please.

PROF GRAHAM: Linda Jayne Graham.

DR MELLIFONT: And you've made an 83-page statement dated 29 September 45 2020.

PROF GRAHAM: Yes.

DR MELLIFONT: Could have been much longer, but you had to stop somewhere.

PROF GRAHAM: It would have been a lot longer.

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DR MELLIFONT: Are the contents of the statement true and correct to the best of your knowledge?

PROF GRAHAM: Yes.

10

DR MELLIFONT: Okay. You are a Professor and Director of the Centre for Inclusive Education at QUT?

PROF GRAHAM: Yes.

15

DR MELLIFONT: And over the course of your research work, you have conducted multi-jurisdictional research focusing on the role of educational policy and schooling practices in the development of disruptive students' behaviour and the improvement of responses to children with learning and behavioural difficulties.

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PROF GRAHAM: Yes.

DR MELLIFONT: You attached a CV to your statement which is a little out of date and you've now provided an update one to the Commission, is that correct?

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PROF GRAHAM: Yes. It changes often.

DR MELLIFONT: I'm sorry?

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PROF GRAHAM: It changes often.

DR MELLIFONT: Yes, of course. I can advise the Commission the CV which has been tendered is the updated version. In brief terms, you're currently working on a project?

35

PROF GRAHAM: I have multiple projects. One of them is a six-year longitudinal study which we're closing at the moment which has been investigating the development of severely disruptive behaviour. We've been following 250 children from prep to Grade 5, from seven primary schools in Queensland. We have a new study also funded by the Australian Research Council, which is testing whether accessible pedagogies and assessment practices lead to improved outcomes for all students, but especially those with language and attentional difficulties. And I'm also chairing the inquiry into suspension, exclusion, and expulsion processes in South Australian Government schools. That is almost finished. The terms of reference are very broad, and they're looking at overrepresentation of at-risk groups, whether legislation policy and procedures is being followed, whether there's a need for a separate education Ombudsman, and lots more, and that report is due to be provided

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to the Education Minister on 26 October 2020, and I believe that it will be tabled in Parliament on 25 November 2020.

5 DR MELLIFONT: Busy times. In your research over the years, there have been two broad focuses, first exclusion, or rather, who - sorry, how and who schools exclude, and secondly, practices to support inclusion, particularly for students commonly described as being in the “grey zone”, is that correct?

10 PROF GRAHAM: Yes.

DR MELLIFONT: Okay. Now, your statement defines a number of key concepts including exclusionary discipline, formal exclusions and informal exclusions, suspensions and expulsions. The Commissioners obviously have read your statement but I want to ask you about a couple of terms and that is macro and micro-exclusions, 15 what do those terms mean?

PROF GRAHAM: The way that I'm defining those, or using those, is that Macro-exclusion is like suspension and so on where you're out of school. Micro-exclusions can be like when you send out a pass, but it can also mean when 20 you're shut out of learning. When for example adjustments are not being made to allow you to access the curriculum or pedagogy.

DR MELLIFONT: When you speak of informal exclusion, what do you mean by that? 25

PROF GRAHAM: So that's the ubiquitous phone call home, usually to Mum, which is, "Come and pick up Johnny, he's had enough for the day." It can also be a private negotiation between the principal and the parents or carers, which is about "We've only got enough teacher aide time for, you know, a couple of times a week," 30 sometimes even a couple of hours a day or not even that, you know, and “keep your child at home until - and you look after them, basically, until we can have them."

It can also be, you know, sort, of suspensions that aren't recorded and parents are often told that that is for the benefit of their child so that they don't get a record, 35 when often it's really to disguise the school's exclusionary record and so that that information doesn't leak up.

DR MELLIFONT: Okay. So they're the types of things that you're referring to when you speak about informal exclusions, correct? 40

PROF GRAHAM: Yes.

DR MELLIFONT: Okay. I just need you to get to say "yes" for the transcript.

45 PROF GRAHAM: Yes.

DR MELLIFONT: You've undertaken research into the causes of micro-exclusions?

PROF GRAHAM: I have. I didn't set out to research that, and actually this research informs a new study that we have started. What I actually set out to do was to address conflict and to work with teachers around de-escalation, like prevention of conflict and de-escalation, because conflict results from disengagement and things happening in the classroom, and it's kind of the end point just before things like exclusion and so on happen. And I was approached to begin this project by an acting school principal who came to me because she wanted to change how things were done in her school, and it was the exclusion of a 15-year-old Indigenous boy in her school, and the chain of events that led up to that, that made her want to do something differently.

So we collaboratively designed this project, it was funded by the Queensland Government and it involved talking - we surveyed 1,000 students from Year 7 to 10 across three pretty disadvantaged high schools, and then we asked the principals of those high schools to tell us who was at the, you know, the "red tip" pointy end of the behaviour triangle, and we interviewed 50 of them.

What we found, when we talked to them, which actually worked out pretty good in the end, because we actually couldn't get any teachers to participate in the project around de-escalation of conflict, what we discovered was the students were telling us that they actually do want to learn, contrary to what a lot of people might say about these kids, but they actually do want to learn. But they find learning very difficult, and conflict happens when that isn't understood, and when that's perceived through the lens of "doesn't care", "couldn't be bothered", and so on.

So I'm talking about simple things where, for example, students would say --- like we asked them what makes an excellent teacher, and their answers were not what people think, which is teachers that make things fun. There were a few responses like that but the majority said teachers who help, teachers who support, teachers who explain things well, teachers who take the time to explain them again and who don't make you feel bad or get you in trouble for needing them to do that.

DR MELLIFONT: Okay. So that project was called the Recent Education Horizon Project? Yes?

PROF GRAHAM: Mm.

DR MELLIFONT: Okay. Part of its findings were classroom conflict and disengagement occur when the students experience barriers due to a lack of adjustments and reactive behaviour management practices, is that correct?

PROF GRAHAM: Yes.

DR MELLIFONT: And what do you mean by that phrase "reactive behaviour management processes"?

PROF GRAHAM: Proactive behaviour management strategies are anticipatory. And basically, teachers use strategies like pre-correction, diversion, distraction, you know, something called “proximity technique” which is where you sort of, you know, float around the classroom and then float quite close to a student who might  
5 be about to kick off or whatever. And environmental scanning, all the time, to be able to keep, you know, a lid on what's happening in the classroom.

Reactive discipline occurs when the proactive isn't in place or if it isn't effective and that happens when a situation is allowed to get out of control and that means that the  
10 intervention or the action that happens afterwards needs to be at a higher level and that can often happen in punitive ways like shouting or humiliation or sarcasm, kicking a kid out of class and so on, and then you have a chair thrown across the room.

15 DR MELLIFONT: Okay, thank you. Let's speak about adjustments and exclusions. What has your research shown as the relationship between the provision of adjustments and exclusion of students with a disability?

PROF GRAHAM: So that can be as simple as saying, like, the conflict or  
20 disengagement occur when a teacher might say "I just told you that" when a student with a language disorder or a student with Attention Deficit Hyperactivity Disorder, which is characterised by low-working memory, doesn't pick up on all the instructions and therefore doesn't know what to do. Saying "I just told you that" and dismissing that student, it's a miracle that they asked in the first place, that's when an  
25 adjustment is not being made. An adjustment is when a, and particularly the way we prefer to do it when we talk about universal principles and so on, is that we plan proactively, we know that there are certain students in our classroom who have those sorts of difficulties, so we put into place practices that help them.

30 So simple things like having written instructions that are up on the board or, you know, provided to a student or if that student is, once you give a whole class an instruction, you then go to that student and see whether they understand what's just been said. You don't want for it to fail.

35 DR MELLIFONT: Am I correct in understanding that your research indicates to you, a correlation as between non-provision of adjustments and exclusions?

PROF GRAHAM: 100 per cent.

40 DR MELLIFONT: Okay, I use the word "students", the phrase "students in the grey zone" which are words that you use in your statement. Who are students in the grey zone? What does that mean?

PROF GRAHAM: So the kids in the grey zone are the ones who fall in between the  
45 boxes created by what we call “categorical resourced allocation methods”, and I apologise to the interpreter for that one.

So you've been hearing all week about the way that funding, disability funding is provided in schools, and it's typically category-based. And I think you just heard before from a couple of guidance officers talking about the students with diagnoses that don't fit within those boxes. Those are students in the grey zone, and that can happen either because their particular disability is not included, like, for example, students with ADHD, or it can be students for whom their disability is not judged to be at the level, the threshold needed, for individually targeted funding. And that can be a student with developmental language disorder who has --- still has language disorder but not, you know, severe enough to - and it has to be pretty severe, to receive funding.

DR MELLIFONT: Okay. Do I understand there that your view is that many education providers in Australia still employ categorical resource allocation methods and these are used essentially to “ring fence” individually targeted support funding and resources?

PROF GRAHAM: Yes.

DR MELLIFONT: What does that mean?

PROF GRAHAM: So “ring-fencing” is basically - it is a way of keeping a lid on funding, which I don't disagree with. You know, you do need to do that. We can't bankrupt our education system or our governments.

So disability categories and, you know, different criteria are used in order to work out, well, who gets that kind of funding. You heard earlier about funding that doesn't need all of that where it's called Census-Based Funding, which is where there's an allocation that's given to schools and you don't have to have a diagnosis for that but you also heard that that gets used and not necessarily for those students. It can be used sometimes, I think, inappropriately to employ senior staff. A lot of the time it can be used for general teacher aides and so on. It isn't necessarily used for the best, like, the best way, which is to upskill teachers, release them from face-to-face teaching so that they have time to plan for the students in their class. So there's actually a lot of money out there, but principals don't necessarily know that.

DR MELLIFONT: Can I take you to --- I will ask you to provide an example. You touched on this already, of what your research has shown in terms of how behaviour incidents can emerge where adjustments aren't provided, particularly students in this grey zone you speak of.

PROF GRAHAM: Yes. So the students that I'm talking about, they also happen to be the ones that are most over-represented in --- when you look at exclusion discipline statistics and so on, you know, these are the kids that you can see the most. So - and the way that they get characterised is that they are - and I think, as well, because disability, their particular disability is not visible. Often they are perceived as, like I said before, "can't be bothered", "don't want to do it", there's usually a reason why, and so they get in a lot of trouble for things like not following

instructions, or not doing their work.

5 Now, the thing is that the reason that they may not be following instructions is because they have language processing difficulties, so they may not comprehend what they're being told. They may have working memory difficulties, so they may hear the beginning of what you said and the end but not the middle part, and in terms of not doing their work, it's often because it's too hard, or if they have ADHD, effort is extremely difficult and they end up getting in trouble for that.

10 DR MELLIFONT: Can you tell me, it's not necessarily the case, though, that outcomes would be better if they were in receipt of individually targeted funding?

15 PROF GRAHAM: Sadly, no. So you've heard this week about plenty of students who have had individually targeted funding, and on that particular case I will tell you about a boy called "Daniel", that's a pseudonym. He's a little boy in our longitudinal study, and in prep his teacher said, you know, "There's something not right with Daniel but, you know, we can't get him verified so he gets no support." And in the next year it was basically the same story, except they thought that he had speech/language impairment.

20 In the third year, so this is in Grade 2, at that point he did get verified for speech/language impairment, but not a lot of support came with that.

25 Grade 3, he was then verified with intellectual impairment - or intellectual disability, and that was done so that he would be able to get more funding.

30 Now, during the time that this was going on, Daniel was put onto what's called an ICP or an Individual Curriculum Plan, and it was basically "reset to prep" and there he stayed.

And by Year 4 his teacher said that she'd had no concerns now about Daniel, because she knew that he would never be at the expected level of anyone else in his class, and "So no, we're all right with that."

35 Now this student did get funding and where he spent most of his time was either in the responsible thinking room, or with a teacher aide on an iPad in a corridor outside the classroom or at a table. He was constantly tailed by an adult, he was doing things that we knew he - because we were doing assessments every year with the kids, we knew that he could do far more than writing large letters in coloured pencil in a  
40 scrapbook.

DR MELLIFONT: So as I understand the message you're seeking to convey here through that example, money won't fix it --

45 PROF GRAHAM: No.

DR MELLIFONT: --- necessarily in and of itself if the teachers aren't able to and

skilled enough to identify ways to deliver the curriculum in a different way that will assist the particular student?

PROF GRAHAM: Yes.

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DR MELLIFONT: And by that you're not intending to be critical of teachers across the board, it's just a matter of wanting to ensure that teachers are given those skills?

PROF GRAHAM: Yes.

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DR MELLIFONT: And you accept that teachers and principals can be under a significant amount of stress in the course of their work?

PROF GRAHAM: Yes.

15

DR MELLIFONT: So it's not intended in a broad criticism in that sense.

PROF GRAHAM: No, that's one of the reasons that we talk about systemic reform which is, you know, this is bigger than just individual teachers or Principals. They're working within a system. In my evidence I talk about perverse incentives and badly created policy creates perverse incentives, and people are people, they react to that. So the answer is to change the policy.

20

DR MELLIFONT: I'm going to row 22 now of my notes. You've investigated different approaches to funding and supporting students with a disability and in the course of that work you've identified --- and this is in your statement, but --- perverse incidents regarding diagnosis, NCCD funding issues, and using exclusionary discipline to build a case around a child. On that last one, what do you mean by that?

25

PROF GRAHAM: So, one of the things I think the guidance officers did a good job of talking about this, there's a bit of a push-pull from the schools and the Region and the Centre. In order to get funding, principals are of the view, rightly or wrongly, that they have to inflate, you know, if they don't then the funding will be knocked down to a point that's negligible. And so part of that is that they feel that they have to build a case and have evidence to support that case, and suspension is one of those pieces of evidence. So if you have a trail of evidence of a child that has difficulty at school, well, that can go a long way to supporting your case and your claim for funding.

30

35

Where that becomes a problem is when, and I'm not saying that that child doesn't need support, they do, but where that becomes a problem is when that child is then suspended for things that other children are not. It also becomes a long-term problem because there are other strategies that are involved in that, one of which is the use of inflammatory, hyperbolic language to describe children's behaviour.

40

45

We heard earlier this week about Sam deliberately kicking his teacher. Now, where did that come from? So a 5-year-old deliberately kicking their teacher in a knee that

the teacher, you know --- so there's the point that I'm making here is that the way that the behaviour gets described is used and is done so, sometimes to create a case. The problem is that that case follows the child.

5 DR MELLIFONT: So it has - it can have flow-on adverse effects even if --

PROF GRAHAM: Prejudicial effects, absolutely.

DR MELLIFONT: --- even if entirely unintentional.

10

PROF GRAHAM: Yes.

DR MELLIFONT: Okay.

15 PROF GRAHAM: So the aim might be good, which is I need to get support to help this child, but the forward thinking and the big picture isn't there.

DR MELLIFONT: As to exclusion, and we're talking formal exclusion here and in Queensland we tend to call that - sorry, in Queensland we call it "exclusion", some  
20 other States call it "expulsion".

In your view, expulsion should only be used as a last resort, and only after evidence-based educative responses have failed, and after relevant and effective reasonable adjustments have been implemented with fidelity, is that correct?  
25

PROF GRAHAM: Actually, I use that for exclusionary discipline, I say that regarding exclusionary discipline more generally, not just expulsion.

DR MELLIFONT: Okay, I'm sorry.

30

PROF GRAHAM: So exclusionary discipline should only ever be used in that way. It shouldn't be used for minor incidents. It has serious ill-effects that are long-lasting and cumulative.

35 DR MELLIFONT: Okay. So I just do want to be clear as to when you speak about this in paragraph 47 of your statement, you are talking about expulsions, yes?

PROF GRAHAM: No.

40 DR MELLIFONT: Not at all?

PROF GRAHAM: Well, I mean, that as well.

DR MELLIFONT: I'm trying to get the full raft.

45

PROF GRAHAM: I'm talking about suspension, exclusions, expulsions.

DR MELLIFONT: Okay, thank you.

5 Your research has indicated to you that suspensions --- this is at row 27 ---  
suspensions are most commonly used for minor rule infractions. Do I have that  
correct?

10 PROF GRAHAM: That's true. Things like being out of bounds. Earlier this week  
you heard about, I believe it was Sam, absconding. So that can be recorded as "being  
out of bounds". Things like incorrect uniform and not following instructions, like I  
mentioned before. Low-level developmentally inappropriate - sorry, appropriate  
transgressions like talking in class, and disengaged behaviours, like dawdling in the  
toilets, and missing class or not completing work. So those are actually the most  
common reasons for which a child is suspended and excluded.

15 Generally, what ends up happening in the exclusion part of it is that there's an  
escalation that takes place.

20 DR MELLIFONT: Okay. What, if anything, did your research indicate as to  
whether a suspension was typically the first response?

25 PROF GRAHAM: It's not typically the first response. But I'd like to explain that  
because there's more to the story. So, typically, as I mentioned before, there's a  
pattern of escalation, where exclusionary discipline is applied to address minor  
behaviours, which is inappropriate to start with, but because those responses haven't  
achieved the desired outcome, so a consequence has been applied but the behaviour  
hasn't changed, the behaviour keeps occurring. And as I explained in my witness  
statement, that's because replacement behaviours are not taught. You kick a kid out,  
you expect them to come back in and do something differently and they're not going  
to be able to.

30 What ends up happening is rather than revisiting and assessing both the relevance  
and the effectiveness of the response and figuring out, well, did that work, that's the  
part that tends not to happen. So it's just "Let's keep doing more of the same" and  
that's why looking at the incidents of repeat suspensions is so important, because  
35 those are the kids, that's where you find the over - the most over-representation of  
students with disability.

40 DR MELLIFONT: So you have observed in your work a path of suspension,  
re-suspensions sometimes ---

PROF GRAHAM: Yes.

DR MELLIFONT: --- and the correlation with exclusion?

45 PROF GRAHAM: Yes --

DR MELLIFONT: With expulsion.



PROF GRAHAM: --- it's press repeat.

5 CHAIR: Are you saying the ultimate suspension, that is removal from the school, whether for a specific period or permanently, is expressly put on the basis of what you describe as minor behaviours?

PROF GRAHAM: It can be, yes.

10 CHAIR: Not whether it can be. I rather thought you were saying that's something that happens regularly?

PROF GRAHAM: It does.

15 CHAIR: Which is the study that shows that?

PROF GRAHAM: The one I can't talk about. So.

20 CHAIR: So there's no published study that supports that at the moment?

PROF GRAHAM: Yes, there is. There's a tremendous amount of research internationally, which does show that. It shows that suspension and exclusion actually precipitates, it increases anti-social behaviour ---

25 CHAIR: Sorry, that, I think, may be a rather different point. I'm just trying to ascertain whether there is empirical evidence in Australia that suspension of a student/child with disability will typically occur because of minor - what you describe as minor behaviour as distinct from escalating and therefore perceived to be more serious behaviour?

30 PROF GRAHAM: In Australia, no, not yet.

CHAIR: Thank you.

35 DR MELLIFONT: All right, now you expressed your view in your statement that exclusionary - sorry, exclusionary discipline has no part to play in the early years of schooling.

40 PROF GRAHAM: That's correct.

DR MELLIFONT: Why do you hold that view?

45 PROF GRAHAM: Because, well, first of all, young children don't understand it, so it's not something that they can possibly learn from. You heard Sam's mum earlier this week saying Sam didn't know what was going on, and they don't. So the most appropriate, like, so while I'm saying that it should not be used, I'm not saying that nothing should be done. Those are two separate things.

There are far better evidence-based approaches that are educative and will actually teach the child a replacement behaviour and also improve their self-regulation, which is often why they're getting in trouble in the first place.

5

DR MELLIFONT: Can I summarise that it's not appropriate, in your view, for young children, given, in part, their ability to self-regulate is still developing?

10 PROF GRAHAM: That's absolutely right. The other reason is because - so you've got to think about what the lesson they're learning from that is. So whilst they might not understand it, they're still learning a lesson from it which is, "Hey, if I do this, I might get to get out of that." So you're actually reinforcing the behaviour, potentially.

15 DR MELLIFONT: Okay.

PROF GRAHAM: The other thing is that for a lot of the things that are happening at that age level, the things that they're getting in trouble for are actually developmentally appropriate. We used to have, you know, a system of infants and 20 focusing on well, these are the early years of school, these children are not fully developed yet, and understanding that. And actually the Chair the other day pointed out that we don't hold children criminally responsible until they're 10 years of age and some are arguing that that should be 14. So for a 5-year-old to 8, it's actually very, very difficult for those children.

25

DR MELLIFONT: What do you say is the role of applying a developmental lens over this?

30 PROF GRAHAM: So, applying a developmental lens is basically thinking about what has just happened and working out why it's happening, understanding why a child might have done whatever they've done. So to explain that, in the first year of our longitudinal study I spent a lot of time in prep year classrooms, which was great fun, and the sad part about it was that I was able to pick very easily which children would be the kinds of children we're talking about now. And those children were 35 predominantly boys and they had poor self-regulation, poor spatial awareness, they were often later - if not already diagnosed - with ADHD and other disabilities, and they were spending a lot of time in time-out, and constantly getting in trouble for simple things that often they aren't yet able to really control.

40 So they'd get in trouble, for example, by inadvertently hurting another child because they wanted to be first in line, and some of these were bigger boys and, you know, pushing to get to the front of the line. It's not a deliberate kind of action, but it gets construed in that way.

45 DR MELLIFONT: Can I summarise it in this way, in the hope not to do it injustice.

Applying a developmental lens to exclusion is thinking sensibly and logically about

what is and is not developmentally appropriate, and not punishing children for behaviours that are not unexpected for their age and developmental stage.

5 PROF GRAHAM: Yes, I wrote that so I would agree with it.

DR MELLIFONT: I'm not going to claim ownership of it. But I am going orientate you now to row 31.

10 PROF GRAHAM: 31.

DR MELLIFONT: Through your work, what have you formed views about in terms of the consequences of using such discipline in the early years of schooling?

15 PROF GRAHAM: It has tremendous impact. So children end up spending time out of school, they are like little sponges at that age but they're also --- you know, they don't understand what's going on so they internalise very quickly. And all you have to do is ask a 5-year-old what group they're in for reading, and what that means, and they will be able to tell you. Their developing self-concept ends up damaged by this type of approach.

20 But it's also the first few years of school are the most critical in their education development, because they - it's a stage where we talk about, particularly in relation to reading, where we talk about learning to read because by Grade 3, you are reading to learn. If you don't consolidate the essential sort of key skills at that stage, you may never develop that, and we've already heard about a student who left school without being able to read, and many of the boys in my behaviour school study weren't either.

25 DR MELLIFONT: You describe a concept of cumulative continuity.

30 PROF GRAHAM: That's a really complicated one, so bear with me.

35 Okay, so the cumulative part I think is fairly instructive, but it's where there's a snowballing over time, and the behaviour becomes transactional. So what that means is that you - a child comes into school and they are how they are, and depending on the environment that they come into and how that then shapes them, they either, you know, that can set them on a positive trajectory or a negative one.

40 The good thing is that the next classroom could help shift them back but if they have a series of negative experiences, that trajectory can be very dire, indeed.

DR MELLIFONT: I want to turn, please, to the question of data.

45 PROF GRAHAM: Which number is this?

DR MELLIFONT: 37, please. The lack thereof, I understand, to be an issue close to your heart.

PROF GRAHAM: Yes.

5 DR MELLIFONT: If you had a wishlist for the data that each State was required to keep, what would it be and why would it help us?

10 PROF GRAHAM: Well, it's not about which, you know, what they're required to keep because our education providers are actually, well, particularly the Government ones, are data-rich. So they have tremendous amounts of data, they just don't make it public. And if you don't make it public, then we can't see what's really happening. And we have no idea who is being affected, and how, or how to fix it.

15 So my wish is that we, probably the Commonwealth Government that would need to make this happen, but I would like to see Australia have complete consistency and transparency between our different sectors, and States, and that we have a database that's publicly available like the Office of Special Education Programs in the United States, so that we can actually look at what's really happening, and the types of data that I would want to see specifically in relation to, you know, exclusionary discipline is disaggregated data, so that we cannot just look at whether students with disability are over-represented or boys are over-represented, but that we can look at patterns within the data, and also that we can look at something called intersectionality, which is work out, okay, because you can have - when we look at data we look at Indigenous and we look at disability and we look at in-care and multiple other categories, but it's actually possible to be in all those three.

25 So it's actually really important to disentangle those so that we can really then see who is most affected. So is it actually kids with a disability, or is it Indigenous kids, or is it Indigenous kids with a disability and look at that and in Australia, we - one of the reasons, going back to the Chair's question before - one of the reasons that we don't have the type of research evidence here but we need, is because we don't have access to that kind of data. In the United States, they have been researching disproportionality for 60 years. In 1968 they first started talking about it and saying "Hmm, there's a problem here." And I think I'm one of the only people who has published on the over-representation of Indigenous kids in special schools and support classes.

35 It's very, very difficult to get that data.

40 DR MELLIFONT: Thank you. Can I take you to row 41. And touch on the topic here -

45 COMMISSIONER ATKINSON: May I ask a question first that relates to something that you've covered in that area, and that's research into the failure at school for children with disability into the prison pipeline. Have you done research on - sorry, perhaps I should be more accurate. Failure at school, juvenile justice involvement, and then the prison pipeline, have you done research in that area or know of data or research in that area that would be useful to us?

PROF GRAHAM: Thank you for your question, Commissioner Atkinson. Yes, I have.

5 In 2009, some of my research hit The Australian, titled “Special Schools a Fast Track to Prison”. What that came from was we were looking at the enrolment data in New South Wales because actually New South Wales is one of the most transparent States. They publish a lot of data. You can't get everything that you need but they're still pretty good.

10 And what we found was that there appears to be a graduating kind of effect where students will go into what's called “behaviour schools”, which are special schools for students with disruptive behaviour, and there's a spike in enrolments at around age 13. But then when we looked at enrolments in juvenile justice special schools, it was almost an identical pattern.

15 We also knew from our research in behaviour schools that quite a number of the students that were in our study ended up in juvenile detention. Some of them would, mid-interview, in a school that is sitting right across the street from a juvenile detention centre --- great planning --- but a student there said to me, he was 13, and when we asked him, you know, "Hey, what's going to happen if you don't change your behaviour?" He went "I'm going to end up in there", “like this person, that person, this person”.

20 So there is a graduation, and when that study came out in The Australian, I was contacted by the Head of Research in the Department of Juvenile Justice in New South Wales saying, "Where did you get your data because we know this is happening and we can't get that data?"

25 So there are - there is a pattern there, most definitely.

30 COMMISSIONER ATKINSON: I'm actually talking about prior to them ending up in a behaviour school, you can see that children who have got to that stage are likely to have the sort of anti-social behaviour that will lead them into juvenile justice and prison but more you were talking about children that you could see even in the pre-school stage were going to be the ones to get into trouble, and that's the kind of research, I guess, I'm talking about, much earlier on before the school failure happens, the factors that lead to school failure and then that inevitable progression.

35 PROF GRAHAM: So that's the whole reason we put the longitudinal study together. The boys in the behaviour schools, our interviews with them were kind of had a retrospective longitudinal approach. We were really interested in their mainstream school history. And overwhelmingly they talked about never receiving the support that they needed. They talked about, when we asked them when they started disliking school, the majority of them said kindergarten to Year 2. They talked about not being able to read and getting in trouble for things like throwing a chair across a classroom because of frustration at not being able to read.

So that's why we started this longitudinal study, because I wanted to know where those cracks are and how these kids fall into them. And earlier this year we published a paper which looks at, I guess, those cracks and looks at, in respect to reading, and so we looked at 118 of the children in our longitudinal study for whom we had all data. And we looked at their reading performance from Grade 1 through to Grade 3, and overwhelmingly the kids that we're talking about here they were in a group that we called "persistently below average". There were 26 of them who were in that group from Grade 1 all the way through to Grade 3, but that's also a little bit misleading because not only were they persistently below average, but they got much worse over time and part of that was because they were not receiving evidence-based reading intervention support. All they were getting were things like behaviour plans and wobble chairs, or some teacher aide time to, you know, hover over them.

COMMISSIONER ATKINSON: Thank you. I guess my interest in this has come from 20 years as a judge always getting people way too late for that kind of intervention. So hence my interest in any research you've done on those early years. Thank you.

DR MELLIFONT: Professor Graham, I'm going to take you to row 41 which is about teacher workload. Now, at paragraph 149 of your statement you list a number of underlying factors driving the high representation of students with disability being subject to exclusionary discipline.

Do you see a correlation between the intensification in teacher workloads and students with disability being subject to exclusionary discipline?

PROF GRAHAM: Yes, I do. So as I've written in my written statement, I've said that increases in the use of exclusionary discipline that is happening mostly for the want of a better response, as many teachers and principals do not know what else to do, because the toolkit has been exhausted and likely they are, too.

So I absolutely do acknowledge that. I've met some wonderful teachers and Principals, especially the ones that are coming and doing post-graduate study with us, they're just great people. So this is not about bad people doing bad things, it's about people who are working within a system that isn't always conducive to them doing the best thing.

One of my key concerns, which we may get to towards the end, is that the intensification of teachers' work and the relentless focus on, you know, some headline elements of education and how that's contributed to the use of exclusionary discipline. As well, things like exemptions and making sure kids don't participate in NAPLAN and so on.

DR MELLIFONT: I'll ask you for your additional reflections on that topic now rather than wait until the end, if you don't mind.

PROF GRAHAM: Okay. So that's in relation to a statement that I made that says rising suspension and exclusion rates should be interpreted to indicate the overall health of the education system, and a reflection of the quality of teaching practice and inclusive practice. And I say that because I fundamentally believe that our system needs reorientation.

Our educators are being driven to achieve certain outcomes, and as we know what is measured is what counts. Those outcomes are not bad in and of themselves, I mean, who can argue with better literacy and numeracy outcomes, that they are critically important but they can't be achieved at the expense of everything else.

And the problem is in Australia, because we have a competitive system, because we do have proxy sort of league tables, literacy and numeracy is being measured and compared and principals are being punished for poor outcomes in relation to that.

So the problem then becomes when a Principal is told that they can't list student wellbeing as a school improvement target, or goal. That everything has to be about literacy, numeracy. And the issue, though, is you have heard earlier this week from Dr de Bruin and Associate Professor Poed about something called multi-tiered systems of support. The key point I want to make in relation to that is education is extremely complex and teaching and learning is extremely complex as well. It's all interrelated. So engage and learning and behaviour are --- all tie in together. So you can't just focus on one and not also focus on the elements that are protective of it and predictive of it. And underneath all of that, sitting underneath all of that, is the quality of teaching. So you need to be paying attention to the academics, but you also need to be paying attention to social emotional wellbeing, and you need to be paying attention to behaviour. And that's what a multi-tier system of support does.

DR MELLIFONT: Can you just give me a minute, please.

Excuse me, Commissioners.

CHAIR: It's always fatal to take a minute because then I will ask a question, which I'm now about to do.

Where is an example of the practice that would overcome the difficulties that you've pointed to? Is there somewhere in Australia where it works? If so, where? Where do we look?

PROF GRAHAM: Okay, so actually, there are places where things are working. What you're looking for, though, doesn't really exist and I will explain what I mean by that.

So what you are more likely to find is it working within individual classrooms but not necessarily on a school-wide, and definitely not on a system-wide basis.

So let me tell you about this amazing teacher, Mrs K, who had multiple students with

a disability in her class when I observed when they were in Grade 3, I think it was. And Mrs K was the most on-fire teacher.

5 She had boys in her class who had been described to us every single year, red-flagged by their teachers every year. I could not tell who they were in her class. She did not have a teacher's aide. She had this magic triangle and was very good at behaviourism, but she was lovely.

10 So there are, absolutely, these processes can work, but we need everybody singing on the same page, singing from the same song sheet, the same sorts of high-quality practices happening everywhere. It should not be, as someone said earlier this week, a lottery.

15 CHAIR: How many school teachers are there in Queensland?

PROF GRAHAM: I couldn't tell you that. It's probably about 50,000.

CHAIR: How do you get 50,000 Mrs Ks?

20 PROF GRAHAM: Well, that's a really good question, and ---

CHAIR: Thank you.

25 PROF GRAHAM: --- I think that's a challenge because, you know, when I was doing my research in New South Wales, that's our biggest system in Australia, and so they have over 2,200 schools, over 2,200 Principals, obviously, 90,000 some-odd teachers and that was a challenge that that Department talked about all the time, about how do we get this monumental edifice to be working in that way, and it's not easy. There are some really good people within our departments who are doing the  
30 best that they can.

I think Associate Professor Poed made a really very important comment yesterday about the electoral cycle and what that does. When I was doing that research in  
35 New South Wales, I had senior people within the Department say to me that there are certain things that they do not work on because it's "Don't talk about the war", and where some ministers will come in and say "Give me an initiative, I need an initiative. I need an announce-able." So sometimes these intractable difficult problems don't get solved, because they're not pretty. And they're hard.

40 CHAIR: I agree they're hard.

PROF GRAHAM: Thank you.

45 CHAIR: Yes, Dr Mellifont.

DR MELLIFONT: Professor Graham, your statement does set out in some length recommendations that you make to the Commission, and we're very grateful for that.



Before I finish up my questions, I want to ask you, and I'm taking you to row 43 here, about the dangers of a "zero tolerance" approach to perceived misbehaviour.

5 PROF GRAHAM: Okay, so the term "zero tolerance" is often invoked, and usually at a political level, when a Minister says "We take a zero tolerance approach" and so on. But what "zero tolerance" actually means, and sometimes I wonder whether they realise it when they say it, is it was a deliberate policy that began in the 1990s in the US. Now, remember that, the US, where we have gun culture and gang cultures and the types of behaviours that happen over there are far more severe than what happens  
10 here.

The prevailing theory at the time was based on something from policing and criminology, which was this broken windows theory, which was, look, if you manage behaviour at the lowest level and you keep control of it there, then you won't  
15 end up like the little broken windows, you won't end up with, you know, anarchy and mayhem.

The problem with what happened was that exclusionary discipline was the approach used to respond and that has, as I've mentioned multiple times, all sorts of problems  
20 with it.

You also heard this week about the New South Wales when Mr Potter was speaking about their policy, which was any form of violence, no matter how minor or what the situation was, that results in a suspension. It's kind of mandated. It's a similar sort of  
25 thing.

So it causes enormous problems, and there are so many stories from the US where children have done incredibly minor things, like pick up a stick and pretend it's a gun when they're 5 years old, and we all did that, and I can understand why in the United  
30 States that might be a little bit more problematic than it is here. But that student then getting suspended for doing something like that.

So, over the years, they've had this enormous escalation in exclusionary discipline and for all of that period of time, you've had brilliant researchers like Russell Skiba,  
35 for example, who have looked at who is affected by that and the reality is when you drill down into the data, we actually have our most vulnerable children who are affected by it. So over in the US, thank goodness, in 2014 the Obama Administration couldn't keep ignoring that data and that empirical evidence anymore, and so they put out a set of guiding principles. The Office of Civil Rights warned  
40 schools about their civil rights obligations because of the enormous over-representation of African-American students.

We have an enormous over-representation of Indigenous kids but our Governments are doing nothing about that. So basically the dangers of a zero tolerance approach is  
45 that it doesn't take in - there's no flexibility involved. There's no thinking about why did this happen, which is exactly what you're supposed to do.

We talk about behaviour being a form of communication, we talk about using a functional behaviour assessment or even, you know, sort of a proxy of that, which is to try to figure out what happened and what that behaviour means. But zero tolerance takes all of that away and, of course, the students who are mostly badly affected are students with disability, Indigenous students and kids in care.

DR MELLIFONT: Thank you, Professor Graham. Commissioners.

CHAIR: Thank you. Perhaps I might start with Commissioner Mason.  
Do you have any questions?

### QUESTIONS BY THE COMMISSIONERS

COMMISSIONER MASON: I could listen to you for another hour, but thank you so much for coming today and sharing your research and findings but also drawing on other work that's happened in other places.

Like Commissioner Atkinson, I'm interested in this connection between the experiences of school and of expulsion and juvenile justice and adult prisons. I'm also really interested in the connection of mental health and the connection to psychosocial disability and the vulnerability that happens outside of schools and that life experience.

But the question I would like to ask you is, there's been a significant amount of work that's happened over the last ten years in closing the gap between Indigenous and non-Indigenous people across a range of areas, and education has always been one of the fundamental areas of change, and we are now in the era of evidence-based policies and programs. And there's a focus with the current national agreement on data helping to guide, and it is a national approach, which is really fantastic, to all governments.

In your experience, what would you say to the likelihood of that being able to be done in a way where we would be able to draw on consistent data across all those States and Territories, or do you think that given the current circumstances, we have an enormous challenge around the data that we've been talking about this afternoon?

PROF GRAHAM: Thank you for that question. I got very excited when you mentioned the Closing the Gap targets and report.

To answer your question in the first instance, no, we don't have the data that we need to do that properly, and it's my absolutely fervent hope that this Royal Commission can make that happen.

My second point, and the reason I got so excited when you mentioned the Closing

the Gap report, was that I could not believe when I was looking at that report recently that attendance is a goal, right, and it's one of the goals that we have not been able to make any progress on in the last 10 years. Meanwhile, suspension and exclusion is not mentioned at all in the report and it's not reducing those things. It is not a goal.

5

Now, the Indigenous kids that I have been speaking to in the last year have said to me "It's a bit stupid, hey, when you get suspended for wagging." And they're 100 per cent right.

10 How is it that we've got these goals but at the same time we have practices that are pretty rife that completely contradict those goals? So if I could change something, it would be that every State, every sector has that as a goal.

COMMISSIONER MASON: Thank you.

15

CHAIR: Thank you. Commissioner Atkinson?

COMMISSIONER ATKINSON: No, thank you.

20 CHAIR: Commissioner Galbally?

COMMISSIONER GALBALLY: I'd just like to ask whether there is a jurisdiction that you know of internationally where suspensions and exclusions mean that the school, the assessment of the school is affected by the numbers and rates of  
25 suspensions and exclusions, and whether the school principal and the school would be assessed accordingly?

PROF GRAHAM: I think that's one of my recommendations. But there's a tremendous amount happening in the United States, especially since the 2014  
30 guiding principles that were put out by the Obama Administration and I am so excited that despite those being rescinded by the current administration, the public school systems that have implemented reforms are continuing to implement reforms, and one of the reasons that they're doing that is because they're seeing success from them.

35

So Chicago public schools, for example, is one and there's also California. So just last year the Californian Governor, who I believe is a Democrat, but anyway, the Californian Governor -

40 CHAIR: He is, and his name is Newsom.

PROF GRAHAM: --- put forward a report --- that's right. What they started doing was removing schools' ability to use exclusion for discipline in the early years of school, and in primary school they removed completely or banned the use of  
45 exclusionary discipline for wilful defiance. They're now considering banning the use of exclusionary discipline for wilful defiance in total, and one of the reasons that they're starting to do that is because the other responses that they've implemented,

multi-tier systems of support, restorative practices, diversionary strategies, teaching students using social emotional learning so they can self-regulate, use their words, so on, all of these are proving really successful. They have not only driven down enormously their suspension and exclusion rates, but their school connectedness measures have improved. There's studies coming out that are showing that academic results are improving as well.

So they haven't gone quite with the punitive response but on that front, I'm sure you've heard of "No Child Left Behind", which people normally talk about in really terrible ways. "No Child Left Behind" actually resulted in some good outcomes for students with disability. Initially, it led to greater exclusion and greater segregation but once the Federal Government figured out what was going on, what they did was create something called priority subgroups, priority groups, and outcomes for those students, students with disability being one, were measured. And schools were accountable for them. That doesn't happen here. Not in the way that it needs to, and it was public, too.

So it's a little bit, sort of not quite an answer to your question, but that is what has been successful.

COMMISSIONER GALBALLY: Very valuable answer to my question, thank you.

PROF GRAHAM: Thank you.

**THE WITNESS WITHDREW**

CHAIR: Thank you very much, Professor Graham, for your evidence and your 83-page statement, which we have all read, completely. Thank you for coming, thank you for giving evidence.

Dr Mellifont, does that mean we adjourn until 10.00 am Brisbane time tomorrow, Friday?

DR MELLIFONT: It does. Thank you.

CHAIR: Thank you very much. In that case, we shall adjourn.

**ADJOURNED AT 4.23 PM UNTIL FRIDAY, 16 OCTOBER 2020 AT 10.00 AM AEST**

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