



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

EDUCATION AND EMPLOYMENT REFERENCES COMMITTEE

Students with disability in the school system

(Public)

TUESDAY, 29 SEPTEMBER 2015

MELBOURNE

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SENATE

EDUCATION AND EMPLOYMENT REFERENCES COMMITTEE

Tuesday, 29 September 2015

Members in attendance: Senators Lines, McKenzie, Rice, Siewert.

Terms of Reference for the Inquiry:

To inquire into and report on:

- a. current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support;
- b. the social, economic and personal benefits of improving outcomes for students with disability at school and in further education and employment;
- c. the impact on policies and the education practice of individual education sectors as a result of the More Support for Students with Disabilities program, and the impact of the cessation of this program in 2014 on schools and students;
- d. the future impact on students with disability as a result of the Government's decision to index funding for schools at the consumer price index after 2017;
- e. the progress of the implementation of the needs-based funding system as stated in the Australian Education Act;
- f. the progress of the Nationally Consistent Collection of Data on School Students with Disability and the findings, recommendations and outcomes from this process, and how this data will, or should, be used to develop a needs-based funding system for students with disability;
- g. how possible changes as a result of the Nationally Consistent Collection of Data on School Students with Disability will be informed by evidence-based best practice of inclusion of students with disability;
- h. what should be done to better support students with disability in our schools;
- i. the early education of children with disability; and
- j. any other related matters.

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Committee met at 08:49

CHAIR (Senator Lines): The committee will now commence its inquiry into current levels of access and attainment for students with disabilities in the school system and the impact on students and families associated with inadequate levels of support. I now welcome our witnesses. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. I invite you to make a short opening statement of no more than a few minutes. At the conclusion of your remarks, I will invite members of the committee to put questions to you. I acknowledge that we meet on traditional Aboriginal lands. Who is starting off?

Ms Gotlib: Tim is going to go first.

CHAIR: Mr Chan, thank you and welcome.

Mr Chan: Thanks. My name is Tim Chan.

Dr Chan: I am Sarah Chan. I am very sorry; Tim had prepared a statement, but the iPad does not seem to be cooperating this morning, so I will read it out, if that is all right.

CHAIR: Sure. Thank you, Mr Chan and Dr Chan.

Dr Chan: Tim's statement says: 'I found mainstream schools very daunting because I have severe autism with no functional speech. I learned to communicate using a voice output machine with the support of a facilitator at the age of nine, and this mode of communication has enabled me to talk to people.

'However, in year 7 I was denied this method of communication by the school, with the excuse that there were no resources for facilitating my typing. I had applied successfully for funding in the program for students with disability, and an aide had been assigned to me at school. Despite our offers of training for the aide to support my typing, the school continued to abide by this hardline policy, with the result that I was effectively denied my right to communicate during years 7 and 8.

'I went into depression and had behavioural problems during this time because of my extreme isolation and alienation. The response of the school to my problem was disciplinary. I was suspended for my behavioural issues and outbursts, and they further suggested that the mainstream school was unsuitable for me. After strenuous negotiation by Mum and our advocates from STAR Victoria and Communication Rights Australia, I was finally able to type with an aide in year 9 and remained at school until I completed year 12.

'During the time I was unable to communicate, I was effectively excluded from participating at school and from getting to make friends. I was further discouraged from programs such as camp, excursions and social functions. Because of the exclusion I experienced, I am still struggling with low levels of self-esteem and confidence, as well as high levels of anxiety.

'Although the negative experiences in high school have been traumatising, they have shaped the kind of person I would like to be. I am determined to help others in the same boat and hope to work in advocacy for people with disability.'

CHAIR: Thank you, Mr Chan and Dr Chan. Mr Dickson?

Ms Gotlib: Mr Dickson is saying the whole thing.

Danny Dickson: Hi. My name is Mr Dickson. I am currently in year 11 at Fitzroy High School completing my VCE. I have had some fantastic experiences at school, but I have also had some really, really terrible ones. I went to Clifton Hill Primary School. That was good—actually, 'good' is an understatement. It was fantastically brilliant. I learnt lots, had fun, contributed and made great friends. The school and the principal, Mr Warren, believe that all kids should learn. They were good at recognising the extra support I needed, and I just felt like I belonged like all the other kids. We had our moments, but Mr Warren would always listen to me and give me a fair hearing. If he thought I was being unreasonable, he would tell me why, but he would also change things or send in the cavalry if I needed it. I felt safe and well liked.

I then went to Thornbury High School. I was there until the end of first term in year 10. There were some great teachers and some great friends. However, I reflect on my time there mostly with great sadness, anger and less-

polite words. I was constantly bullied by a few kids who taunted, tricked and embarrassed me. There were a couple of really horrible incidents that stick in my mind. I will not mention the details because it makes me upset.

I was aware that my parents were constantly disagreeing with the school about providing me with support in my work and the bullying. I got very depressed. I did not feel safe or respected. There was one time when something happened on a bus trip home. I did not know the name of the kid who was responsible for the incident, but both my mum and I reported it. The school could not work out who the kid was during the day. I was advised to catch the same bus home that day, and the teacher gave me her mobile to ring if I got into trouble. So of course I saw the kid again on the bus. I took his photo and asked my older brother who he was when I got home. That time was horrible because I felt that the school did not realise how unsafe I felt. I insisted that the principal meet with my parents and me to talk about it. I am still not sure that the school did enough to help me, actually, because I always felt so fragile at the school. I felt tormented constantly, and the tension between my parents and the school was hard for me.

I went to Fitzroy high in year 10. The meeting I had with the year 10 manager was great. He was interested in me. He asked me questions about learning, support and what was important to me in schools. I came out of that meeting knowing that I wanted to go there and seeing some hope for my future. Today, I am happy at school again. It is not perfect, but we sort things out and it just works. I think it works because the school values diversity, and I feel respected and liked.

One of the things I want to say to this inquiry today is that bullying is an issue that must be addressed for kids with disability. I know that kids that do not have a disability are bullied, but I am not surprised to learn from my mum that kids with disability get bullied more. I think this is because disability is seen as an inability and a weakness. We need teachers and principals and other kids to learn that disability is a difference and not a bad thing. My disability means that I need extra support in some areas—planning, organising et cetera—and in other ways it gives me abilities which are truly unique and give me great strengths.

Disability is not a big deal, but sadly many people still view disability as a negative. It is unacceptable that so many kids with disabilities are subjected to such sad and tough times. I ask that something be done about the constant bullying of kids with disabilities in schools. I was lucky. I could escape my bullies, and I think I will be okay, but it is fair to think about what happens to the kids who get stuck. Thank you for listening to me today.

CHAIR: Thank you, Mr Dickson. Mr Dickson, did you say you are in year 11?

Danny Dickson: Yes.

CHAIR: So are you 16 or 17?

Danny Dickson: 17.

CHAIR: Mr Chan, how old are you?

Mr Chan: I am 20.

CHAIR: Are you studying now?

Mr Chan: Yes. I am 20 and in the Kevin Heinze program.

CHAIR: Thank you.

Dr Chan: That is a transition-from-school-to-work program.

CHAIR: Thank you. Ms Garner-Williams, welcome.

Ms Garner-Williams: Thank you for having me here today. I was 14 when the bullying began—such things as when they told me I had to wear nappies because I had a bladder condition. At another school, I was told that I had to go to the loo at certain times because I could not possibly go during class time, which led to further issues. For example, I would try to go to the toilet but then could not go, and then I would have accidents on the way home. Because I am very much into giving other people a voice, I tried to report bullying that was going on to people in the class. My bullying got so bad when I was at regular school that I had to go to a special setting school. I could not get into a regular school at the time. I tried to report bullying and illegal activity that was going on in my classroom and was told that I could not report such things because I was not the student, even though both students were non-verbal. One was deaf and the other had quite severe autism and could not speak. I knew that he knew what was going on because he would scream and cry whenever this was going on. They would block his view from other students with a screen. Whenever he got up but was not focusing—because he clearly had focusing issues—they would, with velcro, tie him to a chair. Of course, that was an illegal restraint. I was told that I was not able to report it because I was not the student.

Most of my bullying was through members of staff—the people who were meant to be assisting me. In all cases, it was the staff members. I built a lot level of trust when I wanted to put a complaint in about one of the staff members. I was told that I could not come to the meeting regarding that, and that only my parents were allowed to go. I was not allowed to come. I strongly believe that people with disabilities need to be involved in these sorts of meetings when they are putting a complaint in. They need to be the one that steers the meeting along. They can be supported by an advocate, such as the ones from the Youth Disability Advocacy Service, which is a state-wide Victorian organisation. I also happen be on the steering committee of the organisation. I had another situation. I went to three different schools throughout my high schooling. The Youth Disability Advocacy Service actually wanted to sue one of the schools because the school was not, as I said before, allowing me to go to the toilet at the right times and were withholding my human rights. We did not end up doing that, buy they have been a strong support for me throughout the whole time.

I am now 23 and suffer severe depression due to my disability. The bullying was a major thing that set the depression off, and was also concurrent with the death in my family of someone very important to me. All of that built up and created this big, giant monster. I have been medicated for depression ever since. It is a very sensitive subject for me, but I just thought I had to come here and do this today because it is very rare that you get this opportunity. I would like to thank you all for allowing me to come and speak to you today. I would also like to thank Children with Disability Australia and Ms Stephanie Gotlib for providing me with the invitation to come and speak.

CHAIR: Thank you, Ms Garner-Williams. Are you studying at the moment?

Ms Garner-Williams: Not at the moment, but I did study a certificate in media, specifically television production. My experience in TAFE was a lot better than my experience in high school; there was no bullying. They were very conscious of letting me have an even playing field. When I got sick and I was not able to complete some of my tasks, they actually changed the tasks that I had to do to get my levels so I could pass.

CHAIR: It is good to hear about TAFE at least.

Ms Garner-Williams: Yes, exactly.

CHAIR: We will hear from Ms Gotlib and then we might come back and ask people some questions.

Ms Gotlib: I have not prepared an opening statement because I thought it was really important that the young people speak as much as possible. I am happy to contribute my experience as a parent, but I will have a fair go coming up I think.

CHAIR: Thank you. I will hand over to the other senators. Senator McKenzie, do you have some questions?

Senator McKENZIE: Yes I do. All of you have spoken about having quite a positive experience in primary school as opposed to secondary school. Is there something particular to secondary school that made it more difficult for you to attend school with a disability?

Ms Garner-Williams: I might answer that question. I think there is a much higher stress level in high school than in primary school. Also, I was much better supported in primary school. I had a change of support worker—my school aide change—and then the bullying began with the new aide. That was a huge point. I felt more supported in the school I was at but then I was told that I had to leave because they could not support me past a certain point. Even the assistant principal at the time was starting to realise that the aide who was supporting me was not treating me with the right respect. The aide would actually put on a facade when she was with the other girls that she was really nice and supportive but really she was not. So most of my friends would say: 'What are you going on about. She is great.' And I would be like, 'You are not spending 100 per cent of the time with this woman.' That was the major thing for me. I also think the higher stress level adds to it and the fact that you might have to have things changed to what other students do because of your abilities.

Senator McKENZIE: Yes, as the degree of difficulty increases.

Ms Garner-Williams: Yes, exactly.

Senator McKENZIE: Mr Dickson.

Danny Dickson: I would say it is because of attitudes.

Senator McKENZIE: The attitudes of teachers or the attitudes of kids?

Danny Dickson: Teachers, kids and just about anyone.

Senator McKENZIE: The culture of high school is maybe very different to primary school?

Danny Dickson: Yes.

Senator McKENZIE: Is it the structure? Is it going from class to class?

Ms Garner-Williams: Yes, I would second that.

Senator McKENZIE: Yes.

Ms Gotlib: I think that where there is a will there is a way. Certainly Danny is having a really positive high school experience now, and he has a younger brother—with my parent hat on here today for this session—who has really high-level support needs where every aspect of his curriculum needs to be modified. He needs constant supervision because he is not good at judging his own safety. He has had a very, very positive high school experience in a mainstream setting, and that happened with a good transition from the same principal that Danny spoke with. But really it was about attitudes. I am not saying that there have not been mistakes, but they have been willing to go on the journey, and they have never had a child with that severity of disability in their school. But they value diversity at the school that they go to. They value diversity, and they have never ever said to me—and a lot of other schools have said this to me—'Why is he going here? Why isn't he going to a special school?' That has never been questioned. In fact, I would say that, for his first year at school, he was going through the motions, and I was very concerned, because he seemed like the special kid, and it was: 'Isn't it great we've got this special kid here, and he does his special work,' but the school was not seeing him as a value-add to the school. So I spoke to them about that and I said: 'It's really sad when we're in the bakery and kids go, "That kid goes to my school," and they don't actually recognise him as a peer.' So they have worked really hard in terms of turning that around and recognising that that was a crucial issue and that they needed to better. So they have done some things—because he is largely non-verbal—around making sure that he has the opportunity to show his strengths to the rest of his peers, and now, though he has always been a valued member of that community, it is very clearly seen by his peers and the staff how he enriches and contributes to that school community.

Senator McKENZIE: We are hearing that a lot—the difference a good leadership and culture can make to people's experience. Thank you.

Ms Garner-Williams: I think that, speaking of culture, when I was in primary school the culture was very different. It was more that I was the sort of cool person: 'Who wants to drive Ariane's wheelchair today?' The disability was a part of me but it did not define me. As time went on, the disability sort of got in the way of everything. And that is why I grew so depressed, because now I am in a school with heaps of other people with disabilities because other schools could not cope with my disability and would treat me like crap, basically. So I am now learning a level of schooling that is, like, going back from year 8 maths to year 5—counting money and that sort of thing—and it is like a huge dip. I am actually teaching the kids about using their heads instead of using a calculator more than the actual staff are. My mum spoke to them once when I was about 17 and said: 'Ariane doesn't need to do the family planning course because she has done it so many times that she could practically teach it herself.'

Senator McKENZIE: 'She's got the message!' Did you get out of it?

Ms Garner-Williams: Yes, of course.

Senator SIEWERT: Mr Chan and Dr Chan, one of the issues that has been coming up a lot in the inquiry is the very issue that you have raised, about communication and assistive technology and children and students being denied it in the classroom—which, quite frankly, astounds me, when it is key. What was the turning point from year 9? What was the turning point at which the school suddenly seemed to change its mind? I would suggest that there was advocacy or something happened that enabled you, Mr Chan, to be able to use the device.

Dr Chan: Yes. I think the turning point came when the school, at our advocacy meetings, invited Dr Rosemary Crossley to come to the school and give a demonstration of what Tim was able to do. A lot of his teachers were able to come in and then saw that Tim was able to answer questions, was intelligent, and was able to function at a year 8 level. That was in late year 8. There was a gradual acceptance that, although he is not able to talk, he can communicate and he is intelligent and is able to absorb everything that was being done, and he can output by using this device.

Senator SIEWERT: It must have been particularly hard if, in year 8, he was obviously able to maintain his education levels even without his communication technology. He must have been working extra hard to be able to stay in year 8.

Dr Chan: We had to take home a lot of the work because he was not able to output that at school. But when we produced some work at home—let's say he would produce an English essay at home and take it to the teacher—they would not assess it because it was not done at school and it was not done with his aide. But there was no way that he could have done it with his aide, because he was not able to write or type independently.

Mr Chan: I think that the turning point came with people who treat me as a capable person who has opinion and intelligent output.

Senator SIEWERT: It seems to me, hearing all your experiences, that you all seem to be pretty strong advocates in yourselves, and people around you. I have seen that in a number of other examples as well. The people who have been able to deal with the education system have been strong advocates, or their parents have been. Is that your broad experience? Do you have peers who have not been able to negotiate the system?

Ms Garner-Williams: I would comment as a mentor for a 16-year-old girl. Her name is Stella and her mum is a brilliant advocate herself—she is an independent film maker. She had to leave a school because the school would not allow her to participate in particular classes with her peers. So she would be put in a separate area to do separate work and then taken to classes with her peers that she could not do. She is really smart, by the way. She would be taken out of her maths class, say, which she could capably do, but then put back in a sporting class, which she has no interest in and is not really capable of doing 100 per cent because she has staggered walking and can easily fall over.

Senator SIEWERT: What was the justification for doing that?

Ms Garner-Williams: I am not sure what the justification was. I think it was that they thought she would work better without the distractions. But she actually got quite depressed and ended up moving to a school that very much accepted her and allowed her to be as independent as possible. She is enjoying school and actually accelerating. She really likes English. She is looking forward to completing high school. She actually advocates alongside me on the Youth Disability Advocacy Service steering committee, and we work together now. But I have known her since she was in year 3. So I have been throughout the journey with her.

Senator SIEWERT: I want to ask this of each of you. We talked about culture and that the culture of the schools has come up repeatedly as being really important. What are the key things that this committee should recommend to make a difference? I know that there is no silver bullet—I get that. But what are the key things—a combination of things—that you think this committee should be saying to the Australian government that would help?

Danny Dickson: We need to change people's attitudes. I believe it is possible to do that through education by showing people that disability is not a negative thing but is just a difference.

Ms Garner-Williams: I have a couple of things written down; actually, I think I can just remember them—or I will try. You might need to give me a minute.

Senator McKENZIE: You can submit them on notice when you get home—

Ms Garner-Williams: Yes. I think there needs to be more stringent checks of schools for treatment. I think they need to be checks that schools are not expecting. From my experience, when politicians like yourselves go into a school setting and the schools know that you are coming, they will be like, 'Oh, it is fantastic. It is all great.' For example, I went to meet Josh Frydenberg. He said that one of the schools I went to would be one of the best special schools in his area, Kooyong. I said, 'No. They're putting it on.' He said, 'What do you mean?' I said, 'If you knew half the crap that I had been through, you would know that they are putting it on.' When I told him, he said, 'Wow. Okay.' Then I was like, 'Yep.'

The biggest thing we had happen did not actually happen to me. A boy that I want to school with used a communication device—like Mr Chan does. This boy was perfectly capable of being in a regular school setting. His mother was planning to take him out. One of the reasons for that was that they had put him in his chair wrong and had actually broke his back through doing that. He was completely non-verbal. He could use a communication book and his eyes to communicate what he was wanting to say. So the principal at the time—I must stress not the principal anymore, thank God!—called up the school he was looking at going to. She basically told them that the student that I am referring to was incapable of learning and that, therefore, her school was the best school for him because she knew that he had to go to school but he basically could not learn. That, of course, was a load of bull. Then she had to fight with the school, after that recommendation, to actually accept him. Now he is excelling. He should be in year 10 now.

Mr Chan: I think disability is not something we can avoid addressing. We are all able and disabled; it is just that it is more obvious with some of us. It is not something to be afraid of.

Ms Gotlib: As a mum of a child with significant cognitive disability, it has been really hard to access an education. Now he is okay. He is going well. But, particularly in terms of his primary school years, it was really hard to access an education where he actually learnt. He started off his schooling career at an autistic-specific school. Obviously, it has been a big journey for me as well. He had a fantastic preschool early education experience—absolutely fantastic. At the time, we thought the best thing was to send him to the autistic-specific school. He became very depressed there because he was not enriched and extended through his schooling environment.

I remember the endless advocacy that I had to do in terms of asking them to actually provide him with an education program that would challenge him. They kept coming back to me saying that I needed to come to terms with how disabled he was. I said, 'I think he's actually bored and down,' and everything. I can remember vividly the day they called me in after school because they wanted to show me how truly impaired he was. In front of him they went through that they had done a maths assessment. They would show me that he was not capable of the most basic tasks. They said he could not even match shape to shape: 'We got him to put a knife and fork, and he could not even do that.' I said: 'That's strange, because that was his thing at kinder; he used to set the table for lunch. I think there's something else going on.' Adam was getting really upset and kept putting the task in the finished box. I do not know if you have seen the finished box. They said they would try to get him to do it now, and he kept trying to put it in the finished box. They were adamant that this was an absolute indication that he could not understand the task. He was getting more upset because I was angry. So he put it in the finished box a few times and then he got the whole thing and the finished box and put it in the bin. We ended up moving him because he got more and more clinically depressed because he was not enriched and extended in his school environment.

The next school he went to—another autistic-specific school—asked me why he needed to learn how to read. Why did I want my child to learn how to read? His educational program was put in his bag on a hook. Throwing a ball—I can remember showing it to a very strong advocate, who you will see later this morning. She thought I had done it as some joke where his whole half year was to put his bag on his hook, put his lunchbox in his bag after lunch, washing his hands 20 times—things you teach your kid at home. But there were such low expectations.

We finally moved him in grade 2 to his local primary school for a range of reasons, and he was given the opportunity to learn to read and write. The principal quips that it helps if you are taught, and it is true. He was never taught. He has got very low literacy. He has got significant developmental delay—I know that—but he has functional literacy and numeracy. I do not need to justify why he should be able to learn how to read and write. His world is greatly enriched through his learning but he was denied the opportunity because of these assumptions that someone with a cognitive impairment should not learn. It was disgraceful. I know that, as I will tell you later this morning, his experience is mirrored by thousands and thousands of children, and it is not okay.

CHAIR: Mr Dickson, you said earlier this morning that you had had a really good experience at primary school and your high school now is a good experience. Did both of those schools—your primary school and the high school you are at now—have a lot of children from different backgrounds? Is that the reason they are inclusive? Why would you say they are inclusive and it has been a good experience for you?

Ms Gotlib: Clifton Hills Primary School is an exclusive kind of government school that attracts very highly educated parents. There is a lot of out-of-region enrolment in that school. It has a very strong, structured academic program. Danny, you could talk about Fitzroy high and diversity.

Danny Dickson: From what I have seen, they view diversity as a positive thing, not a negative thing.

CHAIR: So it does not matter who you are; you are welcome at that school. Is that how it feels to you?

Danny Dickson: Yes.

CHAIR: Are there kids there from all sorts of different backgrounds?

Danny Dickson: I would say so.

Ms Gotlib: Mind you, Thornbury High School is well known for its diversity of culture, sexual identity et cetera but they were phenomenally bad at disability. I think school leadership has a huge part to play in it. A school needs to value diversity but also see disability and not assume it is a negative and a burden.

CHAIR: So the first high school did not value diversity in all of its students—perhaps in some but not all.

Ms Gotlib: Yes. I remember having a conversation about why there was a table in the canteen which my older son had alerted me to. It was for the kids from—I do not know what you call it—the special education unit, because they had a unit there from a special school. I was told by the principal that that is what they like; they like to be by themselves. I asked him if they had a special table for kids of different sexuality or other differences. I offered a lot of educational opportunities and recommendations, but they were never taken up.

Danny Dickson: It begs the question: why was there an isolated building at all at Thornbury?

CHAIR: You have spoken to us today very strongly about culture change, and we have heard that at other hearings. It is really important for us to be able to understand particularly from your perspective what that really means, because you were in one high school that said it was diverse but really did not accept you but this second high school does. What is that difference about?

Ms Gotlib: There is also the messaging to the other students. I can remember my older son saying to me, 'Mum, I don't want you to go really mad at the school'—because I'd be embarrassing yet again!—'but what is a "croxton"?' I said, 'What are you talking about?' A 'croxton' is from the name of the special school that had a separate learning unit. He said people were talking about the kids that are the 'croxtons'. He said: 'I see that they're bullied and laughed at. I can see that they're kids like Adam'—his other brother—'and no-one has ever talked to us about these kids. We don't know their names. Sometimes they just appear in cooking classes or whatever. I'm scared of them. I feel bad because I don't know the kids. I don't know anything about them and they just appear. I see that they're tormented. They're laughed at. They're ridiculed. It's horrible.'

Senator RICE: Thank you for sharing your stories with us. I found them really moving. In reading the submissions as well, I was really shocked by the poor treatment that you and people with disabilities have received. I wanted to continue that thinking about the good schooling experiences you have had. Where there has been a good culture, what have been some of the things that the school leadership has done with the rest of the school community to build a good culture?

Mr Garner-Williams: I think integration, not separation—further on to what Danny said. They have integrated us. They have shown the other students that disability is not scary. We have become part of the team, if you want. When you are in a classroom and you are in the same uniform and doing the same things, you become like a team. You lunch together. You play together. You are not outside the box. It just makes me a bit emotional to discover that there are so many people out there that are outside the box. I remember trying to teach a peer of mine who I am still in touch with who was at my special setting school. They would just give him a calculator to do his maths on. I said: 'Greg, you can do this in your head. Try and do it in your head. Use your fingers; don't use your calculator,' because he is not going to be able to carry a calculator around for the rest of his life to make sure he has got correct change. He is going to have to use his head. It is weird that it takes me and not a teacher to teach someone that. Do you know what I mean?

Senator RICE: Mr Dickson, what about your schooling experiences? Have there been things at the school to do with the other students, for example?

Danny Dickson: They do not actually do anything negative, and that is kind of what makes it positive.

Mr Chan: I think it is when people at school see us as individuals and that we are good at some skills like photographic memory, visualisation and creative things and can make a positive contribution.

CHAIR: Thanks very much for coming today. It is particularly important for the Senate inquiry to hear firsthand of your experiences with the education system, so we value the time you have taken this morning and your evidence this morning. Thank you very much.

Mr Garner-Williams: Can I ask a question?

CHAIR: Yes.

Mr Garner-Williams: When you are done with the actual interviewing of everyone and everybody giving evidence, what will be done with your findings?

CHAIR: We write a report and that gets presented to the Senate. No doubt most of the senators here will speak on that report. Then it is up to all of us to put pressure on the government to make the kind of changes that the report recommends.

Mr Garner-Williams: Thank you.

BRIDIE, Ms Winnie, Information and Policy Support Officer, Children with Disability Australia

GOTLIB, Ms Stephanie, Chief Executive Officer, Children with Disability Australia

[09:46]

CHAIR: I now welcome Ms Stephanie Gotlib and Ms Winnie Bridie from Children with Disability Australia. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. The committee has received your submission. I now invite you to make a short opening statement, of no more than a few minutes, and at the conclusion of your remarks I am going to invite members of the committee to put questions to you.

Ms Gotlib: Children with Disability Australia is the national representative persons organisation for children and young people aged nought to 25 years. We thank the Senate inquiry for the opportunity to appear today. CDA has 5,200 members nationally—which is growing all the time—with the majority being families. CDA is inundated with concerns regarding education in relation to children and young people with disability from a broad range of ages, jurisdictions and backgrounds.

Presently, students with disability in Australia can expect to have poor education experiences. As we have heard throughout these hearings, and CDA hears daily, students with disability routinely experience discrimination, lack of resources, lack of expertise and a deeply entrenched systemic culture of low expectations. Students with disability are also experiencing disturbing rates of bullying and reported incidents of restraint and seclusion are becoming much more frequent.

CDA does not deny that there are good pockets of education practice, but it is just not right that this is the exception rather than the norm. I do not think I know of one child with a disability, including my own, that has not had to have significant compromises in their education experiences. To have any chance of accessing your basic education rights in Australia, students with disability must rely on fierce advocacy—usually by families and the stars aligning. Usually, the magical combination is also dependent on a strong school leader who is unwavering in their commitment that all students should access an education. The chance of accessing a quality education when you are a student with a disability is likened to that of winning the lottery.

At a time when as a country we are a leader in introducing one of the most significant social policy reforms, the National Disability Insurance Scheme, which at its very heart recognises that people with disability should be afforded rights to social and economic participation in the community, it is absurd that this groundbreaking social reform sits beside our education system, which CDA believes is failing students with disability big time. The success of the NDIS will be greatly diminished if we do not deliver effective education reform for students with disability.

It is time for the message to come clearly from our political leaders and the broader community that education for students with disability is broken and there is an urgent and critical need for reform. There have been so many inquiries—and we are very grateful for this inquiry—but we want action. There are no clearer responses than the direct experience of students with disability reflected in the 219 examples given in the CDA submission—and we could have given more. As you can see by the size of our submission, it is significant.

CDA believes a national plan should be established in relation to education and students with disability that has a very clear vision with aimed and measurable outcomes. We have got a lot of reform on the table at the moment—there is a lot of talk around a disability loading and data collection—but I am not clear what we are aiming to do through that reform. I know we are aiming to improve the education system. But how? And how are we going to measure it? This national plan should align with broader human rights obligations but should also provide a pathway to creating a fundamental cultural shift so that students with disability are welcome and valued members of all school communities. Those three witnesses we saw first up are shining reasons why. For goodness sake, look what we are potentially missing out on—and the damage we are doing too with those amazing young people and how traumatised they are through their school experiences. The plan must include a time line for reform and strong political leadership. I am sick of hearing people say how bad it is. So many people tell me they go to their local MP or other community leaders and people tut-tut. We need some action and we need some real reform that is going to make a difference on the ground for these kids with disability.

CDA sincerely hopes that this inquiry inspires action with a clear purpose and time line that will see students with disability afforded quality education experiences and outcomes and that they are clearly acknowledged as valued learners who enrich the Australian community.

CHAIR: Thanks for your excellent submission; I think that if we adopted it all we would end all the issues that we see in the system currently in the comments from parents and students. As someone fairly new to this

area, what surprised me was the number of submissions you have put in and the number of advisory committees and national forums you have participated in. You asked what is happening now—and I was going to ask you what is happening now! You are not sure what is happening?

Ms Gotlib: In relation to which part?

CHAIR: At page 7 and 8 of your submission you list all the advisory committees and national forums and all the submissions you have made. My first question is: was your voice heard? I guess the answer to that is no. Secondly, what do you think is happening with disability education now?

Ms Gotlib: My understanding is that they are still working on the disability loading. There is one in place at the moment and my understanding is that it is based on existing levels of inadequate provision. But I am not sure of the time line for the introduction of that and we keep getting told it is within the existing funding envelope. I absolutely think there is an unmet need here and funding is inadequate. But I think we need to look very carefully about how we target the funding; it should be done on evidence based practice. I am not quite clear on the time frame. I am not clear what is happening with the data collection for the loading. What is going to inform the disability loading? We have got the national collection of consistent data for students with disability, and I presume that will be the major informer of the disability loading. But what do we want to do with it? What are our outcomes? Educational outcomes for students with disability are very poor; they are shameful at every level. Look at year 10 completion, year 12 completion and tertiary completion—and I could go on and on. What are we trying to do? I know there is a state-Commonwealth divide, which makes things tricky, but to be honest I do not care. I think it is absolutely shameful that these students can be continuously overlooked at a time when we are banging on about how youth need to contribute. Youth want to contribute but they are being denied life opportunities because the education system is not meeting their needs.

CHAIR: So we need increased funding and a clear view of what is going to happen in the future. The issue of culture change keeps coming up and it is in your submission. Also in your submission is a view that we heard last week in Queensland about schools having plans. Do you have a clear view on how we get the culture change that ensures all students are accepted as learners and accepted in the school environment?

Ms Gotlib: We obviously need to do things around pre- and post-qualification training of teachers. That needs to concentrate on the benefits of inclusion and it obviously needs to have a specific focus on disability studies. But I also think that needs to be enshrined in education authorities and also in people who make decisions—ministers and other MPs as well. I think if we are going to get serious we need to have some very clear links to funding—that if you do not do this stuff you are not going to get funded. So show your inclusion plan and make sure it ticks off on and meets appropriate standards based on evidence. Show what you are doing to ensure that students with disability can access your school when your school has the capacity to adequately meet their needs. There needs to be some consequences if you do not do that. At the moment, there are not really any consequences. We can all go to the Federal Court—you will hear shortly about how long that takes; and I have gone down that path as well—but it is too late. There are no clear consequences. As a parent—and you know that I have that hat as well—I know that the path is long and it is usually very difficult to get any effective outcomes. But we need to have some systemic consequences. I do not think it should be all 'stick', because we absolutely need to help people learn that students with disability enrich school communities and not position them as a burden and cost. But at the moment there are no consequences if you do not do it. We have the disability standards for education—great, we have had this education campaign; it is wonderful because people are more aware of it—but they are a marker of discrimination, not of best practice. So there needs to be some very clear consequences.

CHAIR: In terms of teacher training, you heard the evidence from the Autism CRC in Brisbane last week. They were talking about an inclusive agenda. Are they the sorts of inputs you want to see into teacher training or do you think we need to go beyond that?

Ms Gotlib: I thought their stuff last week was gold—

CHAIR: I did too, but I was a bit scared to say it!

Ms Gotlib: In terms of universal design. The evidence is very clear that the best outcome for students with disability is inclusion. I am not saying students with disability do not learn in a segregated setting, but what the CDA would like to see is that parents are afforded real choice; I think the outcomes and the decisions will speak for themselves, but they need to be afforded real choice. What we are seeing at the moment is that many families are choosing specialist or alternative settings, home schooling, distance ed et cetera.

CHAIR: They are not really choosing, are they?

Ms Gotlib: They are not choosing; it is not a choice.

CHAIR: You are forced to.

Ms Gotlib: Yes.

CHAIR: If schools had a policy would that start to change access? Some people have said we need to have an ombudsman or someone you can go to. Because what you want is issues resolved, not issues caught up in the court system.

Ms Gotlib: Absolutely.

CHAIR: Some kind of advocate like that, would that assist or is that also too slow? If a school is not responding, how do we get a quick response? Because, also, you do not want to damage the relationship so that you have to take your child somewhere else. That is not an outcome—well, it is an outcome, but it is not a good outcome.

Ms Gotlib: I think that we need a clear complaints mechanism, a better complaints mechanism and a formal complaints mechanism. Unfortunately, at the moment, there are a lot of complaints. Hopefully, there will not be a need for one in the future if we fix the system. At the moment, there is not timely complaints mechanism and the path is well worn and predictable for people wanting to make a complaint; they go to their teacher, to the principal, to the region, to the head office, to their local MP, to their state MP, to the federal MP, to the ministers, to the Prime Minister and some might go to the UN but usually time has gone past, or they can lodge a complain with the Human Rights Commission. Time goes by. Often they are mediated, and often parents speak to us that those findings are often not followed through on. It goes round and round.

CHAIR: On and on. I note, also in your submission on page 23, under workforce capacity, you say that there are pockets of good practice. Indeed, we have heard some through evidence at this inquiry. Are they the sorts of good practices that are worth sharing? Are they such good models that we would say: 'This school has really nailed it. This is really what we are seeking to achieve'?

Ms Gotlib: I think that we need to define what 'good practice' is. I do not think that we have a good definition.

CHAIR: But are those schools the starting point for saying, 'This is really what good practice is'?

Ms Gotlib: I think so. I would like to see an audit of what we are actually doing in Australia. I do not think that exists very well for students with disability. For schools and practitioners that purport to do good practice, we need to say, 'Why', and 'Does it match up to evidence based outcomes?'

CHAIR: Because some schools are obviously are there, and some are not.

Ms Gotlib: Yes.

Senator McKENZIE: There has been a decrease in Bachelor of Disability studies et cetera and that specialisation within the higher education sector. Has that had an implication for the level of qualification and expertise out there in community and within schools? Is Australia known for its research in this area?

Ms Gotlib: I think that our expertise is in the direct experience. From my own understanding, there needs to be good pre-qualification stuff on inclusion and on disability studies. I get concerned when there is one or two units on disability awareness. I am thinking, 'Well, what does that mean?' Be alert not alarmed—I do not know. Understanding the experiences of disabilities is an ongoing process and I do not think that we are well set up at the moment. I talk about it all the time as being a journey; understanding that inclusion is a process and that people are going to make mistakes. It is whether they are willing to admit that they have not done something well and think, 'How do we fix that?' At the moment, we are in a situation in the system where people are realising that they are not doing things. They have got more awareness of the disability standards, but they are concerned that they are going to be sued. Therefore, there is no space to say, 'Actually, we don't really know how to go about this.' Some of this stuff is really tricky reform. Some of the children have extremely complex needs and so it is not easy reform. I think that it is some of the most difficult reform that we need to think about, but we have to have it. The consequences are just too significant. It is only a matter of time until there is really—we are seeing them now with the kids in the cages, but it is only a matter of time until a child dies or—

CHAIR: Just a really practical question. I was absolutely horrified to hear that students were on buses for four hours a day effectively and that they were not given nutrition or able to go to the toilet et cetera. I thought in Western Australia—and Senator McKenzie might know this—there are time limits for rural and regional students about how long they can travel on a bus. I just wondered why that same standard does not apply to a student with a disability. It is horrifying to read those comments.

Ms Gotlib: I know. You have picked an issue close to my heart from years ago. Yes, there are, and I know that there are those standards in Victoria, or there were the last time I checked. I do not know why there are these different standards for students with disability. I think it is blatant discrimination to be honest. When I was taking

some action with the Victorian government I suggested that the MPs might want to actually try that system out themselves where they travelled round and round in circles for two hours and they were not allowed to go to the toilet, and if they wanted to go to the toilet they could have a nappy or an absorbent towel—I was told I was being smart. But what is the difference?

CHAIR: Particularly where you said about the student that did two hours on the bus and the journey was 10 kilometres.

Ms Gotlib: Yes, I know that student well.

Senator McKENZIE: Does any state have a complaint mechanism?

Ms Gotlib: There is no timely mechanism for complaints. People can lodge a complaint—and the next witness will be better able to run you through that—but you just do not get a timely outcome.

Senator McKENZIE: Okay. I am not completely au fait with this sector either, but I took it from your earlier comments that there was no formal complaint mechanism.

Ms Gotlib: You can lodge a complaint about breaches to the act through the Human Rights Commission, but often they are not resolved there. It is not an easy process.

CHAIR: They would go to a conference, wouldn't they?

Ms Gotlib: Yes. You have to have a lot of things in place to actually go through that process.

Senator McKENZIE: We need a simple complaints process.

Ms Gotlib: That is accessible to most families—you have to be very articulate, very educated usually.

Senator McKENZIE: Someone other than Julian Burnside needs to be able to access that complaint process.

Ms Gotlib: Yes.

Senator McKENZIE: Or George Brandis, of course, to balance that up. We have been hearing a lot about teacher education and the importance of getting some really meaningful units in that pre-teaching qualification. As we go through the hearings I am getting a real sense that it comes down to, as Mr Dickson said, attitude and culture and, really, that comes from the leadership. I am just wondering why, when we have quite specific criteria about what makes a leading teacher, what makes an assistant principal and what makes a principal, the ability to get around the disability standards and the ability to not implement an act of this nation and that somehow you are allowed to be a leader in that context—I am finding that quite difficult to reconcile. Is there something around the principal class or becoming a principal where we need to be looking at prerequisites or something more than just doing a certificate II of disability standards—that there is actually a demonstration of practice?

Ms Gotlib: Or perhaps a two-hour online program about what the disability standards of education are.

Senator McKENZIE: Yes. Something much more meaningful than the tick a box—anyone with half a brain can tick that box—but it is about the practice of inclusion, not the knowledge of inclusion. Have you talked to the AEU or the ministers of education about how we can write that stuff into their role descriptions?

Ms Gotlib: I will have a think more about that question and give you more on notice. The immediate thing that comes to my mind is direct experience with children with disability. There is no greater teacher than a child with disability that gets into a principal's mindset. A school is greatly enriched by having a student with disability. I think it is at the heart of why most people are teachers when they see kids being enriched and extended through their education. It is really important that people have direct experience, that they speak to people with disability and students with disability and that it is seen as core business. I have met some great principals, but I have met some really bad principals as well who see it as being about where disability is positioned within the system and see the cost and the bit over there—usually, it is the integration coordinator.

Senator McKENZIE: Babysitting not education. That is the real—

Ms Gotlib: But the integration coordinator can be the teacher who has a 0.6 or 0.4 and then they have to get them up to point whatever. So we get that person and it is not seen as core business and it should be core business. I think the principal is absolutely important because they drive the culture of the school. They are integral in making the cultural shift, but they are part of a broader system. Disability needs to be core business. Every school needs to have the capacity to meet the needs of students with disability.

Senator McKENZIE: We have heard from principals, particularly last week in Brisbane, who have made miraculous changes within current funding envelopes; it does not matter which state. They managed to make it work—PD up their teams in a way that is making a real difference for those families and those communities. Then you hear other stories like we have heard today where it is this polar experience out there for families and young people. There must be something we can do within the teacher class. You talked about a concern about

being sued. Shouldn't there be the converse impact if you are in breach of the Disability Discrimination Act; you should be more concerned about breaching than you are about being sued for trying to implement it?

Ms Gotlib: Yes, absolutely.

Senator McKENZIE: The balance seems wrong. Do you have any comment?

Ms Gotlib: We have talked about it a lot. We need to do more from this inquiry—and I think you are right that we need to say how we change attitudes. There is the concern about being sued rather than the concern that you are not meeting a child's educational needs and that they are actually being harmed or denied an education. That that is secondary is of significant concern. Our country—and I know I am biased—is being denied so much by not educating this whole generation of kids, important kids who have huge contributions to make.

Senator McKENZIE: I would argue that irrespective of the contribution they make or the benefit society will get from them, it is more about our responsibility as a society to provide an education to every citizen and child within.

Ms Gotlib: I could not agree more.

Senator McKENZIE: A difference of focus, I think.

CHAIR: When people do not have enough information, they are always fearful. It seems to me that this fear of being sued also stems from the cry, 'We don't really know what to do here.' We have to free up that environment so people, as you say, are able to make mistakes and are able to ask for help. I am sure that the threat of being sued is a long way down the track. But it is, I think, a typical response that, when people are fearful and do not have enough information, they fear the worst. Is that a fair comment?

Ms Gotlib: Yes. I think teachers feel really ill-equipped to handle the complex needs of some students with disability. They need to have the space to say.

CHAIR: Yes. As a former teacher who has taught in the area of disability, I would be the first to admit that it was other people in the classroom whom I relied on to tell me what to do because I did not have any idea.

Ms Gotlib: There is a lot of assumed expertise in the education system. You get people—and I listened to some whom I would say are in this category and have been throughout these hearings—telling you things with great authority and it is not based on anything; it is not based on evidence. There is a lot of assumed expertise. For many families, we put a lot of faith into teachers and our education. So when you have a principal saying, 'For your child, this is the pathway and here's the sorting hat he's on,' many parents believe that.

CHAIR: Schools can be intimidating places for parents, that is for sure.

Senator SIEWERT: I want to go to the comments you have made about the NDIS and the discussion that was being held at the last hearing, which you were at. I understand that there is a trial now happening, and I will be asking the NDIA about this later. It seems to me the trial is only just starting and the rollout of the NDIS is supposed to be happening, but we are missing an opportunity here to make sure that we are getting some better outcomes in education through the NDIA/NDIS process. Have they approached you to be involved in any of the national discussions about how you get better outcomes for education?

Ms Gotlib: We have had really limited input. We think the education-NDIS interface is absolutely critical. We are trying, but there are two of us. We have previously got funding from the education department but that got stopped this year because they said they had no more special projects for us to do, which is interesting in this time.

Senator SIEWERT: Does that mean we have solved the problem!

Ms Gotlib: I do not know—they do not need our input any more.

Senator McKENZIE: There are no special projects.

Ms Gotlib: We have had limited input; we are trying, with our capacity, and it is certainly something we will pursue vigorously after this inquiry. We want to have more, and we think we are well positioned to have input into that interface issue. We have to be very careful, though—I do not think I need to tell you this—because disability supports are not going to provide kids with an education. We have to be clear that the education system has itself improved. These kids need teaching. They need to be able to access educational opportunities.

Senator SIEWERT: One of the things I understand they are doing in the Barwon trial is the joint plan. I would be interested to hear your thoughts on whether you think that is going to be effective.

Ms Gotlib: I want to examine it more. My initial concern is that your NDIS plan is a very personal thing. I get concerned for kids' privacy. It is already so compromised—it is compromised in terms of what the school needs to know about the child and often their family. It is very compromised. Some of the stuff that you have in your

NDIS plan you might not want your school to know. I get that they want to reduce the assessment and the planning et cetera and in some ways they need to be coordinated but I do not know whether they can be the same plan. Your educational program is very different from your services and supports.

Senator SIEWERT: I absolutely agree that we cannot put too much emphasis on NDIS providing everything. We have had some issues, particularly with the South Australian trial, and because it is focused on young people, on children, where you were coming up against barriers with the education system—access to the education system—and then it was all put back on the NDIS. NDIS can then do basic things like ramps in schools.

Ms Gotlib: It is kind of good because so many kids do not have individual education plans, and a lot of them are a joke. It is kind of good in terms of there being scrutiny, and there will be a plan, but I think we can do it in other ways. I am very mindful of kids' privacy. There is lots that has been put into what these plans can include, and I have a 17-year-old who reminds me all the time of this.

Senator SIEWERT: Going back to the comment you made earlier, there is a requirement that they have a plan—not necessarily a joined up plan. So you have to have an education plan requirement.

Ms Gotlib: Yes, and there is not in every state a requirement for every student with a disability to have an education plan, which is appalling.

Senator SIEWERT: I know we are going to be pushed for time. I have one other question around data and the comments you make in your submission about the information that we do not know and then the point about the nationally consistent dataset process. There were comments in the submissions we have had today and comments previously about the fact that it does not reflect best practice. I am wondering if you have any comments on that.

Ms Gotlib: We do not have a lot of data, and I think we have outlined that very clearly in our submission. We need better data. It is ridiculous. There is no defined problem while there is no data. I think the consultation process with families around the nationally consistent collection of data has been very poor. I am concerned for schools that the emphasis is solely on them to provide this data. There is an obligation to consult but it is not happening in practice. I thought the response in our survey was really telling. There were really high statistics of people who did not know what it was and know if their child was included, let alone know what data they have included.

Senator SIEWERT: So you would support the comments that we heard last week about the dataset should not be used as an indication of best practice?

Ms Gotlib: I think we need clarification because I have heard from schools and a whole range of people that they are not sure if it is actual level of need or actual level of current provision. I know we need better data on what is currently provided, although it is a bit strange that we do not have that. I would think the states and territories would have that data since they are paying out lots of money for students with disability.

Senator SIEWERT: Thank you.

Senator RICE: Given that we do not have a good idea of what is best practice here and we do not have a good audit of what the situation is, do you have any knowledge of other parts of the world that Australia could use as a model where it is being done better than here in Australia?

Ms Gotlib: I ask this question of academics who I come into contact with quite a lot. I can take it on notice and get some further advice for you, but I think there are pockets of better practice. Nothing automatically springs to my mind.

Senator RICE: There is no standout?

Ms Gotlib: I would have to have a think about it.

Senator RICE: Okay. Thank you.

CHAIR: Thank you very much for your appearance today and for providing the students we had the opportunity to speak to this morning. We do appreciate your efforts. Thank you very much.

PHILLIPS, Ms Julie, Manager, Disability Discrimination Legal Service

[10:24]

CHAIR: I now welcome Ms Julie Phillips from Disability Discrimination Legal Service. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. The committee has received your submission, thank you. I now invite you to make a short opening statement of no more than a few minutes. At the conclusion of your remarks I will invite members of the committee to put questions to you.

Ms Phillips: Thank you for asking me to come this morning. I want you to imagine, if you would, an organisation with thousands of employees and franchises across the state that is charged with the great responsibility of providing a high-quality product of utmost importance to people. I want you to imagine in this quest that they have few policies and procedures and that those that they do have are optional; that there is no requirement for a consistent approach; that the provision of evidence on how to actually produce this high-quality produce is withheld from the manufacturers in the franchises; and, despite millions of dollars to the franchisees, no-one checks the product for quality, no-one actually looks for any evidence that the product is being produced and in fact it is not produced or produced in such a haphazard way that it has no meaning for some people.

This is really how one can describe the Victorian Department of Education in its approach to people with disabilities or students with disabilities. You were talking before about culture—and I am abandoning my opening statement a little bit. Culture comes from the top and it comes from the high leadership of organisations. The jury is in on how well the Victorian Department of Education is providing education for students with disabilities. Apart from simply the number of complaints from students and families, you have the Victorian Auditor-General report and the Victorian Equal Opportunity and Human Rights Commission *Held back* report. I suggest to you that, if those processes were done again today, you would have exactly the same findings that you had three years ago.

Why are the people responsible for those outcomes still in charge of the Department of Education? If you want attitudes and cultures to change at schools, you have to have strong leadership and you have to value students with disabilities. What message does it send about the value of students with disabilities if you do not resource the teachers and the principals at schools in terms of supporting students with disabilities? What message does it send about their value when you have children with complex communication needs and you will not give them the equipment they need and that you give speech pathology in special schools in groups so the highest denominator or the lowest denominator are receiving a level of speech pathology is not optimal and people do not obtain functional communication skills? What message do you send all your schools when you say, 'We refuse to prohibit the seclusion of children with disabilities?'

The fact is that students, teachers and principals need to be told very clearly that these students are valued, that we expect them to actually obtain an education, that we want proof that they can get education and that, 'We will support you in whatever way is required and give you the resources to do this.' It is only then that we will have some start on the road to equality. But we do not have any will at the top of the Department of Education to do these things—and why should the Commonwealth give them any money at all when this is the case? It is part of their core business. In no other private organisation would the leadership survive if they had the outcomes that the Department of Education have. Even, dare I say, the Department of Health and Human Services, which as you know are responsible for some very poor practices, including the abuse of its residents, have policies and procedures that they expect people to follow. They require plans that are written, and are not just in people's heads. Until we can influence the top, this problem will continue.

CHAIR: Thanks, Ms Phillips. I have a question that I meant to put to CDA but we ran out of time. The Catholic Education Commission appeared before the committee in New South Wales, and I note in the CDA's submission to this Senate inquiry there is comment after comment from parents that they have faced the same discrimination in the Catholic system as parents have faced in the public system and that it does not differ across particular states. You said that the leadership must change, but when the heads of the Catholic Education Commission were before the Senate inquiry they were at pains to tell us that they were very inclusive, that they had plans and that schools had to be responsive. We have not had the state education departments before us, but the Catholic Education Commission came before us and were at pains to tell us that they had a framework and that they did not tolerate any school that did not accept children with disability. Yet we hear from parents that the same issues being experienced in the public system are also in the Catholic system. So what else needs to happen if the leadership are saying to us, 'Look, we are talking the talk,' but they may not be walking the walk? How do we interrogate that more fully? What else needs to be done?

Ms Phillips: Look, the sort of evidence that you received then is the same evidence that you would receive from the Victorian department of education and the same evidence that you would receive from the leadership of Independent Schools. To be quite frank, if a number of these people were faced with being subjected to competition and consumer acts for false and misleading information, they would not be leaving the courts. All of them can show you the frameworks and all of them can show you the glossy brochures with the children smiling. The fact is that most of these policies and procedures are optional and are not even mandatorily required to be read by employees. You need to dig deep. With respect, you cannot believe anything the leadership—

CHAIR: I was not suggesting that we believed it; I am saying that this is what is we were told.

Ms Phillips: Yes, and I would say, 'Show me the money,' because there is easy evidence that you can require to show that people are being educated—that they have functional literacy and numeracy. I am not talking about school reports where you have C for every grade. You can have standardised testing, and there is a reason that some schools do not do that. It is that some parents are shocked to find out that, after years of their child receiving a C grade in their report, they are actually three years behind in literacy and numeracy when they see an educational psychologist or have a standardised test performed. So what are the figures on students with disabilities completing their education? What are the figures on whether children with complex communication needs have any form of functional communication whatsoever? What are the figures on the abilities of students with disabilities to get jobs? We know some of these things already, but because there is no requirement whatsoever to have any proof of even the use of money that is thrown into schools for kids with disabilities, people can say what they want. I would suggest that, like any other professional organisation in this country and around the world, you have to provide evidence that you are doing a good job. Why schools do not is a conundrum.

CHAIR: In a previous inquiry we heard from the VET system, particularly the public TAFEs, who do seem to have high numbers of students with disability enrolled in their various courses. Is there any evidence to suggest that TAFE does it better?

Ms Phillips: Students with disabilities that I have spoken to will say that tertiary education is often superior in some ways. I think the manner of respect that is shown to them is one thing. But I would not suggest that they are providing a high level either. In fact, some students I know have dipped out of school and thought that maybe they will have a chance of doing VET in a TAFE. They have not been able to do that, either, simply because they cannot read or write. I am not suggesting that every student, no matter how severe their disability, is going to go to university and become a neuroscientist. I am suggesting that the research says that even people with intellectual disabilities can learn functional communication when provided with evidence based programs. I do not see TAFE using those sorts of programs either, but I think that in some of those tertiary institutions there is more of a willingness to spend money on students with disabilities than there is in primary and secondary schools.

CHAIR: Thank you.

Senator SIEWERT: I want to go to the point about model legislation that you make towards the end of submission. We are talking about how you enforce this process, because you talk quite a bit about the standards, or lack thereof, and then talk about the Individuals with Disabilities Education Act of 2004, which is North American legislation. Can you expand your comments a little bit and discuss whether that is part of the solution you see about holding the states accountable?

Ms Phillips: Interestingly, before, you were talking about the fear of getting sued. I do not think there is a great enough fear of getting sued—recognising that that is your absolute last resort and sometimes arrived at after years of desperate attempts at negotiation. Our Disability Discrimination Act is rigid and unhelpful. There have been comments made by Federal Court judges about how unhelpful it is. The disability standards are broad, vague and fairly useless. Talking about leadership, the manner in which they were reviewed in recent months has been terribly disappointing, with approximately 85 online submissions for the whole of Australia. And I have no idea what is going to happen about that.

The other thing is that when you have very vague legislation it is then open to interpretation, and departments of education are very clever in that they will pick and choose which cases they will run. If they have conservative judges that they know will make a decision their way, they will run a case, and they will settle cases that come up before progressive judges. I think that complainants have been a bit slow in understanding this strategy, so we have had some very bad case law, particularly in relation to the standards, which has rendered them almost useless. On the other hand, the IDEA has information in it which is unequivocal. It is interesting having gone over and spoken to some of the disability lawyers over there because they still criticise their legislation, which is ironic when it is compared to ours.

In terms of the descriptions in our laws about reasonable adjustments, and what 'reasonable' means—arguments lawyers can have for days—the IDEA has provisions in it which are absolutely explicit and which one cannot get away from. For example, you must provide a functional behaviour assessment for a student whose disabilities have caused suspension from school. You must have what we call here a student support group formed for all students with disabilities. And not only must you have this group, but also how it runs and who must attend is in the law.

By contrast, we have these policies and procedures from the department of education which are not even mandatory, and so nobody follows them whatsoever. It is full of: 'You may do this. You can do this,' but you do not even have to read these policies to put them into place in the first place. You cannot wiggle out of your responsibilities very easily under the IDEA. You have also got a right to a free public education. There have been class actions there where whole schools, mostly in disadvantaged neighbourhoods, have not been able to show that they have taught these kids. I do not want to give the impression that I am pro-litigation. What I am saying is that if you do not have people in charge of your departments of education, or your catholic education, that have goodwill and are intent on providing high-quality education for students with disabilities, you need something to force them to do it. And if you have got something that is so vague that it is almost unusable then you have got nothing in the end, because you are solely reliant on these people who have their internal complaints processes that do not work. That is why I hold the IDEA up, because it has explicit provisions that you just cannot get away from.

Senator SIEWERT: I understand. Thank you for expanding; that was really useful. Do we know whether that is then resulting in more inclusive environments in schools, that the culture is changing and that we are getting better outcomes for students?

Ms Phillips: I am sorry. Are you saying: in North America do they?

Senator SIEWERT: In North America, yes, with that process—

Ms Phillips: I cannot really tell you the answer to that. You have best practice and worst practice over there. I do not know if you have heard of the Judge—I think is the Judge Rotenberg school—where kids with autism are subject to electric shocks to change their behaviours. That is an example of the worst. A court set that up, by the way. I have also had families that I know of that have gone over there, and to the UK, because they are desperate to get an education for their children, and they have some high-level autism expert schools over there with highly qualified people providing evidence based practices, which have changed the lives of some of these kids with disabilities.

Again, I do not understand how you could have best practice and worst practice. Sometimes it is about whether you have got the ticker, if you like, or the energy to sue. You have more chance of having, if you do decide to sue someone, your right to education upheld. Generally—I do not know if this is because of our geographical position—our understanding of the use of best practice in science when it comes to education is just not here. So some of our practices, unfortunately, are quite laughable in comparison.

Senator SIEWERT: Part of the point to take out of that is: if you have got a more powerful act it actually empowers parents to be able to have a successful outcome if they do take legal action.

Ms Phillips: Yes. I think it also worries educators more, because it is a risk—it is about risk management—whereas, here, there does not seem to be much concern about it.

Senator SIEWERT: The other point you were making earlier was: 'Why should the Commonwealth give funding if the states aren't doing their job?' In the ideal legislation, are there processes to enable the funders to enforce a level of accountability?

Ms Phillips: The whole system there works very differently in terms of their districts and their funding. I will tell you where we have a problem. We have the Disability Discrimination Act and that is really the one to use, because you then do not have to go to the tribunal and use the state act. There was a challenge—which you might have read, but you probably would not have—in *The Age*, a couple of years ago, in a case called Sievwright, where the department of education's view was that the Disability Discrimination Act, constitutionally, could not apply to them and tell them what to do in terms of whether they should employ an aide or a speech pathologist. Had that case been successful, the department would have run this case. So what you have got then—whether they would have succeeded or not is beside the point—is them saying, 'Constitutionally you have this divide between federation and state, so this law cannot apply and force the state to do certain things.' I believe that everything is set-up a little differently in the states and so the funding and everything is completely different. There is not a good parallel there to give you.

Senator SIEWERT: In terms of the points that you make about teachers' aides not needing to be qualified, in your experience has that resulted in significant barriers to a student's education?

Ms Phillips: Yes. It has also resulted in a level of brutality as well. The theory is that an aide must be supervised by a teacher at all times. Now, that does not happen. Often, the aides take the student out and work with them. That might be okay if you have a high-quality individual education plan and you have measurable outcomes and you know what you are doing. The department of education's formal position is: you do not even need to have these plans in writing; it is in the teacher's head. It is a bit like Chinese whispers: that teacher will talk to that teacher, who will talk to that teacher, who will talk to the aide. Aides are stopped from doing a good job because of that. The use of aides, just in and of themselves, whether they are qualified or not, has been the subject of research and in many cases has no value. If you have unqualified people dealing with the most complex of students, this is not going to have a good outcome and it does not have a good outcome. They are mostly just babysitters. Some of them actually do the work for the kids, and some of them chat to them and have a nice time. There is no determined way in which they work.

Senator RICE: You talked a lot, obviously, about how the system in terms of legislation, regulation, enforcement, follow-up and making sure you are getting good outcomes is not happening. If we changed things so that we did have those good systems, I want to explore how much it is an issue of that legislative or regulatory framework and how much is then resources needed to implement that better practice.

Ms Phillips: The resources are terribly important, and it is unfortunate that you have to rely on threatening people to get a good outcome, which is why I go back to the leadership and the importance. When these schools are not resourced to do what they need to do, it makes it almost impossible. When you have, for example, special schools—and I am not in favour of segregated education, but let's look at the reality now—you have a group of kids with complex communication needs in a class. At the moment they bring a speech pathologist in once a week and they have a little group lesson, when what should be happening is that each of those kids should have a comprehensive speech pathology assessment, with a communication method determined, the necessary equipment purchased and a communication support worker, in some cases, employed to work with that student to not only teach them how to use the method or the device but then make sure that they are able to use that method in the classroom as do their peers who can speak. That might require—and it does happen in the US—a one-on-one person for each student with a complex communication need, and that student will grow out of that device sometimes, and then technology changes and this will have to go on and on. You will have to have a communication plan with goals, strategies and measurable outcomes. You will need to take data on what is being reached.

This requires a lot of work, and you will not get those resources in a special school. You will get a ratio of two to eight: a teacher and an aide for eight. So, to give the staff credit, we are asking them to do the impossible at times, apart from the fact that they do not even know what to do. Special schools sometimes do not even know what an augmentative and alternative communication system means. If you do not give them the resources, they are not going to be able to do it even with the best will in the world, so you need a multi-parallel strategy with all these things: training and resources, cultural shift, and employment of people at the very top who are going to push this through.

Senator RICE: Have you done any work as to what a ballpark figure might be for the extra level of resourcing that would be needed to run a good system?

Ms Phillips: I honestly have not, but I could guesstimate how many millions of dollars they spend on their legal department. If you ask them to tell you how much they have spent on confidential settlements and the biggest private law firms in town, you would get an interesting figure. Some of this is about reshuffling money and not even bringing the IBAC inquiries as to all the money wasted—I cannot remember where it went. It is not all about money that does not exist coming in; it is about whether you want to put your money into an aggressive, adversarial response to parents or into the school commissioner, the external complaints mechanism, where you might actually have a chance of having your complaint resolved. But, if you have people who have goodwill at the head of your organisation and someone wants speech pathology for their child, you would just provide it for them. It is not as if they are asking for a gold ring. What is more basic? It is a radical reform of the whole system, but if you had people with goodwill in charge you would not need to spend all this money on litigation; you would be putting the money into supporting kids, and then we all know how that flows to the Commonwealth as well—less money on disability support pensions et cetera.

Senator RICE: A much more effective and positive way of spending the money.

Ms Phillips: And human rights—productive members of society and happy, contented people who are not in poverty, contributing to society. We all know—we have all read the reports again and again.

Senator RICE: Thank you.

CHAIR: I just want to explore a response that you gave to a question Senator Siewert posed. You talked about heads of departments with goodwill, but the problem with goodwill is that it leaves. Surely departments then need this cultural change, which is checked and ongoing. Do you have any views about how you change that?

Ms Phillips: Yes. Obviously, firstly, the very person at the top has to have an interest in that. It was very disappointing to see on the Community Affairs References Committee website a public response from our new secretary, Gill Callister, who described the behaviours of children with disabilities as 'violent and aggressive'. This is the sort of attitude that does not help, so we are in deep trouble here—she is new.

But with KPIs: if you were in any other sort of organisation it would be part of your position description that you would have to meet a certain number of KPIs—your boss, the person at the very top, tells you when you are hired, 'This is how you will be measured in your job: complaints go down, educational outputs go up.' This is the way that every other organisation works. I think that we do students with disabilities a disservice when we do not expect that from the Catholic Education Office or from the departments of education.

CHAIR: There have been a number of calls from some previous Senate inquiries that we need a quicker response mechanism.

Ms Phillips: To complaints?

CHAIR: Yes. Obviously with complaints, we know if we go down the legal channel they are drawn out because of due process and so on. Do you have a view about how we could have a quick response to issues?

Ms Phillips: Are you talking about a legal response, or a general response or both?

CHAIR: I am not sure I have a view. But we have heard over and over at this inquiry that parents face enormous struggles just simply to get their child even enrolled at their local school, which we all know is required by law to take them. How do we resolve those issues quickly?

Ms Phillips: I have a two-pronged answer. Firstly, the reason that principals do not want to enrol kids with disabilities is because they know it is going to be a financial drain and that all it is is 'trouble, trouble'.

CHAIR: But in an ideal world? Let's assume we had better funding. But culture change is much harder to achieve—even if the funding were there tomorrow we would still have issues.

Ms Phillips: Yes. I think there needs to be an external complaints system right now, because—

CHAIR: External from the department?

Ms Phillips: Yes. If you do not want to make a legal complaint you have to go to the principal and then, as Stephanie said, to the region and then to the deputy secretary et cetera before you can even go to the ombudsman. They just back each other up all the way back until you get to the ombudsman. But if you could go to an external mechanism straightaway I think that would save time, because sometimes you are waiting months for your response. And sometimes many parents are absolutely traumatised throughout a lot of their student's enrolment, and they are scared. Some of the time it takes might be their fault because they are worried about, 'If I take it to the next step, will get worse?' But if there is going to be a complaints mechanism I think it needs to be external and it has to have time limits on it.

I think what also probably needs to happen is that lawyers need to start going to the Federal Court and, if it gets that far, asking for interim injunctions about some of these things so that we can have the needed support put in straightaway without having numerous legal challenges from the department of education.

CHAIR: That independent advocacy/legal service—would that be a CLC, or do we need to set up a new body? Do you have thoughts around that?

Ms Phillips: I think it should just be something like an ombudsman, for example, or a commissioner with powers.

CHAIR: Yes.

Ms Phillips: Hopefully, you will not need a legal centre to be involved at all if this works well; it is obviously a far more attractive prospect.

CHAIR: I know that where we have commissioners in other areas in Australia, that they can recommend but they do not have real powers. Do we have examples in Australia of where we have commissioners or ombudsman who actually have real powers to make that change right down at the school level?

Ms Phillips: I cannot speak about the other states—Stephanie would probably know. I think that probably the closest—no, I do not know that we do; I am thinking on my feet here. The Disability Services Commissioner does not. I was speaking to the ombudsman the other day; they have a lot of investigatory powers, but they can only

make findings—they cannot direct. And I think this is a vital because, apart from name and shame, if you cannot direct there is no point. Again, it is a toothless tiger and departments and schools know that so they just carry on.

CHAIR: Yes. I asked you the question because I could not think of a body in Australia that had those directive-type powers.

Ms Phillips: No, I cannot think of one. It does not mean there is not, but I cannot think of one.

CHAIR: Not readily at the forefront of our thinking—

Ms Phillips: No.

CHAIR: so probably there is not.

What struck me as obvious in your submission was your echoing of what everyone else is saying—where you put together the sorts of cases you had taken. It is the same issue that we are hearing over and over, so it must be incredibly frustrating for everyone involved that these issues just keep on going and there is seemingly very little resolution to them.

Ms Phillips: Yes, and if you look at the *Held back* report, which I refer to often because it is so comprehensive, and if you look at its recommendations, we are still waiting. And some of them are so obvious. Again, when we talk about culture and leadership I think to myself, 'What sort of people force a family to go to the Federal Court to get speech pathology?' It needs to be changed.

CHAIR: Yes.

Senator SIEWERT: I just want to find out what the key things are that you would act for in education and in trying to achieve better access for students with disability. What are the key things that people come to you about?

Ms Phillips: Do you mean the student's parents?

Senator SIEWERT: Yes.

Ms Phillips: Even though it is not something that is particularly grounded in research, a lot of it is for integration aides. The truth of the matter is that whether we like it or not that is the common response from departments of education, because they can share them around.

In the last few years it has been the issue of challenging behaviours, and suspensions and expulsions have soared. That is a significant issue, again, with no evidence based response from the departments. So, perhaps with better diagnosis, we see a rise in disabilities such as autism, ODD and ADHD. These seem to be the disabilities that raise their heads more and more these days. Twenty years ago we were fighting to have ramps in schools and sign language interpreters—not that we still are not fighting for sign language interpreters—they were the more bread-and-butter-type disabilities, if you like. But now it is different.

It is harder, because it is not as easy sometimes to pinpoint the answer. Where a ramp or Braille are easy, for example, with children with challenging behaviours it is a complex task and one not easily understood by teachers. Of course, there is no criticism there—why should they? But the support and the experts who do know about these things are not being brought in. I would say that this is the issue of this decade—cognitive disabilities and challenging behaviours.

Senator SIEWERT: One issue has come up a couple of times—in fact, it came up this morning, and I am not sure if you here then. We were talking to Mr Chan about his communication device. We have had quite a bit of evidence where schools have not allowed students to bring in their own—let alone the issue of supplying certain technology and devices—whether those were laptops or a specific communication device. Have you had many parents or students come to you around that specific issue? Access to those sorts of aids, rather than the teachers aides?

Ms Phillips: Yes, for sure. I happen to be on the board of Communication Rights Australia and so I get a lot of information through there as well. That is a significant problem, particularly in special schools—unfortunately, where a lot of students who have complex communication needs seem to go. Part of that is due to the explanation that I gave before about what needs to happen. Certainly, I know that there have been discussions—not by me for a change—about a class action in relation to kids with complex communication needs not getting equipment and not getting training. You cannot learn if you cannot communicate in a class. But that is certainly also a significant issue.

Senator SIEWERT: Thank you. You were talking about a class action; has there been one or there is talk of one?

Ms Phillips: That is how desperate people are. Professionals have raised this recently and that is how widespread this particular issue is. I think it might be getting more interest now only because, I hate to say it, but

decades ago there was probably more of an assumption that if you cannot speak, you have little IQ and you should be just sat in the corner. I think that that is changing now in some areas, but not in schools.

Senator SIEWERT: Thank you. I just find it incredible.

CHAIR: Thanks very much, Ms Phillips, for your evidence, your submission and your recommendations.

Ms Phillips: Thank you.

Proceedings suspended from 11:00 to 11:15

BOURKE TAYLOR, Dr Helen, Education and Disability Industry Adviser, Occupational Therapy Australia

O'REILLY, Ms Nicole, Board Director, Occupational Therapy Australia

CHAIR: Welcome. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. The committee has received your submission. Do you have any comments to make on the capacity in which you appear?

Ms O'Reilly: I am an occupational therapist based in the Northern Territory working within the Department of Health in a senior management role. I am also a member of the National Rural Health Alliance council, but today I appear in my capacity as a board director with Occupational Therapy Australia. Thank you for the opportunity to appear before you.

I am joined by Dr Helen Bourke Taylor, who is an occupational therapist with 25 years experience providing occupational therapy services to children and young people with disabilities and their families in hospital settings, in the community and in schools, including mainstream and specialised settings in Victoria and the United States. Helen's experience includes work as an occupational therapy researcher, clinician and educator in Australia and the US, and as a former allied health adviser to the Schools Disability Advisory Council. She appears today in her capacity as a disability and education industry adviser to Occupational Therapy Australia.

CHAIR: I now invite you to make a short opening statement of no more than a few minutes, and at the conclusion of your remarks I will invite members of the committee to put questions to you.

Ms O'Reilly: Thank you. Occupational Therapy Australia is the professional association and peak representative body for occupational therapists in Australia. As of July 2015, there were over 17,000 registered occupational therapists working in Australia, many of whom work with children across the education and disability sectors.

By way of background, let me briefly summarise who occupational therapists are and what occupational therapists do. Occupational therapy is a person-centred health profession concerned with promoting health and wellbeing through occupation—that is, through the activities of everyday life. We work with people and communities to enhance their ability to engage in the occupations they want to do, need to do or are required to do by modifying the occupation or the environment to better support their occupational engagement.

Occupational therapists have a vital role in helping students with disability achieve their educational goals and participate in opportunities available to school-age children inside and outside school. As our submission outlines, we do this by creating enabling educational environments for students who cannot, or who may find it difficult to, access to education under standard conditions or participate in school community opportunities without supports. We work to promote access to the curriculum, extracurricular activities and social inclusion within the broader school community. We provide evidence-informed solutions that allow students with disabilities to experience equal access to school activities on par with their peers, to effectively participate in classroom learning, schoolyard play and socialisation and to access educational opportunities that will allow them to flourish and reach their full potential. We seek to help students learn skills and change, modify or enhance aspects of the occupational environment, such as the classroom or playground, to facilitate the best fit and the most successful outcome for the student.

In our submission to the committee, Occupational Therapy Australia chose to focus on some specific priority areas where there can be practical, immediate, cost-effective and positive change for students in classrooms to get the supports they need. These include revising, updating and better implementing national disability standards for education, including supplementary notes that support the enactment of this legislation in schools; enabling consistent access for occupational therapists to schools and classrooms across Australia; establishing and supporting multidisciplinary education teams that include occupational therapists; and providing policy and funding clarity around implementation of the NDIS for eligible young Australians within educational settings.

An important and immediate policy priority to ensure that students with disability are best supported must be the revision of the national disability standards for education and, specifically, improving how these standards are implemented across schools in Australia. The current standards do not provide sufficient detail to make compliance measurable and do not sufficiently outline the necessary resources and processes for ensuring that students with disabilities are supported in the classroom to achieve their educational goals. The current standards do not adequately articulate specialist services, such as occupational therapy, which is a specifically skilled profession, to enact the standards in schools.

In America, for example, the federal Individuals with Disability Education Improvement Act, revised in 2011, specifically mentions occupational therapy as an important service for students with disabilities who are experiencing developmental delays. Australian standards need to be revised to ensure that there is clarity like this for students, families, classroom teachers, principals and disability support staff. It is also important to change the way these standards are applied to ensure that teachers, principals, students and families are aware of what supports students should have access to, because when teachers are better resourced then students with disabilities are supported, the classroom can function well and parents can be parents. State governments must commit to training their education staff and disability workforce and teachers. They need to be provided with regular CPD training opportunities and to be updated on the latest evidence based practice in disability care. Occupational therapists, teachers and disability and education experts, along with other allied health professions, must all be involved in the regular review and revision of standards and the provision of CPD.

Secondly, to ensure that students who have a disability have the right to the specialised services needed to participate in the educational activities that they are enrolled in, as the standards themselves currently state, we must ensure national consistency for students to access the occupational therapy supports they need in the classroom so that they can achieve their school related goals. Having allied health disability focused professionals such as occupational therapists in the classroom is vital for enabling students to achieve their learning and other school related goals. Currently, however, occupational therapists' access to classrooms is different in every state and often left to the principal. This means that if a student needs to move interstate because of a parent's job he or she could go from attending a school in Queensland, where the Department of Education and Training employs occupational therapists to visit and assist in classrooms, to a state school in Victoria, where the state department for education does not employ occupational therapists and the principal has the final say on what education supports they will allow into the classroom. If this principal has limited exposure or experience in working with occupational therapists they may not fully understand or appreciate how occupational therapists can support students in achieving their educational goals. We do not want to prescribe a model of how states should enable the supports that best help students achieve their goals but, rather, outline principles such as occupational therapists having access to the school system that are crucial for students achieving their educational goals.

Thirdly, Occupational Therapy Australia recommends that governments ensure that all those involved in supporting a student with disability have access to, involvement in and input into their educational goals. Many students have complex learning needs and see many different allied health providers as part of their education teams, including speech pathologists, occupational therapists and social workers. Each of the allied health providers needs access to the students in the classroom environment in a way that is least disruptive to the classroom to maximise learning outcomes for the student and indeed the whole class.

Finally, it is of course important to address how the rollout of the National Disability Insurance Scheme will affect students in the classroom and the supports they receive. Now is as good a time as ever to get this right, as education departments across the country are seeking to work with the NDIS around how to map this process. Instead of trying to navigate the complex cross-department architecture—processes that even governments seem to still be working out themselves—Occupational Therapy Australia has sought to provide a set of principles that should apply in navigating the intersection of education systems and the NDIS. This includes ensuring that children receive therapy supports and solutions that meet the needs of cross-life domains—school and home—as well as applying interventions within the life domain in which the child is occupationally engaged, ensuring that educational goals are best pursued in an educational context. Occupational Therapy Australia recommends that an NDIS working group be established to oversee the practical policy implementation of NDIS and education supports to look at funding and at how services to students are provided and integrated into their individual NDIS plans.

A recent OECD report ranked Australia very low for post-school outcomes for children with disabilities—27th out of 27, in fact. As a country, we can do much better than this. Occupational Therapy Australia believes that there are cost-effective policy solutions that could be implemented tomorrow to ensure that students with a disability are given the fair go and the opportunities they deserve. We look forward to answering any questions you may have regarding the recommendations in our submission. Thank you.

CHAIR: Thank you. Sorry—what is CPD?

Ms O'Reilly: That is continuing professional development. Sorry—I tried to get as many of the acronyms out!

CHAIR: I have a question around the disability standards. A number of witnesses have made the same comment as you have. What would you want the standards changed to? How do we make them more relevant?

Ms O'Reilly: I think for Occupational Therapy Australia it is about developing the implementation and the compliance component of the standards to actually support how the standards can be used by schools but also

how students with disabilities and their families can use it to navigate and negotiate and talk with schools. I do not know whether you would like to add to that, Helen?

Dr Bourke Taylor: The standards are written in terms of rights, obligations and measures, and it is very hard to use a term like 'reasonable adjustment' and make people accountable for that. There are lots of examples in schools where teachers believe that they are looking after the student's rights but will inadvertently use an unreasonable adjustment. An easy example of that is a student who needs supportive seating in class, who is okay on just a regular chair, like the ones the other students have, for most of the day but becomes fatigued and then may need more support. A teacher may think that strapping the child's legs or strapping around the middle of the child would be a reasonable adjustment to help the child continue in class, but in fact that is an unreasonable adjustment. A team around the child that understands that child's posture and seating tolerance and endurance would offer a much more simple adjustment, such as a chair with side rests for part of the day, and then the teacher would not be in breach of the standards by using an unreasonable restrictive practice.

CHAIR: If it is about the implementation and the compliance, how do we get that specific, in that example you have given, in the standards?

Dr Bourke Taylor: I think it is about the practical application, and I think it needs to begin in undergraduate education and training for teachers so that at the undergraduate level you have occupational therapists, physiotherapists, speech pathologists and teachers working together, dismantling little case scenarios of students in classes and in schools: what is the role of everyone? What is my responsibility? How do I protect the students' rights? How do I enable a reasonable adjustment and not impede the child's rights? How do I do all that? We need to begin right at the point of training for teachers. Also, there is a lot of research around occupational therapists being on-site in schools, training teachers in how to make reasonable adjustments and how to improve a student's skill set so they can better participate in tabletop activities. Having OTs in the schools or access for teachers increases that teacher's knowledge base, skill set and ability to translate that knowledge into a real difference for the student in class.

CHAIR: I think you are the first group we have heard from that has said—and I stand to be corrected on this if I have not heard it correctly—that we should take the disability standards and use them as part of initial teacher training. I think that is a very good suggestion. We heard from Autism CRC in Brisbane, who talked about an inclusive education, but that does not get us to the specifics that you are talking about.

Ms O'Reilly: With occupational therapy I guess we have experience in the health arena with multidisciplinary learning, where health learning at the undergraduate level can include occupational therapists, physios, doctors and nurses all doing case studies. There are actually some very good examples of how that has facilitated the learning across professions but also the work undertaken by universities to break down some of that professional silo. We would see how applying that in the education area would also be useful and something that could be very good. It helps to develop that multidisciplinary education team, not just in the school system but right from the beginning, and supports that learning of all professionals about each other's roles.

CHAIR: Yes, it is a good example that you use, because health does rely on multidisciplinary teams, and education does not; it is very teacher centred. So, it is a good example.

Ms O'Reilly: And we would see that students with a disability require a multidisciplinary educational team that includes the teachers, the principal and special education but also includes the allied health professionals. We can create that team systematically in schools but also we can start to develop that in our professionals through education.

CHAIR: So, your experience of the health system's multidisciplinary teams enables you to see what is really needed in education and where the gaps are.

Ms O'Reilly: Yes, and how it could happen.

Senator SIEWERT: You made a comment about the NDIS and a proposal for a working group. Have you proposed that to either the government or the NDIA?

Ms O'Reilly: Yes, we have.

Senator SIEWERT: What has been the response?

Ms O'Reilly: They are open to it.

Senator SIEWERT: Are you involved at all with the Barwon trial that they have started in terms of working with the education department here in Victoria?

Dr Bourke Taylor: I do not know a lot about it. I know there is variability in access for the occupational therapists to get to see the students in schools, and that is largely dependent on the principal being the gatekeeper.

For some schools the school is aware of what an occupational therapist does and would invite the OT in to contribute to the student's educational success and access in the school, whereas in other situations occupational therapists have not been able to get into schools to provide the service the family and the child has needed. I guess it is an area that has not been correctly dismantled as to whether the schools need to allow the therapists into their settings, so think it is a very complex space that needs to be dismantled.

Senator SIEWERT: I want to explore that a little bit more, if we can. Could you just briefly take us through what happens here in Victoria in a bit more detail? We talked a little bit about it when we were in Brisbane with the speech pathologists, so I understand a little bit about Victoria and access to speech pathologists. Is access to OTs here in schools similar to speech pathologists?

Dr Bourke Taylor: No. In Victoria speech pathologists are employed in the education system to go into local schools. There are no occupational therapists employed by the education department to go into local schools.

Senator SIEWERT: So you are one step behind in terms of engaging in multidisciplinary teams. We have talked about speech pathologists and how, although they are employed, there are not enough of them and how some schools are augmenting that. But OTs are not even in that first line of support that schools can access?

Ms O'Reilly: That is correct. We are not employed in the education department. But some occupational therapists will access the schools if the principal is supportive of that. The school or parents may engage the therapist.

Senator SIEWERT: But it is more ad hoc than speech pathology?

Ms O'Reilly: Yes.

Senator SIEWERT: Let's go back to the NDIS and the NDIA process. You have not been engaged, by the sounds of it, in the Barwon process at the moment. I should be clear: not the trial site itself. Within the trial site, they are just setting up a trial to work specifically with the department of education here. They are talking about doing joint plans. We had a bit of a discussion earlier with Stephanie about issues around joint plans and some of the concerns there. They are looking at how they can get an education plan, or maybe a joint plan developed. I suspect that it is still a work in progress. Have you been involved in that?

Dr Bourke Taylor: The answer is no. I do know that there is a group of individuals, an advisory board or a task force, that does not include occupational therapists. They are looking at that intersect issue. The person that is implementing that within the Victorian education system is, yes.

Senator SIEWERT: But OTs are not specifically represented in that?

Dr Bourke Taylor: The association has not been invited in.

Ms O'Reilly: The association has not been invited in.

Senator SIEWERT: In terms of the working group, you are not just talking about Victoria; you are obviously talking about the whole of the process and the rollout?

Dr Bourke Taylor: Yes.

Ms O'Reilly: Yes.

Senator SIEWERT: Do we know whether they have listened? Do you know where that process is up to in terms of the development of that?

Ms O'Reilly: We know they are open to it. I am not sure that we know further than that.

Senator SIEWERT: If you could you take that on notice and let us know if there are any updates, that would be really appreciated. In your submission on page 5, under the recommendation 'Revise Commonwealth disability standards for education and train teachers in this', the second paragraph says:

It is essential the standards capture the latest evidence on working ecologically and intervening in the environment where the skills are required- ie the importance of doing educational therapy support at school not at home.

Could you just explain that a little bit further for me.

Dr Bourke Taylor: The best evidence says that for a student acquiring a functional skill that will enable them to become independent, or as minimally dependent as possible, that skill is best learned in the environment that it actually happens—for example, if a student is not independent in toileting, there is no point in the OT configuring an enabling environment at home and in the community if it is the school toilet transfer that is the problem. It is really talking about the need for therapy to be delivered within the real-life environment and not in an artificial environment and expecting the child to transfer the skill themselves.

Senator SIEWERT: And that goes back to your earlier comment where you made the point that therapy is being purchased outside the school system and not as part of the school process?

Dr Bourke Taylor: Right.

Senator SIEWERT: Can you expand a little bit more on how you would see the multidisciplinary education teams working. I get the point about the need to include occupational therapists, but how would you see them operating?

Ms O'Reilly: That is a difficult question to answer, given that the contexts that schools operate in vary quite widely from the remote Aboriginal community, through to rural and remote locations and urban areas. The spread of allied health professionals and teaching professionals across those contexts is quite different. What we would like to see is that multidisciplinary teams, including therapists and educational professionals, are engaged in education. It is a little bit difficult to answer how that would happen because it would need to be contextualised. We would like to see it included as something within the standards, or as an example of how to apply the standards, and to then let the schools consider how to do that within the context that they have.

Dr Bourke Taylor: When you have a multidisciplinary team with occupational therapists, speech pathologists, physios and educational specialists on board, you are able to address all of the child's needs—the whole child's needs. The school experience is not just about learning the reading and the writing; it is participation, extracurricular activities, mobilising around the school—these sorts of things. When, at the outset, you have a meeting that includes the student, the parent and the team around the child and the parent, you are able to put together a plan that will address the child's needs. You are also moving that child, who will become an adolescent and then a young adult, to have an individualised service and to be more independent in what they select and what they aim for themselves. It is the beginning of moving the child towards adulthood and towards more independence, or towards least dependence.

Ms O'Reilly: To ask us how to do it would be difficult because there is not an OT everywhere—

Senator SIEWERT: I understand what you are saying.

Ms O'Reilly: I am trying to understand better what you are asking.

Senator SIEWERT: When we were in Brisbane we were talking about universal design for learning. I am trying to conceptualise how that would work and how the multidisciplinary teams would work in that environment. I am just trying to build the picture in my head.

Ms O'Reilly: If I can start to help build that picture: some of what we are talking about when we ask for access for occupational therapists to schools is to work with an individual child one on one and to support the teacher to understand how best to include that child. But another thing that occupational therapists can work with is the system and how the system can become more inclusive. How can the entire environment of the school become inclusive? How can all of those things work together to make a school accessible for a student with a disability that does not necessarily require the OT to be there one on one all the time? We can also have that impact at a systems level. There are a range of ways in which that multidisciplinary team can work—from that one-on-one situation with a child through to how we can affect the system. Does that help?

Senator SIEWERT: Yes it does, tremendously.

Senator McKENZIE: I have a quick question that goes to the practical impact of occupational therapy in classrooms for students with a disability. I am not from this sector, but I am from the education system originally. What do OTs do within a classroom setting? What are the outcomes? What is achievable? Can you give us some practical examples of what you do in the classroom and the outcomes for the students with disability that you work with.

Dr Bourke Taylor: There are a couple of examples I could give. First of all, the way an OT views the student is: what skill set does the student have to participate in the task in the classroom? If it is a handwriting activity, do they have sufficient posture, hand function, cognitive and visual perception function to participate in the class and learn?

They will also look at the height of the table, the physical environment around the child that would support or be a barrier to the child participating in the learning, and then the set-up of the classroom; so there are several circles around this. Also, to what extent the teacher—being the most important person in the room for the student—is aware of the student's strengths and limitations in terms of participating in that task. An OT may come in, look at a child and say they need additional skill building to assist them to participate in this class. Or it may be something different—perhaps this child needs an adaptive piece of equipment to assist them to participate in this class, whether that is a different grip for their pencil or technology and not writing, or a different seating system. They may also look at the best position in the class for the child to get the best advantage in relation to the teacher, which students to put around the child, all those sorts of tasks. It is to contribute to the flow of the classroom, but also to contribute to the child's capacity to participate in whatever learning activity is available.

There has been some good evidence come out of Canada where teachers were coached via the phone and email on ways to make classroom tabletop activities more accessible. We know that increasing the skill set and knowledge of the teacher can allow therapists to withdraw from the classroom and leave the child more enabled. We do not want a million people in the classroom disrupting the classroom; we want the specials coming in, giving advice, looking at the child as an individual within the fabric of the classroom and then withdrawing.

Recently I interviewed a teenager who talked about woodwork. She really wanted to do woodwork. She was a particularly creative student who had cerebral palsy and used augmentative communication to speak. She talked about the OT coming in and working with the woodwork teacher to adapt the surfaces and the size of handles on things and also to let the aide know how much to help and how much to stand back. What a lot of students with disability say is that the aide really should be there to support their engagement in school life, but not to do it for them. Are they examples that help?

Senator McKENZIE: Yes, thank you.

Ms O'Reilly: You spoke to outcomes. When we are looking at outcomes—again, similar to how OTs can affect from an individual student through to a school system, the outcomes can be from an individual student's success in handwriting through to—

Senator McKENZIE: But do you have an actual example?

Ms O'Reilly: The other thing for me is that we also know that education is a key determinant of health, so if we can engage with students and keep them engaged in education, there is also the longer term, higher level outcome of impact on social determinants of health and that kind of activity as well. The outcomes can be quite small—from an outcome for a student in a classroom or an outcome for a teacher through to that larger impact.

Senator McKENZIE: I am interested in the smaller outcome, as you term it—the individual student's engagement with their education. As a national body, can you give us some sort of breakdown of how states engage with OTs and which states do it better? You might like to take that on notice.

Ms O'Reilly: We will take that on notice, if that is okay.

Senator McKENZIE: I am very, very interested in which systems do what and where.

Ms O'Reilly: Obviously, when you talk about systems you are talking about the education system in that question, specifically?

Senator McKENZIE: Yes, and your engagement with the private sector, too.

CHAIR: Thanks very much for your submission and for your time with us this morning. We greatly appreciate your verbal evidence and the submission. Thanks very much.

Proceedings suspended from 11:48 to 11:55

de NATRIS, Mr Peter, Acting Branch Manager, Scheme Integrity Branch, National Disability Insurance Agency

SKORDIS, Ms Anne, General Manager, Scheme Transition Division, National Disability Insurance Agency

CHAIR: I now welcome Ms Anne Skordis and Mr Peter de Natris—when he arrives; we understand he has a delayed flight—from the National Disability Insurance Agency. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. I remind senators that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanation of policies or factual questions about when and how policies were adopted. Officers of the department are also reminded that any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis for that claim. I now invite you to make a short opening statement of no more than a few minutes, and at the conclusion of your remarks I will invite members of the committee to put questions to you.

Ms Skordis: My role is involved in a lot of the negotiations with the states and territories about the build of the rollout of the NDIS and also with a number of areas of policy interface with state and territory systems, particularly looking at the area of intersection with mainstream service systems such as education. That is as much of an introduction as I intend to do because I think with these sorts of exercises the best opportunities are in questions and answers.

CHAIR: For school-aged children and children in early education, how are responsibilities for disability support and adjustment apportioned between the NDIA and education systems? We note there are a number of trial sites where NDIA services are available to school-aged children. How has the delineation been managed there?

Ms Skordis: The main thing that determines the delineation of roles and responsibilities is a set of principles and applied principles that were agreed by the Council of Australian Governments. They have been agreed by all governments across Australia. That sets out the interpretation of what is seen as reasonable adjustment within the education and school system—largely that the education system has the primary responsibility for supporting students with their educational attainment and whatever adjustment is needed for a child with a disability to achieve the same standard of educational attainment that is expected of all other children. Where the NDIS has a part is in supporting the child within their family context, within their home, and with some functional areas and activities that might go beyond the school gate. For example, if a child needs a wheelchair they are likely to need that whether they are at school or at home, so the NDIS would be the funding agency responsible for supporting that, but if a child needs an adjustment within the school context to help them participate in education then that is likely to be a reasonable adjustment that is the responsibility of the education system.

CHAIR: Are the principles and the applied principles you just spoke about publicly available?

Ms Skordis: Yes they are, on the COAG website.

CHAIR: What was the basis for this decision on delineation? How many children would be on a full rollout eligible for support under the NDIS, and are those children also at school or early education? Do you have a figure for that?

Ms Skordis: I do not have that figure. I can take that on notice and get the information back to you.

CHAIR: But has that already been decided?

Ms Skordis: The discussion on the delineation of roles and responsibilities actually has not gone to the numbers. So it has not had a differentiation or any articulation of what numbers are expected to be the responsibility either of one or of the other, because it is actually recognised that, for most children, there is going to be some area of joint responsibility. So a child may be an NDIS participant and receiving NDIS support but, obviously, within the school system and receiving some additional support and adjustment under the school system as well.

CHAIR: When do you expect that agreement to be reached?

Ms Skordis: An initial agreement on the roles and responsibilities was reached by COAG prior to the commencement of the trial sites. It is currently under review, and the findings of the review and any adjustment to those principles and applied principles are anticipated to go through the Disability Reform Council sometime over the next month and then to go to COAG for confirmation by the end of the year.

CHAIR: How is the review being conducted?

Ms Skordis: It was largely between all of the governments. There were joint representatives from education and from disability. It was a policy based discussion. The NDIA participated with the provision of practical advice around where instances have occurred, in a trial site, where there has been some complexity or where the direction of the decision making may have created unintended complexity going forward in terms of administration of the NDIS. That is our role.

CHAIR: So it was an internal review by state and federal agencies and the NDIA?

Ms Skordis: Yes. Obviously, the education representatives from state governments would have had their own processes of discussions with schools. I believe that those states that had NDIS trials had some consultation with school principals within those trial site areas to inform their positions.

CHAIR: Would you be aware if it went beyond that? Say to parents or—

Ms Skordis: No, I am not. That is something you would have to take up with the education systems.

CHAIR: Fair enough. How does the NDIA work with states and territories to meet the needs of children at school and outside of school?

Ms Skordis: One example we have within our Barwon trial site is that we are working through how we can link with education support planners within schools in order to look at the concept of the plan we provide for a child and at how that child and their family can use that plan, engage with the school and have discussions within the school context; also, if a child is heavily involved in getting support at school, what role the support planner could play in assisting with the planning conversation. As much as possible, across most systems, what we are aiming for is a sense that there is really only one plan that a child has and that plan is then applicable across a range of settings. One of the areas of further conversation we are progressing with education systems is around how we can build on that.

CHAIR: When would you imagine that that conversation will be finished and you will have an agreement?

Ms Skordis: For most of that, we are taking learnings from the trial sites and then negotiating that as part of our transition arrangements with states and territories around what we will be able to put in place as we do the rollout of the scheme. That is one of the areas we are including at the moment in conversations with New South Wales and Victoria, who have their agreements around full scheme rollout.

CHAIR: How many school age children are and will be on the full rollout and eligible for support under the NDIS?

Ms Skordis: Again, that is one I will have to take on notice. I will get back to you on that.

CHAIR: Do you have a number?

Ms Skordis: I do not have it available to me.

CHAIR: But is there a number?

Ms Skordis: Yes. We will be able to estimate. From the potential population of 460,000 who are eligible, we will be able to do age breakdowns, yes.

CHAIR: Can you provide a breakdown of the level of adjustments those children will require?

Ms Skordis: Not necessarily in terms of the adjustments they will require within the school system, because some of that is very different and schools will apply that differently. I am just trying to think of what population data we have. We will be able to differentiate by disability type and the potential population and so have some sense of how many are, say, from cerebral palsy, intellectual disability or other disability types. I think that is about the most we would be able to provide at this point.

CHAIR: If you could provide that, that would be good.

Ms Skordis: We could also provide data from our trial sites on what has occurred within trial sites, if that is beneficial.

CHAIR: That would be helpful. Has the NDIA been involved in the nationally consistent collection of data process being run by the states and territories? If so, what has been your level of involvement?

Ms Skordis: No, we have had no involvement in that.

CHAIR: Do you have a view about the merits of that process?

Ms Skordis: Anything which enables use of data across a range of systems is always going to be beneficial, particularly where it contributes to comparable data. We are aware that the classification of disability applied within educational systems is reasonably broad and is a slightly different classification to, or does not immediately align with, eligibility as per the National Disability Insurance Act for people to have an individual

funded support. That is not necessarily a problem; it is just that work needs to be done about understanding which components within the broader determination of disability within the education system are likely to align to eligibility for individual funded supports.

CHAIR: So these definitions are broader than what you are operating?

Ms Skordis: The definition of disability across Australia is very broad. The definition of who is likely to be eligible for individually funded supports is a narrower cohort, so it does not neatly align with the categorisation within the education system. Some confusion has emerged in a couple of areas around the issue that someone has been identified as needing additional support within the school system under a disability classification but that does not necessarily mean that they would equally be eligible for an individual funded package under the NDIS.

CHAIR: How do we sort that out? What has to happen there?

Ms Skordis: Just some more conversation around understanding who is categorised, and how, for each purpose, so that that communication can go to the public.

CHAIR: We would not want to have a situation where a student has been categorised within the school environment and has particular supports going in, but then is without those supports outside the school system. We do not want a lowest common denominator.

Ms Skordis: No, but it is not necessarily that someone who may need—

CHAIR: Like a wheelchair, for example.

Ms Skordis: Yes. Someone may need support around educational attainment, and that may be the only area where in fact they need support. It is appropriate to have that provided within the school system. For some people who may not need any other support around other areas of their life that is not an incorrect or problematic issue. It is just that people need to understand that differentiation so that there is no confusion.

CHAIR: I have to say that in the evidence that we have heard to date in this inquiry around education, I cannot imagine the sorts of supports that students have needed being not applicable in the broader community. For example, we have heard a lot about students who need assistance with organisational aspects of their school life, so one would imagine that that would have applicability in their non-school life. I cannot think of anything off the top of my head that would be specifically only required in a school setting.

Ms Skordis: That may be the case just for categorisation—whether things like ADHD and dyslexia are considered and classified as a disability but on their own would be unlikely to manifest in any form of functional impairment in day-to-day life that would equate to eligibility for an individual funded package.

CHAIR: Has the NDIA identified unmet support needs for children in schools?

Ms Skordis: Not specifically. We have identified some areas where the discussion with the education system is more around the logistics of the provision of supports rather than unmet need. The other area that we are in discussion with education systems over is particularly around supporting people as they reach the end of their schooling life—

CHAIR: Into vocational.

Ms Skordis: what transition to employment or other forms of support looks like, how we can best manage that and how the conversations that we are having with families and children around aspirations—again, from that sense of a child having one plan—can also help inform and contribute to the education system's understanding of what the child is seeking to achieve, both within the education system and beyond that. I think there has been significant change in education systems in recent history, where the sense that, for want of better language, a child with a disability may be slightly isolated or have a sense of lower expectation around educational attainment has been changing in recent years. That is something that we would like to support and continue to work with education systems around understanding the possibilities for all children, including those with a disability, to aspire to employment outcomes or other quality-of-life outcomes.

CHAIR: What did you mean about the logistics of support?

Ms Skordis: There are two areas that have caused most discussion. One is around logistics of provision of school transport for students with additional needs: who is responsible for that and how to best manage that. If current education departments are organising school transport, that may include people who would not meet the NDIS criteria for a funded package. There is an issue around how we can still have efficient school transport systems with some people having that support funded as part of their NDIS package and the education system continuing to deliver for other people that they deliver that to for other purposes.

The other area is around provision of therapy or personal care within the school environment. There are issues around a definition of what is personal care in a school context, what of that requires a funded support and, where that is funded as part of a child's package, how to have that delivered in a way that is not intrusive to the operation of the school and management of a classroom—what is the best way to deliver that personal care or, where therapy support is needed for a child that must be delivered during daytime hours, how to deliver that in a way that does not interrupt classes and the curriculum.

CHAIR: In terms of that definition of personal care, you are not suggesting that that definition would change in an educational setting? Personal care is personal care.

Ms Skordis: No, but it has been an area of debate in the review of the mainstream interfaces—getting an agreed landing on what is understood to be personal care.

Senator McKENZIE: For those of us that are not intimately involved, what is the range of that debate?

Ms Skordis: The range is from reminding a child to wash their hands, making sure their clothing is buttoned up correctly and wiping their nose through to a child who may need a support worker to assist with complete toileting, management of feeding and those sorts of areas. It is on that side that is really the personal care that is likely to be funded under the NDIS. The standard things where a teacher may be reminding a whole group of children about appropriate hygiene et cetera is naturally part of the classroom activities and the responsibility of the school.

CHAIR: Is that where the debate is sitting, where the line is drawn?

Ms Skordis: That was one of the areas of debate. That has now been resolved.

CHAIR: All right. You talked about lower expectations of children with disability, and that has been a key element of this inquiry that we have heard over and over again. You seem to think it was improving—I do not want to put words in your mouth—but certainly that is not what we are hearing. So what is your role in that area about raising expectations and treating children with disability as learners?

Ms Skordis: Part of our planning process is actually working with each child around what their goals and aspirations are and being clear on that. But our role is also about where that functional support is needed for a child and in some instances for their family. It is about making sure that that is available so that that side of life does not have the pressure around being able to get a child out of bed in the morning, dressed and ready for school and all of those sorts of things if that is what is needed as part of a child's disability. It is to make sure that that then does not impinge on them and mean that a child arrives at school stressed or that their family is stressed. So if that side can, to some extent, be supported as much as possible then the interaction the child has with the school will, hopefully, start from a better footing.

But also, through that process of conversations with families and with children around goals and aspirations, we are hoping to increase that sense of expectation around what is possible as we gain greater evidence and stories around what can be achieved by people with disability and have a greater promotion of that understanding of real outcomes that are possible for a variety of people with disability. We hope to inform a sense of community and expectation. But, on the other side, we have a really specific role in that the NDIS sits alongside the National Disability Strategy, which is the area where governments have committed to supporting outcomes for people with disability across all service systems. So whilst we have got the mainstream interfaces agreed around how we will do that, there is still the National Disability Strategy which sets out commitments of governments for people with disability. We have an absolute role in terms of identifying any issues that impact on that to inform those policy processes around what we are learning, what improvements we see could be achieved, or areas where we believe improvement is needed, and then engaging with that policy process around how that can occur.

CHAIR: I am just thinking back on that interface between the NDIA and the education system. At the student level in the development of individual plans, how exactly are schools engaged?

Ms Skordis: It varies at the moment. Some of it depends on what each family actually wants, so it does, to some extent, depend on the nature of the child's disability and whether there needs to be a high level of involvement with the school. It might not occur at the planning process, but it might then occur on more of the support delivery side. Once someone has a plan, then whoever is providing their support, if it is personal care, is likely to have to have a direct discussion with the child's school around how this will be provided, as I said, in a way that minimises disruption for the school.

CHAIR: What is being done to engage the three education systems: the Catholic, the independent and the public?

Ms Skordis: Within our trial sites we have had some local area discussions. Most of the trial sites have a working group that involves representatives from the local service systems. We have run information sessions with groups of principals and schools within our trial sites. But, at a more policy level, then we are to a large extent reliant on the state education department to manage that intersection for us.

CHAIR: We have heard from a lot of advocates who would agree with you. They do not want to have multiple plans, although the point has also been made that there could be confidential information in the individual's plan that they do not want the school to know about. How would those individual plans also incorporate and reconcile the educational and developmental goals. We have heard a lot of times that students have not got individual plans in schools. They are supposed to have them. What does that reconciliation look like?

Ms Skordis: We would not generally have a high component of that within their NDIS plan. We would be expecting that that is what the school would be doing and they would have responsibility around developing that component.

CHAIR: But what if you were working with a child, or an organisation were working with a child, to increase that child's independence. You would not want the school plan to completely undo that. So how do you reconcile that kind of difference?

Ms Skordis: Let's take behavioural support as an example. Where we are funding the development of a comprehensive behaviour support plan, then part of that would have to also include, again, that whoever is doing that plan would need to engage with the school and also identify how that support can translate into what is done to support that child and how they interact within a classroom as well. So we would absolutely expect that those plans would consider the home environment, the community environment and the educational environment and have an understanding of how they are applicable in each of those. Whoever is then delivering that support, there would then have to be discussion with the school around how they could deliver on that plan within the school setting.

CHAIR: To use the example you have just given where you are providing support around a particular behaviour, and it is worker X providing that support, do you imagine that worker X would also work with that child in the school setting, or would there be a transferring of the goals and outcomes?

Ms Skordis: It generally is likely that there would be a transfer of the goals and outcomes, unless there is specific additional support that is needed around maybe some training. But, again, how to support a child within a classroom and what additional supports are needed around that is something that is a responsibility of the education system. So, yes, it would absolutely be a transfer of the goals, outcomes and the specifics to ensure consistent management.

CHAIR: How do you ensure then that the school recognises the methodology that you are implementing outside of the school? It may well be that a busy school has a different philosophical view about how to develop appropriate behaviours. In the high school setting you could have someone saying, 'Look, let's adopt this methodology because we think that is in the best interests of the child, the family and the community,' whereas the school says, 'No, we in our school believe in a different methodology.' How do you reconcile those differences?

Ms Skordis: Most of that form of support is delivered by a therapist, a psychiatrist or a psychologist form of practitioner who develops the plan and the approach, and then there are a range of support providers or support staff who deliver—

CHAIR: But there is no guarantee the school—

Ms Skordis: No, there is no guarantee.

CHAIR: That could have adverse outcomes if a student is doing X in the community but in the school environment is doing Y.

Ms Skordis: Yes.

CHAIR: It could create those stresses that you are trying to rule out. How does that get managed and resolved?

Ms Skordis: In those instances, we would expect whoever is providing that support identifies it as an issue and then it would escalate to other levels to have a more direct conversation around the differing interpretations of best practice.

CHAIR: A recent Administrative Appeals Tribunal decision about chiropractic treatment being a reasonable and necessary support was telling in that the NDIS may have to plug holes in other systems. Is it a risk in education that the NDIS may have to fund education supports where there are gaps?

Ms Skordis: Whilst there may be agreed policy, I think one of the risk areas for the NDIS is pressure around how to enact it. As with that instance, we will apply the legislation and the agreed principles as best we can. If there are AAT or other decisions which suggest we need to do something different then we will obviously have to accept that and work with that but, at this stage, we are very clear on where our remit currently sits.

CHAIR: Does the Australian government education department seek the NDIA views on education reform?

Ms Skordis: No, not at the moment.

CHAIR: Does that mean that they have in the past or you think they will in the future?

Ms Skordis: I think we are just too new. We are too much like the new kid on the block and we do not yet have that robust presence.

CHAIR: Would you like to have a seat at the table with the education reform for students with disability? Would you expect that would be a place you should be?

Ms Skordis: I think there are some appropriate future discussions that will occur.

CHAIR: Around you guys being at the table?

Ms Skordis: Whether we are at the table or how we can best feed advice and information around the experience of children with a disability. I do not think we have a strong view either way. As I said with the National Disability Strategy, once the NDIS is at full scheme and full coverage of Australia, it is going to be an extremely rich source of understanding of people with disability and understanding of their lives. We have a robust outcomes framework that we will be monitoring over time which is going to be a very rich source of information that we will endeavour to link into a whole range of government policy areas so we can best inform those directions.

CHAIR: What plans does the NDIA have to develop interface with education systems prior to the next phase of rollout?

Ms Skordis: Part of what we are negotiating with each state and territory as agreements are reached is called an operational plan. One of the elements of the operational plan is mainstream interface areas. As part of that we are discussing with each state the things we need to do to give effect to the mainstream interfaces and to make that interaction with the state system work as smoothly as possible for all people with disability. It is a focus area that we have with each state and territory, and we have already started those discussions with New South Wales and Victoria.

CHAIR: Does the NDIA formally engage with sector peaks in education or disability in negotiating the interface? For example, the CDA, the AEDU and the principals' association.

Ms Skordis: The NDIA does not do that. The NDIA is not the policy body. The mainstream interfaces were a policy decisions of governments. As I say, the NDIA provides advice to government on the practical implications in terms of administration of that, but we are the administrative body for the scheme—we do not determine the policy.

CHAIR: Would you expect state education authorities to do that engagement with stakeholder groups?

Ms Skordis: I would expect it, yes. I would have thought that is part of what they do.

CHAIR: I would too. Can you identify any best practice examples of disability support in the education context?

Ms Skordis: One of the things that we are, as I said, particularly focused on is how to learn from the experience in a number of states around the process of supporting children as they leave school. I think that there has been a range of different approaches to that across the states but we are particularly looking at how to embed that going forward; how to embed an understanding of working with support coordination, teachers and the role that support coordination teachers can play in building a child's readiness for post school and how to embed an understanding of whether they may be likely to be able to easily access open employment or the disability employment support services. Where they may not be able to access those, we are looking at how to build in a specific engagement around what other options are there for them and how we can almost introduce what we are looking at as an early intervention approach for young adults to actually target additional supports at that end-of-school time. As a child finishes their formal schooling, what additional supports can we actually put into a young person's plan to actually build their capacity to engage with employment or education to actually then get to those pathways. There are a number of examples in the states and territories at the moment that do that sort of approach. We are looking at trying to build on that for what we can do for the NDIS.

CHAIR: The stats on unemployment rates and school completion rates are alarming for students with disability.

Ms Skordis: Yes

CHAIR: Have you seen best practice in the school community?

Ms Skordis: I will possibly throw to Peter, just as he is landing here. I will get him to introduce himself. Peter has come to us from working in New South Wales, which has had a very successful transition to work program operating for a number of years.

Mr de Natris: Sorry.

CHAIR: That is okay. Flights are flights. My question was: given that the stats on school completion rates and transition to work for children with disability are alarming, can you just reassure us that there are best practice out there?

Mr de Natris: I am currently seconded to the NDIA from NSW's Family and Community Services. As Anne has pointed out, I have been working in the public sector with schools for over 10 years now—in New South Wales too—to look at a broad range of strategies to encourage schools to have far more inclusive practices when working towards school completion. I think the journey in New South Wales is quite important from the perspective of practice which goes beyond just the policy settings of the jurisdiction. It goes to the heart of the culture, attitudes and values of schools, and that type of work takes quite a deal of time to get traction in school settings. You have to acknowledge that schools themselves are autonomous and run by principals with governance around them, and you need to work within a positive and constructive way. One of the main ways I have found to have the greatest effect with regard to positive outcomes and retention has been where there is a level of optimism beyond the students' time at school and they believe there are worthwhile adult pathways to economic participation and employment. That has a very, very marked effect, and the observations in New South Wales have been that as more and more students with disability have achieved beyond school, the attitudes of schools in relation to really meaningful curriculum and activities in the school have been positively affected—to the point where retention rates have increased quite remarkably if you look at the statistics in New South Wales.

My observation also would be that it is more about finding meaningful and worthwhile activities for the student which are beyond curriculum and beyond just the normal classroom, and it is about attitudes, values and culture. Those things are part of the DNA of each school that you work with.

CHAIR: Yes, and we have heard a lot about culture. Has the NDIA briefed the new Prime Minister or the minister with respect to school or early childhood education age children?

Ms Skordis: We have not specifically done that, but we are involved in a range of interagency groups with the Department of Social Services—mainly with the Department of Social Services as the key government lead on employment and around some of the areas they are working on and how the NDIS fits with that, and what we can mutually achieve in that area.

CHAIR: Have you received any directions from the new PM or the new minister in relation to schools or early childhood age children?

Senator McKENZIE: In the last five days?

Ms Skordis: Not that I am aware of, no.

CHAIR: A final question, and I will hand to other senators. What should families do if there is a dispute between the education and NDIS about who pays for what?

Ms Skordis: They should bring it back to the their NDIS planner so that we can engage directly on that.

CHAIR: Does that planner have decision making authority?

Ms Skordis: There are some areas in which the planner has decision making authority, but they also understand the escalation pathways so that the right people can become engaged, which may in fact mean that some things get to my level and I directly negotiate with states and territories on a number of issues.

CHAIR: It is good to hear that they understand the pathways. Are they time-bound pathways? One of the things that we have heard over and over again is the need for time-bound solutions.

Ms Skordis: If you are asking if we have specified that things must be done within certain amounts of time, we have not done that, but that is something we can look at adding clarity to around efficiencies of decision making—

CHAIR: That would be good—so that people know that 'so and so' has two weeks to either make a decision or not make a decision and it goes to the next person.

Ms Skordis: Yes, I think that is a reasonable area for us to look at.

CHAIR: Thank you.

Senator SIEWERT: You have been comprehensive in the questions, so I only have a few. I wanted to go back to the issue around what is happening in Barwon with the—I hesitate to call it a trial—trial within the trial of working with the department. If you could flesh out some of the details around that—how it operates; what the measurables are and the outcomes that you are expecting.

Ms Skordis: I will check with Peter as to whether he has greater detail on the integrated one plan approach within Barwon.

Mr de Natris: I have a little bit of detail. The expectations of the trial are that the learning between the interface of the scheme and the school environment holds true the very simple principle that the student lives their life where all other students live their lives—they do not live their life in an insurance scheme or a parallel universe called the NDIS. So we are very, very keen for the learnings through this integrated planning approach to result in an appropriately adjusted plan for an individual that has additional needs because of the functional impairment due to disability. That has some complexity that we are working through in trial. You know, we will not shy away from the fact that the NDIA, as administrators of the NDIS, must be fiscally responsible within the principles of the scheme. But that mainstream interface, for want of a better word, is about where the scheme meets reasonable adjustment in the school environment. That is quite variable in some places, but we would like to think that, over time, we will get far more clarity and codification of that. The plan is a wonderful mechanism for interrogating and testing a lot of those assumptions.

Senator SIEWERT: I have a couple of questions coming out of that. One is: how far are you into the process? Do you have anything that has come out of the process so far?

Mr de Natris: It is a good question. We believe that for about 80 to 85 per cent of content—and I cannot quantify exactly—common sense can prevail and can be negotiated. There are areas that require further clarification, particularly personal care in the school environment. This is very important, because we need to acknowledge the autonomy of schools and the holistic nature of schools around the way they organise themselves, but we also want to make sure that the student with additional needs funded by the National Disability Insurance Scheme does get the proper support in the school environment. Learning is about how you negotiate through that with the school. The reasonable and necessary comes into the school environment, and, obviously, the choice and control then needs to be made in the context of the environment that a student is attending within the context of the school.

I think there are a number of others. Often we come up with quite unique situations. I will not shy away from the fact that there has been lots and lots of practice—particularly around school transport and a number of other supports—that is very variable. It is sometimes very, very difficult to understand the historical context of what has transpired. A lot of it is quite bespoke and quite individually planned. You do not want to inadvertently disrupt. We take a very strong approach to make sure that we manage that change with the school and with the participant of the scheme and their family.

Senator SIEWERT: I would like to understand the issue around the potential of the joint plan or the development of the template that is then used to develop a joint plan. There are a couple of points there. One is: how is that working? Also, we were discussing this morning issues around the privacy of somebody's plan. How is that addressed?

Ms Skordis: The issue of privacy is a lot easier. We consider that the plan is owned by the person, and each individual chooses the extent to which their plan is shared with any other person. For a young adult, that also includes the extent to which their family may see their plan. That is very clear for us within our legislation and within our operating parameters—we will only share those elements of a person's plan that they have agreed can be shared. Around joint planning, what we are doing and exactly how that is working, I am happy to take that on notice and provide more detail.

Senator SIEWERT: That would be appreciated. A lot of what we have heard so far around how students are being able to access education is pretty depressing, I have to say. A large number do not have an education plan. So, one of the benefits of doing the template approach is that at least the cohorts of students with a disability that are able to access will get packages through NDIS. It sort of forces the requirement to have the plan in the absence of anything else that can compel schools to do that at the moment. Do you think that that is something that is likely to be rolled out so that, at least for people who have a package under NDIS, there is that group that can then have an education plan?

Mr de Natris: The short answer is yes. We would like to think that the introduction of the NDIS is a huge opportunity to work in collaboration with all education systems in every state and territory around improving not only the ability to jointly plan but also the plan within the context of the school. I have viewed a number of inquiries across states and territories—one in particular here by the Attorney-General's Department around planning in the school for a student with additional needs—and what was very obvious was that teachers and practitioners in the school system needed assistance in understanding what a good plan looked like, how to implement a good plan, how to monitor a good plan and, ultimately, how to assess whether the plan was working or not. So they are things that we would hope would be the consequence of a robust rollout of the National Disability Insurance Scheme and the collaborative work it can do with education across all jurisdictions.

Senator SIEWERT: We were talking this morning about the occupational therapists who have approached the NDIA to set up a working group to look at that interface. I understood it is broader than just the Barwon trial while the NDIS is being rolled out. I understand that is a proposal before you. Where are you up to with thinking about that one?

Ms Skordis: That is not a proposal that I am aware of, so I will have to take that one on notice and find out about that.

Senator SIEWERT: Okay. Thank you.

Ms Skordis: The other thing that aligns with that that I mentioned earlier—and again I am happy to provide you with more information on this—is our outcomes framework. There are some elements within the outcomes framework. Again this is almost like a longitudinal dataset and information that we will be building up. The NDIS is not just about funding supports; it is actually about achieving outcomes for a person with a disability. We need to understand on what basis we are actually measuring that over time. There are some components of that that are about how well a child is achieving, so it is not specific to the educational settings or educational outcomes but I believe there is a component that does assist with then providing information that we can use over time to inform education systems where we believe there are some issues around outcomes.

Senator SIEWERT: Thank you. I am just wondering if I can lob a question on notice in around tier 2. Are you looking at how that process interfaces with education and that link as well? When we have been having these discussions I have been assuming that we have been just talking about the eligibility for—

Ms Skordis: Yes, and I think that relates to my earlier commentary around the dataset. There are a range of people with disability who will not receive individual funding supports but at some point someone needs to keep an eye on what is happening for those children. So information linkages and capacity building fit in and support some of that, yes.

Senator SIEWERT: So can you take on notice to look at where we are up to?

Ms Skordis: Yes. Absolutely.

Senator SIEWERT: A lot of the students we were talking about earlier—those with dyslexia, learning differences and ADHD—will come in under the ILC process then.

Ms Skordis: Yes. Absolutely.

Senator SIEWERT: Thank you.

Senator McKENZIE: I have a quick question. I am always interested in the disparity between states. We hear in this particular area it is quite diverse. How confident are you when we press go on this thing? Some are in very different spaces in terms of who and how they support students with a disability in education. Can you walk us through where each of the states and territories are at on the scale of delivering?

Ms Skordis: I cannot comment on the education system. I do not have enough information.

Senator McKENZIE: So you guys have not done an assessment of states and their provision of support for students in their education systems?

Ms Skordis: No, we have not. The agreement around the roles and responsibilities is national and is nationally consistent. We apply a view that this is what governments have agreed to—how each state applies that. But we will, in the course of rolling out the NDIS, identify areas where there is some—

Senator McKENZIE: Lag.

Ms Skordis: flexibility or differentiation in that delivery, and we will raise that appropriately. In South Australia—

Senator McKENZIE: The assumption is then that states will have to pull themselves up to wherever that is. I want to get a sense that in setting that, there must be some understanding of a scale between states and territories. I want to understand that disparity.

Ms Skordis: At this stage in South Australia the majority of participants are in the nought-to-six-year-old category, so they are not yet interacting with the education system. So there is limited experience in our South Australian trial site. Tasmania, Barwon and Hunter are the main sites that have had reasonable numbers come in who may have some interaction with the education system. But, again, I do not know that that has given us enough that we could actually provide any—

Senator McKENZIE: There is actually a real gap. You do not—

Ms Skordis: robust commentary.

Senator McKENZIE: Given that this sort of support is dependent, if you like, on education systems at a state level, you do not have an understanding of the WA system, the South Australian system, the Queensland system, the NT system—

Ms Skordis: At a local level, there is interaction with schools. But we would not be forming a view on the adequacy or otherwise of the education system in terms of its delivery of its obligations under legislation, the COAG agreement or—we would identify where there are intersection issues which create complexity, and we would work through those. But it is not our role to assess the adequacy or otherwise of education systems.

CHAIR: Thanks very much for your attendance today. You have been really helpful. We appreciate the evidence you have given us. Obviously that interface between the NDIS and education is really critical to ensure that people with disability get the best outcome possible. Thank you very much.

Ms Skordis: I am happy to take additional questions if there are any.

CORDOBA, Mr Sebastian, Professional Officer Policy and Advocacy, Australian Association of Social Workers

WILKINSON, Ms Glenys, Chief Executive Officer, Australian Association of Social Workers

[12:53]

CHAIR: I now welcome Ms Glenys Wilkinson and Mr Sebastian Cordoba of the Australian Association of Social Workers. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. The committee has received your submission. I now invite you to make a short opening statement of no more than a few minutes. At the conclusion of your remarks, I will invite members of the committee to put questions to you. Is a short opening statement only wishes to give.

Ms Wilkinson: We will share that responsibility, if that is okay.

CHAIR: As long as they are both short.

Ms Wilkinson: Sebastian and I have been with the AASW for some time. We are really grateful for this opportunity to provide the experience of our members. We have over 9,000 members who work across a number of sectors, but particularly in disability. Sebastian and I are both social workers and we have both had experience of working in the disability sector as well, so we offer you our practical and professional experience as well as the formal submission we have made.

The Australian Association of Social Workers is the professional body for social workers in Australia. We currently have over 9,000 members. Our responsibility is to set the education standards for graduating social workers and professional standards across a number of different sectors. We have a strong voice on matters of social inclusion, social justice, human rights and issues of concern.

Mr Cordoba: There are marked and profound benefits across the life span when students with a disability have a positive experience with their schooling. When students are fully engaged with their education they can develop a greater sense of self-worth, improved mental health outcomes and better career pathways and create strong social support networks that lead to greater independence and less reliance on welfare and disability services.

In working with students with disability and their families, social workers directly observe the negative impacts of insufficient levels of resourcing. Inadequate support affects a student's ability to engage with their education, resulting in significant emotional and behavioural changes, including disruptive and confrontational behaviour, withdrawal and isolation, lack of engagement and participation, increasing school suspensions, decreasing attendance and increasing bullying. Ultimately, this leads to reduced opportunities, social exclusion and—most concerning—the student is not encouraged to reach his or her full potential. Furthermore, it is unavoidable that the student's negative experience at school will impact on the home environment, adding to family stress. This can compound an already difficult situation as families are stretched to commit additional time and effort to advocate for their child's needs, which in many cases leads to one parent having to give up full-time work.

Social workers have worked extensively in schools and in the children's disability field for many decades. Social workers have provided assessments, counselling, group interventions, case management, advocacy and other forms of therapeutic interventions. Social workers in this field have highlighted the importance of creating inclusive, supportive and accessible learning environments and have observed the far-reaching consequences that come as a result of treating students with a disability as valued members of society. There are a number of key strategies which, in the experience of our members, will lead to better outcomes for students. These include: improved assessment and planning processes; greater focus on family engagement, communication and collaboration in decision making; availability of extra support from school staff; flexibility to work with individual needs; and ensuring that all staff are equipped to provide a positive and more engaging environment.

The success of any strategy is dependent on appropriate resourcing and a consistent and collaborative approach to its implementation. Unfortunately, support for students with a disability continues to be chronically underfunded and mismanaged.

Ms Wilkinson: To conclude, accessing an education is a human right and students' experience with schooling plays an important part in distilling life-long learning and future career options. Due to poorly funded and coordinated services, there are many children and young people with a disability whose experiences of school are characterised by feeling excluded, misunderstood and unsupported. We are thankful for the opportunity to be here and to provide the experience of our members to your committee with the expectation that some positive changes are going to come out of this process.

Senator SIEWERT: In your submission you say what should be done to better support students with disability in our schools. You have made a quite comprehensive list. I am presuming those issues are the issues that have come out of your involvement in working with students with disability in schools. Can you take us through the main issues that—in your experience of working with students—have come up and how they relate to these recommendations.

Ms Wilkinson: One of the things that we can say social workers are really good at—and it is a major strength of ours—is that we see the individual student in the context of their family and in the context of their community. We have a systems point of view. Therefore, we have to look at the strengths of the individual child or student and the strengths of the family and what supports are necessary to support that student in this educational setting. Some of that assessment is done and through that assessment process we can be very targeted with our commentary on what we believe the student needs. As the NDIA people were just saying, assessments are crucial to write the operational plan and the education plan and to understand what family supports are necessary to enable that student to learn in the school environment.

Senator SIEWERT: Sorry, I am just going to go back to your submission. In your experience, how many students have education plans? I do not know that you go through that, do you?

Mr Cordoba: I can go by professional experience, and they are almost non-existent. It is also important to point out that we have learning plans and behaviour support plans. If you look at—I base this—sorry—

Senator SIEWERT: I was just going to clarify—I did not mean to interrupt your stream of thought then—but can you also give us an idea about this around Australia?

Mr Cordoba: I am just trying to think. We have to base it from where our members have highlighted it, so it is impossible to provide it.

Senator SIEWERT: Yes, fair enough.

Mr Cordoba: I know that members from South Australia have raised similar points, and I know that members from Western Australia have raised similar points. The key theme is that the implementation of any kind of plan is inconsistent at best.

Senator SIEWERT: So let us break it down. You have got places where you have said—

Mr Cordoba: Learning plans and then behaviour support plans.

Senator SIEWERT: Learning and behaviour support plans. Do we use the colloquial 'education plans' to incorporate both of those? Is that—

Mr Cordoba: At a Victorian setting, they are different documents.

Senator SIEWERT: Okay, that is why I branched off then when I asked you that question about other states, because I think different states call them different things. So we generally say, whether it is called an education plan or not, 'Is the student getting an individualised plan that is supporting them as a learner?'

Mr Cordoba: Something to point out is that a lot of the time it is not just that the plans are not developed; it is that they are not implemented.

Senator SIEWERT: That is where I was going to. We have a situation where you do not have a comprehensive approach to each student having a plan, and then when a student does have a plan it is not necessarily implemented.

Mr Cordoba: The majority, absolutely. One of the most disappointing sights for me as a social worker is that, any time I received a new student that I was working with, you go through their file, obviously with the consent of the family, and you would always find a psychological assessment, of which the last two pages would be a series of recommendations, usually very specific, around learning styles, content modification and what works in the school environment. Once that assessment is done, implementing those recommendations requires a degree of resourcing, skill and knowledge that most schools—again, from professional experience—do not have. Those files are just filed away and disappear.

Senator SIEWERT: Whose job is it to then make sure that the student's plan—I am using 'plan' in a more generic sense—is actually then implemented, and who is doing that accountability to make sure that students are getting outcomes?

Mr Cordoba: It is the school's responsibility, primarily.

Senator SIEWERT: Sorry? It is the school's?

Mr Cordoba: The school's responsibility.

Senator SIEWERT: Yes, but who in the school?

Mr Cordoba: Who in the school? That changes, because you do not necessarily have a consistent structure. I have to speak at a Victorian level, because that is where I have significant experience, and it varies from school to school. You might have an integration coordinator, a wellbeing coordinator, a year-level coordinator, an assistant principal that might have a role in this, and then individual teachers. If you are talking at a secondary education level, that could be six or seven teachers which alternate every six months. Usually a wellbeing coordinator would have to be responsible for that to some degree, but then that also requires a degree of follow-through from each individual teacher and each year-level coordinator. So it is never necessarily just narrowed down to a specific person. This is where a lot of the miscommunication and a lot of the follow-through does not happen, because at a secondary level, even if you implement behaviour support strategies and alter the curriculum, in six months time they will change a significant amount of the teachers. A lot of the time—from my experience—there is no continuity.

Senator SIEWERT: So they fall between the gaps?

Mr Cordoba: Yes.

Senator SIEWERT: In your experience and around Australia, which states—and, if so, how many schools—would have social workers in the schools?

Ms Wilkinson: That is a really hard question to answer, particularly in the recent experience of social workers who have lost jobs because of the move to introducing religious instruction and pastoral care in schools. Social workers have lost jobs because they were in that position as a wellbeing coordinator, or in a school support service, and they have been displaced. I cannot quantify it for you, but there are numerous examples of that happening.

Mr Cordoba: It depends on region to region a lot of the time. For example, in Victoria the number of social workers would depend on what the region determines to be the necessary number. One of the biggest issues is that social work assessments are not linked to funding. Therefore, a lot of the time when schools have a limited amount of resources, in terms of determining what professionals, they would usually prefer to hire psychologists or speech pathologists, whose assessments at the Victorian level are linked to funding outcomes.

Senator SIEWERT: I understand. That would obviously differ around the country?

Ms Wilkinson: Yes, it does.

Mr Cordoba: Yes.

Senator SIEWERT: Going back to what should be done in schools to better support students with disability, you have key areas around reducing the incidence of school exclusion and suspension. We have had evidence of students being excluded and suspended. What is your experience that, unless the other issues you are dealing with here are met, students end up being excluded and suspended?

Mr Cordoba: I am happy to answer that. One of the biggest issues that came up in previous discussions is around the difference between what some professional groups identify as best practice, in terms of supporting students, and then some elements of school culture. A lot of the time there is a belief that there should not be an exception and that the same rules should apply for everyone and there should be no modification. A lot of the time what happens is that because there is no real support around students with disability, and in terms of their behaviours, the only time that actual support comes into place is when it gets to the suspension level.

The Victorian government has done quite well in the development of what they call behaviour support plans. The key philosophy behind that is that you work with schools and with parents and the students to develop basically a contract. It identifies what the triggers are. What are the triggers of behaviour and what are the key early signs that this student is feeling stressed or overwhelmed and needs extra support, before anything has happened?

The idea of that plan is to intervene and provide extra support so that it does not escalate to the student having a violent outburst, which, inevitably, will mean the school will have to suspend. If we do not have any of those other supports in place, students are then not supported at that early level in terms of being able to manage those behaviours and are then continually being suspended and excluded. A lot of the time schools feel that they have no other choice; otherwise they would be making an exception.

From professional experience and the experience of members I have spoken to, a lot of the support strategies are very much around exclusion. Whether it is suspension or it is about excluding the child from a classroom, the existing system focuses a lot on the punitive level and not necessarily on the supportive level.

Senator SIEWERT: So instead of being called in at the front end, people are being called in at the crisis end?

Mr Cordoba: I was working with a family not that long ago and I was struck by something the mother said. She said that every time the phone rings she gets the shivers, because the only reason the school calls is when her son has thrown a chair. For her the relationship with the school was around shame. That is how she experienced it—and that there was no relationship built outside of just those key incidents. Because we do not have support for students at the earlier levels, that is what the system is relying on—a more punitive approach, which just further excludes students.

Senator SIEWERT: Is that related to resources?

Mr Cordoba: Yes.

Senator SIEWERT: So there are not enough resources at the front end for a fully inclusive approach?

Mr Cordoba: Yes.

Ms Wilkinson: And training is in there, too.

Senator SIEWERT: Yes.

CHAIR: We had Occupational Therapy Australia in earlier. They were extrapolating from their experience in the health system, where the health system works in multi-disciplinary teams, which would also involve social workers. I would be interested in hearing your comments on the need for multi-disciplinary teams across education settings. The other point they made was that they thought the disability standards ought to be broken down in an application and implementation way and taught in initial teacher training. What are your views on those two things?

Ms Wilkinson: If I could talk about multi-disciplinary teams, social workers absolutely support that, because there is no one profession that can meet the multitude of family support needs. We work very well with OTs and with psychologists, as professionals, and we work very well with anyone in the health system—the medical people or whatever. We absolutely support multi-disciplinary teams, and within those multi-disciplinary teams what social workers are very good at—not exclusively, but very good at—is the case management approach, the family liaison and the activation of community supports around the family. That is really core social work business.

One of the things that has been a concern with the development of the NDIA—and clearly we support that—is that there is a large place for community advocacy and changing community structures to develop more inclusive practices, and we are just a little bit uncertain as to how that community development type approach is going to go, because social workers are really good at and can make a positive contribution in placing the child and family in the community and working with them to have community access, such as with community sporting clubs or neighbourhood youth groups, or whatever is appropriate. It is to be inclusive. That is the difference social workers can make. Can you talk about standards here?

Mr Cordoba: Absolutely. In terms of teachers having greater awareness around child development, many schools—it differs on a school by school basis—incorporate that quite strongly as part of their professional development, particularly in terms of how to respond to behaviours. This is not just for students with disability but also around trauma and other life experiences. It then becomes a question of how much we expect of teachers. I think that goes back to the idea of the need for multi-disciplinary work. One of the key things that social workers argue is that you cannot understand the child in isolation. The child is intrinsically linked to their family, and all intervention, all support and all assessments need to have that in mind. If you are not working with the family, you are working with half of the situation.

That view is not necessarily prominent, and I think that is sometimes what a multi-disciplinary team can actually bring. It is the idea of understanding the child not just in the context of their learning needs but in the context of their larger social and emotional aspects, because they are intrinsically linked. It is a need for a multi-disciplinary understanding of the child's situation.

CHAIR: Do you see the need for the disability standards to be broken down and taught as part of initial teacher training? Do you think that would assist?

Mr Cordoba: I think it would, as a larger framework, as well, around understanding child development. I also think that this needs to be part of a continuing education component of professional development.

CHAIR: Yes, I was not suggesting an either/or. It struck me when you talked about the parent who dreaded the phone call from the school, and that the parent's relationship with the school was a negative one. I imagine that is the experience with the school system of many parents and families. Is there a need then for the school to have a more wholesome relationship with the family, and is it achievable—to be able to know a family in a range

of contexts, and not just the phone call to be told you need to come and get your child, or whatever that negative experience is?

Ms Wilkinson: Absolutely, because unless the child is understood in the context of their family the school cannot prepare the child for learning and to be engaged with their peers. It is absolutely critical that there is a family connection. We are generalising here—

CHAIR: But positive as well?

Ms Wilkinson: Exactly. But we are generalising, because there are some students whose families are complicated—they are not the traditional, normal families as we might understand it. I have worked in areas—

CHAIR: There is no suggestion that they are not complicated, anyway!

Ms Wilkinson: Yes! That is right. It takes time to understand that child's context. It can require some very skilled intervention to work out family politics and what will work here in this particular individual's situation.

Mr Cordoba: There is a collaborative component, which I think is missing from the discussion a lot of the time. Absolutely, it requires more resourcing and it requires more support, but a lot of the time—and this is where a lot of my practical experience came into being—you can avoid a lot of the issues you are dealing with right now at the school level if you engage with the parents at an earlier stage and with a more preventative approach. It is one where you understand that this child has triggers and that the parent knows the child better than anyone, and you would be foolish not to draw upon that expertise. That is what I have seen. So, it needs resourcing and coordination and a bit of support, but when we talk about multi-disciplinary work it is also about including the parent as the expert on the child. I have seen that implemented, with great results, because the parent is able to understand what the triggers are, what the key signs are, and what it is about that moment when the student has suddenly broken eye contact and is looking out a window, which may be inconsequential to the teacher on that day, but for the parent it is a key sign that the student is bored and is about to keep himself busy in some way that is not content related. We highlighted this in our submission. It is about engaging parents in the decision making, which sounds obvious, but it is not practised.

CHAIR: Thank you for your submission and your appearance here today. It has been very interesting and informative.

Proceedings suspended from 13:16 to 14:04

ALBAN, Mr Julian Peter, Senior Adviser, Strategic Projects and Policy Unit, Victorian Equal Opportunity and Human Rights Commission

DIXON, Ms Catherine, Director, Commissioner's Office, Victorian Equal Opportunity and Human Rights Commission

CHAIR: I now welcome Ms Catherine Dixon and Mr Julian Alban of the Australian Council of Human Rights Authorities. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. The committee has received your submission, thank you. I will now invite you to make a short opening statement of no more than a few minutes and at the conclusion of your remarks I will invite members of the committee to put questions to you.

Ms Dixon: Thank you for the opportunity to appear. We are appearing today on behalf of the Australian Council of Human Rights Authorities. Just briefly, the role of ACHRA, as it is called, is that members are made up of federal, state and territory discrimination and human rights authorities and those authorities take complaints under federal, state or territory equal opportunity legislation. Importantly, members also have a broader research and education function and, for example, those research functions led us in Victoria to do some research work around the experiences of students with disabilities in Victorian schools. *Held back* is the name of that research. The focus of our appearance today is just to give you a sense of some of the current barriers that we perceive that students with disability have and some suggested solutions to improve their experiences.

Firstly, I will draw your attention to some of the complaint data that we provided to the committee. We have seen some particular trends in disability discrimination in relation to education. The highest number of complaints across the country related to a failure to provide reasonable accommodation or adjustments to support students with disability. Probably the next biggest area of complaint related to exclusion at the point of enrolment and reduced attendance patterns for students with disability, as well as suspensions and expulsions.

We have also identified some trends in relation to particular types of disabilities. Probably the largest number of complaints were related to students with intellectual, learning and behavioural disabilities. That certainly was the case in the percentage of complaints that are made to the Australian Human Rights Commission, but also to us. In Victoria, the highest number of complaints were about students with autism. And probably, on balance, complaints were more often made against public schools and were more likely to relate, on balance, to primary school—although there are also complaints for secondary school and tertiary.

Some of the key themes that have come out of our research in *Held back*, and are confirmed through some of the complaint data coming from other ACHRA members, relate to enrolment. The data suggests that students may experience discrimination when they are seeking to enrol at school and that can include schools suggesting that they are not adequately funded to meet the needs of the child. The other key themes relate to participation and attendance. We see a decrease in participation and attendance in the areas where there have not been sufficient levels of adjustments made to accommodate students and we are doing some work in Victoria around that at the moment. Research is indicating to us that students are enrolled full time but are only attending part time and we are working with the department to explore that issue. I raised suspension and expulsion earlier as another theme. The data shows a trend—for example, from the Australian Human Rights Commission—that some of the complaints about expulsion and suspension relate to kids with disabilities like autism, ADHD and Asperger's syndrome and the failure to actually accommodate the behavioural manifestations of the disabilities is leading to suspension and expulsion.

Some of the other themes relate to curriculum development and assessment. Our research in that area shows that the best outcomes are when teaching methods and learning materials are adapted to meet the needs of students with disabilities. To that end, we have been recommending a lot of focus be put on planning for personalised learning and support, including mechanisms like student support groups that involve parents and making sure that parents as well as students are properly consulted and the reasonable adjustments that need to be made at a local level, including professional expertise as well. Individual learning plans are also critical because they make sure that the individual needs and unique needs of students are being addressed in the accommodation that has been provided. There is a new national resource about that which we see as a positive development. Some of the other issues relate to transition points—for example going from primary school to secondary—and some of the inadequate planning about that and the transfer of information for students.

Lastly, some of the other underlying issues we see relate to building better awareness of the disability standards among parents as well as educators and making sure that teachers actually feel equipped to be able to support students with disabilities. You will see in our submission that a lot of our recommendations pertain to trying to build that awareness of the standards, to build the capacity of teachers to be able to make adjustments, to make

sure teachers are being trained, to make sure that we have a better understanding of attendance patterns and a better accountability through reporting mechanisms—whether it is reporting in relation to attendance, suspensions, expulsions, the use of restraint and seclusion in those kinds of things that have been reported to us—and, finally, to make sure there is better oversight, particularly in the area of constraint and seclusion.

They are the key themes that we have identified in our research and which we have provided in our submission. We are happy to speak to any of those points. You have probably noticed the main terms of reference that our submission pertains to are (a), (b) and (h) of the committee's terms of reference.

CHAIR: Thank you. Unfortunately, nothing you have told us today is new and that we have not already heard particularly firsthand from parents. Where do you think the work you are doing with the Victorian education department will end up? Is it going to result in real change? What do you see will happen there?

Ms Dixon: Our head-back research has been released and there are a number of recommendations in that. We have been working with the department in relation to those. That is transparently available on our website and there are fairly regular updates about how the implementation of those recommendations are going. It is still a work in progress but it is a positive piece of work.

Mr Alban: I know that work as it is emerging is really to look at the way we represented that issue in held-back. There was not sufficient information there to really understand that issue to the full extent that we needed to. We knew that there were a lot of interrelated factors that were leading to part-time attendance for students with disabilities. The work that is emerging with the department here is to meet with teachers and other stakeholders to try to get a firmer sense of exactly what it is that is driving part-time attendance. Essentially, we want to be looking at products and improvements to policy that might actually guide staff to address what those issues are. Some of that may be to try to optimise some of the existing policies that already exist in a general sense about attendance. We know that there are policies that exist at state departments, or at least in the Victorian department, that address that issue generally. Existing policies, in particular, that may affect students with disabilities relate to how to manage it when it does occur and part of that is making sure that there is a return-to-school plan that is managed effectively.

So it is looking at how the existing policies can be enhanced to reflect what we gather from these targeted consultations that seek to home in more on what it is that is driving that. I suppose it is getting more of an understanding of the drivers for a more targeted policy guidance, at least for teachers, and anticipating products that might assist with that, as some of the aims that we are seeing at this stage.

CHAIR: Does the consultation you are doing include peak bodies, such as CDA and principals associations, or is it really just a dialogue between you and the education department?

Mr Alban: As far as I understand it, it is a combination of those audiences. The department are working with us to hold facilitated sessions with the teaching staff themselves and then separate to that we are looking at engaging the advocacy organisations and the stakeholders that sit slightly outside of that to offer that different perspective.

CHAIR: Does the department not really understand the non-attendance and the suspensions? Do you really believe them? Certainly, we have heard evidence on the part-time attendance that either the schools say that is all they can do or the parent is called every time there is a behaviour issue which the school does not think it can meet. This is not rocket science.

Ms Dixon: Certainly, in our research, we had a number of recommendations around it, but I think at this point it is about trying to really get more at that local level to understand what some of the barriers and problems are and working collaboratively to do that.

CHAIR: But is the department saying to you, 'We don't understand what is going on here?'

Mr Alban: No, that is certainly not what I would suggest. What we hear is that the department has a very firm position that they are hoping is being made as clear as possible. So I think it is more about trying to build the understanding and how the message is conveyed. But certainly it is being conveyed to us that the policy is that part-time attendance is not to occur.

CHAIR: It is the law.

Mr Alban: Yes. And that if it is to occur it needs to be very tightly managed within policies that they certainly do have in place. So there is that position there. I know that even in some of our emerging discussions they have really been wanting to stress that, by even engaging in this process of exploring and unpacking the idea, we do not want the department or others to be suggesting that this is an acceptable practice. What we are there for is to acknowledge that in limited circumstances it is a fact that it is occurring and it is something that needs to be

targeted and managed in more effective ways. So, no, I would say there is a clear understanding that there is a firm policy there that students who are enrolled full-time should not attend part-time—and the policies exist, including policies that clarify the legal position. I think it is more about how the awareness of that policy is translating out and getting a fresh understanding of driving it in a practical sense from what teachers and so on have to say through this exploration exercise that we are embarking on with them.

CHAIR: I would be very surprised if the department and/or the schools, whether it is the principal or teachers, do not understand that there is a legal requirement for children to attend school, unless they have been suspended. But it is more the reasons why schools are using suspension as a first resort or, indeed, calling parents. Both of those contribute to part-time attendance. Perhaps I was not very clear in the way I asked the question, but I wanted to know if you think the department understands the underlying reasons as to why children are attending part-time or, alternatively, the school says, 'We can only offer you that.' We have heard on this inquiry evidence after evidence from parents through written submissions and verbally that the school just says to them, 'We can offer you three hours a week,' or 'You can come in the morning and not the afternoon.'

Senator SIEWERT: Or you cannot do sport.

CHAIR: It is exclusion after exclusion. So I guess I am asking you: do you think the department understands those underlying reasons as to why this is happening—not that there is a legal framework? In this day and age, quite frankly, I would find it unacceptable if people did not understand the legal framework for children to attend school.

Mr Alban: I would say there is certainly some understanding there and a commitment to trying to understand more what those underlying issues are. So I think that is what this exercise is really about, in particular for students with disabilities, because there is a lot of general guidance on the issue of suspension and expulsion and the policies there but not as much of an understanding as there could be of the underlying issues that you are talking about. So I think that is what this collaborative consultation exercise is really about. It is about what are the underlying issues—not coming from a place of outright ignorance of what those issues are but acknowledging that there are issues there that need to be unpacked more.

CHAIR: So once you go through the consultation—and presumably the department will consult with stakeholder organisations and the parents and students themselves—is there a time frame around that, and what is the implementation stage? Children with Disability Australia has participated in an endless ground of state and federal round tables, submissions and Senate inquiries with nothing changing. At the end of the implementation phase, what might we look forward to seeing in Victoria?

Mr Alban: Some of my other team members who are working on this at the commission would have a fuller understanding of it, and I am sure we can provide some follow-up on the precise time lines and more detail on the project elements and time lines in the plan. My understanding is that the nature of the exercise is as I have outlined it: the anticipated end result is some kind of products that will give more guidance on the underlying issues that we hope to explore through this consultation and some kind of products essentially working in collaboration with the department to try and raise awareness to address those issues.

CHAIR: What do you mean by 'products'? It is a bit of an alien word in this context.

Mr Alban: Yes, it is a bit of a vague term. When I say 'products', I am talking about written policy guidance for the right audience. It may even be that they are not necessarily giving guidance on solutions but addressing some of the underlying issues so that people are becoming aware of them. The way I am expressing it is vague in some ways but I can certainly provide more explicit follow-up information. It is vague because it is an emerging piece of work. We know the ideas and goals at the beginning point but the end result is less clearly articulated at this point. I am happy to provide some more explicit project material information as a follow-up piece of information.

Senator SIEWERT: The way I interpret quite a lot of the evidence we have received is that some of the exclusion is also about the schools not having the resources to support students in activities to the level that they need. Has that come out through your work?

Ms Dixon: Do you mean around part-time attendance?

Senator SIEWERT: Yes.

Ms Dixon: The reason we are not able to completely answer your questions on part-time attendance is that we have only really just embarked on our project. We are really at the stage of consultation and trying to work out exactly what resources we might need to contribute to make sure people are attending full time. So we are probably better placed to come back to you on that if it is okay.

Senator SIEWERT: Okay. In terms of the review of the standards, on page 6 of your submission you say 'the overall effectiveness of the standards was seen to be undermined by a failure to establish adequate accountability frameworks'. That is another thing that has come out quite a lot from the evidence. I will go onto the data in a minute, but can we talk about the lack of established adequate accountability frameworks and complaint mechanisms. There has been a strong call for an independent complaints process but also looking at better accountability. Are there some more measures you can suggest in terms of building better accountability measures into that process? It seems to me it would be fair to say that a lot of the standards are ignored; certainly they are not being adhered to.

Ms Dixon: Through the complaints we are receiving and the research we have done, it is really that on-the-ground ability to make sure reasonable adjustments are being made. One of the ways I think there will be better accountability is if there is that consistent data collection that is getting a better picture of the number of children with disability, the kinds of disability and the actual nature of the reasonable adjustments being made. That is one mechanism that I think could improve accountability because it means you can better target the whole range of resources and funding.

Senator SIEWERT: Some of the evidence we have received has cast doubt on the ability of that process to actually do that: because the schools are filling it in, it has not been road tested; there is no ability to test whether what the schools are saying is accurate. The evidence put to us in Brisbane was that we certainly should not be relying on it to judge best practice. I asked about that again earlier today. The evidence we received in Brisbane is consistent with the evidence we have received today. So, hearing the evidence, I am not absolutely confident that that process is in fact going to generate that sort of data.

Ms Dixon: You would hope that the data collected would be in consultation with the students and parents.

Senator SIEWERT: That is not the evidence we have received. I was not at the hearing in Sydney—unfortunately I could not make that hearing—but certainly at our hearing in Brisbane on Friday the evidence we received was that it is not being checked with parents and it is up to the school.

Mr Alban: This may be slightly remote—and I am happy to move along and be corrected on this—but the held-back research, in terms of the accountability idea, goes to what is happening at schools and being fed through and reported on to the department. Obviously, that departmental line of reporting can be a way of enhancing accountability. In the held-back research, on all of those local level planning tools that connect very closely in the end to the implementation of the standards and to individual learning plans, the needs of students, the consultation process and so on, we suggested the idea of presenting for auditing purposes an example of individual learning plans, for example. That is one of the mechanisms we were suggesting at the departmental level which I think can assist to an extent. So that is one measure that touches on some of what you are talking about in terms of the accountability idea. We found in the research that those plans were quite ad hoc, that the detail was not necessarily reflecting the consultation requirement to its full extent. So our recommendation was to at least try and look in a more concrete way than is currently the case at these tools and somehow have something that is submitted externally for an audit or reviewed in some sense so that it is moved outside of the school so that there is a clearer understanding of that from an auditing perspective. That touches remotely—maybe too remotely—on what you are asking, but it is certainly one portion of an accountability idea that we were touching on in the research.

Senator SIEWERT: That would certainly force them to do plans. The evidence we have been receiving certainly suggests that we shouldn't worry about the quality of the plans, they just straight-out do not have any plans—which is consistent with what you have found as well. So I would suggest that that would certainly help.

Ms Dixon: I think the other accountability frameworks to consider are about having some independence around some of the issues that arise. This might not touch on what you are concerned about but issues that have come up in our research include the ability to make complaints and also the restraint of children. We have recommended having better independence around the monitoring of those issues. Some of those recommendations have been picked up in Victoria, so there may be some lessons there.

Senator McKENZIE: Your submission noted that there was a significant variation in the legislative protection available to students with disability in different states. Are certain states or territories better than others for students with a disability? If so, why? Also, I would appreciate a bit of a list. I am finding it really difficult to get this information. I ask every national advocacy body. I would appreciate your comments.

Ms Dixon: I have to admit that I may be about to disappoint you again. Off the top of my head—

Senator McKENZIE: Ah, the Federation!

Ms Dixon: We have outlined in our submission the differences across the jurisdictions, but ultimately we based our research on the standards as an overarching framework, which I think is probably the most helpful.

Senator McKENZIE: But then surely you have got to measure the states against that for those that are close, those that exceed and those that fall far short.

Mr Alban: In some respects we can comment a bit generally now.

Senator McKENZIE: Maybe on notice?

Mr Alban: Yes, on notice.

Senator McKENZIE: That would be great.

Mr Alban: Given that ACARA members were presenting as an entire cohort mindful that here we are, working together on this exercise and yet we have these variations in our definitions. I am sure there are pretty firm views from the members themselves. The general preference was to express it as a review of those laws in terms of consistency with the Convention on the Rights of Persons with Disabilities. I am sure there are views on the protections, the exceptions, the consistency of those and the coverage of them that we can give more detail on—certainly on notice.

Senator McKENZIE: Thank you so much.

Senator SIEWERT: I will pick up on where Senator McKenzie was going. Are there standout states or territories in a good way?

Ms Dixon: From our point of view, in terms of our submission it was really more that some states have higher levels of complaints. You cannot tell whether that it is a good or a bad thing, I do not think, except that there is more data that you can draw on to try to look at trends and issues. Federal and Victoria are the jurisdictions with the highest level of disability complaints, and certainly at our commission the highest number of complaints compared to other attribute groups is in the area of disability across the board. That does not necessarily tell you whether we are doing better or worse than others.

Senator SIEWERT: Or you have a more accessible complaints process, for example.

Ms Dixon: That is right. It may well be a good thing.

Mr Alban: If wonder if you mean standout in terms of the legal protections—touching on Senator McKenzie's point—or in terms of the experience of the students of policy direction?

Senator SIEWERT: Both, really: the legal protections but also where we are seeing implementation.

Ms Dixon: From our perspective there is certainly quite a bit happening in Victoria at the moment in relation to the *Held back* report that we made, but I would not necessarily know that other, similar initiatives are not happening in other states.

Mr Alban: I think that, given the *Held back* research is local, we could certainly say that there is a lot of momentum behind these issues in a policy sense coming off the back of that report. We certainly see that the principles behind some of the specific policy initiatives that we have addressed in the submission are positive insofar as they address the themes and barriers that we recommended in *Held back* be addressed. We are seeing positive work in a policy sense coming off the back of our report. In terms of its application more generally, I again go back to the submission that relates to acknowledging the limitations. This is a Victorian perspective and Victorian research, but the findings about the program for students with disabilities funding model in Victoria has principles from the review that is currently underway, and the task of that review itself is a positive policy initiative. I certainly see that there are learnings from that that could apply more generally to considerations of other funding models. That is obviously a positive piece of work. There is also our submission and the suggestions we made there about, for example, the use of restrictive practices. We recommended in the *Held back* research that there needed to be oversight equivalent to what occurs in adult disability services and we are pleased to see that that idea is being adopted here. We certainly see that those are positive initiatives here, and obviously our perspective at the Victorian commission, having done the research, is to see that as positive work. That is not to say that it is not being mirrored elsewhere, but I would say that the local experience has some very positive work happening.

Senator SIEWERT: Has there been any interaction with the NDIA/NDIS? Have you done any work there?

Ms Dixon: We made a submission in relation to the NDIS, which was really just that in the move to a full National Disability Insurance Scheme we need to make sure we do not lose the human rights protections that we have in Victoria. Either we have to have a human rights framework that is based on the convention or, at the least for Victoria, we do not want to lose the fact that at the moment our Charter of Human Rights and Responsibilities

applies to that sector. It applies at the moment to the NDIA but also applies to a range public authorities that have obligations in relation to service delivery for people with disability. So that was our submission. It was not an ACHRA submission but a submission that the Victorian commission made in relation to the NDIS.

Senator SIEWERT: I do not necessarily want to pinpoint which states are better or whatever, but when we were in Queensland there were a number of submissions that brought up the issue of verified and unverified disabilities, saying that they think that that is actually discriminatory when you look at the legislation. Have you looked at that, and are similar sorts of issues arising in other states?

Ms Dixon: I think that issue came up in relation to the funding model—the PSD funding model here—in that, whether or not a student receives funding, there is still an obligation to provide reasonable accommodation for that student. A theme that was reported back to us through our research from parents was that there were difficulties with understanding the eligibility for whether you get funding or you do not. There were some difficulties around how to actually apply. There was a feeling not only that there was a lack of transparency around the process, the key performance indicators and the accountability around it but also just that if you do not get funding it does not mean there still is not the obligation to make reasonable adjustments. We have fed that feedback into the current review of the PSD here in Victoria.

Senator SIEWERT: You are not aware of similar circumstances in other states and territories? Your submission goes into a basic outline of what the legislative requirements are in each of the states, but it does not go into the level of which state gets funded for what.

Ms Dixon: No, we did not touch on the funding models, really, across the board.

Senator SIEWERT: It is not that per se I was looking for a run-down of each of the funding models. It is about how aware people are of the issues: where the line is being drawn in terms of what is a disability, the definition of 'a disability', who is getting supported in the education system and why. Again, we have heard examples of where people quite clearly are not getting supported. The adjustments are not being made. There was an example of dyslexia not even being acknowledged. I do not even think it was making it into the unverified definition. There were issues there around learning differences.

Mr Alban: I think there is something to be said on this idea of consistency—and it does tie to the idea of the legislative consistency that you were questioning and that we will be providing the answer to on notice. The definitions of 'disability' in the legislation vary across jurisdictions, and I certainly think that there is a mismatch there and a tension in terms of the policy response and the programs and the funding in terms of how that lines up to the discrimination protections and how disability is defined in the laws that we all deal with. So the local example, again—and I think they may be transferable principles to some of what you are describing about diagnosis and so on—is that, in effect, students who should be protected from disability discrimination because they meet the definition of 'disability' in a state law are not necessarily eligible for a state, or whatever it is, funding model, because the criteria are not aligned to the discrimination law protection. I certainly think that is a challenge that we found in our own research and I imagine would be mirrored elsewhere. Again, touching a bit on some of the queries for this committee on the nationally consistent collection of data and so on, it goes to that idea of consistency. Anything that comes out of that and a consistency there may align more closely with the understanding across the board so that there is better matching up to the definitions that we are dealing with in terms of a disability discrimination definition.

CHAIR: Thank you very much for taking the time to come and attend our inquiry today and for your submission. Good luck with your project with the department. I do hope that students with disability and their parents get some real outcomes and real changes as a result of this consultation.

Ms Dixon: Thank you.

CHAIR: Thanks very much. The committee stands suspended.

Proceedings suspended from 14:40 to 14:54

COOK, Mr Tony, Associate Secretary, Department of Education and Training**EDMONDS, Ms Dannie, Director, Students with Disability Future Funding, Department of Education and Training****PATTIE, Mr David, Branch Manager, Schools Funding Branch, Department of Education and Training**

CHAIR: I welcome officers of the Australian government Department of Education and Training; I appreciate your coming a little early. I remind senators that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanation of policies or factual questions about when and how policies were adopted. Officers of the department are also reminded that any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis for that claim. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. The committee has your submission—thank you. I now invite you to make a short opening statement of no more than a few minutes, and at the conclusion of your remarks I will invite members of the committee to put questions to you.

Mr Cook: Thank you, firstly, for the opportunity for the department to appear at the inquiry. In order to assist the committee in its deliberations, I would like to make a brief statement just to highlight and expand on information presented in our submission. Specifically, I would like to describe the Australian government's funding for students with disability, as well as provide some information on the national policy, leadership and coordination role of the Australian government for students in this important area.

As with all school education matters, it is important to keep in mind the context of the Australian government's role in education when considering how best to fund and support students with disability. The Australian government does not have a direct responsibility for school education but has been instrumental in leading reforms that positively impact on students with disability. As the committee is aware, in order to effect improvements in school education the Australian government works in collaboration with state and territory governments and non-government education authorities. This is also true for reforms intended to improve the education of students with disability.

In terms of funding for students with disability, it is important that the broad context of all school funding is understood and acknowledged. Overall, states and territories contribute approximately two-thirds of total public funding for schools. The Australian government provides approximately one-third of public funding. It is not the prime funder of schools in Australia. State and territory education departments and non-government school authorities and schools are also responsible for school management policies and procedures, such as staff professional development in areas supporting students with disability and student enrolment, including enrolment procedures for students with disability. Again, the Australian government is not responsible for these areas.

As the majority of students with disability are enrolled in government schools, states and territories provide the majority of funding for students with disability in schools. States and territories contribute slightly more than two-thirds, or 68 per cent, of the funding for students with disability in all schools and 83 per cent of funding for students with disability in government schools. As the committee knows, from 1 January 2014, the Australian government's share of recurrent funding for schools has been needs based in accordance with the Australian Education Act 2013. The act's provisions reflect a base per-student price of educating a student, together with six loadings to target disadvantage, including one recognising the additional costs associated with educating a student with disability. The introduction of this funding loading for students with disability has meant a significant increase in Australian government funding levels since 2014.

As stated in our submission, in the 2015-16 budget, the Australian government provided over \$5 billion in funding for students with disability over the period 2014 to 2017. That includes more than \$1.2 billion in 2015 alone. It is interesting to note the increase in funding that the Commonwealth has made since 2013. It is estimated that the Catholic sector will receive approximately \$463 million in Commonwealth recurrent funding for students with disability in 2015. This is \$311 million more than under the previous targeted funding arrangements in 2013. This is an increase of 205 per cent between 2013 and 2015. It is estimated that the independent sector will receive over \$261 million in Australian government funding for students with disability in 2015, \$180 million more than provided under the previous targeted funding arrangements in 2013. This is a 222 per cent increase in funding for students with disability in independent schools over the last two years. Australian government funding for government schools for the student-with-disability loading is estimated at \$490 million in 2015. Unfortunately, the department cannot provide a direct comparison with student-with-disability funding for government schools.

This is because from 2009, under the National Education Agreement, funding for government schools was provided as a single rolled-up amount. There had been no separate funding-for-students-with-disability program in government schools since 2009.

As with any new school funding arrangements, there are currently transition arrangements to ensure funding certainty and stability for systems and schools as they move from their old to their new Commonwealth recurrent funding amounts. However, all schools with eligible students with disability, as currently determined by the state or territory in which they live, regardless of sector or stage of transition, attract a students-with-disability loading.

I would now like to assist the committee by quickly providing some updated information on the progress of the Nationally Consistent Collection of Data on School Students with Disability. The NCCD has been a significant collaborative initiative of all Australian governments and the non-government education authorities. This is an initiative owned by the Education Council, not the Australian government. The need for a nationally consistent approach to identify school students with disability was discussed by COAG back in 2008. In April 2009, ministers agreed to work towards publishing information about the percentages of students with disability in schools, with ACARA, to investigate nationally consistent definitions.

Since 2010, all Australian governments have been working collaboratively to develop and implement the new national data collection, with initial trials occurring in 2011 and 2012. The NCCD has been progressively implemented in selected schools over the period 2013 to 2015, with 2015—this year—being the first year that all schools will participate. The NCCD is significant because it will, for the first time, provide us with a national understanding of the prevalence of students with disability in schools and their level of need.

The Education Council decided in December 2012 that the NCC data would not be publicly available until 2016, subject to the data being of sufficient quality. It is particularly important to the council that the quality of any data used for funding students with disability is robust and reliable and accurately reflects the diversity of needs with students with disability.

The NCCD collection for 2015 is in its final stages, and an assessment of the data quality will occur before the end of this year. From 2016, as the committee is aware, the government has committed that Commonwealth funding for students with disability will be informed by the NCCD. The department will provide advice to government on the implementation of this commitment when we have analysed the 2015 NCC data.

Finally, I would just like to conclude, very quickly, by briefly highlighting three Australian government projects being undertaken this year, in 2015, that will develop resources to support principals and teachers to build inclusive learning environments in schools. The first two projects are being led by the Australian Special Education Principals' Association to develop resources in collaboration with principal and teacher professional associations. The web based resources will be available to schools in 2016. A national resource called *Learning for All* will focus on disability topics including complex disability, autism, mental illness, emotional intelligence, cognitive disorder and language disorder. The resource will include teacher and leader handbooks and will address both curriculum and pedagogical adjustment and differentiation.

The second resource in development, *Disability Standards for Education in Practice*, aims to raise further awareness of the Disability Standards for Education 2005. This resource will provide teachers with a framework and template that will enable them to determine how best to support students with special education needs.

A third project will develop examples of good practice in supporting the disability standards for education. These exemplars will demonstrate how the standards can be used across education settings, including early learning, schools, vocational and tertiary education, to provide better outcomes for students with disability. The exemplars will assist educators, parents, carers and students with disability and will be available in late 2015 on the Department of Education and Training website.

The government is committed to ensuring that current and future arrangements are directed towards achieving better education outcomes. It will continue to work with states and territories and education authorities to deliver reforms for students with disability. Thank you.

CHAIR: Thank you. That is your opening statement for the department?

Mr Cook: That is correct.

CHAIR: Thanks very much. We have had a number of hearings in a number of states, and we are hearing consistent information. One of them is in relation to the CPI funding, where the Catholic Education Commission, along with some independent schools, told us categorically that, if the funding continued in line with CPI, schools would close. Do you have a comment to make on that?

Mr Cook: I guess that is their evidence, Senator, so I cannot really comment on what information they are using as the basis for that. When I talked about the disability funding, I talked about the fact that the Catholic sector, for example, over the last two years have received over 200 per cent more disability funding than they received in 2013. I am happy, if you like, to talk about how much additional funding will be going into the Catholic sector over the next couple of years, but again—

CHAIR: No, their assessment was very clear that schools would close.

Senator McKENZIE: I would like to hear about how much additional money the Catholic sector is getting over the coming years.

CHAIR: When I hand to you, Senator McKenzie, you can ask that question.

Mr Cook: I am not sure I can comment on them; I do not know what basis they have used there.

CHAIR: They have used the funding based on CPI to make that statement, and they were not alone. Other schools have said that as well.

Mr Cook: I understand they are basing that on historical data, on how—

CHAIR: Yes, on the current levels of funding matched to CPI they said schools would close.

Mr Cook: Considering every school is receiving record funding compared to what it has ever received before, and considering funding will increase every year, I am not sure how they reached that assessment.

CHAIR: How does funding increase if the CPI remains the same or goes down?

Mr Cook: Well, with funding every year you have more money than you had the previous year. That is the increase in that sense.

CHAIR: Sure, but it has also been expended. It has not been put in a pot.

Mr Cook: We have to look at how that has come about. My understanding is they have used historical data. If I look at some of the most recent data—

CHAIR: Do you say they are wrong? Are they wrong to say that?

Mr Cook: I do not think I have said that.

CHAIR: No, I am asking you. Are you saying that they are wrong?

Mr Cook: I cannot comment—I do not know what research they have used as part of that. But I understand, based on the evidence, that they have used historical data. The main drivers are teacher costs.

CHAIR: Can you take it on notice to talk to the Catholics about the comments they made at the Senate hearing about schools closing through CPI funding.

Mr Cook: I can certainly talk to them. I can also give some information about what we understand some of the drivers are at the moment. If you look at the drivers of school costs—

CHAIR: No, I am just interested in—

Mr Cook: I need to comment about what they have said. In terms of drivers of school costs—

CHAIR: No, Mr Cook, I will ask the questions. I have asked that question. You were not able to answer. I asked you directly whether the Catholics were wrong. You said you are not able to do that.

Mr Cook: I can comment on their comment.

CHAIR: So I am asking you to review the *Hansard* in relation to what they said, and then take on notice to speak to them and come back to the committee, because the evidence is on the *Hansard* and you can review that.

Mr Cook: To clarify, are you asking me to advise the committee about why the Catholics—

CHAIR: The Catholics came to the Sydney hearing and made a clear statement that schools would close. Other schools have said that too. Given the Catholic system is our—

Senator McKENZIE: It is very hard to pin them down, though, on the assumptions they were using to make those claims.

CHAIR: When you have your turn, Senator McKenzie, you can explore your lines of questioning. They are a large provider of schools—the second largest provider of schools in the country. They made that statement. They are not idiots, presumably. They know what they are talking about. I am simply asking you to review what they said on the *Hansard* and either make a comment about that or, if there is not enough information there, talk to them and come back to us so you can answer the question as to why the Catholic system has said that.

Mr Cook: Right. I am happy to do that. I will take it on notice and come back to you again.

Senator SIEWERT: Disability loading is allocated on—

Mr Cook: A per-student basis.

Senator SIEWERT: A per-student basis, and then to whom? Does it go to the individual schools?

Mr Cook: Just to clarify that, the model of how that operates is quite complex.

Senator SIEWERT: I could have guaranteed that.

Mr Cook: In terms of money going directly from the Commonwealth model—this is Commonwealth money I am talking about—to individual schools, that only applies to about 900 schools in Australia, and there are 9½ thousand schools in Australia. They are independent, non-systemic schools. They are stand-alone, independent schools that are not part of an overall system. In the independent sector you have Anglican schools that might be part of an Anglican system. If you are part of a system—like a state government, so all Queensland government schools, or the Catholic sector, like the New South Wales Catholic Education Commission, or an independent system, like an Anglican system—the model operates by looking at all of the schools in your system. In Victoria, for example—I cannot remember; I should remember—it is 1,600 government schools, I think. It calculates the model for every single one of those individual schools, and then it provides that funding to the Victorian state government as one single cheque.

Senator SIEWERT: That is what I wanted to get to. Then what happens? Suppose I get it as the Western Australian government. Then what do I do?

Mr Cook: Then what happens is that each of the systems, whether that be the Victorian government, the Victorian department of education or the WA Catholic education commission, implement their funding models, which is going to be different to the Commonwealth funding model—in fact, at the moment, there are probably about 20 funding models across the country that distribute that funding.

Senator McKENZIE: When did that come about?

Senator SIEWERT: Yes!

Mr Cook: That was a decision of the previous government.

Senator McKENZIE: Of the previous government?

Mr Cook: That is correct.

Senator SIEWERT: The leave loading that the Commonwealth gives—

Mr Cook: Yes, the disability loading.

Senator SIEWERT: Sorry, the disability loading—

Mr Cook: That is alright.

Senator McKENZIE: Did you say leave again?

Senator SIEWERT: Yes, I keep saying it. It shows that I came on the midnight flight, doesn't it? The loading is a component of the Commonwealth and I understand what you have said about only funding a certain percentage of the funding that goes to schools—

Mr Cook: Yes.

Senator SIEWERT: does that go directly to schools per student exactly as it came from the Commonwealth?

Mr Cook: It would be highly unlikely.

Senator SIEWERT: That is what I figured.

Mr Cook: To help you, I have written to every state government department of education. It is a requirement for the non-government sector to provide advice to the Commonwealth as to how they have allocated that funding by the loading to each of their schools in Australia. I am still waiting to hear back from some of the states in relation to that, but that is a requirement under the act.

Senator SIEWERT: So it is a requirement under the act, but for what period of time can't you say whether the states and the system—because I presume you are doing that to each of the systems—

Mr Cook: That is correct.

Senator SIEWERT: have responded. Firstly, can you tell us who has responded?

Mr Cook: I would have to take that on notice because it has basically been in the last few weeks that we have been getting letters back.

Senator SIEWERT: Could you take on notice who has responded?

Mr Cook: Sure.

Senator SIEWERT: I presume you have written to the Catholic system as a whole—

Mr Cook: Yes.

Senator SIEWERT: To the Anglicans?

Mr Cook: Yes.

Senator SIEWERT: To the other independents?

Mr Cook: Yes.

Senator SIEWERT: And the states and territories?

Mr Cook: For the non-government sector it has been part of their usual practice. This is not unusual for them other than the fact that there is the loading component. They are used to reporting to the Commonwealth. We have something called the green book that we publish every year that outlines how much money has gone to the non-government sector. They are used to that, so I did not have to formally write to them, whereas the state sector is new under the Australian Education Act so I formally wrote to all the state education departments. I think we got most of them in but I am happy to take on notice those to date.

Senator SIEWERT: Yes, if you could take that on notice. From those you have to date, are they telling you what they have spent it on or whether it has gone—as it came from the Commonwealth—to students essentially through the school system?

Mr Cook: That depends on the act, and it depends on whether they are participating or non-participating as a system. We have three participating systems in terms of government schools—New South Wales, the ACT and South Australia. Under the act, they are required to give me the level of loading broken down by school. If you are nonparticipating—that is, the rest of the states—you do not have to give that level of detail. They just have to give the global amount that was provided to their individual schools. It is differential, unfortunately, based on the way the act actually applies to schools.

Senator SIEWERT: Given that education is not my portfolio, I am just taking a wild stab here that which states were in and which states were out were part of the negotiations.

Mr Cook: That is correct.

Senator SIEWERT: When you say global amount, that is a global amount per school? They do not break it down to per student?

Mr Cook: That is correct—

Senator SIEWERT: But some states do. The participating states break it down per student.

Mr Cook: They will give me a global amount for the state—a breakdown by state—for example, let's just say WA. WA is a nonparticipating state.

Senator SIEWERT: How did I guess that!

Mr Cook: They will give us at the state level—of the millions and millions of dollars that we have given them—what it looks like broken down by their loading but not what it looks like at every school.

Senator SIEWERT: Do you not already know that because you are the ones who gave it to them?

Mr Cook: We know, but how have they then allocated that because they have used a different model to allocate it.

Senator McKENZIE: It is a different calculation. They use their own state based needs based funding model. There are essentially 20 different needs based funding models around.

Mr Cook: That is right. I know exactly how much I have given WA for that model, for that disability, but they may have used another model, using different criteria, to then allocate that funding to their schools. They have moved the amounts within.

Senator SIEWERT: So they may not have necessarily given it to you in the way that the Commonwealth works it out—per student?

Mr Cook: They might have given more, globally, to disability. Or they may have given less, and more to low-SES, for example. That is a state based decision.

Senator McKENZIE: Rural and regional, or Indigenous.

Senator SIEWERT: I see. But some states do it straight to them—is that what I understand you to have said?

Mr Cook: No, sorry.

Senator SIEWERT: No. Okay—just when I thought I had it!

Mr Cook: The only one that I understand probably does that is South Australia, for their nongovernment sector. So in state funding—because, remember, there is Commonwealth funding and state funding—the way that the South Australian government has allocated their state funding to the nongovernment sector is based on the Commonwealth funding model.

Senator SIEWERT: Therefore it is really hard for all of us to look at what level of funding then is really going to students with disability and how it is then being used, effectively.

Mr Cook: That is right. I can give you the global amounts that we have allocated from the Commonwealth to schools and systems, but I cannot at the moment give you a reading back which says, 'Was that money actually used for that purpose?'

Senator SIEWERT: I will get to the consistent collection of data as a separate topic as well. But even with that we are still not going to be able to tell how effectively the Commonwealth money is being spent, because of all those different ways the money has been broken up and because states are not necessarily delivering it straight to the schools, even though they have the disability loading.

Mr Cook: That is correct. The only schools it is going straight to are the 900 independent schools that are not part of the system.

Senator SIEWERT: Then how is the Nationally Consistent Collection of Data—I am glad you call it the NCCD!—going to help if we actually do not have a really good handle on how much money is being spent?

Mr Cook: The NCCD is really about getting better information than we currently have. The only information we currently use in the Commonwealth—and in states and territories—to actually fund and inform funding for students with disability is based effectively on a medical diagnosis that happens at a state level. That is what is in the *Report on government services*, so it is 5.3 or six per cent or so of the population.

The way the model operates at the moment is that there is no differentiation for those students. You might have one student who has very high needs. They are basically counted as the same amount as someone who actually has more moderate needs. While there is an interim loading in place, the amount is effectively the same for everyone. Nationally consistent collection of student disability data will enable us to say, 'Okay, let's look at the more extensive needs that might be there and look at the less extensive needs that might be there, and we can then differentiate the amount of money that loading may attract.' The loading may, for example, in the future move into three subcategories in the differential funding amounts: most needy, next needy and least needy.

Senator SIEWERT: We might as well go there, since we are there, and while it is on my mind. We have had evidence—a bit today, but also when we were in Brisbane; I am not so sure about Sydney, because I was not able to make it—that there were a number of people who were critical of the process because it is schools self-reporting. The argument is that it should not be regarded as best practice or an accurate reflection of what the situation is. I am presuming that you have heard that same criticism?

Mr Cook: Yes.

Senator SIEWERT: Therefore, is there a review process built in to the use of this that accounts for that?

Mr Cook: There are a few things. If I start back at the beginning: as I mentioned in my opening statement, it was in about 2008 that COAG agreed that we would collect this data. For that purpose, it was actually about publishing the data on the My School website. The process had begun. The Education Council then decided that for the purposes of funding we would use this process, rather than actually develop a whole new process. On a yearly basis we have been doing something called a 'process improvement project', which actually looks at the data collection and which works with groups of schools about how they made judgements, basically to try to moderate them. So we are aware of the data quality issues.

That is why we have developed training materials. That is why states and territories have been working with schools in relation to this. So, we have put a number of things in place. PricewaterhouseCoopers has been working with us on that. I think some of those reports might be public; I am not sure. We can take in on notice to see whether they are. But basically it is recognising that the data in the initial years may be not as stable as we would like and asking what we can do to try to address those issues. We have been putting projects in place to try to address that.

Senator SIEWERT: Are you on target for dealing with the issues around quality by the end of this year?

Mr Cook: That is our intention. This year is the first year that every school in Australia has been involved in the work. When that data is in, which we expect will be in the next couple of weeks, we will be analysing it in

terms of quality. Then, in terms of the federal government, my department will be advising the new minister in relation to the next steps.

Senator SIEWERT: So, we will not necessarily see the data go public at the end of this year?

Mr Cook: That is correct. The Education Council has already decided that it would not be public this year; that was an Education Council decision.

Senator SIEWERT: So, it is next—

Mr Cook: It will be 2016; that is when they indicated. And they said it would be if the data quality is robust. That is what the Education Council also decided. This is owned by the Education Council; it is not owned by the Australian government. We are collecting on behalf of all states and territories, but it is actually the council's data, so they will ultimately have the final say, I guess, as to whether that data is robust enough to be published.

Senator SIEWERT: Going back to the funding model, under the new process you are finalising all the entities getting back to you, and then that will be published. Is that right?

Mr Cook: That will be a decision of the minister. Again, for the non-government sector we normally do it in what is called the green book. The minister will make a decision about publication. In relation to MySchool—in terms of the number of students with disability—the intent of that was to publish that in 2016. But, again, the Education Council has said it will be if the data is robust, to enable them to do that; obviously they do not want to put misleading information out there publicly. So, the aim would be 2016.

CHAIR: We will go to Senator McKenzie, and then we will come back to Senator Siewert and me.

Senator McKENZIE: I wanted to give you a chance to finish the answer to Senator Lines—just to flesh that out a bit more with the Catholic system and the record funding that the federal government is putting into disability.

Mr Cook: As I indicated, in terms of disability for the Catholic sector there was a growth of over 200 per cent from 2013 to 2015, and I think a 7.8 per cent growth from 2014 to 2015, a 6.1 per cent growth from 2015 to 2016 and a 6.7 per cent growth from 2016 to 2017. Over that four-year period, 2014 to 2017, that is a 22 per cent growth in Commonwealth funding, off the back, as I indicated, of an over 200 per cent growth from 2014 to 2015. I am aware that the Catholic system was using historical data, as I indicated, to talk about the growth in school costs. Growth in school costs is predominantly driven by teachers wages. About 70 or 80 per cent of staff costs is what actually drives the costs in relation to school education. I think they were using a figure of five per cent or so. It is interesting to note that between 2010 and 2013 the average annual growth of primary school teachers is 2.7 per cent. So, in terms of driving that forward to 2018, the differential was actually not great in terms of student enrolment growth as well as CPI growth. As I said, because every school is receiving record funding and every school is getting additional funding every year, overall, in terms of school funding—and that is Commonwealth, and of course there is state funding on top of that as well—I am surprised by the statement that schools will close.

Senator McKENZIE: Yes, I heard a similar comment in Brisbane last week and was equally perplexed at the maths of how a school five years in advance can suggest that they are going to be laying off staff or closing schools in the face of the data as I knew it. Can you think of any reason or budgeting methodology that might result in such claims being made? I cannot seem to put my mind to it.

Mr Cook: I am not aware of them. Again, I will come back to school funding; it will grow every year. I have given you the disability amounts. I can give you—

Senator McKENZIE: I mean, are we expecting a tsunami of students into the education system that would require putting on exponential numbers of staff?

Mr Cook: Even if we did, school funding is demand driven, so we would fund it. Even if another 10,000 students appeared at the doorstep tomorrow, the Commonwealth would fund that, as do states and territories.

Senator McKENZIE: So, the comment would seem completely baseless.

Mr Cook: I do not know how the comment has come about. The overall funding for Catholic sectors increases between five and six per cent per year between now and 2017 and then the disability funding actually increases even more.

Senator McKENZIE: And the loading we are talking about for disability specifically is exactly the same loading as there would have been under the Labor government.

Mr Cook: That is correct. There has been no change to the act. It is exactly as it applies in the act at the moment.

Senator McKENZIE: So, we are basically implementing the former government's—

Mr Cook: That is correct.

Senator McKENZIE: The 20 different systems.

Mr Cook: Both the disability in relation to the act and also the time line for the collection of the nationally consistent data are the same time lines as the previous government's expectations.

Senator McKENZIE: So we have a unity ticket on this one, it would seem.

Mr Cook: It is being implemented as the previous government had indicated.

CHAIR: Under the new Prime Minister and the new Minister for Education, have there been any changes to policy or funding arrangements for students with disability?

Mr Cook: I do not brief the Prime Minister, so I am not aware of anything about the Prime Minister. We have had an initial briefing with the Minister for Education, and we will continue to do those briefings.

CHAIR: Did that briefing go to children with disability?

Mr Cook: It was a broad briefing around the entire spectrum of school education. We made a brief comment about disability, as there were very brief comments around everything else.

CHAIR: What was the brief comment?

Mr Cook: Well, that is advice to the minister. I would not normally be indicating what advice I have given to a minister.

CHAIR: So, there was a briefing with the new minister—a formal briefing—

Mr Cook: That is correct. We provided advice to the minister.

CHAIR: And you cannot tell us what the department reported in relation to students with disability?

Mr Cook: It is our advice to government, and we would not normally—

CHAIR: But there have been no changes to policy or funding arrangements that were told to you at that meeting?

Mr Cook: No. It has always been the case. The funding up to 2017 is exactly as appears under the act.

CHAIR: Has the More Support for Students with Disabilities program been reinstated?

Mr Cook: Reinstated?

CHAIR: Yes. Well, it had been cancelled—

Mr Cook: There are a few things around this program that we just need to be clear on for the committee. The More Support for Students with Disabilities initiative was a short-term initiative—two years, and then it was extended for 12 months. However, in relation to the way the act operates, if you were a non-government school that received More Support for Students with Disabilities money in 2013, that money is forever in your budget. So, the notion that the MSSD money has stopped is not correct. And I do not know whether that is fully understood, because of the way that the act operated, which is that it looked at what funding schools were getting in 2013 and said that you would get that funding, plus three per cent. That is for the non-government sector. So, if you were a school in the non-government sector that got More Support for Students with Disabilities funding, that money continues for you, so there is no cut in that sense. In some cases there were also system costs, so the Catholic education system of one state might have taken a proportion of money out. We have identified those costs and have apportioned that cost to that system in that state.

CHAIR: And for the public system?

Mr Cook: For the public system it is different, based on the decision of the previous government. That decision was using 2011 as the base year for future funding projections for the Australian Education Act.

CHAIR: Yes, but in relation to the MSSD, the current government extended the program by 12 months.

Mr Cook: That is right.

CHAIR: So, has the new minister or the new Prime Minister talked to you about reinstating the MSSD—another extension?

Mr Cook: There has been no conversation with me around that. For non-government schools, that money continues.

CHAIR: Have there been any changes to whether or not the loading for students with disability will be fully funded?

Mr Cook: Any changes to the transition—no. As per the previous budget, particularly the 2014-15 budget, the decision is that from 2014 to 2017 the model operates, as was agreed, as a part of the Australian Education Act. Beyond 2017 there will be negotiations with the state sector and also the non-government sector—between them and the Australian government. That has not changed.

CHAIR: When it comes to children with disability there has been no new investment and no changes in the government's policy since the new Prime Minister and the minister were sworn in?

Mr Cook: Sorry—in the last week or so have there been any changes to note? As decided in the budget, which means every year, the Commonwealth funding for children with disability increases by \$100 million

Senator SIEWERT: What definition of 'disability' is used for calculating the loading?

Mr Cook: Many definitions.

Senator SIEWERT: Criteria, sorry.

Mr Cook: We use the definitions that state and territories use to identify students with disability in their state. That is different in every single state. It is generally a medical diagnosis, but it is based on however Victoria does it in Victoria, and this is why it is actually quite wildly different.

Senator SIEWERT: This is why we are getting problems with funding. For example, in Queensland, where we have got verified and unverified, you would only be paying the loading on the verified.

Mr Cook: I would imagine that would be the case, yes. That would be the data that they provide us.

Senator SIEWERT: So they miss out. There are a number of disabilities that are falling into the unverified, for example, in Queensland. It would be the same for every state; they would just call it something different. And so they miss out from the state system but also from the Commonwealth system for that funding.

Mr Cook: At the moment, the only datasets we can use are the datasets provided to us by states and territories and how they fund their students with disability.

Senator SIEWERT: The problem here, even with the nationally consistent collection, is that they are probably not going to be reporting on their unverified—

Mr Cook: In terms of the new system, basically we are looking at the four categories. It is about the levels of adjustment that a student might need in a classroom. The four categories go from extensive—so very significant adjustments—down to no adjustment that requires funding. It is the teaching strategies in the classroom that will actually cater for that student, but there is no additional funding. When people talk about the number of students who require adjustments going forward, we have to remember that there are four categories. One of those categories does not attract additional funding.

Senator SIEWERT: That is the no adjustment in the classroom.

Mr Cook: That is right.

Senator SIEWERT: . For example, let's say we were talking about dyslexia and about the fact that it is not verified. I think they said that it was not actually acknowledged. Wasn't the dyslexia support group saying that issues are not acknowledged?

Mr Cook: It would be going forward under the definition of disability standards. That is our expectation.

Senator SIEWERT: So it will be.

Mr Cook: That is right.

Senator SIEWERT: It then gets picked up through the consistent collection process. Then there will be funding available? That is what I understand, or is that making a leap of logic?

Mr Cook: That will be a decision of governments, I guess, but that is the advice we will be giving to government about the levels of adjustment going forward.

Senator SIEWERT: It then goes to 2017, and beyond that, when we are looking at the new funding cycle, is when that process could potentially kick in.

Mr Cook: Or earlier. The federal government has committed to next year's funding for disability being informed by the 2015 data collection.

Senator SIEWERT: If it is—I will not use the word 'verified', because I have been using it differently—

Mr Cook: If it is robust, stable data.

Senator SIEWERT: If it is robust, yes—

Mr Cook: Having said that, certainly from the department's perspective, we will be advising the minister as to how to implement the commitment that the government has given to inform next year's disability funding by the 2015 data collection. For the first time ever, every school in Australia will be involved.

CHAIR: Mr Cook, earlier you mentioned changes in funding for students with disability. How much will funding for students with disability grow from 2018? Will it be CPI in line with the government's announced school funding policy?

Mr Cook: That is a matter for government. Once we advise government on information that comes through the NCCD process, the government will decide how the model will exist beyond 2017. At the moment the total amount of funding, as you are well aware, the total school funding, will be indexed to CPI plus enrolment growth from 2018 on. Whether that applies to disability, unfortunately I cannot comment on that as it is a decision for government.

CHAIR: What if the NCCD process or other processes identify that there is unmet need for students with disability? How will this be funded if it is above and beyond the CPI cap? Will students miss out, will funding be taken from other parts of the system? If so, which parts will it come from?

Mr Cook: Again, this will depend on the data and the advice we provide, and then the decision by government. I cannot comment on that.

CHAIR: If the data is showing there is unmet need out there, and certainly a number of submitters have put to the committee that there is unmet need out there, what happens?

Mr Cook: That is a decision for government and I cannot pre-empt where government might go with these things. That is something the government will have to decide. We will provide advice on the matter but the government will decide.

CHAIR: Even within the current forward estimates you cannot make a comment?

Mr Cook: We have not seen the data so we do not know what it looks like for 2015 in all schools, so we do not know what the prevalence across Australia is. I know people have been talking about unmet need but again, as I have indicated, in the current process one of the four categories is about not additional funding.

CHAIR: If you are aware, as you just said, that people are talking about unmet need, is the department simply sitting on its hands?

Mr Cook: We are not because we do not have the data.

CHAIR: Aren't you thinking that if there is unmet need we might meet it in this way or that way?

Mr Cook: We are considering the advice we will provide to government, that is correct, and we will provide that advice to government once we have the final data in.

CHAIR: So despite you hearing anecdotally that there is unmet need out there, it is not something you are actively working around?

Mr Cook: We are working on the advice we will provide to government and will finalise that advice and provide that advice to government based on the final data that is available to us, which will be in the next couple of weeks. I think the non-government data might even be in. We are almost at that point.

CHAIR: When do you expect the non-government data?

Mr Cook: This week.

CHAIR: Then what work do you need to do on it?

Mr Cook: We have to wait for the government data as well, which I think will be mid to late October. We will look at that data, as we do with anything in the school funding model, and provide advice and a range of options for government to consider as to how they will implement their commitment to inform the disability loading using the NCC data for next year.

CHAIR: I accept that you are getting the data in, and you have told us that in the forward estimates school funding is linked to CPI.

Mr Cook: Beyond 2017, that is correct.

CHAIR: So if there was unmet need that came in for next year you would not have the capacity to meet that without additional funding.

Mr Cook: Again that is a decision by government.

CHAIR: But that is a fact, is it not?

Mr Cook: Not necessarily—it depends on the level of adjustment or the level of funding that a student may need. At the moment every student in Australia is getting the exact same amount of money. There may be differential need around those sorts of areas, but again this is all a decision for government.

CHAIR: Unless you save money, if there is unmet need it does mean there is not enough money in the system.

Mr Cook: But, again, some of that unmet need maybe a category which says no funding is required.—as I have said, one of the four categories is about that.

CHAIR: Yes, but it could also be one of the three categories above that.

Mr Cook: It could be. We are getting to a hypothetical stage where I cannot really provide much advice.

CHAIR: Sure, but on the current formulas you would not be able to meet that need. That is just a fact.

Mr Cook: Again, that is a decision by government. You are asking me to hypothesise about whether it will be more than it currently is.

CHAIR: You have told us the CPI is locked into the current forward estimates.

Mr Cook: That is correct.

CHAIR: So if there is unmet need coming into next year the funding is not there. You have to get additional funding.

Mr Cook: I am not going to make a hypothetical comment based on something in the future—I cannot do that.

CHAIR: I am not asking for a hypothetical. I am really just stating fact, because you have locked it in, so there is x dollars available. If there is more need out there, how does it get met?

Mr Cook: Again, I am going to wait until the data comes in to see whether there is more need.

CHAIR: I thought that, in response to a question that Senator McKenzie asked you, you said that it would be met, but now you are not saying that.

Mr Cook: It would be met. I talked about student enrolment. If there are additional students—I am talking about additional students that exist in the school sector. If suddenly another 10,000 students arrive tomorrow that we were not expecting then that would be met, because that is school demand driven. That is different to the question you are asking me about the differential disability.

CHAIR: Yes, I am asking—

Mr Cook: Sorry, I am not trying to be difficult. It is just that, because I cannot factually say whether it is going to be the case or not, it is hard for me to answer the question.

CHAIR: Yes, but to me it seems a factual response to say, 'Well, if CPI's locked in and we have additional unmet need out there—which the AEU, the Catholics and parents are talking about; everyone who comes before the committee tells us there is unmet need out there—the current system is not going to meet that need.'

Mr Cook: Again, from a hypothetical perspective, it could be the other way around.

CHAIR: A decreased need?

Mr Cook: In terms of the levels of adjustment, under the current model, because the funding amount is quite large, it may be differential across how that operates in terms of funding for disabilities.

CHAIR: But if that is true the opposite is also true. It must be. You cannot put a case that we might have a reduction, hypothetically, but then refuse to say—

Mr Cook: I am putting the case both ways.

CHAIR: Yes.

Mr Cook: I think I have answered as far as I can go. I cannot make a hypothetical perception.

CHAIR: So it does cut both ways. You could have a reduction, but you could also have an increase, and that increase currently is not catered for in the funding.

Mr Cook: That will be a decision by government in terms of whether that is the case going forward.

CHAIR: Mr Cook, you cannot use the analogy that somehow there are going to be fewer students and more available funding and then not also entertain the prospect that there is unmet need out there and we have funding that will not meet it.

Mr Cook: My comment will be that, consistent as it is, when the data comes through we will know factually whether there is unmet need or not.

CHAIR: So that data will be released?

Mr Cook: That is a decision by council. The Education Council owns the data, not the Australian government.

CHAIR: But you expect it to be released?

Mr Cook: The Education Council made a decision, I think, in 2012 or 2014 with the proposal that information coming out of NCCD would be made available on the My School website in 2016 if the data were robust. So that will be a council decision.

CHAIR: How do you determine if it is robust?

Mr Cook: I guess states and territories will look at their own data and provide advice to council as to whether they think it is robust. It is their data.

CHAIR: It would be a terrible exercise if, after all these years and all this secrecy, someone then made a decision that the data is not robust so therefore it will never see the light of day.

Mr Cook: That is a state and territory Education Council decision. It is not the Australian government's decision.

CHAIR: Surely we have a right to expect better than that.

Mr Cook: The Education Council have said that they expect the data will be made public.

CHAIR: Except you keep putting the proviso 'if it is robust'.

Mr Cook: I do not. They have. That is their decision.

CHAIR: Yes, but—

Mr Cook: I am just letting you know what the Education Council, with every state and territory education minister across Australia, has decided.

CHAIR: Sure, but surely, if we have been collecting this data, to turn around at this late stage and say, 'It's not robust enough; we won't release it,' does not take us very far.

Mr Cook: The aim has always been to release the data, but the Education Council will make that decision. Twenty-seven per cent of schools are collecting the data for the first time ever this year, so the states and territories will make a decision about the robustness of that data.

CHAIR: All right. I will go back to Senator Siewert, and then I have further questions.

Senator SIEWERT: I want to go to the issue about the Disability Standards for Education. There has been a lot of criticism about the standards and, in particular, the lack of enforceability on implementation and compliance. Do you have any comments on that?

Mr Cook: As you are probably aware, we have undertaken a review. That review is currently with our minister, Minister Birmingham. After consideration, I expect that will be released in the not-too-distant future. Unfortunately, I cannot go into the depths of that review at this particular point, until the minister has had an opportunity to review it and the Australian government response has come out, but I am aware of some of the concerns. Some of the things that the Australian government has been doing is that we have been developing resources—training materials and materials online. But effectively, because this is predominantly about states and territories who run, own and operate schools, how that is implemented at a school level is the responsibility of those states and territories and the non-government sector. The Commonwealth does not actually manage schools. We can provide advice on the matter but only states and territories can actually enforce the requirements in relation to what is happening in their schools.

Senator SIEWERT: Thank you. When will we see the report? I thought it was due in August; wasn't it?

Mr Cook: Yes, that is correct. We got the report but it is now, just with the change of ministers, with Minister Birmingham for consideration. I would expect it to be out soon, but of course it is his decision.

Senator SIEWERT: I could spend five minutes going backwards and forwards, but let us pretend I have done that and I know that it is now up to the minister to make that decision.

Mr Cook: Sure.

Senator SIEWERT: There have been a lot of calls for a national complaints process. Obviously hearing that is not new to you. Has there been any consideration or discussion nationally to have a national complaints process?

Mr Cook: Not within the department, but again that is probably part of the advice that we are providing our minister at the moment if that is one of the findings from the report of the review that has happened.

Senator SIEWERT: Is that one of the issues that came up in the review process?

Mr Cook: I will have to take that on notice, if that is okay. I have not got fully every single issue that came up. I am very happy to take that on notice and provide advice.

Senator SIEWERT: It would be appreciated if you could.

Mr Cook: Yes. I am very happy to do that.

Senator SIEWERT: Prior to the review was there any discussion nationally about that or with the states and territories?

Mr Cook: I am not aware that there was. The Attorney-General's Department looks after the complaint processes rather than our department, so it might have happened in there but I am not aware of it.

Senator SIEWERT: We can put some questions on notice to A-G's.

Mr Cook: Sure.

CHAIR: I want to go back to a comment that Senator McKenzie made. She said that the Catholics said that fees would rise and that schools will close. She did not believe that that was robust, but aren't the Catholics in the best position to judge what will happen with school funding in their system?

Mr Cook: I would assume so, as anyone who owns a school system, but it depends what data they have available to them as well.

CHAIR: Or who have been running it as long as the Catholics.

Mr Cook: Again my point was I understand they were using historical data. The most recent data is quite different to their historical data in terms of growth in school costs.

CHAIR: Looking at the NCCD, the Productivity Commission shows there are about 190,000 students with disability receiving funded support, or 5.3 per cent of the total school population. Does the department believe that all the students who have disabilities in schools who need support are currently receiving it or is it possible that the number requiring support is far greater based on the available evidence from the ABS, from schools, from parents and from the NCCD?

Mr Cook: Sorry? I got lost a little bit.

CHAIR: I can break it down. Mr Pattie was nodding, so we agree that the Productivity Commission says—

Mr Cook: Is that the RoGS, the *Report on government services*?

CHAIR: Yes.

Mr Cook: That is what we use as a basis for the data.

CHAIR: So does the department believe that all the students who have disabilities in schools who need support are currently receiving it?

Mr Cook: We can go with the data we get from states and territories. Senator Siewert said that she understood in Queensland there is a process and some get funded and some do not get funded. The only information we have got available that is providing funding is information that we get from the states and territories. We do not have another data source at the moment. We will have that in 2015 about funding for students with disability, noting that the processes are quite different.

CHAIR: Yes, sure. But are you as a department confident that all the students who need support are currently receiving it?

Mr Cook: It is the information provided to us from the states and territories. So we ask the states and territories to provide us with the information they have got about students with disability, and based on that we provide the funding. We are confident with the data that the states and territories have given us.

Senator SIEWERT: Going back to what we were talking about before: that is their definition, isn't it?

Mr Cook: Yes. And that is all we can use. That is the data we have got. That is right.

Senator SIEWERT: I understand what you are saying, but the evidence that has been put to us is that a number of cohorts is not being included. There is a number of students with particular disabilities that are not being included.

Mr Cook: The point you raised before was around dyslexia.

Senator SIEWERT: There are many more. I used that one because it was off the top of my head.

Mr Cook: I do not think dyslexia has been funded in some states and territories; I understand that. But we can only use the data that we have available to us, because they do not have a system in that state to collect

information about the number of students that have dyslexia. Going forward, of course, the NCCD will enable us to have a much broader definition based on the disability standards, which will enable us to capture some of those groups.

CHAIR: With the NCCD, in general terms, what did the 2013-14 results show in regard to the proportion of students with disabilities in schools compared with the number that is currently funded?

Mr Cook: That information is not available publicly yet. The education council have indicated they do not want that data to be released.

CHAIR: Have they given a reason why they do not want the data to be released?

Mr Cook: Because they are concerned about the fact that not all schools are involved in that. In 2013 I think it was only 20 per cent of schools, so to release that information would potentially be misleading—it might give a view of something when in fact it is only a minority of schools. They were also concerned about the robustness of the data at that point.

CHAIR: The NCCD reveals whether students with disability receive adjustments and, if they do, what level of adjustments they receive. Is that correct?

Mr Cook: That is correct, yes.

CHAIR: Does it show in any way whether those adjustments are adequate to meet individual needs?

Mr Cook: Adequate based on a teacher judgement. My understanding is that the information that has been provided is the level of adjustment with which students with disability are being provided in the classroom; so it is the information that teachers are providing through the data collection at the moment.

CHAIR: So it does not judge whether those adjustments are adequate?

Mr Cook: No. I do not know how teachers could actually—well, they might make that decision, but then having to moderate that decision nationally could be complex. They are providing factually what information is available at the moment.

CHAIR: Doesn't that show a flaw in the system, then—if we cannot measure this concept of adequacy?

Mr Cook: I am not sure how we could. You would have to require every teacher in every school in Australia to consistently be able to apply—

CHAIR: Given that every student with disability is required to have a plan, surely the plan would be able to be judged against what the teacher inputted into the NCCD.

Mr Cook: I am not sure how that could be done and be moderated in a way that would be consistent.

CHAIR: How are teachers making the decision now?

Mr Cook: They would know what the level of adjustment is.

CHAIR: But they are not making a judgement as to whether that is adequate or not. We have heard that most students with disabilities, despite there being a requirement for them to have an individual education plan, do not have one. It seems to me that it may well be the teacher's best guess as to whether the support is adequate.

Mr Cook: I do not think that is a requirement under the disability standards. I think states and territories have policies, and that is individual for those states and territories.

CHAIR: So if you have a policy you do not have to worry, then—you do not have to bother about whether it is implemented?

Mr Cook: That is a state and territory issue, not a Commonwealth issue.

Members of the audience interjecting—

CHAIR: But if there is a state education department policy that says that there should be IEPs—

Mr Cook: Sorry—I was distracted by the laughing behind me.

CHAIR: They are parents of students with disability who, along with other parents, have told us that most children do not have an IEP.

Mr Cook: Sorry, Senator—these are questions for a state and territory education authority. I do not keep policies in relation to it.

CHAIR: I am trying to get to this issue of adequate support. That is not being judged through the NCCD collection.

Mr Cook: I think what has been collected in NCCD is what teachers are aware is being provided in the classroom.

CHAIR: So it may or may not be adequate? That is a question that is not being addressed by the data collection.

Mr Cook: The adequacy? That is right. The challenge around that is to moderate that at a national level.

CHAIR: You say in your submission that the government has committed that its funding for students with disability will be informed by the NCCD from 2016. Is that still the case?

Mr Cook: That is correct.

CHAIR: What happens if the data from the NCCD is not robust?

Mr Cook: I do not think we would release—

CHAIR: Will it still inform your—

Mr Cook: Part of informing us would be whether the data is robust. You would not want to put a funding model in that is based on data that is not robust, I would imagine.

CHAIR: So if it is not robust that is not your funding model?

Mr Cook: That is a decision for government as to the way we do that. The department will provide advice about the robustness of the data.

CHAIR: Tell us what you really mean when you say that funding for students with disability will be 'informed by the NCCD'. What does that mean in terms of student rate or overall numbers? What do you mean by 'informed by the NCCD'?

Mr Cook: All those things will be taken into consideration. It is not what I mean; it is what the government means.

CHAIR: Just list the things.

Mr Cook: That is based on advice we will give to government. We will advise the government on how that could happen. I would not normally provide that advice to a committee until I have provided that advice to government.

CHAIR: Why did you put it in your submission if it is not something you can share with the committee?

Mr Cook: Because it is a fact.

CHAIR: If it is a fact—

Mr Cook: How that will happen will be a government decision.

CHAIR: Will it take into account any change in the per student rate of funding for students with disability in special schools and mainstream schools in 2016 compared to 2015?

Mr Cook: The rate of funding will increase in 2016 compared to 2015 because the funding is increasing every year to 2017. So already the model is taking that into account. The breadth of the information that we provide government will have to consider a range of things, including what the data tells us and what it looks like in terms of the adjustments. There will be a data analysis of the broad dataset that is available to us, and we will provide that information.

CHAIR: Can you be specific about the actual number of students with disability you have funded in 2015 and what you are projecting for 2016?

Mr Cook: We can and we have provided that on notice already to the overall Senate committee as part of the budget process.

CHAIR: You provided it at Senate estimates?

Mr Cook: That is right.

CHAIR: And that number has not changed?

Mr Cook: That is the 2015 data that we have used.

CHAIR: I am asking you the number you are projecting for 2016.

Mr Cook: I think we provided that one as well.

CHAIR: So that is still the same?

Mr Cook: As always, we update based on enrolment and census data. We do that every year as part of the normal process. I think I can even give you a number.

CHAIR: When will any revised arrangements for 2016 be discussed with state and territory ministers?

Mr Cook: That will be a decision of government. In SQ15000581 we provided the projected numbers of students with disability for 2014, 2015, 2016 and 2017 broken down by state and territory.

CHAIR: Can you give an undertaking that parents and the general public will be informed of any revised funding arrangements before the end of the year?

Mr Cook: Again, that is a decision by government.

Senator SIEWERT: When we are talking about education plans—and whatever the different states call them—are they required to report on what percentage of students with disabilities have those plans?

Mr Cook: Not to the Commonwealth government, no. That may be a requirement at the state level, but it is not a requirement at the Commonwealth level.

Senator SIEWERT: What level of reporting is required? We got to the level of those different participating and non-participating and how they report back. What else do they report back?

Mr Cook: It is really the funding.

Senator SIEWERT: That is it?

Mr Cook: Yes.

Senator SIEWERT: So we do not then get an idea about how the states are performing? We are hearing about the high degree of variation when it comes to the quality of education, access, exclusion, outcomes and the support students are getting in the classroom not only within the states but also between the states. So none of that is reported back to the council?

Mr Cook: No.

Senator SIEWERT: Therefore, is it fair to say that we do not have an overview across Australia consistently for students with disability and how they are faring in the education system?

Mr Cook: It is fair to say that there is no consistent assessment in the sense of student outcomes. Some states and territories have their own. I think Victoria has been developing something with the University of Melbourne and I think New South Wales developed something, but there is nothing nationally consistent. Some students with disability participate in the NAPLAN process and some students with disability do not. But we do not report that at a level of 'student with disability', for example, as we do with Indigenous students. So, in that sense, there is not a national picture. We do not have a picture of enrolments or students who have moved schools and that sort of thing. That is only kept at the state level.

Senator SIEWERT: In terms of your participation through the NDIA/NDIS process, how actively are you engaged with them at a Commonwealth level?

Mr Cook: We have some involvement with DSS, but basically we work around the principles that COAG agreed a couple of years ago. There are principles around education which talk predominately in terms of school needs effectively still being met by the education sector and education budget and other needs—life skills and things like that—outside the school environment being met by the NDIS/NDIA process. We want to learn from the trials that currently exist to see whether there is a better intersection between some of those areas, but it is pretty early days for us at this point.

Senator SIEWERT: So there is a group of students who will get NDIS individualised packages and those who fall outside that that still will have specific needs.

Mr Cook: Funded through the education system.

Senator SIEWERT: Do you know what proportion of—

Mr Cook: No, I do not. I am happy to take that on notice, but I do not think we will have that data.

Senator SIEWERT: If you could take that on notice—

Mr Cook: If we can provide it, we would be very happy to.

Senator SIEWERT: That would be very much appreciated.

CHAIR: Mr Cook, you said earlier that you have the Catholic data and that you expect the government data fairly soon—I think you said October. Given that, if there is to be a change in the loadings for next year, how do we get there on time when we are nearly at the end of the school year?

Mr Cook: We will provide our advice to the government as soon as we possibly can for the government to meet its commitment.

CHAIR: But if there is a change, how much time do you need?

Mr Cook: We pay money to schools in the government sector every month and it is three times a year for the non-government sector. We do not need much time at all.

CHAIR: So when you say that you do not need much time at all, what sort of time frame are we looking at?

Mr Cook: It depends on when the government makes the decision. Once the government has made that decision, the department is pretty good at implementing things pretty quickly.

CHAIR: What do you mean by 'pretty quickly'?

Mr Cook: I mean pretty quickly.

CHAIR: Is that a week, a month or two months?

Mr Cook: It depends on what the decision of the government is.

CHAIR: Let us assume that the government makes a decision. How long do you need?

Mr Cook: I am sort of going to go around in circles here, I am sorry. Unless I knew the depth or the extent of the decision by the government, it is hard for me to talk about the work that we would have to do. We have a funding model, and that funding model is electronic. Mr Pattie, next to me, is the man who owns that, basically, and he does a very good job of putting things in very, very quickly as soon as we possibly can.

CHAIR: If we get it in October, we have only got weeks of the school year ahead. If you cannot tell me the time frames I can only conclude from that that some students who need support will simply miss out because there is not enough of a lead time there.

Mr Cook: I would not necessarily agree with that, Senator. We are used to adjusting models all the time. We provide additional funding for schools all the time based on all sorts of decisions, and we have the processes in place to do that.

CHAIR: Do you expect there to be some interim programs? What happens if the data is not robust?

Mr Cook: It will be decision for government as to how they will then implement their commitment.

CHAIR: Here we are in October and we are still waiting for the school data and then a decision has to be made about whether that data is robust. So are you telling me that, with weeks towards the end of the year, there is no contingency in place?

Mr Cook: No contingency in place?

CHAIR: If the data is not robust.

Mr Cook: The contingency is that schools and students will receive an extra \$100 million in Commonwealth funding for disability next year. That is what is in the model. There is always going to be additional money, year on year, for students with disability.

In terms of the issue about 2016, we will provide advice to government as soon as we can for government to make a decision as to how to implement that.

CHAIR: Yes, and the question I asked you was about those students who need more support—there is potential for them to simply miss out. If we have data that the Education Council decides is not robust and/or you do not have enough lead time—

Mr Cook: We will have sufficient lead time.

CHAIR: They are possibilities.

Mr Cook: Again, it is a decision by government. Once that decision is made we will implement that decision as quickly as we can.

CHAIR: For a student who was in year 1 when the NCCD process started, is there any guarantee they will still be in primary school by the time there is robust enough data to support changes to the funding system to meet needs?

Mr Cook: Any guarantee? Well, that is based on a decision by the Education Council.

CHAIR: Those children are now in—what?—year 5? Year 4? Going into year 5, are they?

Mr Cook: Year 5, I think—yes.

CHAIR: So they have almost only one more year of primary school left?

Mr Cook: That is correct, yes. The decision is by the Education Council, which owns the process. The time lines are exactly the same time lines as were agreed effectively in 2012. There have been no changes since those time lines.

CHAIR: Except commitments given to unity tickets and so on that have come undone.

Mr Cook: For the Education Council and for data. The Education Council decides when to implement.

CHAIR: Has the department done any modelling on the lifetime cost of the missed opportunity for students who might have unmet need?

Mr Cook: Considering that we do not need data to be able to advise that, we have not done any modelling.

CHAIR: So you are not able to say how many children are simply being left without the support they need?

Mr Cook: We do not have data on every school in Australia. We are waiting for that. That is the process between—

CHAIR: We are waiting for the data which, if it is not robust, you will not be able to use?

Mr Cook: We will have data. The question for the Education Council then is to decide, as I indicated, whether they believe that data is robust.

CHAIR: Mr Cook, it is not me putting the caveat of 'robust' on it—it is you.

Mr Cook: No, it is the Education Council.

CHAIR: All right, but you are reporting that to us.

Mr Cook: That is correct.

CHAIR: I do not have a lot of confidence that we are going to have a 'robust' model with which we can go forward, because we have this big caveat: 'Well, if we don't like it or if it doesn't meet our expectations we won't use it.' Where I am feeling even less confident is that it does not seem that your department has put in place, or even discussed, any kind of contingency plan. Surely, you must do some, 'What if this happens?' It is October now; schools finish in about the second week of December—that is not very far away.

Mr Cook: We have developed, and we are developing, our advice to government. That advice will go to government when we have the full data set that will enable us to finalise that advice.

CHAIR: Okay. We are heading towards the end of the year, schools are supposed to provide for students. You might be able to react quickly, but now you expect schools to react within a month for planning for 2016. At the end of the day—

Mr Cook: Planning in what sense?

CHAIR: For students with disability.

Mr Cook: These children exist in these schools already.

CHAIR: Sure, but there might be unmet need and there might be new need—we do not know. Or, in your case, there might be less need. So schools have to plan. This is ultimately about enabling students with disability to get the education they are entitled to. We are heading to the end of the school year—it is weeks away now—and we have no plan in place for what 2016 will really look like.

Mr Cook: The plan is the advice that we will provide to the government. I am sorry—I am a little lost on schools. If these students currently exist in schools then I assume these schools have a plan for their students, whether they receive funding or not. I am not sure what every school is doing—

CHAIR: That is the whole point—nobody is really sure.

Mr Cook: That is why we need the data—that is right!

CHAIR: And the caveat keeps being put onto it that if the data is not robust we are not going to use it.

Mr Cook: That is a decision for the Education Council, as I have said.

CHAIR: Well, whoever makes that decision at the end of the day—

Mr Cook: The federal government has said—

CHAIR: it will be students with disability who continue to miss out.

Mr Cook: The federal government has said quite clearly that they will use the NCCD process to inform 2016.

CHAIR: Whether it is robust or not?

Mr Cook: Well, we will provide advice to government as to how they might be able to do that.

CHAIR: Okay, so you intend to use the data whether it is robust or not?

Mr Cook: We will provide advice to government about what the best way is of implementing their commitment to use NCCD in 2016.

CHAIR: Okay, thank you. Thank you very much for coming along today, Mr Cook, Mr Pattie and Ms Edmonds.

Mr Cook: No problems, thank you.

CHAIR: We appreciate your submission and your evidence here today. The committee stands adjourned.

Committee adjourned at 16:10