



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

**VICE PRESIDENT HATCHER
DEPUTY PRESIDENT DEAN
DEPUTY PRESIDENT SAUNDERS**

C2013/6333 AM2018/9

s.302 - Application for an equal remuneration order

**Application by the Independent Education Union of Australia
(C2013/6333) (AM2018/9)**

Sydney

10.03 AM, WEDNESDAY, 26 JUNE 2019

Continued from 25/06/2019

PN3423

VICE PRESIDENT HATCHER: Mr Taylor.

PN3424

MR TAYLOR: Yes, if it please the Commission, we have four witnesses available today. In the order that we understand they're going to be called, first we have Brad Broughton who is appearing via video link from Michigan USA, followed by Lily Ames who is called by the IEU, who's a member of the AEU and she'll be appearing in Melbourne and Ms Mooney at the AEU I understand is appearing this morning as well. Then we have Gabrielle Connell and the last witness Lisa James. So there is one issue that I'll discuss with Mr Fagir and if we need to raise it later today we will and that's production of documents by Mr Fraser. If there's a need for something to be said about that we'll deal with that this afternoon.

PN3425

Can we turn to Mr Broughton who's currently available and is appearing on the screen now.

PN3426

VICE PRESIDENT HATCHER: Right, Mr Brought, we'll have the court officer administer the affirmation to you.

<BRADLEY JOHN BROUGHTON, AFFIRMED [10.05 AM]

EXAMINATION-IN-CHIEF BY MR TAYLOR [10.05 AM]

PN3427

VICE PRESIDENT HATCHER: Mr Taylor.

PN3428

MR TAYLOR: Yes. Mr Broughton, can you make sure that you are as approximate to the microphone as is comfortable so that we can hear you, and speak up. Is your full name Brad John Broughton?---Bradley John Broughton.

PN3429

Mr Broughton, you're coming to us from Michigan in the US. Is that right?---Yes, that's correct.

PN3430

Can you give us your current address there?---(Address supplied)

PN3431

Mr Broughton, again, is there any way that the microphone can be brought closer to you?---That's as close as I can get it. Is that better?

*** BRADLEY JOHN BROUGHTON

XN MR TAYLOR

PN3432

Maybe it's just a matter of speaking up and we'll do what we can to adjust the volume here. You prepared for the purpose of these proceedings an 11 page statement in about November 2017. Is that right?---Yes.

PN3433

You have access to a copy of that where you are now?---Yes, I do.

PN3434

Have you had an opportunity to read it recently?---Yes.

PN3435

Are there any corrections that need to be made to that statement?---Yes, in paragraph 18 there's a statement that says that "I completed flow-testing", however, I organised the completion of the flow-testing.

PN3436

Again, we're just having difficulty hearing you. Just, as I understood what you said, paragraph 18 states that you completed flow-testing, but the position was that you organised for flow-testing to be done?---Yes, that's correct.

PN3437

Are there any other corrections that need to be made to the statement?

PN3438

VICE PRESIDENT HATCHER: Mr Taylor, what sentence are we looking at?

PN3439

MR TAYLOR: I think the second sentence - just Mr Broughton, in the second sentence, paragraph 18, it reads "I test the flow rate through the regulator to ensure that it's meeting the design specification". Is that - - -?---That's the sentence.

PN3440

It should - what exactly was it that you did in respect to the flow rate?---I organised a subcontractor to come to site and complete the flow-rate testing themselves.

PN3441

Are there any other corrections that need to be made to the statement?---No.

PN3442

Do you say that the contents of the statement are true and correct to the best of your knowledge and belief with that correction?---Yes.

PN3443

I tender the statement.

*** BRADLEY JOHN BROUGHTON

XN MR TAYLOR

PN3444

VICE PRESIDENT HATCHER: The statement of Brad John Broughton undated will be marked exhibit 57.

**EXHIBIT #57 STATEMENT OF BRAD JOHN BROUGHTON
UNDATED**

PN3445

MR TAYLOR: Just two minor matters Mr Broughton. Firstly, I understand you're no longer employed by York Civil, which is what you were at the time you prepared the statement. What's the nature of your current employment?---I am a civil design engineer at a company called Paradigm Design in Grand Rapid Michigan.

PN3446

In very broad terms, what's the nature of the work you do as a civil design engineer?---We design stormwater management systems for new and existing warehouses and other sites.

PN3447

Then one matter of clarification, can you look at paragraph 11 of your statement. It says in paragraph 11 that you were promoted to project engineer in July of 2016 and then it says this "I currently earn an annual salary of \$100 000 inclusive of superannuation and receive a package". When it says currently earn, at what point were you earning that amount of money?---That was at the time that I gave the statement.

PN3448

That was in about November 2017?---Yes, that's correct.

PN3449

Is that the amount you were on in July 2016?---No. I did receive a pay rise to become a project engineer. However, initially it was less than the hundred thousand.

PN3450

Thank you. They're the questions.

PN3451

VICE PRESIDENT HATCHER: Mr Fagir.

CROSS-EXAMINATION BY MR FAGIR

[10.10 AM]

PN3452

MR FAGIR: Is it Broughton or Broughton?---Broughton.

PN3453

Mr Broughton, I appear for the Australian Childcare Alliance and I just wanted to discuss with you some of the matters that you deal with in your statement. But before coming to that, can I just understand a bit more about the job that you're doing now. You're now a design engineer?---Yes, correct.

*** BRADLEY JOHN BROUGHTON

XXN MR FAGIR

PN3454

You're the person who produces the designs that a project engineer would implement. Is that a simple way of putting it?---Yes.

PN3455

In your previous job you received designs from a design engineer and put them into effect. Whereas now, you're sitting in an office presumably, preparing those designs?---Yes, essentially that's correct.

PN3456

You explained that in your job as site engineer and then project engineer there was an element of design involved. Is that right?---There's design input, yes.

PN3457

Is there an element of redesign involved?---Yes.

PN3458

You explain that your current employer designs stormwater management systems for warehouses and other sites. Is my note accurate about that?---Yes. I mean warehouses is just one of the many locations, but yes.

PN3459

I see. Is there - it seems a bit of a niche area, stormwater management systems. Is there a particular kind of science or a particular set of problems that arise in that area that your company is expert in dealing with?---Yes.

PN3460

York Civil, on the other hand, you tell us began as an earthworks company specialising in road projects. That was the initial focus of the company?---Yes.

PN3461

Later it branched out, you explain into concrete structures, rail works and river regulators?---Yes.

PN3462

Each of those categories of works or areas of focus carry a different set of challenges?---Correct.

PN3463

To take the case of river regulators, for example, there is a whole series of issues that arise in relation to construction near bodies of water that might not arise in relation to rail works, for example?---Yes.

PN3464

In your time at York Civil, although you worked on one project at a time, you moved between a series of projects and you might at one point be dealing with a river regulator and the complexities that attend that and then move on to a different project which would have a different set of problems or challenges. Would you agree with that?---Yes.

*** BRADLEY JOHN BROUGHTON

XXN MR FAGIR

PN3465

In broad terms, what was the range of budget of the projects that you worked on at York Civil? I'm not asking you for a precise figure, but a broad range if you can?---From one million dollars up to 30 million dollars.

PN3466

Were some of the projects, government projects?---Yes.

PN3467

Was it the case that where you worked on a government project there were a particular set of regulations that attended government work?---Yes.

PN3468

For example, in relation to procurement, work for a government typically carries a particularly demanding set of procurement requirements or protocols?---Yes, not necessarily any more demanding than some other private clients.

PN3469

Is it the case that the big sophisticated clients would typically have a set of procurement requirements as well?---Yes.

PN3470

Although there might be a range - would you accept this as being correct, that for government and very large clients, the requirements tend to be more demanding. With smaller and perhaps less sophisticated clients, there might not be the same level of procurement requirements or protocols?---No. That's correct.

PN3471

You explain that part of your role as site engineer was to test concrete to ensure that it was at the required strength. Is that right?---Yes. Oversee the testing.

PN3472

On that topic, you wouldn't yourself get out the equipment and conduct the slump test, or whatever it was, but you would organise whether it was an employee of York Civil or a contractor to do the test?---Yes.

PN3473

You might engage different contractors for different tests or did you tend to have a testing subcontractor on a project?---Different contractors for different types of tests generally.

PN3474

I'm sorry if I'm asking a stupid question, but what's the significance of the strength of the concrete?---If it doesn't reach the required strength, then there can sometimes be structural issues. It can affect the structural integrity of the construction item.

PN3475

Of course, the selection of concrete and design of, for example a concrete slab is not a straight-forward exercise. There's a science to that?---Yes.

*** BRADLEY JOHN BROUGHTON

XXN MR FAGIR

PN3476

Depending on various considerations, for example, whether the concrete needed to resist water penetration or not. That would require a particular concrete mix or a particular set of ingredients. Is that right?---I believe so, yes.

PN3477

Then another factor of course would be the strength of the concrete. That might often be the most important factor?---Yes.

PN3478

Of course cost is always a consideration as well, the concrete or the slab needs to be as strong as it needs to be but no stronger because as a general proposition the stronger the concrete, the more expensive it is. Is that fair?---That's correct.

PN3479

You explained that while you were a graduate site engineer, a typical direction for you was that a particular amount of concrete would need to be delivered to the site on a day and your job was to make sure that happened?---Yes.

PN3480

Is that right?---Yes.

PN3481

If insufficient concrete were delivered on a day that would have potentially very serious consequences for the project?---Yes, it could do.

PN3482

Almost always a concrete pour, for example, will be on the critical path of a project?---Generally but not - almost always, I wouldn't say almost always.

PN3483

One of the complications with concrete is it just takes a certain length of time to set, there's nothing that can be done to speed up that exercise. Is that right?---Yes, in general there's not a whole lot you can do.

PN3484

That means that that's a step on the critical path or on the project path which can't be accelerated, you can't get more people in to do it or throw more money at it. It just takes as long as it takes?---Correct.

PN3485

You explained that - and I asked you about this a few moments ago that you have some involvement in redesign as a graduate site engineer. Is that right?---Yes, a minor involvement as a graduate site engineer.

PN3486

Inevitably on any project there will always be a need to redesign things as the construction unfolds?---Correct.

*** BRADLEY JOHN BROUGHTON

XXN MR FAGIR

PN3487

It might range from a minor issue, for example, it turns out the electrical services need to run somewhere that the design specifies the plumbing will go. That's a minor example?---Yes.

PN3488

At the other end of the spectrum you might discover, for example, that the bore hole testing hadn't revealed the particular section of soil as sand instead of clay. That's one of the unpleasant surprises that can arise in the course of a construction project?---Yes.

PN3489

That may require very significant re-design of the project or reassessment of the way that the construction's to be carried out?---Correct.

PN3490

You explained that you were promoted to project engineer in 2006, which was about four years after you started working for York Civil. Is that right?---Yes, 2016.

PN3491

Was that automatic and did you get to four years and as long as you continued to be employed you were promoted to project engineer or was there some other process?---No, it was merit based.

PN3492

You describe as one of your responsibilities after your promotion involvement in elements of design after winning a tender. Is that right?---Yes.

PN3493

That involved questions of preliminary pricing?---Yes.

PN3494

Pricing of a construction project is again a science unto itself?---Yes.

PN3495

There are cost estimators and quantity surveyors and so on who do nothing but sit down and try to work out what it's going to cost to build things?---Correct.

PN3496

Did you have reason to deal with quantity surveyors and cost estimators while you were a project engineer?---Yes, we had some in-house quantity and cost estimation - a team which we dealt with.

PN3497

When you were dealing - I'm sorry, I interrupted you, Mr Broughton?---No, you're right, I've finished.

*** BRADLEY JOHN BROUGHTON

XXN MR FAGIR

PN3498

In dealing with questions of preliminary pricing did you draw on their expertise, your in-house cost estimators and quantity surveyors?---Their expertise and their understanding of the project itself.

PN3499

Now another issue that you explained you dealt with is programming of construction projects. Is that right?---Yes.

PN3500

Again, this is a science of itself and there are people who do nothing but create programs or review programs that someone else has created?---At York Civil I wouldn't say it was nothing but, that was just part of their job.

PN3501

At York Civil there was - you didn't have an in-house program consultant, it was part of your job as an engineer?---Yes.

PN3502

Part of your job as you explained, once you've completed the program is to ensure the project tracks along in accordance with expected timeframes. Is that right?---Correct.

PN3503

Again, if a project doesn't track along in accordance with expected timeframes there can be serious financial and other consequences?---There can.

PN3504

Liquidated damages are the obvious issue but there are others. Is that fair?---Liquidated damages is the main one, yes.

PN3505

The amount of liquidated damages that are potentially payable will vary from project to project but they can be very large amounts?---Yes, on the larger projects, they're generally a percentage of the overall project.

PN3506

In your statement you explained that there are issues and problems that arise in the course of many projects which require readjustment to the program and the method of implementation. That's right, isn't it?---Yes.

PN3507

You give as an example problems that might arise in relation to the Rio steel reinforcement in concrete?---Sure, yes.

PN3508

In fact that's a preoccupation of civil engineers and structural engineers to make sure that the Rio's properly designed and then properly built in accordance with design?---Yes, not necessarily designed as far as the strength of said Rio but more to the point that it sits where it's supposed to.

*** BRADLEY JOHN BROUGHTON

XXN MR FAGIR

PN3509

I see, and you explain that a design might propose a particular arrangement of the Rio but once the construction project's in swing and it turns out that the design doesn't actually work and you have to come up with a way of dealing with that complication?---We come up with a proposal to deal with that complication, which then goes back to the design engineer.

PN3510

The design engineer then has to sign off on that do they? Is that the usual arrangement?---Correct.

PN3511

Now when you do redesign or reassess a plan there are a series of technical challenges, that's the first issue?---Yes.

PN3512

But there's another set of issues which is communicating with the client and persuading them that they should change course in the manner that you propose?---Yes.

PN3513

Part of your job was to persuade the client to accept the deviation from the plan?---Correct.

PN3514

On a related but slightly different issue, there's the question of obtaining extensions of time, for example. That involved liaising with the contract superintendent and persuading him or her either that an extension of time should be granted or that an extension of time that was requested should be refused. Is that right?---Yes.

PN3515

Part of your job is to deal with the requests for extensions of time and so on that are made by subcontractors and pass them on to the contract superintendent?---Yes.

PN3516

You provide the contract superintendent with information that will allow that person to decide whether an EOT should be granted or otherwise?---Correct.

PN3517

At paragraph 22 of your statement you explain that most projects will have a client representative on-site for a particular percentage of time. Are you talking there about the contract superintendent or an actual employee of the company?---It depends on the project and the way that that particular company or the client is set up. Sometimes it might be the actual superintendent, sometimes his representative, his or her representative.

*** BRADLEY JOHN BROUGHTON

XXN MR FAGIR

PN3518

Now, finally, Mr Broughton, and you explain that as project engineer you assisted the project manager in project reporting?---Yes.

PN3519

And that is a mammoth task on any substantial project. You'd agree with that?---Yes, it is a large part of what we have to do.

PN3520

It typically involves both reporting on what's past and forecasting what is to come?---Yes.

PN3521

And that apart from anything else that project reporting can become - the quality of it - can become particularly important if there's a dispute or heaven forbid - litigation?---Yes.

PN3522

Thank you, Mr Broughton. They're my questions if the Commission please.

PN3523

VICE PRESIDENT HATCHER: Any re-examination, Mr Taylor?

PN3524

MR TAYLOR: Yes.

RE-EXAMINATION BY MR TAYLOR

[10.27 AM]

PN3525

MR TAYLOR: Mr Broughton, I just want to get some clarity around, at various points, you were asked whether it was part of your job. I just want to get some clarity around what was your job at different points in your career. In your statement you talk about how you commenced as a site engineer, a graduate site engineer and then you became a project engineer. Firstly, you were asked that while you were a site engineer it was put to you that you had some involvement in redesign and then you were asked about a situation that involved discovering sand, instead of clay, which would involve - it was suggested to you and you agreed - significant redesign. At the point where you are a site engineer, or a graduate site engineer, what involvement do you have in redesign in respect in generally and specifically in respect of something that involves significant redesign?---Okay. So using that example the sand instead of clay if we did discover that on site I would be notified of it and I would have to then, as a site engineer, or a graduate engineer I'd have to take that issue to the project engineer that was supervising me. I'd generally try and get the information that he would want beforehand and take it to him and say, "Here's the problem."

*** BRADLEY JOHN BROUGHTON

RXN MR TAYLOR

PN3526

And who would be responsible for doing the redesign work?---The consulting engineer who - so we would pass on that information potentially have a proposal to rectify the issue but, ultimately, the consulting engineer would have the final say - the design engineer.

PN3527

Okay. Now, I'm going to deal with a series of things that were put to you and just get you to clarify whether, when you agreed that you did this work, it was - just clarify whether you were doing the work at the point you were a site engineer or whether you were doing the work as a project engineer. The first was programming a construction project.

PN3528

MR FAGIR: I object. There's nothing to clarify on this issue. The questions were perfectly clear as were the answers. We moved chronologically from the period of site engineer to project engineer, if the Commission pleases.

PN3529

VICE PRESIDENT HATCHER: No. I'll allow the question.

PN3530

MR FAGIR: If the Commission pleases.

PN3531

MR TAYLOR: Programming and construction projects is that work of a greater - as site engineer or work you did as a project engineer?---Project engineer.

PN3532

Managing the work in a way that makes sure it's done within expected timeframes?---Project engineer.

PN3533

Communicating with the client to convince the client to deviate from a plan?---Project engineer.

PN3534

Dealing with requests for extensions of time from contractors and passing them on to the contract superintendent?---As a project engineer.

PN3535

And then, finally, assisting with program report. Sorry, I should - maybe it was project reporting?---Yes. As a project engineer.

PN3536

Thank you. No further questions.

PN3537

VICE PRESIDENT HATCHER: Right, thank you for your evidence, Mr Broughton. You're excused, which means you can simply hang up?---Thank you.

<THE WITNESS WITHDREW

[10.31 AM]

*** BRADLEY JOHN BROUGHTON

RXN MR TAYLOR

PN3538

MR TAYLOR: Our next witness is Ms Ames, who's joining us by video link from one of the Commission's hearing rooms in Melbourne and I understand Ms Mooney is present at the Bar table.

PN3539

VICE PRESIDENT HATCHER: Can we ask Ms Ames to go to the witness box and perhaps we'll try to zoom on the witness box please? Ms Ames can you please stand and the court officer will administer the affirmation?

PN3540

THE ASSOCIATE: Ms Ames, could you please state your full name and address for the record?

PN3541

MS AMES: Yes. Lily Frances Elizabeth Ames (address supplied).

<LILY FRANCES ELIZABETH AMES, AFFIRMED [10.32 AM]

EXAMINATION-IN-CHIEF BY MR TAYLOR [10.33 AM]

PN3542

VICE PRESIDENT HATCHER: Mr Taylor?

PN3543

MR TAYLOR: Just again for the record so your full name was Lily Frances Elizabeth Ames?---Yes, that's correct.

PN3544

And at the time you prepared your first and second statement you were working as a kindergarten teacher for the City of Yarra at the North Carlton Children's Centre?---Yes, that's correct.

PN3545

And do I understand currently you are on leave from that position?---Yes, I am and I am working within the industry still and casually with an agency.

PN3546

So for the purpose of these proceedings you have prepared, I understand, three statements. Do you have those three statements with you?---I do, yes.

PN3547

Can I start with the first of those three statements? An undated statement of 20 pages, which I understand was prepared in November 2017?---Correct.

PN3548

Do you say that the contents of that statement are true and correct to the best of your knowledge and belief?---I do.

PN3549

I tender that statement.

*** LILY FRANCES ELIZABETH AMES

XN MR TAYLOR

PN3550

VICE PRESIDENT HATCHER: The statement of Lily Ames, undated but prepared in November 2017 will be marked Exhibit 58.

**EXHIBIT #58 WITNESS STATEMENT UNDATED OF LILY AMES
PREPARED IN NOVEMBER 2017**

PN3551

MR TAYLOR: Can I then take you to the second statement? It's a three-page statement dated 18 July 2018 in which you reply to a statement of Sarah O'Donnell. Do you say that the contents of that statement are true and correct to the best of your knowledge and belief?---I do.

PN3552

I tender that statement.

PN3553

VICE PRESIDENT HATCHER: Yes, the statement in reply of Lily Ames dated 18 July 2018 will be marked Exhibit 59.

**EXHIBIT #59 WITNESS STATEMENT IN REPLY OF LILY AMES
DATED 18/07/18**

PN3554

MR TAYLOR: And then the third statement, is a statement that was prepared last week. It's dated 17 June 2019, 19 paragraphs over five pages, describing the day to day work that you do as an ECT. Would you say the contents of that statement are true and correct to the best of your knowledge and belief?---I do.

PN3555

I tender that statement.

PN3556

VICE PRESIDENT HATCHER: Any objections?

PN3557

MR FAGIR: No, your Honour.

PN3558

VICE PRESIDENT HATCHER: The supplementary statement of Lily Ames dated 17 June 2019 will be marked Exhibit 60.

**EXHIBIT #60 SUPPLEMENTARY STATEMENT OF LILY AMES
DATED 17/06/19**

PN3559

MR TAYLOR: No further questions. Thank you.

PN3560

VICE PRESIDENT HATCHER: Mr Fagir?

*** LILY FRANCES ELIZABETH AMES

XN MR TAYLOR

PN3561

MR FAGIR: Ms Ames, I appear for the Australian Childcare Alliance and I have a few questions for you about your statements. Can you please tell me and I'm sorry I missed this a few moments ago, where are you working now?---So I'm currently engaged in agency work, working as a casual ECT, but I'm on leave from the City of Yarra and intend to return there next year.

PN3562

I see. Now you qualified in 2012, is that right?---That's correct.

PN3563

You were at a place called Ashwood Children's Centre for 12 months?---Yes.

PN3564

And somewhere called Hawthorne Early Years - for three years?---That's correct, yes.

PN3565

Then the City of Yarra?---That's right.

PN3566

Now, can I ask you some questions about the North Carlton Children's Centre at the time that you made your first statement, Exhibit 58?---Yes.

PN3567

Now is this right? At the time there was a director, also known as a coordinator in place at the service?---That is correct.

PN3568

She had teaching qualifications?---The director, no, I believe she had a Diploma in Children's Services and was working towards an ECT qualification I believe.

PN3569

Can I suggest to you there was also an assistant director who was the educational leader?---Yes, that's correct.

PN3570

She had a diploma qualification?---Yes, as far as I'm aware, yes.

PN3571

There were three ECTs employed in the centre?---That is correct. I'll qualify that with there were two teachers working within the sessional kindergarten and one working within the long day care program.

PN3572

You don't mention this in your statement but Yarra Council actually employed someone called a pedagogical leader?---Yes, and at the time I made my statement they had not employed anyone in that position.

PN3573

You now know that's a position not attached to North Carlton Children's Centre but employed to provide support across the centres administered by the council?---Yes, I'm aware. I am aware.

PN3574

There is also someone called the program leader of education and care employed by the council?---I am aware of that, yes.

PN3575

When you say in your statement that you were organisationally isolated, you say that in circumstances where there were two other ECTs, a director, assistant director who's an educational leader and a program leader of education and care employed by the council?---Sorry, what was the question?

PN3576

That's the context in which you say you were organisationally isolated as an ECT?---It is, yes.

PN3577

Did you work for - - -?---Would you like me to elaborate there?

PN3578

I'm sorry, Ms Ames, did you want to say something else?---Sorry, I was just wondering if there was a question within that or would you like me to elaborate on my reasoning because I do agree with that still.

PN3579

I'll move on. Did you work full-time at North Carlton Children's Centre?---Yes, I did.

PN3580

You had 19 hours of face to face teaching. Is that right?---Yes.

PN3581

VICE PRESIDENT HATCHER: Ms Ames, can I ask you to move that microphone a bit closer to you and speak directly into it, thank you?---Apologies, is that a bit better?

PN3582

Yes, that's better, thank you.

PN3583

MR FAGIR: There was 19 hours of face to face and 19 hours of non contact time at the centre, is that right?---I'm sorry, 19 hours of face to face and how many of non contact did you say? I didn't quite get it.

*** LILY FRANCES ELIZABETH AMES

XXN MR FAGIR

PN3584

38 minus 19, I think that's 19. The rest?---Yes, that sounds - it depends because occasionally I was asked to step into classrooms so generally yes but sometimes I was asked to perform more teaching duties than that.

PN3585

Now can I just ask you some questions about professional development at the centre. This is the case isn't it, that you had two full days off per year for professional development purposes?---Yes, that's correct.

PN3586

The centre itself ran two additional professional development days?---Yes, they did.

PN3587

That was four days paid devoted to professional development at the centre?---Yes, that's correct.

PN3588

It's in that context that you say most of your skill development happened on the job?---That's an interesting question. I don't technically say - I say that due to my qualifications and my experience that has led me to have the skills that I have, of course professional development plays a roll in that but I believe that most professionals would say that they do learn mostly on the job, and of course yes, I did have access to professional development.

PN3589

You don't suggest that the four paid days was inadequate to allow you to meet your professional development obligations under the regulatory standard?---No, I don't think I stated - I didn't say that in my statement and I don't agree, no. I wasn't saying that.

PN3590

You say in your statement that:

PN3591

It is my responsibility to ensure that my centre is meeting the NQS and the requirements of the NQF.

PN3592

Do you remember saying that?---Yes.

PN3593

Can I suggest to you firstly there is no provision of the national law or regulations which makes it your responsibility to ensure that the centre is meeting the NQS and the NQF?---As a mentor within my sector and within my workplace, I feel that it was my responsibility to ensure these things alongside the leadership team, and that there was an expectation for me to be a mentor to provide a good example of adhering to these professional standards.

*** LILY FRANCES ELIZABETH AMES

XXN MR FAGIR

PN3594

You have a or you had a position description which we have in evidence. Do you remember including that - providing that to - -?---Yes.

PN3595

- - - the union or whoever it was?---(No audible reply)

PN3596

We won't find in that position description any statement that it is your responsibility through mentoring or otherwise to ensure that the NQS and the NQF are met at the centre?---I feel that it was expected of me. It may not have been in my position description but I definitely feel that it was part of my job. As a qualified ECT that expectation is there that we will take more responsibility.

PN3597

You say at paragraph 21 in the context of dealing with food service:

PN3598

Teachers are ultimately responsible even if someone else has not followed protocol as required by the policies or the NQF.

PN3599

Do you remember saying that?---Yes, I'm just reading that paragraph there. Yes, so ultimately we all take responsibility. All direct educators and teachers working directly with children take responsibility for food service. I would say that as a leader and a mentor, as an ECT, that I was expected to lead by example and to maintain those safeguards for children's safety while administering the food. Sorry, I'll just qualify that, when I said that we were ultimately responsible, that goes to if an educator had served wrong or was supervised by me at the time that they had served the wrong meal to a child, then I would be held responsible for that by my employer.

PN3600

Sorry, run that past me again?---Yes, so if an educator who was under my supervision had served food to the wrong child or had not followed protocol, then I would be expected to explain that to my employer as the person in charge of the room.

PN3601

This is a responsibility you say attaches to a position as a room leader, is it?---And as a qualified ECT, yes, working within a long day care.

PN3602

Can you point to any contract or position description or regulation that has that effect?---It's an expectation not a regulation, which really does show the extra responsibility that I do take as an ECT, that even though it was not myself serving the food it would be ultimate responsibility.

PN3603

Can you turn to paragraph 54 of your statement please?---Yes.

*** LILY FRANCES ELIZABETH AMES

XXN MR FAGIR

PN3604

See in the first sentence you say:

PN3605

From my observations many graduates are finding it difficult to secure employment due to the lack of private provider's willingness to employ teachers under the ECT EA.

PN3606

Do you see that?---Yes.

PN3607

You go on to say that this is evident because many educators you work with come to your workplace as relief or casual educators have teaching qualifications but take diploma jobs instead of teaching jobs?---Yes, that's correct.

PN3608

Do you feel confident that you have a proper basis to say these things?---I do.

PN3609

What is it?---After my many years of experience within the field, I feel that I have met many educators and ECTs throughout my work, and also as being part of my union sector council that represents the early childhood sector in Victoria and the Australian Education Union, I have heard many anecdotal stories and just the other day I heard another one. So it speaks to the lack of private centres respecting the work that early childhood teachers do, which forces recent graduates to take diploma positions, because they cannot find adequate work.

PN3610

From your own experience, which is obtained on the basis you just described, is that there are graduates with teaching qualifications who want to work as ECTs, but can't find positions?---Well, they can't find positions that offer conditions that are commiserate with their qualifications.

PN3611

VICE PRESIDENT HATCHER: What does VECTEA stand for?---So the VECTEA is the union industry standard agreement which offers conditions similar to those of primary school teachers for early childhood teachers working within kindergartens and preschools and some community long day cares.

PN3612

MR FAGIR: Now finally, Ms Ames, you've never worked in a primary school?---No, but I completed professional practice within my university studies. So I am qualified to teach up to grade six, yes. But I have not worked.

PN3613

But it's on that basis that you're prepared to venture an opinion about the work of primary school teachers being very similar to the work of early childhood teachers?---Yes.

*** LILY FRANCES ELIZABETH AMES

XXN MR FAGIR

PN3614

Of course, you've never had to teach a class of 20 or 25 students single-handedly, have you?---I refer again to my professional practice placements through my university training and yes, I have, with a supervising teacher there.

PN3615

I'm sorry, I'll be more specific. Dealing with your work as an ECT, you've never had to deal with a classroom or 20, 25 children or students, single-handedly, have you?---No.

PN3616

You've never had to administer a written test?---We use summative assessments in early childhood, so it's quite different to that.

PN3617

My question was, whether you've had to ever administer a written test?---Well, I believe yes, because I actually assess children's drawings and writing and things like that, so there will be written assessments that I do give children, but it may not be what you would see in a primary school; it would be quite different.

PN3618

Have you ever had to mark a set of test results?---No.

PN3619

You've never had to apply psychometric or other analytical techniques to results of a formal test?---Sorry, actually yes I have been asked to administer tests, particular for children with special needs by their external professionals, such as speech pathologists and psychologists. So yes, I have done that.

PN3620

But what are you talking about? A written test that a speech pathologist gives you and says get the kid to complete this?---No, it would be something that I would complete. Apologies, I may have misunderstood your question.

PN3621

Well, the question was pretty clear Ms Ames, have you ever had to administer a written test?---To a child to write?

PN3622

Yes?---Well, four year olds tend to not be able to write, so no.

PN3623

So, is the answer no? Is that what we've just spent the last five minutes working to?---My apologies. No, that's correct. No is the answer.

PN3624

Have you ever had to deal with a student bullying another student through social media?---Not through social media, no.

*** LILY FRANCES ELIZABETH AMES

XXN MR FAGIR

PN3625

Have you ever had to deliver teaching through google classroom, or Moodle of some other online device?---No.

PN3626

Have you ever had to deal with a child who was physically about as strong as you are?---Well, I'm quite a small person, so actually yes, I have.

PN3627

Is that right? A four year old, or five year old, was it?---Yes. I've had children with special needs that have been non-verbal and quite physically violent towards myself and other colleagues.

PN3628

All right. Ms Ames, can I just put this to you. That you're in no position whatsoever to offer the opinion that the work of an early childhood teacher is very similar to the work of a primary school teacher?---I respect your opinion to assert that. But I do not believe that is true and correct.

PN3629

Thank you, Ms Ames. No more questions.

PN3630

VICE PRESIDENT HATCHER: Any re-examination, Mr Taylor?

RE-EXAMINATION BY MR TAYLOR

[10.51 AM]

PN3631

MR TAYLOR: Yes, just to clarify a couple of things. Early on you were asked the question about there being at the time you prepared the first statement, three ECTs in the centre and you said this "There were two within sessional kindergarten and one in the long day program". Can you just explain, what is the sessional kindergarten and what is the long day program?---Yes, so I was working within the sessional kindergarten program. So that offers the fully-funded kindergarten programs that run for sessions that run for sessions that begin and end at the same time each day. Within that setting I was teaching one group and there was another teacher teaching the other group. Then the other ECT was working in the long day care, which was a three to five year old room program. Yes, so they were in quite separate areas.

PN3632

The sessional kindergarten, what age children was that?---So there was a three year old group that I taught and also a four to five year old group.

PN3633

When you said they're quite separate areas, just can I understand the sessional kindergarten, are they two different rooms. Is that what you said?---Yes, the sessional kinder is a different room to the long day care room.

*** LILY FRANCES ELIZABETH AMES

RXN MR TAYLOR

PN3634

At various times, you answered questions by saying as a leader and a mentor, what did you mean by those words?---I was speaking to my qualification as an early childhood teacher and that I work with many educators that have certificate and diploma qualifications. So they often look to me for support and guidance throughout their practice. Also because I have a higher pedagogical knowledge, I use that within my practice to support other educators.

PN3635

Thank you. They're the questions. If this witness could be excused.

PN3636

VICE PRESIDENT HATCHER: Yes thank you for your evidence Ms Ames, you're excused and you're free to go?---Thank you.

<THE WITNESS WITHDREW

[10.53 AM]

PN3637

MR TAYLOR: Your Honour, you asked the witness a question about the VECTEA, the Victorian Early Childhood Teachers and Educators Enterprise Agreement, that enterprise agreement is document 8 in our joint bundle.

PN3638

VICE PRESIDENT HATCHER: Thank you.

PN3639

MR TAYLOR: Sorry, in our bundle; our main bundle.

PN3640

I don't know whether this is a convenient time to take morning tea before our next witness. Otherwise - - -

PN3641

VICE PRESIDENT HATCHER: Is the next witness Ms Connell?

PN3642

MR TAYLOR: Yes, I believe Ms Connell is available.

PN3643

VICE PRESIDENT HATCHER: Mr Fagir, is there any objections to this pile called the supplementary statement of Ms Connell, that we should deal with now?

PN3644

MR FAGIR: I just haven't devoted any time to that question. We're going to deal with statement in cross-examination as it is, as best we can. The answer is no.

PN3645

VICE PRESIDENT HATCHER: All right. Will Ms James be available this morning, or this afternoon?

*** LILY FRANCES ELIZABETH AMES

RXN MR TAYLOR

PN3646

MR TAYLOR: She's available any time, yes.

PN3647

VICE PRESIDENT HATCHER: I think we should just proceed with Ms Connell then.

PN3648

MR TAYLOR: Yes, of course. If Ms Connell could be brought in.

PN3649

MR FAGIR: If I can just mention something while Ms Connell is coming in and before I forget about it. There have been many references to observations in the evidence. If your Honours are looking for an example of an observation as opposed to an academic description of it, there is one which is exhibit 19 which we tendered through Ms Hill, and there are examples annexed to the statement of Ms Toth. There are none to be found in the 3000 page bundle, but there are some in my client's evidence and at least one that's been tendered in cross-examination.

PN3650

Secondly, can I point out that in the award review proceedings, there is a claim, which as I understand it, applies to both the teacher's award and the children's services award for additional non-contact time for room leaders and educational leaders which might be relevant to an issue that seems to be emerging about the responsibilities of room leaders as opposed to directors and so on. If the Commission please.

PN3651

VICE PRESIDENT HATCHER: Thank you.

PN3652

THE ASSOCIATE: Please state your full name and address.

PN3653

MS CONNELL: My name is Gabrielle Catherine Connell (address supplied).

<GABRIELLE CATHERINE CONNELL, SWORN [10.56 AM]

EXAMINATION-IN-CHIEF BY MR TAYLOR [10.56 AM]

PN3654

MR TAYLOR: Ms Connell, firstly can you just again give the Commission your full name?---Gabrielle Catherine Connell.

PN3655

At the time you prepared your statements you were at that time a part-time teacher at Albury Preschool?---Yes.

*** GABRIELLE CATHERINE CONNELL

XN MR TAYLOR

PN3656

I think you indicated that you would be retiring and in the later statement we understand your position is that you have since returned. Is that right?---I have, yes, from teaching, yes.

PN3657

But you continue as someone contracted to the New South Wales Educational Standards Authority to support new early childhood teachers through accreditation?---That's right, I do.

PN3658

For the purpose of these proceedings, you've prepared four witness statements. Is that right?---That's right, yes.

PN3659

Do you have those four statements with you?---I do.

PN3660

Taking them in order, I might have misplaced the first one. Let me just find that. That's a statement of 14 pages that you signed but not dated that was prepared in about November 2017?---That's right.

PN3661

I understand there are two corrections that need to be made to that statement. Firstly, can I take you to paragraph 14?---Yes.

PN3662

On page 4?---Yes.

PN3663

That paragraph commences with the words, "The greatest responsibility I have as a teacher - - -"?---That's right.

PN3664

- - - "in an early learning centre is the safety of the children in our care"?---Yes.

PN3665

Do I understand that the correction you want to make is to add the words "one of", so it would read, "One of the greatest responsibilities I have as a teacher"?---That's right, yes.

PN3666

Then secondly paragraph 33?---Yes.

PN3667

Commences at the bottom of page 10 and goes over to page 11. At the top of page 11 there's a centre that starts; "Albury Preschool", and it says this:

PN3668

Albury Preschool is divided into three rooms and the leader of each room -

*** GABRIELLE CATHERINE CONNELL

XN MR TAYLOR

PN3669

Et cetera?---Yes.

PN3670

Is there a correction that needs to be made to that so the word "three" is replaced with the word "two"?---That's right.

PN3671

So it reads:

PN3672

Albury Preschool is divided into two rooms.

PN3673

?---That's right.

PN3674

Now with those two corrections do you say that the contents of your first statement prepared in November 2017 are true and correct to the best of your knowledge and belief?---Yes, can I just refer you to paragraph 5.

PN3675

Yes?---When I made that statement there were 18 standards in the National Quality Framework and since review those 18 have now become 15 standards.

PN3676

So you're referring to the second sentence of paragraph 5 which says:

PN3677

The NQS sets out 18 standards -

PN3678

?---That's right.

PN3679

Do I understand this, that that was true in November 2017?---Yes, it was.

PN3680

But there's been an update since then?---That's right.

PN3681

That's been reduced to 15?---That's right.

PN3682

Yes. So having made those corrections and clarified that matter, do you say that the contents of your first statement are true and correct to the best of your knowledge and belief?---I do.

PN3683

I tender that statement.

*** GABRIELLE CATHERINE CONNELL

XN MR TAYLOR

PN3684

VICE PRESIDENT HATCHER: Statement of Gabrielle Connell, undated, 43 paragraphs is marked exhibit 61.

**EXHIBIT #61 WITNESS STATEMENT OF GABRIELLE CONNELL,
UNDATED, 43 PARAGRAPHS**

PN3685

MR TAYLOR: Turning now to the reply statement, there's a reply statement dated 18 July 2018?---Yes.

PN3686

A four page statement in which you've replied to statements from four different prospective witnesses for ACA?---Yes.

PN3687

Are there any corrections that need to be made to that statement?---No.

PN3688

Do you say that the contents of that statement are true and correct to the best of your knowledge and belief?---They are, yes.

PN3689

I tender that statement.

PN3690

VICE PRESIDENT HATCHER: The statement of reply of Gabrielle Connell dated 18 July 2018 will be marked exhibit 62.

**EXHIBIT #62 WITNESS STATEMENT IN REPLY OF GABRIELLE
CONNELL DATED 18/07/2018**

PN3691

MR TAYLOR: Then third, Ms Connell, following the application to vary the modern award you've prepared a third statement of 17 pages which is undated, but I understand was filed on about 23 November 2018?---Yes.

PN3692

You have that with you?---I do, yes.

PN3693

Are there any corrections that need to be made to that statement?---No, that's correct.

PN3694

Do you say the contents of that statement are true and correct to the best of your knowledge and belief?---Yes.

PN3695

I tender that statement.

*** GABRIELLE CATHERINE CONNELL

XN MR TAYLOR

PN3696

VICE PRESIDENT HATCHER: Further statement of Gabrielle Connell, undated, 40 paragraphs will be marked exhibit 63.

EXHIBIT #63 FURTHER WITNESS STATEMENT OF GABRIELLE CONNELL, UNDATED, 40 PARAGRAPHS

PN3697

MR TAYLOR: Then finally, Ms Connell, last week a statement dated 17 June 2019?---Yes.

PN3698

Four pages with two attachments. Do you say the contents of that statement are true and correct to the best of your knowledge and belief?---Yes, I do.

PN3699

I tender that statement.

PN3700

VICE PRESIDENT HATCHER: Statement of Gabrielle Connell dated 17 June 2019 will be marked exhibit 64.

EXHIBIT #64 WITNESS STATEMENT OF GABRIELLE CONNELL DATED 17/06/2019

PN3701

MR TAYLOR: Thank you, no further questions.

PN3702

VICE PRESIDENT HATCHER: Mr Fagir.

CROSS-EXAMINATION BY MR FAGIR

[11.02 AM]

PN3703

MR FAGIR: Ms Connell, was your bachelor degree three or four years?---Four years.

PN3704

You were until recently a part-time teacher at Albury Preschool?---I was, yes.

PN3705

For many years before that you were the director of Albury Preschool?---I was, yes.

PN3706

Albury Preschool was the first centre to obtain an excellent rating under the new regime?---I was told it was the first standalone centre to have obtained that rating.

PN3707

As of 2014 about 40 centres out of 16,000 held that rating?---That's right.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3708

You were one in 4000?---Yes.

PN3709

You were an exceptional centre?---We were, yes.

PN3710

You travelled beyond your degree what was required?---Yes, I think so.

PN3711

Before you were at Albury Preschool you worked in a Canberra preschool for six years?---Five.

PN3712

Five was it?---Five years, yes.

PN3713

Was that a community kindergarten as well?---No, the preschools in Canberra at the time were attached to government schools and they were run by the Department of Education in Canberra.

PN3714

I see. Aside from that stint in the Canberra preschool, the whole of your experience is firstly in community kindergarten?---It was, yes.

PN3715

Or a community kindergarten?---Community based preschools, yes. Standalone community based preschools.

PN3716

Not only a community kindergarten but an exceptional community kindergarten?---I suppose so, yes.

PN3717

One that was run by you?---Yes.

PN3718

Do you say you're able to offer reliable opinions about early childhood education and care generally or do you only purport to deal with what you know directly in relation to your own centre?---I think in some of the roles that I have held across the state, and I've held some state roles, and also within a partnering group in Albury that we have that has 20 community based preschools involved and meets regularly, I think that I have some knowledge outside my own service, and what happened in my own service. But possibly not - you know, I couldn't say what happens absolutely everywhere but I have some knowledge from outside my own service, yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3719

Is it your view that there's some substantial difference between the way things were done in community kindergartens on the one hand, by comparison with

privately operated long day care centres on the other hand?---I don't have a great deal of knowledge to do with private long day care services. Since I've been working my role with NESAs I have had a lot more to do with long day care services. I'm thinking in what sort of way are you meaning, about the way things are run or the way things are operated? How are you - - -

PN3720

Well, let's take them step by step?---Yes.

PN3721

Firstly the way things were actually organised and the work's carried out?---Yes. Well, in the long day care services that I've had knowledge of there has always been an early childhood teacher in the room, and they meet the ratios I would imagine, they have to meet ratios.

PN3722

What about teaching methodology, pedagogy?---I think - well, the Early Years Learning Framework is a mandatory curriculum framework that every service has to follow to ensure consistency, so yes, I've seen that they're following the Early Years Learning Framework.

PN3723

This is in the years following the introduction of that framework?---Yes.

PN3724

Do you purport to know something about the way of long day-care centres operated in this respect pre-EYLF?---No, I don't know anything about that, no.

PN3725

Do you plan to have any significant understanding of the way that long day centres operate outside of New South Wales?---No.

PN3726

For example, you wouldn't know anything about any South Australian curriculum that preceded the EYLF?---No.

PN3727

To take one example?---No.

PN3728

Your centre was not assessed under the Quality Improvement and Accreditation system is that right?---The original one - that was just for long day care services. We were assessed under the one that came in under the National Quality Framework.

PN3729

Do you know or not know whether or what proportion of long day care centres were assessed? Not community kindergartens - privately operated long day care centres were assessed under that system?---Before the EYLF?

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3730

Yes?---Before the National Quality Framework.

PN3731

Yes?---I believe they all were weren't they? They all had to be assessed under that system.

PN3732

And now in your statements you say a series of things about your responsibilities and the responsibilities of others?---Mm-hm.

PN3733

Now it's always clear from the statement what the source of the alleged responsibility is. Now is it the case that when you speak about your responsibilities you're speaking about your experience as the long-term director of Albury Preschool specifically?---No. I'm speaking about my experience as the teacher - the classroom teacher in the room.

PN3734

You wouldn't suggest that your own position for the 20-odd years was typical of an early childhood teacher, would you?---Well, a typical early childhood teacher who is a director, yes because the majority of directors are only part-time directors. They're teaching directors so they are actually teaching at the same time. So they have classroom responsibilities.

PN3735

When you say that - just to try to be precise about this?---Yes.

PN3736

You're drawing on your own experience which if I can summarise what you've said is community kindergartens in New South Wales?---Yes.

PN3737

You don't suggest you're in a position to say that directors generally are teachers for example?---In my experience they are.

PN3738

You don't suggest that you have sufficient experience to comment on this beyond what I have just described to you as community kindergartens in New South Wales?---You know, in my role in Albury we have lots of partnering groups and connection groups and I can say that within Albury there were many teaching directors in long day care and in preschools and community based preschools but no I can't say, on a generalised, you know, across the State.

PN3739

All right. Now you say this in your statement, "As a teacher my fundamental responsibilities to ensure that the centre is meeting the NQS and National Law and Regulations"?---Yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3740

You remember saying that?---Yes.

PN3741

Now you'd agree with me that you've identified a provision of the National Law and Regulations to the effect that teachers have a responsibility to ensure that the centre in which they work meets this law and these regulations?---Yes, sorry. I've missed the question.

PN3742

You couldn't point me to a section of the National Law or Regulations?---Yes.

PN3743

That creates the responsibility you describe?---Well, I think, you know, just day to day as far as - - -

PN3744

I think Ms Connell, can we just take this step by step?---Yes.

PN3745

Firstly, can you tell me whether you're aware of a section of the National Law of Regulations that has that effect?---Yes. As far as just the general safety of children - playground safety and medical, asthma, anaphylaxis, risk management, excursions - all those things are mentioned in the National Law and they were migrated responsibilities as a classroom teacher and ratios.

PN3746

Can you point me to a provision of the position description for a teacher of Albury Preschool that creates the responsibility that you describe?---Well, we've seen our job descriptions.

PN3747

Could Ms Connell be given access to the index? Ms Connell and your Honours could I ask you to go to document 132 in that bundle?

PN3748

VICE PRESIDENT HATCHER: Is that meant to be the Diocese of Parramatta?

PN3749

MR FAGIR: No. Is it 130? I'm sorry, it's 130?---130?

PN3750

Yes?---Yes. Yes.

PN3751

Now you will see the first document that appears there as a position description for a Director at Albury District Preschools?---Yes.

PN3752

Now if you just scroll down you should come four pages later to the position description for a preschool teacher at Albury District Preschools?---Mm-hm. Yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3753

Now can you identify for me in that position description a provision which requires that ECT's take responsibility to ensure that the centre is meeting the NQS National Law and Regulations?---Well, I just suppose in general responsibilities where it says "work" according to the Education and Care Services National Regulations and the Education and Care Services National Law, so in doing that - if you're working towards those regulations - then you're ensuring that the centre is meeting those regulations and laws.

PN3754

Is there any other provision of the position description that you'd identify? Take as long as you need?---Uh huh - having a commitment to the National Quality system because the National Quality system comes under the National Quality Framework which is - and the law and the regulations are part of that. Maintaining a clean and safe work environment while compliant with all the centre's safety policies and procedures because all the policies and procedures are written in accordance with the laws and regulations. Child protection. We are mandatory reporters and so we have to understand the laws and regulations and go with child protection. All the safety ones that are in there - the centres policies be aware of and adhere to the centre's policies and procedures because all of those are written in reference to the laws and the regulations.

PN3755

Ms Connell, can I try to shortcut this process this way?---Mm.

PN3756

I am sure you would agree that there is a difference between a person being required to ensure that they, in their own work, comply with the National law as opposed to having a responsibility to ensure that their centre complies with the National law. They're two quite different propositions - you'd agree?---No, I don't.

PN3757

Well, it's your view, for example, that if a person is required to work according to the National law that they thereby have a responsibility to make sure that everyone else in the centre is doing the same thing?---I think that the teacher - the room leader did - and as a responsible person all teachers at our service had a day when they were the responsible person of our service or, in the alternatives to certified supervisor then, yes, they were - they were responsible for ensuring that the service adhered - - -

PN3758

Ms Connell, you've just referred to a room leader, then you referred to a responsible person - - -?---Yes.

PN3759

- - - then you said some other things. I'm just trying to focus?---Yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3760

On the source of what you say is the source of the responsibility that a teacher has?---That's right.

PN3761

To ensure compliance beyond their own work?---Yes. The room leader and in my service the room leader and the responsible person or the certified supervisor was always the ECT - the Early Childhood Teacher. And so they were responsible for seeing that the service adhered to the regulations and the national law.

PN3762

You say in your centre?---Yes.

PN3763

On the basis that ECTs were room leaders?---Yes.

PN3764

That is what you say gives rise to the responsibility to ensure that the centre as a whole abides by the national law?---That's right.

PN3765

Including other rooms?---Yes.

PN3766

VICE PRESIDENT HATCHER: Was the position of room leader the subject of any separate job description?---Not really, no. No, it was just always the ECT because we always employed early childhood teachers, so they were always the room leader.

PN3767

Mr Fagir, are you about to leave this document?

PN3768

MR FAGIR: After one further question I am.

PN3769

VICE PRESIDENT HATCHER: I just want to ask a question about it.

PN3770

MR FAGIR: Certainly. Ms Connell, in fact the position description from a director makes crystal clear the true position which is that the nominated supervisor has the responsibility to oversee the operations of the centre?---Yes, yes that's right.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3771

As opposed to a teacher who's responsible for what they're doing?---No. Because the teacher would take that role as the certified supervisor or the responsible person on that day because the nominated supervisor isn't always there and isn't always there for the hours. The nominated supervisor is only required to be on the premises for 50 per cent of the time and they're not there for the full hours of operation. If we operated from eight till 5.30, the nominated supervisor is only there for seven hours on the day that they were there, anyway. So, somebody else

had to take the responsibility when the children were on the premises for maintaining the law and the regulations.

PN3772

I see.

PN3773

VICE PRESIDENT HATCHER: Right, Ms Connell?---Yes.

PN3774

Paragraph 7(c) of the teacher job description refers to compliance as a mandatory report. Can you see that?---Yes.

PN3775

Do non-teacher qualified educators also have mandatory reporting responsibilities?---Yes, they do, yes.

PN3776

Yes, thank you.

PN3777

MR FAGIR: Ms Connell, now can I ask you some questions about the quality improvement plan?---Yes.

PN3778

There is no specified form for the quality improvement plan under the NQF?---There is a template that you could choose to use or you could present it in another way if you wanted to.

PN3779

It's a matter for the approved provider to decide whether they adopt that template or take some other approach?---That's right.

PN3780

Although there's no any clear prescription about this, the idea of the QIP is that you get input from all the stakeholders in the centre?---That's right.

PN3781

Thinking about ways that the centre can be improved?---That's right.

PN3782

Can you say - and tell me if you just don't know, whether long day care centres have always had an obligation to conduct a comparable exercise of review and looking for ways to improve?---I don't know if always, but I know that they do now and they were always back before the NQS when they were under the old system. Yes, they did have quality - well, a version of quality improvement plan and they did have self-assessment. They had to assess through every area and all the staff were involved in that as well.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3783

At paragraph 16 through to 17 of your first statement, you deal with a fairly lengthy list of responsibilities. Again, I just want to understand whether I've overlooked some provision of the National law or regulations or the position description. That's what I want to ask you about?---Paragraph 16, that starts additional needs children, yes.

PN3784

Could we start with the first sentence of paragraph 16?---Yes.

PN3785

You say that you're required to liaise and integrate with a large number of agencies which you list?---Yes.

PN3786

You would agree if I suggested to you that there's no provision of the national law or regulation which requires ECTs to liaise and integrate with the agencies that you've there listed?---No, not in the national law, no.

PN3787

Nor will we find any such provision in the teacher position description for Albury Preschools?---I think where I was coming from there, was the fact that when you are working with children and they're moving into other - or they attend other services or they're moving into other services or they have additional needs, then yes, we are required to liaise with other agencies and other services under those circumstances.

PN3788

You, as the director of Albury Preschool, may have been required to do that. I'm not cavilling with that proposition. What I want to suggest to you is that there is no requirement that you can identify objectively which imposes that responsibility on ECTs?---Not a requirement but best practice.

PN3789

Now you deal a bit later in your statement with the requirement to report to parents on a regular basis?---Yes.

PN3790

Did you use Kindyhub or equivalent at Albury Preschool?---We had just started to use Storypark which is a digital online reporting ap.

PN3791

Are you familiar with Kindyhub?---I've seen it, yes but I've not used it.

PN3792

Do you know whether Storypark is similar or different to Kindyhub?---I couldn't say, but I think most of those aps are fairly similar.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3793

Storypark allowed you to do things like taking pictures of children?---Yes, we took pictures on, but we didn't use iPads to take pictures. We still used cameras to take pictures and then uploaded them on to our computers.

PN3794

You were then able to include a description of whatever activity had been photographed, for example?---That's right, yes.

PN3795

Would you include observations?---That's right.

PN3796

Identify the learning outcomes that were contributed to by the activity?---That's right.

PN3797

Then send that out to the parent or the relevant students?---Families, that's right, yes, yes.

PN3798

Now at paragraph 32 of your first statement you say some things about what I might summarise as managerial responsibilities of directors and teachers. In particular, at the third sentence you say the long term planning and vision of the Centre necessarily falls onto the directors and teachers?---That's right.

PN3799

You could only possibly be talking about community kindergartens?---Yes, in my own experience, yes.

PN3800

Are you talking about a privately operated long day care Centre for example, there's an approved provider who's typically the owner?---That's right.

PN3801

Who has the greatest possible investment in the future of the service?---That's right.

PN3802

There is then a typically that person, unlike the committees of management you describe, doesn't change particularly often, they tend to stay in place?---Probably, yes.

PN3803

There is then a director and then whatever other infrastructure is in place at the particular service?---Yes.

PN3804

This issue that you describe at paragraph 32 couldn't possible apply to privately operated long day care centre?---No, but it would apply to the 800 odd community-based preschool across New South Wales.

PN3805

Again, at 33, you say that teachers necessarily have to take on leadership and supervision roles within the early childhood context. But that's just not right, is it?---Well, it is right. In what way isn't it right?

PN3806

There are plenty of non-teachers occupying leadership and supervision responsibilities in early childhood services all around the country?---Yes, but in my experience, I'm just talking about my experience, those roles were taken on by teachers.

PN3807

You know that there's a national law and regulations that very carefully identify positions that have to exist and allocate responsibilities to the positions?---Yes, that's right.

PN3808

What the law doesn't do is say that any of these positions must be occupied by a teacher?---No.

PN3809

Neither the national law nor regulations nor the NQF deal with any requirement for a room leader?---Somebody needs to be developing on driving the program for there to be best practice occurring. And so, in my experience, it falls to the ECT who becomes the room leader.

PN3810

The law requires that there be an educational leader to do that very thing?---Yes, but it's actually best practice to have a room leader to drive that. The educational leader is not in the classroom with every child and is not aware of the needs, the interests of every child or the observations that are taken on every child, or in fact of the input from the families that's required. So that teacher working directly with those children is the one who's in the best position to do those things.

PN3811

Now you've just said something about what is best practice?---Yes.

PN3812

Setting aside your own opinion based on your experience, are you able to point to any objective basis for that view?---For best practice for - - -

PN3813

That it's best practice to have a teacher as a room leader?---Well, it's best practice to have a teacher driving the program and there are several pieces of research that refer to that, and I think that the RAND Report refers to that, the E4Kids research refers to that and the universal access was actually based on the fact that a degree qualified early childhood teacher should lead the program.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3814

Lead the kindergarten program?---The - well, the early childhood program.

PN3815

Is that right?---I think so, because that's why the - that's why the ratios were brought in as well, and also the fact that there should be early childhood teachers in all rooms, 0 to 18 months, the 18 months to 3, and the 3 to 5 years. Those should be led by an early childhood teacher.

PN3816

Ms Connell, there are many documents generated by the authorities which establish and maintain the NQF and it's not just the NQS and EYLF, there are guides and a whole variety of other materials generated. Including, for example, a guide to the educational leader. There is such a document?---Mm.

PN3817

What we will not find in any other those documents is a statement that best practice requires, for example, that a room leader be a teacher?---Well, the research that we looked at said that and that's what we followed for best practice.

PN3818

Nor would we find anywhere in the documents that I've just described to you the statement that it is best practice that the educational leader be a teacher?---(No audible reply)

PN3819

VICE PRESIDENT HATCHER: Mr Fagir, is that a convenient time for a morning tea adjournment, unless you're about to finish?

PN3820

MR FAGIR: It is, thank you.

PN3821

VICE PRESIDENT HATCHER: We'll adjourn and resume in approximately 10 minutes.

<THE WITNESS WITHDREW [11.29 AM]

SHORT ADJOURNMENT [11.29 AM]

RESUMED [11.47 AM]

<GABRIELLE CATHERINE CONNELL, RECALLED [11.47 AM]

CROSS-EXAMINATION BY MR FAGIR, CONTINUING [11.47 AM]

PN3822

VICE PRESIDENT HATCHER: Mr Fagir?

PN3823

MR FAGIR: Ms Connell, do you mind turning to paragraph 41 of your statement, please?---Yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3824

You see in the first sentence there, "As a director, I was responsible for advertising new positions. I have found it difficult to attract candidates. Replacement staff are increasingly had to find over the last 10 years as wages fell further behind those teachers in schools". Do you see that?---Yes.

PN3825

This statement was prepared late 2017, was it?---Yes, that's right.

PN3826

Is that position true as of the date of the statement?---Yes, I believe so, yes.

PN3827

As of late 2017, you were having difficulty attracting candidates to Albury Preschool?---Well, yes, yes, we were, yes. Candidates, to be honest, candidates that we - yes, we were. Actually - I'm just trying to think. No, probably I should say there that generally it was very hard to attract early childhood teachers. At that point, Albury Preschool had reached pay parity, so we had more to offer, yes.

PN3828

And what we don't see in your statement is any explanation that that had brought about some change?---Yes, I've probably overlooked that. But you just didn't mention that you're now no longer having the difficulty?---Well, I'm not the director now, so I don't know. But at the point we weren't advertising at that point then, anyway. But in the past we had had difficulty until we reached pay parity, yes.

PN3829

Perhaps I misunderstood what appears in paragraph 40, but it rather suggested that you'd actually been moving towards parity over a period of time?---We had. We had.

PN3830

When you say "Replacement staff are increasingly hard to find in the last 10 years as wages fell further behind those teachers in schools", you're talking about what other services?---Well, and our own too, because when we consider that when we started working towards pay parity, we had three years of four per cent increases, so that was more than 12 per cent when it's compounded. Then we had three years of six per cent increases. So that was 24 per cent plus 12 per cent plus, so we were looking at being nearly 40 per cent behind parity when we started working towards pay parity and so it took that six year period to catch up. So, up until that time, yes we were well below parity.

PN3831

What you haven't explained in your statement is whether that rapid catch-up actually fixed the problem?---We actually were losing - well, what was actually happening at that point in time too was, we were encouraging staff to up-skill as well, under the national quality framework. But yes, when we did advertise, we actually often had very few applicants for positions.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3832

VICE PRESIDENT HATCHER: Just to be clear, when was - what was the day that pay parity was actually achieved?---It would have been on 2016 one. It was September 2016.

PN3833

From the beginning of that agreement, was it?---Yes, September 2016. We moved everyone up. Instead of just doing the six per cent, we actually decided as well there were some teachers who were probably nine per cent behind at that point in time. We decided to move everybody up onto parity at that point in time and move forward from then. Then the next agreement then we worked with what the Catholic School were getting which was 2.5 per cent every year after that to maintain parity.

PN3834

MR FAGIR: Now, you say something additional about this in your supplementary statement. I'll just read it out to you, so you don't have to bother turning it up?---Yes.

PN3835

In my experience services which pay award rates have difficulty recruiting and retaining early childhood teachers. Services with higher wages do not seem to have these problems.

PN3836

For example, and then you set out three examples?---Yes.

PN3837

Mulwala Preschool on the border of New South Wales and Victoria has difficulty as teachers keep getting higher paid jobs in Victoria and leaving. Howlong Preschool advertised two part time positions and didn't get a single applicant, and Werris Creek Preschool can't find an ECT.

PN3838

THE WITNESS: Yes.

PN3839

MR FAGIR: Now, how do you know about Howlong Preschool?---Because the director of Howlong Preschool is in our partnering group. She actually contacted me about did I know anybody who would be willing to apply. She had advertised it as two part time jobs and they are on pay parity too, I might add. She couldn't get an applicant for the two part time jobs, so she decided to advertise it as one full time job. I don't know if she has had any applicants or what's happened with that since then. But she didn't get one applicant, despite the fact that she said she had it advertised on Seek and there were 8000 hits on the job on Seek, but not one applicant came from those 8000 hits.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3840

You've just told us, although you didn't make this at all clear in your statement, Howlong Preschool has pay parity as well?---Yes. I think I've mentioned it in

somewhere that Howlong has pay parity. I think there's somewhere that says which preschool.

PN3841

You've said they pay above award wages. You haven't said they're on pay parity?---Well, I believe it's pay parity.

PN3842

In any case - - -?---They were working towards it. They do pay more than the modern award.

PN3843

They have pay parity. They pay the same as you do, or did, or the preschool?---Yes, yes, yes. I believe, to my knowledge they have pay parity.

PN3844

Even so, they have the problems that you've just described?---Yes.

PN3845

It rather suggests that the issue is something other than wages?---I'm not sure.

PN3846

Now, Mulwala Preschool doesn't pay parity, but you know they pay up to about 28 per cent above the award, depending on the classification?---Yes, I don't know what Mulwala preschool pay.

PN3847

Werris Creek Preschool presumably, isn't within your Albury networking group?---No.

PN3848

Werris Creek is - - -?---That's right, it's up near Corindi. Yes, the director is on an early childhood services council with me and so we discuss these things at these meetings quite regularly.

PN3849

They pay above award wages, but by a smaller amount?---By a small amount, yes.

PN3850

Even so, they can't find an ECT?---No.

PN3851

VICE PRESIDENT HATCHER: Could might the fact that these are small towns be part - - -?---They're very close to Tamworth.

PN3852

Yes?---But in the past when they have advertised, they haven't had applicants, yes. And Howlong, while it might be a smaller town, it's only a 15 minute drive from Albury. So it's certainly well within commuting distance, yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3853

MR FAGIR: All right now, can I ask you some questions about your third statement?---Yes.

PN3854

You probably don't need to turn to this, but you are now - you have a paid position in which you mentor new early childhood teachers?---That's right, yes.

PN3855

This is a relatively recent initiative?---Yes. It started in March 2018.

PN3856

It's what, designed to ensure that graduate ECTs have the benefit of mentorship by a more experience?---Yes, that's right because NESAs recognised that stand-alone early childhood services, whether they be private or community-based did not have access to a teacher accreditation authority who could do that. So NESAs became the teacher accreditation authority and appointed accreditation supervisors to guide and support the new teachers through their accreditation.

PN3857

No doubt this is a positive initiative in your view?---Yes, it is. Yes.

PN3858

Now you say some things about the Australian Professional Standards for Teachers?---Mm-hm.

PN3859

And you say that it's now necessary for you to engage in greater amounts of research and reading than you ever did in the past?---Yes.

PN3860

Now do you say there's some provision of the Professional Standards for Teachers that requires you to engage in more research than you did in the past?---Some - the standards - so I think it's standard six and seven. I'd have to have a look at it in detail but it does say that teachers have to have a professional development plan and they have to be involved in - you know - further study and things like that. But part of the - part of maintaining your accreditation is that you have to - you do 50 hours of NESAs approved professional development and you do 50 hours of teacher directed professional development as far as readings and research go and then you have to log those on the ETAM site according to the descriptors that you think that reading or that research has covered. And so, yes now there is a requirement to do those hours and for teachers who are accredited in 2016 that requirement is 80 hours of teacher directed research and reading because NESAs recognised that there wasn't the amount of Early Childhood Professional Development around for it to be a 50/50 so we're doing 80/20 but the new teachers are doing 50/50.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3861

Now, you say this - again, I'll just read it out save you having to turn it up - "This growing expectation from universities that services are involved in research into

Early Childhood Development and Education. This is part of the NQS under Standard 6.2.3 which requires that services build relationships and engage with its community"?---Yes.

PN3862

Now NQS Standard 6.2.3 it says, "The service builds relationships and engages with its community"?---Yes.

PN3863

You say the consequence of that is that there is an expectation that services participate in university research?---Yes. Well, we see that as our educational community and that we need to be part of that educational community because many of those research projects are focusing on things that will move early childhood education further and again - you know - its research that's important that we need to be involved in.

PN3864

Can I suggest to you that the NQS has nothing at all to do with services in participation in university research?---No Well, I don't agree. No.

PN3865

All right. Now you go on in the statement to deal with lead and highly accomplished teacher accreditations and - - -?---Yes.

PN3866

- - - describe the things that you say are required to obtain that accreditation?---Yes.

PN3867

Now, firstly, the matters that you describe don't actually appear in the standards. This is your - sort of interpretation of what the standards actually say at paragraph nine - sorry, I should - - -?---Sorry. I'm - - -

PN3868

Paragraph nine of the third statement, Exhibit 63?---Yes. Yes. Yes. Sorry, what was the question?

PN3869

The proposition I put to you was that the matters that you list at nine don't appear in the standards. They're your interpretation of what's involved in achieving lead and highly accomplished accreditation?---What that - about the sphere of influence and greater in the classroom or - - -

PN3870

The things you've set out at paragraph nine?---Okay. Well, I was on the - I was on the working party for - - -

PN3871

Ms Connell, can I just ask you to deal with the question that I have asked you?---Yes. Yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3872

The things that appear at nine - do not appear in the standards?---They appear in the - or they will appear in the Evidence Guide for Highly Accomplished and Lead Teacher.

PN3873

So that's some document that's - - -?---That is based on the Australian Professional Standards for Teachers.

PN3874

In face one of the issues with the standards that's been identified by early childhood experts is that they don't really comprehend early childhood at all. They don't talk about early childhood centres or anything like that?---The Evidence Guide does. And the Evidence Guide is what we are all using. It was written by a group of early childhood professionals with NESAs and with representatives from NESAs. I was actually on that working party and I was on the working party for highly accomplished and also for the lead teacher Evidence Guide and the Evidence Guide was specifically written in terms for early childhood.

PN3875

All right. Now you go on at 10 to say that in your opinion there would be a significant number of employers who would encourage their teachers to reach these higher levels of accreditation?---Yes.

PN3876

Are you talking about early childhood teachers?---Yes.

PN3877

Now you must know given the experience you have just described that the take up of these accreditations among school teachers is miniscule?---It is, yes.

PN3878

What do you think there will be some different approach taken in early childhood?---I think that the same influence will be put on, whether they take it up or not is up to themselves but I think that there will be the same influence put on early childhood teachers to do so. There's already a working party of 20 early childhood teachers - well, not a working party - a group - who are working towards highly accomplished.

PN3879

All right. Now you deal with paragraph 17 and onwards with teaching methodology?---Yes.

PN3880

Can I just try to shortcut this by putting these propositions to you?---Mm-hm.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3881

And firstly the requirement for play based learning in early childhood did not come in with the EYLF?---No. It's always been play based learning - has always been

recognised as the best way for children to learn - however the big emphasis came in on - it became mandatory - the big emphasis came in with the EYLF.

PN3882

Can I suggest to you that the requirement for a child-focus program is not a new innovation that arrived with the EYLF?---I think that would - worked in a different way - we worked with somatic plans and we worked in project work where it wasn't as child focused.

PN3883

We'll come back to that. The requirement for the communication with families I suggest to you is nothing new at all?---The - well - it was done in different ways and less frequently.

PN3884

All right. And intentional teaching, of course, is not a new innovation at all?---Well, yes in my opinion it is.

PN3885

Now before the EYLF there were a series of other - well, for example, there was the Children's Services Regulation in New South Wales?---Yes.

PN3886

There was a QIAS which applied, as you understand it to - - -?---Long day care.

PN3887

Long day care?---Yes.

PN3888

And then there was something called the New South Wales - colloquially referred to as the New South Wales curriculum?---That was the practise of relationships.

PN3889

Yes?---Yes.

PN3890

Now did you apply that curriculum in your centre?---I did part - part of it but the problem with that was it wasn't mandatory and there was no training for that. We received no professional development. It was a document that arrived on our desks and we were just told, "Here, it is." And yes we did - I did try to apply that. And, yes it was the beginning of some child focus. It looked at the child and the way - the creative child, the healthy child, the literate child - and so we - but it didn't actually look at the holistic child as far as we could see. Yes.

PN3891

You suggest that at 22 that there's an increasing focus on stem and project based learning within early childhood?---Yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3892

And you say "I need to build my knowledge of these subject areas through independent research, develop resources and increase my understanding in concepts outside my ordinary teaching practise"?---Mm.

PN3893

"To create programs that are meaningful and relevant in the context of these new developments"?---Mm.

PN3894

Now the EYLF says nothing at all about science technology, engineering and mathematics?---No. But there is a big push and also in - in the Australian Professional Teaching Standards it talks about, I think, Standard 2 - Know the Content and How to Teach It." And stem is mentioned in there - literacy and numeracy and stem is mentioned in there. And so, yes, we are required to have more knowledge in these areas.

PN3895

Yes. And the content that needs to be known is not engineering principles. It's basic literacy and numeracy?---No. I disagree. Can I give you an example?

PN3896

Sure?---Yes. So once upon a time - you know - children would be say building in the block corner and they'd build a great tower of blocks and everyone knows the important of block building apart from the numeracy and things like that. And we'd say, "Yes, fantastic. Let's take a picture of that." And we'd write up about the block building. So now we have to look at it in a different way. We have to look at it as the child is the young architect. The child is the young engineer. So we start talking about symmetry and balance and how many blocks make this block and how many blocks make that block. And then we would go on to encourage that child to look at plans and we'd have the big architectural plans out and we'd make floor plans and build from those floor plans. So we'd be bringing the architecture into it. We'd be looking at buildings across the world, all the different styles of buildings in research. We'd be giving children clipboards with pencils and before they build we'd be saying, "Can you draw what you might like to build today?" And we'd be letting the children build their - draw their building and then transferring that, so they're using all their visual skills. And so, yes, we do have to encourage children in engineering and architecture and science and maths because those - you know - they are such capable learners. Yes.

PN3897

Ms Connell, you're not seriously suggesting that the exercise you've just described was something that you didn't do until the EYLF came in and then when it came in you started doing it because you understood that to be your obligation?---I think that we had - with research - yes. I can honestly say that I wouldn't have gone as far before the EYLF came in because we weren't looking at children in the same in-depth manner that we look at them now. So - yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3898

VICE PRESIDENT HATCHER: Just before there was a push about stem subjects. Where was that push from and what form did that take?---Well, the push is coming a bit from the Department of Education too and it's also coming from an equity-base, an agenda base and saying that - you know - girls in the higher - higher levels of school are not taking on the science and the mathematics and the engineering subjects. And so we have to encourage girls to keep doing those subjects. And that's actually where the push came from. So we are encouraged at that level to have kids really interested in all those sort of things. Yes. Look at it from an equity and a gender point of view. Yes.

PN3899

MR FAGIR: The fact is, Ms Connell, that if one looks at the EYLF one will not find even a hint of the requirement that you say it follows from it that when a child is now building blocks that has to be - that has to play out the way that you have just suggested that it does?---I think that if you drilled down into all of those outcomes and you actually look at what children are capable of doing and learning I think that those things just follow on because why wouldn't we extend children in that way when they're capable and interested? Why would we just leave it at "Gee, that's great. Let me take a photo of that and put it in the daily diary and send it home to your parent." Why wouldn't we go through that and then talk about those things and educate parents in those things as well?

PN3900

And all of those things happened well before the EYLF ever came in?---To a degree but - - -

PN3901

The idea of extending a child's learning is not something that arises in 2012?---No.

PN3902

Any good early childhood teacher was focused on extending children's learning for decades?---They were but the research in many cases didn't point to the importance of those things and how we should do it and intentional teaching certainly made - and the scaffolding of learning - certainly made a big difference. Before - you know - before the EYLF came in there was a program Reggio Emilia and everyone followed Reggio Emilia and we - and that was project work where children were involved in their own learning. And we were actually supposed to sit back and not supply children with any information and we were supposed to let children discover everything for themselves. It was a bit like emergent curriculum. And then suddenly the EYLF came in and they said, "No. No. We have to do - you have to do intentional teaching - because this is how children learn and this is our responsibility." And so we did. We started putting all those things back into teaching that research had told us we shouldn't have in. And so it is so much richer now - the things that we are doing. So much richer.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3903

Put them back in - what, having previously taken them out?---Yes. Well, to a degree - yes. Yes, but really we used different - we'd use different forms of

teaching. We were - you know - when I went through university we were taught that we should use themes for children. So we had a thematic approach. So you would start the year with all about me and we'd all learn all about ourselves and gaining confidence and how we were important and how we were different. And then you might go on to yellow week or were then Autumn, or then - and you know you could get any book you wanted that had 50 activities to support those things and so, yes, we did take children through things and we did - and they did learn in that way. And we did intentionally teach them scaffold learning. But when the EYLF came in and it became child centred and the child would lead the program with the input of the parents and it would be based on the child's interests and observations and input from the parents and the intentional teaching methods that we could use then it became a far more dynamic program and teaching styles did change with the EYLF.

PN3904

Ms Connell, you're just describing the ebb and flow of research and - - -?---Yes.

PN3905

- - -understanding in the area over time?---That's right. Over time.

PN3906

As it happens in every profession?---That's exactly right. And since the EYLF I think we have made great leaps forward.

PN3907

Now, tell me if you don't know but can I suggest to you that the idea of the traditional thematic curriculum?---Mm.

PN3908

Where you decide this semester we're going to deal with Autumn and the child's preferences matter not?---Mm.

PN3909

That could not have survived on the QIAS system. A program of that kind would not have passed the assessment?---Yes. I don't know.

PN3910

In that regime?---I have no knowledge of what happened in the QIAS system in long day care services.

PN3911

You don't know for example whether it required that programs deal with each child that emphasise, for example, each child's progress in different areas?---No. No, I don't know on the QIAS.

PN3912

Now you explain - I think this is a fair summary - tell me if it's not?---Mm-hm.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3913

That there are now a lot more curriculum resources than there were in the past?---Do you mean like research-based resources? Or do you mean just general resources?

PN3914

Well, all of it?---Yes.

PN3915

Whether you want research on pedagogy?---Yes.

PN3916

Or whether you're looking for activities to do if the child's expressed an interest in slugs?---Yes.

PN3917

Across that whole spectrum there's more resources available now than ever before?---Yes. Yes.

PN3918

Whereas, in the past you might have had to go and get the Encyclopaedia Britannica or something else?---Yes.

PN3919

You can get on Google?---Yes.

PN3920

You can get on the Smart Board?---Yes.

PN3921

You can go to one of the Instagram sites that includes these resources and suggestions?---Types - Pinterest - yes.

PN3922

The Facebook groups?---Yes.

PN3923

Pinterest seems to be - - -?---Yes. Yes, it does.

PN3924

- - -the social media of choice for this for some reason?---Yes.

PN3925

And that you would accept is unequivocally positive?---Yes.

PN3926

Similarly the qualification requirements for early childhood teachers have increased as a result of the NQF?---As far as ratios go and yes and what's required in Early Childhood Services, yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3927

Well, ratios are one thing?---Yes.

PN3928

Another thing is the actual requirements for the qualifications of - - -?---Yes. For how many you have to have. Yes. How many teachers and how many diplomas and Cert III's yes.

PN3929

Yes. And the effect of the NQF is that early childhood educators - certainly over time - and probably already are better qualified than they have been in the past?---I wouldn't necessarily agree.

PN3930

You'd be able to indicate someone who is not at least Cert III or working towards Cert III for example?---Yes, I have supervised many diploma and Cert III students and I find that there is - that with the bigger influx of online registered training organisations, once upon a time they were qualified through the TAFE, now we have lots of online training organisations and, yes, I'm not convinced that what's happening there is all positive having supervised several students who have done their diploma or Cert III in that way.

PN3931

If we can set aside your concerns about the quality of education, would you accept this as a general proposition. That an ECT is better off working with diploma and Cert III qualified educators than with less qualified educators?---Yes. Yes.

PN3932

You can rely on them to know more, for example, the people that you're working with?---Yes.

PN3933

The fact that qualification requirements have increased and assuming that the problem you've identified is - well either doesn't arise or is resolved?---Yes.

PN3934

That's something that's making life easier for early childhood teachers?---Not necessarily, no.

PN3935

You say that it's made your life more difficult because you now have to help the other educators qualify?---Yes.

PN3936

You say you spend two hours a week tutoring someone in maths?---Yes.

PN3937

You'd accept of course that that's something that you do as someone who seems to have a practice of going above and beyond. You don't suggest that's some requirement of the EYLF or the NQF or otherwise?---No, it's not. No.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3938

Can I suggest to you in fact that many of the responsibilities that you describe, especially in the work value statement are examples of you going above and beyond what's required of you by the regulatory framework?---I don't know. Within my sphere of early childhood teachers I think that we all go above and beyond to be quite honest, the ones that I know.

PN3939

For example, the fact that you provide - have provided advice to parents on where they might find shelter?---Yes.

PN3940

That's an example of you going above and beyond?---No, I don't think so. I think that in this day and age with all sorts of different things happening in our societies, and people coming from traumatic backgrounds and things, I think that that's a necessary - a skill. We've all talked about being the other counsellor, we've all talked about in our groups, when we talk about what sort of professional development we need. A lot of it is about dealing with those sorts of situations and so it's happening more and more, and so yes, we are all doing those sorts of things.

PN3941

Your experience in Albury is - - -?---In my experience.

PN3942

You have more refugees in Albury now that you did in the past, for example?---Yes. Yes.

PN3943

You don't know and couldn't say whether that's a fact that holds nationally?---I think because people coming out on working visas and refugees now have to do a certain amount of time in rural areas before they can move inner city, move to the city, I think you'd probably find that in metropolitan towns around New South Wales, that that would be the case. Because they'd be doing - they have to do two years in a metropolitan - you know, in a - not metropolitan, in a rural area before they are allowed to live and work in the city.

PN3944

Perhaps there's a bit more of a spread as between metropolitan and rural areas than there was in the past?---Yes, probably. There's more in rural areas than there were in the past, yes.

PN3945

You say somethings about parent accountability. Can I suggest to you that communication with parents has always been a key function of early childhood services?---It has increased. I can honestly say it has increased dramatically.

PN3946

When you say it has increased - - -?---Yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3947

- - - do you say that there's some provision of the NQS that requires it to increase or is that just - what has in fact happened at your service?---I think it's part of the NQS because it does say about regular communication with families and having to have - having to have, you know, documentation available for families all the time and how often it had to be sent, how often - it doesn't say how often it has to be sent out to parents. It says it has to be sent out to parents regularly.

PN3948

None of that's new, you'd agree?---Well, it is for us because we didn't send it out like we did. I think I said in one of my statements we would do a developmental checklist at the beginning of the year with the children and we'd have an interview with parents, and then we'd work on plans for the child during the year based on that checklist and the plans that we made, and then we might talk to parents again at the end of the year. But we certainly didn't send out documentation in a hard copy or digitally on a regular basis to parents, and we didn't send out learning journals on a weekly basis so no, that has increased significantly.

PN3949

The NQF says nothing at all about weekly learning journals?---No.

PN3950

That's a decision that you've made that you will now take that step?---Yes.

PN3951

You wouldn't disagree with me if I suggested to you that there are many services, perfectly compliant with the NQF, who don't send out weekly learning journals?---No, there are many that send them out every day too.

PN3952

I think my question was you'd agree with me or at least you wouldn't deny that there are many services, perfectly compliant with the NQF, who do not send weekly learning journals?---I don't know that, no.

PN3953

You say you receive emails on your day off and you're expected to answer them?---Yes.

PN3954

You were running the show?---Yes.

PN3955

So - - -?---Well, it was after I was running the show too. Yes, well we are expected to answer them. Not by our nominated supervisor, by our parents. The expectation from the parents is that if they send us an email that we will answer it, or if they send us an alert on Storypark which alerts on our phone instantly, so we've got a ping, so we know that someone's contacted us, that we will respond.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3956

Can I suggest to you that it's very unusual for parents to have an email address for an early childhood teacher?---Well, we started email addresses, individual email addresses for groups in 2012, I think we started them. So each group had an email address where they could contact the teacher on. It wasn't a personal email address but it was our group email address.

PN3957

Can I suggest to you that the usual approach is that there will be an email address for the centre or perhaps for the director?---I don't know about the usual approach but in our service this is what we had.

PN3958

When it comes to Storypark?---Yes.

PN3959

And other messaging services, one of the consequences of that is a lot of the information that used to be conveyed at handover is now sent during the day through those messaging services?---Yes.

PN3960

One of the consequences is that there's actually less communication required at handover than there was in the past?---Well, I guess it depends, under the regulations I think you're not supposed to be involved in another task when you're working with children, so we - unless it was an emergency or unless we really needed to convey something to a parent, we wouldn't send things home during the day because that would mean we'd be on our iPads doing things while we were - we're in control of children.

PN3961

Sorry, what are the implications of that?---The implications of sending things home during the day? That we wouldn't be supervising or we wouldn't be educating the children while we were on iPads sending messages home to children, to parents.

PN3962

Sure. But it's not - - -

PN3963

VICE PRESIDENT HATCHER: Just in terms of the question, so you disagree with the proposition that email communication has reduced the amount of communication that occurs at handover?---No, it hasn't reduced the amount of communication that occurs at handover, no, because we're not doing it during the day unless it's an emergency.

PN3964

Thank you.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3965

MR FAGIR: Ms Connell, I guess I'm trying to reconcile two things that I understand you to have said. One is that you're in more or less constant communication through the app?---Yes.

PN3966

On the other hand you say no, no, we don't communicate using the app during work hours?---Yes, we communicate during the app - - -

PN3967

It couldn't be both, could it?--- - - - like I said if - I think I've said it in my statement. If a child is upset during the day or something like that then we would send a photo to the parents of the child when they're happy so that they would know that the child is happy. I wouldn't respond to - I wouldn't put anything on an app that wasn't - during the day that wasn't necessary and then I would spend my afterhours time responding to parents on the app, and doing my communications with parents on the app. So spending more time afterhours on the apps.

PN3968

Yes and Ms Connell can I suggest to you that to the extent that you say you did significant amounts of work outside of hours?---Yes.

PN3969

That was again a function of your specific circumstances, which were that you were a director and that you were someone who tends to do more than they're required to do, goes above and beyond?---No, well, we didn't use Storypark when I was the director, that came in after I was the director. That was bought in by the new director. But no, I think my knowledge of other services in my area, we had - you know, as I said we met every month and we had big discussions about what we should be doing as far as documentation and requirements. I think that I was pretty well across the board what we were all doing.

PN3970

That ECTs were spending hours and hours of their own time doing this?---Yes.

PN3971

Can I suggest to you that if that's true it's pretty different to the rest of the industry because the usual position is that ECTs are not permitted to work outside of hours?---But they do. I know they do. I don't know about not permitted to work outside hours, not permitted to work at home. Well, they do. I don't know about not permitted to work at home. I haven't heard that, I don't know about that. We just do.

PN3972

You don't suggest that any of the things that you're just describing are the result of the EYLF or any other recent development?---The extra documentation certainly is.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3973

Is this the case that you deal with parents through social media?---Through the app. I don't deal with parents through social media in any way. I don't know - we have a Facebook page that we put things on as far as, you know, events that are happening at the preschool or research that we've come across that might be interesting for parents. We put that on social media but I don't deal with parents through social media.

PN3974

Ms Connell, when you were director what contact time did you have each week?---With teaching time?

PN3975

Yes?---Yes, I taught two days a week.

PN3976

So 16 - - -?---Well, that changed over time. When I first started I taught four days a week and I only had one day in the office, and then it cut down to two days a week. Two days in the office.

PN3977

When did that happen?---That was over time, I couldn't tell you exactly. I think I cut down to two days a week teaching probably in about 2010.

PN3978

Is this the situation, when you first became director you had one day allocated to non teaching duties?---Yes, yes.

PN3979

Then at some later point, perhaps 2010 approximately?---Yes.

PN3980

You moved to a point where you had three days for non teaching duties?---I did for a short period of time while we were actually getting ready for the NQF and then I went back to two days a week and taught two days a week and had two days a week in the office, and I only worked four days a week then, yes.

PN3981

I'm sorry, I think I haven't quite followed that?---Sorry.

PN3982

Originally it was four teaching days, one day in the office?---Yes. Then I went to three days - well look, it changed over time. I can't tell you the exact time or the exact dates because it was, you know, over an 18 year period. But before the NQF came in, while we were preparing for that in about 2010, I went to three - two teaching days and three days in the office. Once we were prepared for the NQF and everything was in place, I went back to two days in the office and two teaching days.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3983

One day - you were working four days a week were you?---One day off. Yes, I was working four days.

PN3984

Setting aside the exact timing of it all, the effect of it is that over time the amount of teaching time has reduced in the amount of - - -?---Office time increased.

PN3985

Office time for you specifically has increased?---Yes.

PN3986

Do you understand that to be typical of the experience of directors in preschools or do you not know?---I do, yes.

PN3987

We've translated the annexure to your latest statement into a table. I'm not exactly sure what to do with this but I just want to ask you some questions about some aspects of it and I'm giving it to you in this form because it's numbered and it'll be a bit difficult to take you to particular parts of the annexure, because it is not numbered. Now I'm not going to go through all 80-something of these Ms Connell but I just want to use some examples to - just try to understand precisely what it is that you are saying in your latest statement. Could we start, for example, at 1. Is this what you say; prior to 2012 you signed into the staff attendance book?---Mm-hm.

PN3988

From 2012 onwards you would sign in as responsible person wages book and then into the room?---Yes.

PN3989

Do you say there was some requirement at the EYLF that you sign into the room separately to signing into the centre?---Well, I can't find it - well, I'm not sure if it's in the EYLF but I know that when we had assessment and rating we were told by the assessment and rater that we had to sign into the room, so that came from the Department of Education, because we had to be able to prove in case there was an accident that there were the right number of staff in the room or outside at any particular time. So that was a requirement from the Department under assessment and rating.

PN3990

Now you say sign in as responsible person?---Yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN3991

That was your obligation as a director?---No, that was the obligation of the person who was nominated as the responsible person of the day. The nominated supervisor was not always there. Nominated supervisor is only required to be there 50 per cent of the time. As for myself, when I was nominated the supervisor I wasn't there on a Monday so another ECT took the role as the responsible person. We had also the nominated supervisor's hours aren't 8 till 5.30 when you have to have a responsible person on the premises for the whole time children are

there, so someone would sign in as the responsible person that day and we found it easier for them to be that responsible person rather than just sign out and the nominated supervisor sign in and then they sign out, and then someone else sign in and sign out. So we delegated responsibilities to ECTs to be the responsible person on the day.

PN3992

Now this is the situation. This isn't a job for an ECT, this is a requirement for the responsible person on the day?---That's right, but we chose an ECT.

PN3993

It takes five seconds?---Probably does.

PN3994

Next you say you are now required to check the UV rating for the day and record it in order to plan?---Yes.

PN3995

Again, can I suggest to you this is not some requirement that was introduced by the EYLF in 2012?---No, but a lot of these things came in - not the EYLF but the National Quality Framework. A lot of these things came in under the National Quality Framework.

PN3996

What part of - I'm sorry to cut you off, Ms Connell?---Yes.

PN3997

But there's a lot to get through and I just want to do it as efficiently as possible?---Yes.

PN3998

What part of the NQF introduced a requirement that you check the UV rating for the day and record it in order to plan when to be outside?---Well, the health and safety part of it would require that we would do that and it comes also from the assessors, who would say you haven't got the UV rating displayed. So that was coming from the Department of Education.

PN3999

Can I suggest to you that the EQLF, NQF and all the rest of it has not introduced any different requirement in relation to checking UV ratings or work health safety generally?---It's not specifically written there but we had to do it because it was a requirement from the Department to do so. And if we didn't do so we were only assessed at working towards in that area.

PN4000

What happens when you're assessed as working towards?---Well, then you get an overall rating of working towards the national quality standard.

PN4001

Then nothing happens?---Well, no - - -

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN4002

You just continue?---Well, you do just continue but, you know, doesn't it show you're looking after the safety of children to be checking those UV ratings, particularly in very hot areas.

PN4003

It's a bit different, for example, to the QIAS where if you didn't pass you weren't eligible for the child care subsidy which effectively meant that you're out of business?---No, but that doesn't mean that we shouldn't be working towards the best quality and best practice at all times.

PN4004

Not because the EYLF - - -?---No, because the NQF - - -

PN4005

What I'm suggesting to you is that this was always a requirement of the - I'm sorry, I keep saying EYLF - I mean NQF?---Yes. NQF. Yes. Yes.

PN4006

The whole kit and caboodle?---Yes.

PN4007

Similarly - - -?---It's a requirement of the department to do so.

PN4008

Okay. Now, again, this is not a job for the ECT it's a job for whoever is allocated that task on the day?---Yes, the certified supervisor. Or the responsible person which - as I'm saying - as it was the ECT in our service that's what the ECT was doing.

PN4009

Doing a room safety check and looking for hazards - again, that is no kind of recent development?---No. We didn't - we didn't record it. We did it but we didn't record it. Now we have to record it.

PN4010

Okay. Now, at what appears at five and particularly 5A of this table you suggest that before 2012 the program was thematic?---Mm.

PN4011

And after 2012 it was something different?---Yes.

PN4012

Now just tell me if you don't know but do you know if the QIAS required that children's interest provide a focus for many experiences in the program?---Yes. I don't know. I didn't read that QIAS, no.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN4013

You don't know for example whether it would have been open to a privately operated long day care centre to operate a thematic program pre-2012?---No, I don't know.

PN4014

Again dealing with outdoor play?---Mm-hm.

PN4015

Could I suggest to you that the requirement of the QIAS was that indoor and outdoor environments be used in a variety of ways. You don't know whether that's right or not?---No, I don't know.

PN4016

You do know that there was the New South Wales Regulations required that the authorised supervisor of the Children's Service must ensure that there is provided a program of activities that balanced indoor and outdoor experiences?---Yes.

PN4017

That was a requirement which applied to you?---Yes. Probably, yes.

PN4018

For many years?---Yes.

PN4019

And to take 15, for example, taking casual staff through the handbook and so on?---Mm.

PN4020

Again, this was just basic proper practise isn't it?---Well, to be honest we didn't have a casual staff handbook. We took staff through general things but before that when we didn't have - you know - the medical plans and things like that displayed for children with asthma and anaphylaxis and so, you know, once we were displaying all of those and we had all those things. And, yes, there was - you know - a bigger responsibility to take staff through those things.

PN4021

Okay. Which part of the NQF are you referring to now? This is relevant to the issue you have just described?---Well, it's still about the medical risk and the plans for children and the health and safety parts of it. Children's health and safety.

PN4022

You don't know whether the QIS required a comprehensive induction process with a focus on policies and procedures?---No.

PN4023

Now at 18 - particularly 18(a), you suggest that in the past the program was not led by the child and the family?---Not it wasn't always, no. It was led by the teacher.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN4024

You just said, "Not always"?---Yes.

PN4025

But I suggest to you that in any properly functioning early childhood centre that the program was contributed to by families?---Well, actually I disagree with that.

PN4026

Was it your understanding that there was some significantly different approach between the way long day care centres delivered their programs and community kindergartens did?---I can't comment on that because I don't know that before the introduction of the EYLF.

PN4027

Could I have a short adjournment? I think it will save time. I'm just trying to work out whether I need to keep doing this or not.

PN4028

VICE PRESIDENT HATCHER: How long do you need?

PN4029

MR FAGIR: Just five minutes.

PN4030

VICE PRESIDENT HATCHER: All right. We'll adjourn for a short period.

<THE WITNESS WITHDREW [12.41 PM]

SHORT ADJOURNMENT [12.41 PM]

RESUMED [12.46 PM]

<GABRIELLE CATHERINE CONNELL, RECALLED [12.46 PM]

CROSS-EXAMINATION BY MR FAGIR, CONTINUING [12.46 PM]

PN4031

MR FAGIR: Thank you, your Honours. I'm grateful for that adjournment. I think it will save us all some time. Ms Connell, there's no point me suggesting to you that many of the matters that you suggested are new and have in fact been required at least in privately operated long day care centres for many, many years. You just don't know?---No, I can't say. It's not within my knowledge.

PN4032

And there's no point me saying to you whether they were required because of the QIAS or for whatever reason that many of the things that you describe as new, in fact, have been done in that sector for many years?---Yes.

PN4033

Again, you just don't know one way or the other?---No, that's right.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN4034

Really, when we look at your statements, particularly what you have set out in annexure two we understand that as being a summary of changes that have occurred at your service?---At preschools, generally, I would say. In the preschools that I have knowledge of.

PN4035

Which is - what - a maximum of 20 out of the 800 is it?---Yes. Probably and through other connections through the State too. Yes.

PN4036

Thank you, your Honours. They're my questions.

PN4037

VICE PRESIDENT HATCHER: Thank you.

PN4038

MR FAGIR: The table will be back I have to tell you.

PN4039

VICE PRESIDENT HATCHER: Do you want me to mark it Mr Fagir?

PN4040

MR FAGIR: No. There will be other versions that are more useful.

PN4041

VICE PRESIDENT HATCHER: Right. Ms Connell, can I just take you back to something you said in relation to your third statement at paragraph nine? This is Exhibit 63?---Sorry, is that the one for that - - -

PN4042

It's the one where there's a heading "Highly Accomplished Teacher Lead Teacher Accreditation"?---Right. Okay. Yes. Yes. So in answer to a question about that paragraph you have referred to something called an Evidence Guide?---Yes.

PN4043

So is that an Evidence Guide to achieve those two accreditations?---That - to achieve the three accreditations. To achieve - there was one for proficient teacher or new teachers.

PN4044

Right?---There's one for highly accomplished and there's one for leave teacher as well. There is across primary and secondary as well.

PN4045

Right?---And it's NESAs - it's done by NESAs. Yes.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN4046

So I can see in document 204 - I don't know whether you can access on the pad. We appear to have an Evidence Guide for Early Childhood Teachers to Achieve Proficient Status?---That's the one for proficiency.

PN4047

Right. So there's two - or - - -?---And there's two more, yes. Yes, highly accomplished - - -

PN4048

Yes?---- - - and leave teacher Evidence Guides as well.

PN4049

All right?---Yes.

PN4050

So the one that we have got is published by the Queensland College of Teachers but it says it's developed from AITSL's Guide to Transition to Full Registration?---Yes. It should actually - what number is it, sorry?

PN4051

That's number 204. Is there a New South Wales version of it?---Yes. That's not the New South Wales Evidence Guide.

PN4052

But there's a New South Wales version of that, is there?---There is, yes.

PN4053

MR TAYLOR: If I could assist? I was going to take the witness to this in re-examination. Document number 105.

PN4054

THE WITNESS: Yes.

PN4055

MR TAYLOR: It's the - I understand the Evidence Guide for Proficient Teachers in New South Wales.

PN4056

THE WITNESS: Yes. That's it.

PN4057

VICE PRESIDENT HATCHER: Yes, I see. All right. Thank you. Re-examination, Mr Taylor?

PN4058

MR TAYLOR: No. That was the only matter I was going to deal with.

PN4059

VICE PRESIDENT HATCHER: All right.

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN4060

MR TAYLOR: There's nothing further.

PN4061

VICE PRESIDENT HATCHER: All right. Thank you for your evidence, Ms Connell. You're excused and you're free to go?---Thank you.

<THE WITNESS WITHDREW

[12.50 PM]

PN4062

VICE PRESIDENT HATCHER: Was it convenient that we pause for lunch now and resume at two?

PN4063

MR TAYLOR: Indeed.

PN4064

MR FAGIR: I just found out that Ms James she was scheduled for tomorrow.

PN4065

VICE PRESIDENT HATCHER: Yes.

PN4066

MR FAGIR: I know she was threatened to be called today a number of times. I am going to do my very best to deal with her this afternoon and I can deal with everything that came before the most recent statement. And I just flag that I may be able to deal with everything or I might ask that we adjourn and that I come back tomorrow morning and deal with. There may be some aspects of her new statement that I can't deal with until tomorrow but I will make sure that if that's necessary I will be short tomorrow morning. I mean no more than half an hour.

PN4067

VICE PRESIDENT HATCHER: All right. Well, can you speak to Mr Taylor about that over the adjournment, as to the practicalities associated with that?

PN4068

MR FAGIR: Yes.

PN4069

VICE PRESIDENT HATCHER: All right. We'll adjourn for lunch and resume at 2.00 pm.

LUNCHEON ADJOURNMENT

[12.51 PM]

RESUMED

[2.03 PM]

PN4070

VICE PRESIDENT HATCHER: Yes, all right are we ready for Ms James?

*** GABRIELLE CATHERINE CONNELL

XXN MR FAGIR

PN4071

MR TAYLOR: We are.

PN4072

VICE PRESIDENT HATCHER: Sorry, just excuse me. Yes, all right.

PN4073

THE ASSOCIATE: Could you please state your full name and address for the record?

PN4074

MS JAMES: Lisa James, (address supplied).

<LISA JAMES, AFFIRMED [2.04 PM]

EXAMINATION-IN-CHIEF BY MR TAYLOR [2.04 PM]

PN4075

MR TAYLOR: Ms James, do you have your three statements with you?---I do.

PN4076

The first statement has been admitted as exhibit 25. That was a statement you prepared in about November 2017. Do you have that with you?---Yes.

PN4077

The second statement has been admitted as exhibit 26. That was the statement that's dated 19 July 2018. Do you have that too?---Yes.

PN4078

Then most recently exhibit 27, a statement that's dated 16 June of this year, and you have that as well?---Yes.

PN4079

Thank you.

PN4080

VICE PRESIDENT HATCHER: Mr Fagir.

CROSS-EXAMINATION BY MR FAGIR [2.05 PM]

PN4081

MR FAGIR: Ms James, you've been working to improve the wages and conditions of early childhood teachers for some years now?---Yes.

PN4082

*** LISA JAMES XN MR TAYLOR

*** LISA JAMES XXN MR FAGIR

You would not even for a moment hold yourself out as some kind of disinterested person in relation to the outcome of this case?---I don't - I guess I don't stand to gain personally from it because my wages aren't attached to this but if you mean

do I have a commitment to the early childhood sector and believe early childhood teachers should be paid more than they are yes, I do.

PN4083

Your keen objective is for this application or these applications to succeed?---Obviously I would like that to happen.

PN4084

Consistent with that view, in your statements you have identified those matters which assist the applications and have left out any matters which might weigh against the grant of the application?--- I'm not sure what exactly would go against it but I put in my honest opinion of what early childhood teachers do.

PN4085

Can I give you one example to the question of early childhood teacher shortages?---Yes.

PN4086

That's a matter you deal with at least in your two statements?---Mm-hm.

PN4087

Now you would agree with me if I suggested to you that it would be a relevant fact to consider, dealing with any question of shortage, that the number of ECT's in the workforce has increased very significantly in recent years?---Yes.

PN4088

That's relevant to any proper consideration of this question of ECT shortage?---Well, I would agree, although the Productivity Commission report that came out in 2011 still cited the shortage of early childhood teachers. I think it's been exacerbated because under the National Quality Framework all services have to employ teachers. Whereas previously other States other than New South Wales didn't have to do that.

PN4089

Okay. Now, my question Ms James, was whether the matter that I raised with you was relevant to this issue. Now you could have agreed with me or disagreed but you went on to give quite a lengthy answer. I wonder if you'd mind trying to limit yourself a little more closely to the question that I am actually asking?---Okay. The answer is yes.

PN4090

Now can I deal with two of the matters that you just raised in your answer?---Mm-hm.

PN4091

And, firstly, you identified that as a result of in QF or other reforms there's an increased demand for early childhood teachers?---Yes.

*** LISA JAMES

XXN MR FAGIR

PN4092

Now, again, if this Commission were to properly consider any question of shortage that is a fact that would be plainly relevant?---Yes.

PN4093

And we will not find in either of your statements any discussion of (a) a very significant increase in the numbers of ECT's in the workforce recently or (b) the fact that there has been a sharp increase in demand?---No.

PN4094

We'll also - we'll find a reference to the 2011 Productivity Commission report?---Yes.

PN4095

You will not find any reference to the more recent 2014 Productivity Commission report?---I don't have a copy of that.

PN4096

You haven't seen that?---I haven't.

PN4097

But pages and pages and pages of discussion of this very issue?---I haven't seen that.

PN4098

All right. Can I give you a different example? Ratios?---Mm-hm.

PN4099

They've changed in recent years?---Yes.

PN4100

In Victoria, for example, ratios have gone from one to 15 to one to 11?---For three to five year olds, yes.

PN4101

Yes. The result is that if you have an ECT working with a non-teacher educator in three to five year old class, in the past, they might have had to deal with up to 30 children. Now they deal with a maximum of 22 children?---In Victoria, yes.

PN4102

Now that, of course, is a matter relevant to any consideration of the nature of the job that ECT's do, their responsibilities and the conditions under which the work's performed?---Look, I would agree. I didn't really go into any other States other than New South Wales and my State here. And the ratio for three to five year olds has remained at one to 10 in New South Wales.

PN4103

Now at paragraph 28 and following or many paragraphs you describe the nature of the work performed by early childhood teachers?---Mm.

*** LISA JAMES

XXN MR FAGIR

PN4104

See that at 28 through to about 47?---Yes.

PN4105

Now you say you're familiar with this work from your own experience and from discussions with teachers and the employers?---Yes.

PN4106

Now can you just remind us what your own experience is?---I worked for three years in a preschool at three different preschools as early childhood teacher and I was employed as a special needs teacher at Lorikeet long day care centre from 2002 to the end of January 2007.

PN4107

And do you say that the description of the work as it appears at 28 to 45 of your statement is consistent with your own experience working as an ECT?---Well, it would have to be that and also the feedback that I get from members because, for example, the Australian Professional Standards for Teachers was not applicable when I was teaching.

PN4108

Is the description at 28 to 45 applicable to your own experience? Or is it different?---It's a combination of my experience and the feedback that I have received from members through all my visits.

PN4109

All right. Now, can I just ask you about the level of detail that's included here?---Mm.

PN4110

I'll just give you one example. You don't need to turn to it. The responsibilities of ECT's include developing an overall, daily timetable, including specific small group and group time activities designing the learning environment, developing and implementing a supervision plan, ensuring emergency contact details and so on. You remember including that in your statement?---Yes.

PN4111

Now was there some reason why you couldn't identify the basis on which you say - it seems to be what you say - every early childhood teacher working in an early childhood service has that responsibility?---Some would take on those responsibilities. Some would not. It would be a general expectation that teachers would be able to do those things and different employers would allocate different jobs to particular teachers.

PN4112

Now this notion of an expectation?---Mm-hm.

*** LISA JAMES

XXN MR FAGIR

PN4113

If we wanted to get to the bottom of that would it be possible to find the expectation recorded in some statute or learning framework or something like that? Or are these expectations things that you've come to discover over your

years of speaking to people about these issues?---Speaking to people and job descriptions that I've been sent from various members as well.

PN4114

Now have you produced any job descriptions as part of your evidence in this case?---No, I wasn't asked to.

PN4115

You say - - -?---But I have got some so I can certainly provide them.

PN4116

Okay. Perhaps you might. It can be a call. We can put on an order for production or we can just ask you for them. It makes no difference to us.

PN4117

VICE PRESIDENT HATCHER: Is that directed at us or somebody else?

PN4118

MR FAGIR: I'm sorry. I apologise. It was inappropriate and I apologise. Now, similarly, when you say at paragraph 33 that a graduate ECT develops an educational program with guidance?---Mm.

PN4119

Is there some reason why you couldn't point to, for example, a provision of the National Law or a requirement of the NQF? Or a particular position description to make that good?---No reason but I would say if you have a teaching qualification you would be expected to develop an educational program.

PN4120

You know, Ms James, that there is a requirement that there be an educational leader in every service?---Yes.

PN4121

And that that educational leader has the role of leading the educational program?---The overall educational program, yes - - -

PN4122

Right?---So they mentor employees and suggest training, do research and share it with the other educators. Yes.

PN4123

Now, if we're discussing the obligations of graduate ECT's to develop educational programs surely that's a relevant matter to take into account?---Well, I think that's why it says, "with guidance".

PN4124

All right. Now, again, I don't think you need to turn to this but you say at an earlier paragraph of this statement that pre-2016 early childhood teachers have been recognised as proficient teachers by NESAs. The New South Wales Standards Authority?---Correct.

*** LISA JAMES

XXN MR FAGIR

PN4125

Now what do you mean recognised as proficient teachers?---Okay. So this applied to early childhood teachers that were employed before 1 October 2016 and it also applies to school teachers who were employed before 2004 when accreditation was brought into schools. There, NESAs have got us to send in our qualifications various documents regarding our work experience, people needed to get letters from their employer to say they're employed as early childhood teachers and then they've accepted that we're proficient. So we didn't have to actually - - -

PN4126

Who's "we"?---NESAs - sorry - oh, so early childhood teachers are proficient.

PN4127

Every early childhood teacher?---That was employed pre 1 October 2016, yes. So they don't need to submit annotated work samples or have their lessons observed by another proficient teacher but they must fill in a self-study report to say that - how they're meeting the standards in the maintenance period, pay their \$100 a year accreditation fee, and attend 100 hours of professional development over their maintenance cycle.

PN4128

All right. And as far as you're aware every single ECT in that category has been recognised as proficient?---Unless they didn't apply.

PN4129

You're not aware of anyone who sent in some material and received a response that we're not satisfied - you know - that, in fact, you are at a proficient level?---Not for experienced teachers. We did see a report regarding teachers that were applying from provisional to become proficient. So they weren't classified as experienced teachers and some of those were not accepted as proficient.

PN4130

Right. Now, you give throughout your statements various descriptions of the professional qualities of early childhood teachers. Now are you talking about some early childhood teachers or all?---I would say most.

PN4131

Now whether the teachers qualified last year or 10 years ago or 20 years ago, the descriptions in your statements you say apply equally?---As I said, to most teachers generally I would say yes.

PN4132

Most but not all?---There would be in any profession you would have a scale of people you know that - people that are more competent and people that are far less competent I guess.

*** LISA JAMES

XXN MR FAGIR

PN4133

Would you regard yourself as competent to deliver the Early Years Learning Framework if you took a job in an early childhood centre tomorrow?---So I wasn't - it came in after I finished teaching, so in that sense I have not actually

implemented it. However, I did provide feedback to Sandy Cheeseman who was one of the authors of the Early Years Learning Framework and she actually contacted me when we were at an early childhood conference a few years ago in Darwin, and she said my feedback was really relevant and useful. So I think I would be able to implement it in the classroom.

PN4134

Despite the fact that you trained and your experience is many years before the EYLF was introduced, how that can be?---Well, we - the union was consulted also in consultation forums - - -

PN4135

No, no, Ms James, sorry, can we just focus on you for a moment?---Okay, because I've actually read it, I've compared it to the school curriculum. I've had a look at - in the syllabus for Speaking and Listening, Early Stage 1. I've thought about - because of my own professional development that I undertake to maintain my teacher accreditation I've sat down and actually reflected on what that would look like in a classroom. I've looked at the Australian Professional Standards for teachers and the evidence guides which you need to implement the APST through the Early Years Learning Framework.

PN4136

Have done all those things and having your qualification - your bachelor ending in 97 and then a masters more recently, you believe that you're qualified to deliver the EYLF?---I believe I am able to do it, yes.

PN4137

It's not like your qualifications are out of date and you'd have to go back and re-train to deliver this new learning framework?---No, because I'm a proficient teacher with NESAs so my qualifications are still accepted.

PN4138

DEPUTY PRESIDENT DEAN: Ms James, sorry, how do you maintain your proficient teacher status if you're not teaching?---Okay, yes. So at the moment I'm on a leave of absence until NESAs develop the procedures for maintaining when you're not working directly with children. They've told us that they are intending to do so because there are teachers in early intervention and a number of other areas who currently are not able to maintain. So I'm still completing my professional development even though I'm technically on a leave of absence.

PN4139

MR FAGIR: Ms James, the EYLF among other things emphasises intention of teaching?---Yes.

PN4140

That'd be your view?---Mm-hm.

*** LISA JAMES

XXN MR FAGIR

PN4141

The fact that you studied your bachelor degree in the 90s wouldn't prevent you from delivering a framework that required a focus on intentional teaching?---Well,

my masters didn't finish till 2007 and then I believe that's relevant because I was, you know, upskilling my qualifications and my teacher registration no, it wouldn't prevent me from implementing.

PN4142

Can I ask you some questions about the educational leader role?---Mm-hm.

PN4143

You say these things about the educational leader:

PN4144

One part of the job is to review other programs and lesson plans.

PN4145

?---Yes.

PN4146

Can you just explain what that involves?---So - - -

PN4147

It's paragraph 43 if you need to turn it up?---Yes. An educational leader would have a look at a sample from different teachers and educators programs, so they've taken observations of the children, they've evaluated those observations and they've used that to plan future experiences and they've also evaluated what the child has - the learning the child has exhibited based on the Early Years Learning Framework. So the educational leader might have a look at them, say you haven't really linked that to a child development theorist, I suggest you do that perhaps in terms of cognitive development or language development. What would be expected of a child of that age, and they might say you haven't really - you've said that it links to the child as a competent learner but perhaps you didn't emphasise the social aspect of that or their language development in that, so they might suggest other outcomes you could link the observation to.

PN4148

You're just giving an example of one type of thing that an educational leader might do in dealing with - - -?---Yes, well that was the reviewing someone's program and lesson plans, yes.

PN4149

You also suggested that:

PN4150

The educational leader's role requires them to provide feedback regarding activities and resources.

PN4151

?---Mm-hm.

*** LISA JAMES

XXN MR FAGIR

PN4152

Can you explain what that might involve?---Yes, sure. So perhaps you - I might need to give an example again but say you wanted a child to learn classification skills and at the moment you can see that they're grouping colours together and they're recognising if there's a yellow bear on the table, they put it with the other yellow bears. But you might have planned the next experience might have been say a bingo game, where you're actually calling out small yellow bear or big blue bear, and the educational leader might say well, I think that's a step too far, to go from a real object where they're only classifying colour to a two dimensional game, where there's no physical object and now you're actually saying size and you're saying - it might be shape as well. Let's take it back a bit and start with - use real objects and we'll only classify by two things, say colour and size. Or colour and shape or colour and object type.

PN4153

Finally you say that the educational leader - sorry, that's one example that you've used giving a concrete activity but whatever the activity is there might be - - - ?---Look at the materials and they could say ways you could improve that or use different materials, yes.

PN4154

Finally you say:

PN4155

The educational leader is required to keep up to date with new early childhood research.

PN4156

Why is that?---So part of their role is to look the professional development needs of the staff, so they may look at staff members program and think this person really doesn't have a good grip on children's literacy. So they go away and they'll do some reading, some research on best practice in literacy or any latest innovations, and then they will feed that back to the teacher or educator and suggest they might go on a professional development course, or they might read the research themselves. They might have a staff meeting and say actually the whole centre needs to focus more on literacy so we're going to bring that in to a staff meeting and all discuss it.

PN4157

Understood in that way you would agree with me that an educational leader makes a very significant contribution to the establishment and delivery of an educational program in a centre?---I would.

PN4158

An educational leader you would agree is a very significant resource upon which educators may draw?---Mm-hm.

PN4159

The introduction of the educational leader has created as a requirement that there be such a resource in every service?---Yes.

*** LISA JAMES

XXN MR FAGIR

PN4160

There might have been someone who took that role previously or perhaps not, depending on the service now. That person has to be present in every service?---Yes.

PN4161

You would accept that is a significant improvement from the perspective of educators?---Yes.

PN4162

That they have access to such a resource?---Mm-hm.

PN4163

Now you elsewhere say something about the leadership obligations of experienced teachers, you deal with this at 35. I'll just read it out:

PN4164

An experienced teacher who is not a director will lead and mentor the team in their room which often comprise educators with very different qualification skill levels and prior experience.

PN4165

You then go on to explain:

PN4166

They assist lesser qualified staff -

PN4167

and so on and ultimately you say:

PN4168

Teachers need to have very effective communication and management skills to facilitate an effective and functional team comprised of a diverse group of people.

PN4169

?---Yes.

PN4170

Firstly, this assumes that the teacher is the room leader of a particular room?---Yes.

PN4171

That's the premise of all of this?---That is.

PN4172

In any case, when you say a:

*** LISA JAMES

XXN MR FAGIR

PN4173

Teacher requires very effective communication and management skills to facilitate an effective and functional team comprised of a diverse group of people.

PN4174

You're talking about the teacher working with one or perhaps two or three other educators in a room?---Yes, that's right.

PN4175

That's the effective and functional team comprised of a diverse group of people that you're referring to?---That's right.

PN4176

Now you say some things about bargaining later in your statement. At paragraph 58 you give an example of one for profit long day care centre where both ECTs wanted to bargain but the employer declined?---Yes.

PN4177

Now why did you use that example?---Because both the teachers indicated that they wanted to bargain and we actually contacted the employer to request that and they declined. In the not for profit sector community managed services generally will bargain with us. Even, I've had a couple of services not for profit that were reluctant but when the staff actually signed a petition to say that they wanted to bargain the committee said, "Oh, okay. We didn't realise that that's what you wanted." In the for profit sector we don't actually have a lot of members that even ask us to negotiate enterprise agreements because they expect their employers will refuse. They don't want to pursue it as in signed petitions or to go to the Fair Work Commission or - and our membership - the majority of it is in the not for profit sector.

PN4178

You've just given an explanation of the reasons why your members don't ask you to do something?---So I couldn't use another example because I don't have many where employees actually ask me - say, "We want an enterprise agreement we'd like you to talk to us with our employer from the for profit sector." And generally in the not for profit sector employees don't resist bargaining.

PN4179

This example that you gave us in 58 is - - -?---Mm-hm.

PN4180

- - -the best example or one of the better examples that you could find?---That's one that came to mind while I was writing my statement, yes.

*** LISA JAMES

XXN MR FAGIR

PN4181

Of course it's not really surprising that an employer would decline to bargain for two employees, is it?---We have services that employ only community-based services that employ only one teacher and the committee has agreed to bargain for the whole service which might only be two or three staff members because the

teacher has indicated they would like an enterprise agreement so it's not that uncommon.

PN4182

Okay. Now, you've explained that the unions negotiated enterprise agreements with three - originally it was three - it's actually two for profit employers is that right?---There are three - all those three there have enterprise agreements but it's only ABC and State - well - now Good Start - but when it was for profit ABC and Station Bridge they had over award wages in there.

PN4183

And how big's Station Bridge?---I think they have six services.

PN4184

And ABC Learning?---Well, that's the Good Start now. Now there's 400. I'm not sure what there was back then.

PN4185

But they're the - perhaps G8 is the biggest now?---Yes.

PN4186

But they're - if they're not the biggest they're the second or among the largest employers?---Mm-hm.

PN4187

There's nothing unusual about there being some bargaining with large employers and very little bargaining with smaller employers. That's just a normal - - -?---We have many enterprise agreements.

PN4188

- - -phenomenon of enterprise bargaining, isn't it?---With small community-based services that might have between two and 10 staff. Yes. Many of those. Many more than large enterprise - large employer enterprise agreements.

PN4189

I see. Now you explained that in the not for profit sector and you've explained again today that in the not for profit sector management committees are often keen to pay above award?---Mm-hm.

PN4190

But say that it can't be done for funding reasons or - - -?---Well, they generally do pay above award. Like as in - as I said - we have many enterprise agreements for those small community based services but they - many of them can't afford pay parity with teachers in schools.

PN4191

When you say "Can't afford", what do you mean by that?---Yes. They say because - yes, the income they get from the government and from fees isn't enough to pay their teachers as much as they would like.

*** LISA JAMES

XXN MR FAGIR

PN4192

Certainly in that sector there's no question of the work being undervalued. It's a very dry question of economics?---Well, it's undervalued, I guess, if you look at the - simply the amount they earn financially, but if you mean in terms of the parents appreciating the work that they do and recognising that early childhood teachers perform the same role as teachers in schools - then, yes, I'd say they are valued in that respect.

PN4193

I'm sorry to jump around like this, Ms James. You gave some evidence about student preferences?---Mm-hm.

PN4194

And what you describe as a preference of students to work in schools as opposed to early childhood centres?---Yes.

PN4195

And you deal with this at paragraph 21, in particular. Can you firstly deal - - -

PN4196

VICE PRESIDENT HATCHER: Are we still on the first statement?

PN4197

MR FAGIR: The first statement, yes. Now, you firstly deal with a group of students that you spoke to in 2008 and '09 at Macquarie?---Mm-hm.

PN4198

And 2007 and '08 at Western Sydney?---Yes.

PN4199

At Western Sydney you noted that five out of 30 - five out of over 30 students indicated they wanted to work in early childhood with 25 saying they wanted to work in schools?---Yes.

PN4200

And then at Macquarie you say it was nine or 10 out of 60?---Yes.

PN4201

So it's about one in six - 15 per cent - or thereabouts?---Yes, at that time. Yes.

PN4202

And then more recently at Macquarie you spoke to some students and about 30 - well, 70 per cent or more intended to go to schools and perhaps 30 per cent intended to work in early childhood?---Mm-hm.

PN4203

Now what point are you making with these numbers?---That the majority of graduates prefer to go to school because of the higher wages and better conditions.

*** LISA JAMES

XXN MR FAGIR

PN4204

Now how many early childhood teacher positions are there in comparison to the number of primary school teacher positions?---I honestly don't know.

PN4205

About one to five - or one in six sounds about right. If anything that's probably a bit of a higher proportion than what's required isn't it?---I mean there's more than five times as many primary school teachers as early childhood teachers?---Look that would make sense. I don't know what the job vacancies in each sector are.

PN4206

Well, it's not like the proportions that you have described there would lead to some shortage in early childhood. If anything there's more than the required proportion of the internet sector or intending to?---And yet there is a shortage.

PN4207

VICE PRESIDENT HATCHER: So, Ms James - so at Macquarie University?---Mm-hm.

PN4208

The relevant degree is a Bachelor of Education Early Childhood Education?---It was nought to eight when I was there. I believe they do nought to 12 currently.

PN4209

Sorry, it was what?---Zero to eight years, when I was there. So we did early childhood plus kindergarten to second grade but I believe they have changed their qualification to birth to 12 years now.

PN4210

Right. So when you're talking about your lectures - sorry, your lectures at Macquarie University 2017 - that was then nought to 12?---That's correct.

PN4211

MR FAGIR: Now, Ms James, you refer at 14 - of this statement. I'm sorry perhaps it's the next one. Fourteen of Exhibit 26, your statement in reply. Your second statement?---Mm-hm. Yes.

PN4212

And you've described there a presentation that you attended?---Mm-hm.

PN4213

Inspiring early childhood pre-service teachers career intentions chalk and cheese?---Yes.

PN4214

And you've extracted a table that you say appeared in that presentation?---Yes.

PN4215

Now, presumably, you have some reasonably clear recollection of this presentation?---I took notes on it.

*** LISA JAMES

XXN MR FAGIR

PN4216

And you must have got a copy of it because you produced this table?---No, no. I took notes from the whiteboard.

PN4217

You took down this table?---Yes, I took down the table.

PN4218

Okay. But did you take notes of the reason why the presentation was called Chalk and Cheese?---Yes, it was because Newcastle University implemented a new program where they forced early childhood students to undertake - what do they call it? Like practicum - an internship they're called - in early childhood environments and they wanted to see if that made a difference to whether they wanted to go to school or work in early childhood.

PN4219

The chalk and the chees was early childhood compared to primary schools?---No, they're all - they were all students that could work in early childhood or primary school. At Southern Cross Uni they didn't insist that the early childhood teachers, students, attend practicum in early childhood placements and so - and there was a much greater number that then decided they wanted to go to work in primary school. This is my recollection and what I've based on my notes and the Newcastle Uni students then increased their preference for early childhood, particularly, in preschool after their internships in early childhood services.

PN4220

Is this detail that you're giving now from memory?---Yes. Well, from memory and from my notes, yes.

PN4221

Excuse me, madam Associate. Could I hand something up? Can I just see if I can jog your memory of some other aspects of your presentation? You see there are some numbers at the top right-hand corner of these - well, I'm sorry. I should start on the first page. You recognise this was the presentation that you're talking about?---Yes.

PN4222

Now you see there are some numbers in the top right-hand corner of these pages?---Yes.

PN4223

Would you mind turning to page nine?---Mm.

PN4224

Do you see there, "Underlying Questions" was the heading? I hope?---Yes.

PN4225

Now there intention is undertaking Birth to 12 degrees. The students prefer zero to five. What are priorities for preservice EC teachers?---Mm.

*** LISA JAMES

XXN MR FAGIR

PN4226

And you see the first quote, "Primary plus EC equals chalk and cheese"?---Mm-hm. I see that.

PN4227

That was the view of at least one fourth year graduate?---Yes.

PN4228

And the view of a first year pre-service teacher was that it seemed like the uni wanted a one-size fits all degree no doubt to maximise their profit margins?---Mm-hm.

PN4229

You remember that being displayed to you at this presentation?---I didn't recall that particular slide but - - -

PN4230

Okay. Can you turn to slide 19? You will recall this was a series of extracts from the feedback obtained from the students in the course?---Yes.

PN4231

And for example part of the feedback was focused on early childhood and not just primary?---I don't recall that but that's obviously one person's opinion. Okay.

PN4232

On the next page you saw that one of the views was that primary teachers - sorry, primary lecturers need to be aware of EC expectations?---Mm-hm.

PN4233

And 21, one of the students had said, "Incorporate early childhood information into more of the units across the degree"?---Yes.

PN4234

Twenty-two, - "Yes, take the primary out. Failing that ensure all the primary units have more EC content and that the assignments can be applied to EC settings"?---Mm-hm.

PN4235

Ensuring EC students are placed into classes with the other EC students?---Mm.

PN4236

And in the primary units give more range to learn about early childhood issues?---Mm-hm.

PN4237

Now you recall, in effect, that you were told during this presentation that a number of these students had serious dissatisfaction with the structure of the degree that they were doing?---A number of them expressed concerns about that or they were dissatisfied with certain elements. Yes.

*** LISA JAMES

XXN MR FAGIR

PN4238

Now you cited some part of this presentation on the basis that you thought it was some kind of reliable source of information?---Well, it was university lecturer's giving it - so, yes.

PN4239

Now this question of sufficiency of focus on early childhood in combined degrees you know is an issue in this proceeding?---Mm-hm.

PN4240

And you went to that presentation and you were told that there is a view amongst some students that there is a problem of an insufficient focus on early childhood in the combined degree?---In a nought to 12 degree. So the degree I completed was zero to eight. And I had no issues with the degree. I thought it was excellent preparation for working in early childhood services and for my practicums that I undertook in school but perhaps in your nought - zero to 12 degree that may be the case.

PN4241

This is my point, Ms James, it's an issue in the proceedings. You've said something about it. You've offered up your own experience?---Mm-hm.

PN4242

What you haven't done is explained that there are other views out there?---I didn't actually take that. I don't have a copy of the presentation and I didn't take notes. Like that many notes.

PN4243

You're very familiar with the Lifting Our Game Report, aren't you?---I have read it.

PN4244

And you will recall reading in that the review panel had heard from many stakeholders' complaints about the sufficiency of the preparation of early childhood teachers graduating from universities?---I don't recall that but that's certainly possible that's in there.

PN4245

You would agree with me that whatever your own experience that this is an issue that's not just raised by my client's witnesses in this case but there's a topic of debate in this sector?---It's honestly not the information that I have - they've just been brought to my attention.

PN4246

VICE PRESIDENT HATCHER: Do you want to tender that document, Mr Fagir?

PN4247

MR FAGIR: Yes, I suppose I should if the Commission pleases.

*** LISA JAMES

XXN MR FAGIR

PN4248

VICE PRESIDENT HATCHER: Any objection?

PN4249

MR TAYLOR: Absolutely not.

PN4250

VICE PRESIDENT HATCHER: All right. Document entitled Early Childhood Preservice Teachers Career Intentions Chalk and Cheese will be marked Exhibit 65.

**EXHIBIT #65 EARLY CHILDHOOD PRESERVICE TEACHERS
CAREER INTENTIONS CHALK AND CHEESE**

PN4251

MR FAGIR: Now, in the statement that we have just been discussing, Ms James, you deal with a series of statements of, for example, Mr Fraser and Ms Viknarasah?---Mm-hm.

PN4252

And the short version is that you disagree with a whole series of things that they say about early childhood education and the way that it's done?---Yes.

PN4253

Now you understand that both of those people and I'm just using them as examples have been successfully conducting early childhood services for many years?---Yes.

PN4254

And that they have been assessed from time to time by the various authorities that are responsible to assess services?---I imagine so, yes.

PN4255

And as far as you're aware they have successfully passed through those assessments?---Yes.

PN4256

Now does that rather suggest to you that they actually know what they're doing?---Well, not necessarily. I was very disappointed that Mr Fraser didn't know the difference between fine motor and gross motor activities and he didn't actually expand on the things he said to explain the educational value of the activities.

PN4257

Isn't it possible that your views about these things are just your views? And that there are many other views that are legitimately held by practitioners in this area?---Well, as you can see in many cases I actually backed up what I said with extracts from the early years learning framework or the Australian Professional Standards for Teachers or the Early Childhood Evidence Guide. So I don't think so.

*** LISA JAMES

XXN MR FAGIR

PN4258

Now, let me use an example? Now, I'll just read out to you the paragraph from the statement of Ms Viknarasah?---Mm.

PN4259

And your response. She says in relation to quality area one, Educational Program and Practise. "This quality area requires us to consider what learning experiences we provide to the children." There is no specific requirement to teach certain subjects or specific requirements in respect of knowledge and skills as there are in primary schools." That's what she says. You respond and you disagree.

PN4260

VICE PRESIDENT HATCHER: What paragraph is the response?

PN4261

MR FAGIR: Paragraph 34 of the reply. It is stated there - it conflicts with the Australian Professional Standards for Teachers?---Yes. So - - -

PN4262

Can we just take this step by step?---Mm-hm.

PN4263

Did you say that quality area one, includes a specific requirement to teach certain subjects or specific requirements?---Well, it would be specific requirements in terms of having a program based on children's learning assessing their learning and then using that for the next programming cycle. If you're talking about particular subjects that would be covered under the Australian Professional Standards for Teachers.

PN4264

So this is the part that requires that teachers know the content and organise it into coherent structured programs?---Correct.

PN4265

And the effect of that, you say, is that the - sorry, the NQF requires that there be specific subjects taught in early childhood?---No, I said that - okay, the NQF doesn't specify curriculum subjects. What it says is you observe children. You assess their learning. You use that to program future activities. The early years learning framework talks about language and literacy and mathematical language et cetera and the Australian Professional Standards - the teachers - include things like descriptor 2.5.2 "Teachers apply knowledge and understanding of effecting teaching strategies to support children's literacy and numeracy achievements." See what else we've got - 2.2.2 says - "Plans for learning and play that contains specific reference to contents, such as language and literacy, mathematics, science, concepts, creativity and the arts, physical activity that are designed to engage the children in holistic learning."

*** LISA JAMES

XXN MR FAGIR

PN4266

The effect of all that is the quality area one does include are specific requirements to teach certain subjects or specific requirement?---Well, it has specific requirement.

PN4267

You can see perfectly clearly what Ms Viknarasah is saying. The difference between here and the school was that there's no particular content, no particular subject that we have to deliver?---Well, I don't believe that's the case.

PN4268

What is the content that has to be delivered?---Literacy, numerous, mathematics, science concepts, creativity, the arts, physical activity.

PN4269

That's what you call content?---Yes.

PN4270

Literacy and numeracy?---Yes, it is.

PN4271

In a similar category - and Ms Toth says in stark contrast to the activities she'd outlined previously, that is activities conducted in her centre:

PN4272

The school curriculum includes specific content that must be taught in relation to mathematics, English, science, technology and history -

PN4273

She annexes a copy of the curriculum. You disagree with that as well?---In my paragraph 51 I actually use the early stage 1 statement outcomes we wrote about what we do in early childhood and the Early Years Learning Framework descriptors that actually are precursors for those early stage 1 outcomes. So I've actually shown how language and communication is used in early childhood to prepare children to meet the outcomes when they get to school.

PN4274

The proposition with which you are disagreeing was that in contrast to the activities conducted in early childhood, the school curriculum includes specific content that must be taught.

PN4275

That's what you were disagreeing with?---I say that in early childhood there is specific content that must be taught.

PN4276

As I foreshadowed earlier, I've asked what I wanted to ask about the evidence that was filed months ago. I think I will have some questions in relation to the new statement but I'd need to have a look at some emails and things that we've received from those instructing us. It won't be lengthy, I see half an hour, in fact I suspect it will be at the outside.

*** LISA JAMES

XXN MR FAGIR

PN4277

VICE PRESIDENT HATCHER: Well, just in terms of the program for tomorrow. First of all, Ms James, are you in a position to return tomorrow at some stage tomorrow morning?---Yes, that's fine.

PN4278

So Ms Cullen, what time is she organised for, Mr Taylor?

PN4279

MR TAYLOR: I think Ms Gleeson's available at nine and I think the video link has been arranged for 10 o'clock, and so it may well be that we can deal with both Ms James and Ms Gleeson before 10 and if - I mean I'm really in my friend's hands here.

PN4280

VICE PRESIDENT HATCHER: Sorry, how long will Ms Gleeson take, Mr Fagir, do you think?

PN4281

MR FAGIR: Perhaps 40 minutes.

PN4282

VICE PRESIDENT HATCHER: Right.

PN4283

MR FAGIR: Perhaps less.

PN4284

VICE PRESIDENT HATCHER: Right, well we'll try to get them done beforehand but we'll just see how it goes.

PN4285

MR TAYLOR: Yes, and then as I understand it, all then we will need - all then we will do is tender documents and just so I can foreshadow what we'll do but we'll do it tomorrow. We will tender the documents that are indexed in the bundle. Mr Fagir indicated that he thought there might be at least some documents that are not actually referred to in statements. We're double checking that and I think that might be right in respect of perhaps a handful or less, in which case unless there's an alternative basis we won't tender those. But we will identify that overnight. We'll also seek to tender some additional documents that have been referred to by witnesses over the last two days, including the evidence guides in respect of New South Wales for highly accomplished and lead teacher in early childhood setting and the Australian Early Development Census document that Ms Finlay gave some evidence about. That will then conclude our evidence and then we understand that ACA will then call their first witness Ms Kearney, and I've given the indication that we expect to be in the order of about an hour and a half in cross-examination with Ms Kearney.

*** LISA JAMES

XXN MR FAGIR

PN4286

VICE PRESIDENT HATCHER: Right, well can I repeat again. We need to finish by 2 pm tomorrow and we'll sit through lunch if that's necessary to achieve that. If we're challenged for time it might be possible to defer the tender of documents until the following Monday.

PN4287

MR TAYLOR: Thank you. Thank you for that indication. There's nothing further that we have for today.

PN4288

VICE PRESIDENT HATCHER: Right, well thank you Ms James?---Thank you.

PN4289

Can you stand down now and we'll ask you to resume at some stage tomorrow morning.

<THE WITNESS WITHDREW

[2.51 PM]

PN4290

VICE PRESIDENT HATCHER: Is there anything further we can deal with today?

PN4291

MR TAYLOR: Not from our side. I can just indicate that I've had some discussions with Mr Fagir about the documents that Mr Fraser is to produce and we understand that we will get documents. The hope I think on Mr Fagir's side is that they will be able to be given to us during the course of tomorrow. Certainly that would be convenient to us. There is a category of documents which currently required to be produced which relate not to Mr Fraser's own centres but to some other centres that he manages, and he originally made an application that came before your Honour in chambers, asking to be relieved of the obligation to produce material in respect of these other centres and his statement in support said that he wouldn't - he'd be prepared not to rely in any way on any evidence that refers to those other centres so to be relieved of the obligation to produce that material. We're content with that course, and so it might be a matter of Mr Fagir identifying what parts of the statement are not being relied upon so that Mr Fraser is relieved of the obligation to produce financial records in respect of centres that he manages but doesn't own. I think manage is the right word, yes.

PN4292

VICE PRESIDENT HATCHER: Does next week's program - does that represent an accurate estimation of the time necessary to cross-examine these witnesses?

*** LISA JAMES

XXN MR FAGIR

PN4293

MR TAYLOR: I've given some estimates to Mr Fagir and he has looked at the program and as I understand it, it will mean that Ms Viknarasah will not give evidence on the Monday, Mr Fraser will be a very long witness but he expects to call her on another day, which he will identify in due course. Mr Salt we're told is no longer going to be relied upon, which opens up a gap but as he's looked at it based on the estimates we've given, with the exception of Ms Viknarasah who's at

this stage floating, the rest of the schedule is apparently seen to be feasible, in this current form.

PN4294

VICE PRESIDENT HATCHER: Right. Well, if there's nothing further we'll now adjourn and resume at 9 am tomorrow morning.

ADJOURNED UNTIL THURSDAY, 27 JUNE 2019

[2.54 PM]

LIST OF WITNESSES, EXHIBITS AND MFIs

BRADLEY JOHN BROUGHTON, AFFIRMED	PN3426
EXAMINATION-IN-CHIEF BY MR TAYLOR.....	PN3426
EXHIBIT #57 STATEMENT OF BRAD JOHN BROUGHTON UNDATED	PN3444
CROSS-EXAMINATION BY MR FAGIR	PN3451
RE-EXAMINATION BY MR TAYLOR	PN3524
THE WITNESS WITHDREW	PN3537
LILY FRANCES ELIZABETH AMES, AFFIRMED	PN3541
EXAMINATION-IN-CHIEF BY MR TAYLOR.....	PN3541
EXHIBIT #58 WITNESS STATEMENT UNDATED OF LILY AMES PREPARED IN NOVEMBER 2017	PN3550
EXHIBIT #59 WITNESS STATEMENT IN REPLY OF LILY AMES DATED 18/07/18	PN3553
EXHIBIT #60 SUPPLEMENTARY STATEMENT OF LILY AMES DATED 17/06/19	PN3558
CROSS-EXAMINATION BY MR FAGIR	PN3560
RE-EXAMINATION BY MR TAYLOR	PN3630
THE WITNESS WITHDREW	PN3636
GABRIELLE CATHERINE CONNELL, SWORN.....	PN3653
EXAMINATION-IN-CHIEF BY MR TAYLOR.....	PN3653
EXHIBIT #61 WITNESS STATEMENT OF GABRIELLE CONNELL, UNDATED, 43 PARAGRAPHS	PN3684
EXHIBIT #62 WITNESS STATEMENT IN REPLY OF GABRIELLE CONNELL DATED 18/07/2018	PN3690
EXHIBIT #63 FURTHER WITNESS STATEMENT OF GABRIELLE CONNELL, UNDATED, 40 PARAGRAPHS	PN3696
EXHIBIT #64 WITNESS STATEMENT OF GABRIELLE CONNELL DATED 17/06/2019	PN3700
CROSS-EXAMINATION BY MR FAGIR	PN3702

THE WITNESS WITHDREW	PN3821
GABRIELLE CATHERINE CONNELL, RECALLED	PN3821
CROSS-EXAMINATION BY MR FAGIR, CONTINUING	PN3821
THE WITNESS WITHDREW	PN4030
GABRIELLE CATHERINE CONNELL, RECALLED	PN4030
CROSS-EXAMINATION BY MR FAGIR, CONTINUING	PN4030
THE WITNESS WITHDREW	PN4061
LISA JAMES, AFFIRMED	PN4074
EXAMINATION-IN-CHIEF BY MR TAYLOR.....	PN4074
CROSS-EXAMINATION BY MR FAGIR.....	PN4080
EXHIBIT #65 EARLY CHILDHOOD PRESERVICE TEACHERS CAREER INTENTIONS CHALK AND CHEESE.....	PN4250
THE WITNESS WITHDREW	PN4289