



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

10.02 AM, TUESDAY, 2 JULY 2019

Continued from 1/07/2019

PN6407

VICE PRESIDENT HATCHER: Yes?

PN6408

MR FAGIR: There's some housekeeping to do this morning but if it's convenient to the Commission we propose to do that after the Commission has heard from our first witness, who is Mr Gary Carroll. As is customary there are some confidentiality issues.

PN6409

VICE PRESIDENT HATCHER: Yes, Mr Taylor?

PN6410

MR TAYLOR: I'll take the approach I took last time of identifying that agreement has been reached not to press confidentiality as to all matters other than the ones I'm going to identify. If we start with the first statement - - -

PN6411

VICE PRESIDENT HATCHER: So is there an issue or is this agreed?

PN6412

MR TAYLOR: Yes, there are - well, I don't know if there's an issue because I asked my friend, so he's asked me to stand up. When we last heard from them, which was about a month ago, two weeks ago, there were issues remaining. It may well be that they've moved on. So certainly agreement has been reached as to large amounts as not being confidential.

PN6413

So in the first statement in respect of paragraphs 10 to 13 there is a claim for confidentiality over the dollar figures in paragraph 11 said to be commercially sensitive as we were last told. That paragraph on its face is broad and in is any event taken over by the evidence that Mr Carroll gives in his second statement in respect of the increase in ECT wages to 10 per cent above the award in circumstances where no claim for confidentiality is made as to that evidence and as such we don't see any basis, combined with the fact that as a publicly listed company, the overall percentage of its revenue, which is wages, is publicly disclosed if there's any basis to maintain confidentiality as to 10 through to - well, I think it was here said to be - originally it was 10 to 13, I think it's really only now the figures in 11.

PN6414

VICE PRESIDENT HATCHER: So, Mr Fagir, is 11 confidential? I mean, firstly, it's very general, and, secondly, it's out of date, isn't it?

PN6415

MR FAGIR: Yes, it's general, but nonetheless reveals the range of remuneration that's paid to ECTs, which is - - -

PN6416

VICE PRESIDENT HATCHER: Or that was paid? Not any more.

PN6417

MR FAGIR: It was paid. That may have been departed from to some extent but not entirely. But that's the effect of the evidence in the second statement.

PN6418

VICE PRESIDENT HATCHER: But what's sensitive about it? That is, what's commercially sensitive about it?

PN6419

MR FAGIR: It's commercially sensitive for the reasons that we articulated in relation to the specific individual rates on the last occasion, albeit it's not connected to any individual person it's nonetheless sort of a question of the business's costs inputs. That's quintessentially commercially sensitive, in my respectful submission.

PN6420

VICE PRESIDENT HATCHER: Go on.

PN6421

MR FAGIR: Secondly, and again there's no actual practical issue that's been identified. It seems to be a point of principle as opposed to an issue driven by some practical need or practical difficulty that's likely to arise particularly given the arrangements that have already been made, settled upon, in terms of dealing with transcript that might repeat this sort of information.

PN6422

VICE PRESIDENT HATCHER: Yes.

PN6423

MR TAYLOR: Just as to the practicality, Mr Carroll, later in his statement, gives evidence as to the potential cost of the claim about which he'll be cross-examined, and that is a matter which we don't think should be seen to be confidential, but hinges to some extent on - or may hinge to some extent on what he says about wage costs and the like, so we say it's not just of some sort of theoretical principle position, this is material that goes directly to evidence going to costings. We're not here revealing the salaries of any particular individual, we're simply giving a range of salaries at a point in time which has been overtaken by later evidence in any event.

PN6424

MR FAGIR: I'm sorry, I should have said in relation to the second statement - have you dealt with that yet or the first?

PN6425

MR TAYLOR: No, I'm dealing with the first, one at a time.

PN6426

MR FAGIR: I'm jumping ahead.

PN6427

VICE PRESIDENT HATCHER: What's next?

PN6428

MR TAYLOR: What's next? The next, there's no confidentiality pressed up to the figures in paragraphs 41, 42, 43 and 44, and we accept confidentiality would remain in respect of those figures. But then there is also a claim for confidentiality, as we understand it, over paragraphs 45 through to 50, and we say that there's nothing confidential about those matters. They are simply identifying in general terms this witness's view about the impact of the order and as such there is no confidential figure other than, again, we accept the precise figures that are - the dollar figures we accept could remain confidential, but the balance of those paragraphs are not confidential.

PN6429

VICE PRESIDENT HATCHER: What about percentage figures?

PN6430

MR TAYLOR: Sorry, the dollar figure and percentage. The percentages, I think, are only identifying our claim.

PN6431

VICE PRESIDENT HATCHER: I see, yes.

PN6432

MR TAYLOR: They're not identifying a cost or a percentage impact on the particular wages.

PN6433

VICE PRESIDENT HATCHER: The version I have has certain parts in yellow. Are they the subject of the existing confidentiality order?

PN6434

MR TAYLOR: They are, yes.

PN6435

VICE PRESIDENT HATCHER: Paragraph 11 is not in yellow. Does that mean it's not the subject of the current order?

PN6436

MR TAYLOR: Yes.

PN6437

VICE PRESIDENT HATCHER: So just going back to Mr Fagir. Paragraph 11, if it's not the subject of the order, is already on the web site I assume.

PN6438

MR FAGIR: If that's so, that's an oversight. Presumably ours. I'm at once reminded of what your Honour said about the likelihood of the public being on the web site crawling through the statements looking for information.

PN6439

MR TAYLOR: There are two more aspects of this statement; one that's in contest and one that isn't. In paragraphs 72 to 74 - - -

PN6440

DEPUTY PRESIDENT DEAN: What about 63?

PN6441

MR TAYLOR: That's not pressed as confidential. Paragraphs 72 to 74 is pressed as confidential on the basis that it's said to explain the impact on the market as it would impact G8 and it could impact market perceptions of G8 - - -

PN6442

VICE PRESIDENT HATCHER: Which paragraphs, sorry?

PN6443

MR TAYLOR: Paragraphs 72 through to 74.

PN6444

VICE PRESIDENT HATCHER: That's not currently the subject of the order either.

PN6445

MR TAYLOR: Well, then that's - Ms Saunders says that as a matter of practicalities what happened is that following orders being made there was a regime which, whether by order or direction, required ACA to provide us with a table identifying what parts of the statements they were pressing confidentiality. I think our intention was continuing to press confidentiality, but, as it turns out, when they provided that table they identified additional material - - -

PN6446

VICE PRESIDENT HATCHER: I thought that process was going to narrow the range of confidential matters, not expand them.

PN6447

MR TAYLOR: Yes, we thought so, too, but in this particular case it appears to have expanded it in a couple of areas and 72 to 74 got expanded. If this is already available, then I can move on. All those paragraphs do is express in very general terms how centre operators at large might be - or are affected by issues of supply; so nothing intrinsically confidential. Then, finally, the figures in paragraph 80 can I just identify we accept remain confidential. They are subject to the order and they remain confidential. They are the only things in that statement. I don't know if the Commission wants me to move to the other statement now.

PN6448

VICE PRESIDENT HATCHER: Yes.

PN6449

MR TAYLOR: As to that statement, there is only one paragraph which we were told ACA wishes to maintain confidentiality over and that's paragraph 15. Paragraph 15, as you will see, identifies the approach that G8 is taking in respect of wages for educators and, in effect, discloses that it has made a decision not to increase their wages in the same way as it has early childhood teachers.

PN6450

There's nothing that appears to be intrinsically commercially sensitive about that, nor the underpinning reasoning as to why it hasn't done so, which is the other aspect of that paragraph. We can't see any basis upon which that paragraph would be the subject of a confidentiality order. That is the position.

PN6451

VICE PRESIDENT HATCHER: Mr Fagir?

PN6452

MR FAGIR: Paragraph 15 seems to be a question of commercial strategy which my client's member would understandably not want the world to know and it's a matter that may be commercially impactful that competitors or the world knows that a particular wage strategy or staffing strategy has been adopted in relation to this issue. Again, absolutely no practical issue raised. It seems to be either a point of principle or a matter of - there might be other reasons, but, in any case, no practical issue identified whatsoever.

PN6453

In relation to the earlier matters, well, the paragraphs speak for themselves. In 41 through to 50 it involves questions of, firstly, commercial information and, secondly, the impacts of changes on my client. In the absence of some practical need or some pressing necessity, it's difficult to see why it should be required to expose this information to the world.

PN6454

VICE PRESIDENT HATCHER: I think it works the other way around, Mr Fagir, but let's assume that we operate in public unless there is some sound reason why we shouldn't.

PN6455

MR FAGIR: Yes, if that's the principle. These proceedings don't always abide closely by principles that might obtain elsewhere, but - - -

PN6456

VICE PRESIDENT HATCHER: No, that's the principle that applies in this jurisdiction. It's not a matter of what applies elsewhere.

PN6457

MR FAGIR: I believe we've said in our table why we say it's confidential and I've paraphrased that now, and that's really the best that I can do, if the Commission pleases. I'm sorry, could I just clarify one other issue?

PN6458

VICE PRESIDENT HATCHER: Yes.

PN6459

MR FAGIR: I'm told this statement is not on the web site. As I understand it, that was a practical step taken pending resolution of these issues, so there is no question of the information having lost its quality of confidentiality by having been public. I'm speaking about the first statement now, not the second work value statement, if the Commission pleases.

PN6460

VICE PRESIDENT HATCHER: The approach we propose to take is this: we will simply for the time being maintain the existing confidentiality order except to the extent that the parties have agreed that aspects of the statements should not be confidential. We will review the position with respect to the existing order in due course. Mr Fagir, if you want to expand the scope of the existing order you will have to make an application in some written form.

PN6461

MR FAGIR: If the Commission pleases.

PN6462

VICE PRESIDENT HATCHER: All right. So can we proceed with the witness?

PN6463

MR FAGIR: Yes, your Honour. I call Mr Gary Carroll.

PN6464

THE ASSOCIATE: Please state your full name and address.

PN6465

MR CARROLL: Gary Grant Carroll. I live at (address supplied).

<GARY GRANT CARROLL, SWORN

[10.18 AM]

EXAMINATION-IN-CHIEF BY MR FAGIR

[10.19 AM]

PN6466

MR FAGIR: Sir, once again for the record your name is Gary Grant Carroll?---Yes.

PN6467

Your address is (address supplied)?---Yes.

PN6468

You are the CEO and managing director of G8 Education Limited?---Yes, I am.

PN6469

Have you made two statements for the purposes of these proceedings?---I have.

PN6470

Do you have copies there with you?---Yes, I do.

PN6471

Could we begin with your first statement; the longer statement. Could you firstly turn to paragraph 26 of that statement, please?---Mm-hm.

GARY GRANT CARROLL

XN MR FAGIR

PN6472

There are there references in the first and third to last sentence to educational leader. Is there a correction that you wish to make to the paragraph?---Yes, there

is. So the opening part of the paragraph which refers to an education leader is correct. It's referring to the role that every centre has to maintain under the national law.

PN6473

Yes?---The third from last paragraph is incorrect. It should read a lead educator is the person appointed to a room of children to be the leader.

PN6474

I see?---Or if you like a room leader. We use the term leader educator.

PN6475

I see. Now, subject to that correction, is this statement true and correct to the best of your knowledge and belief?---The only other correct is in paragraph 6 of the first statement which corresponds to paragraph 6 of the second statement.

PN6476

Yes?---We actually have 21 brands in Australia. We have 24 brands across the group but three are in Singapore.

PN6477

I see. Paragraph 6 should be corrected to read:

PN6478

G8 has approximately 500 centres across to Australia operating under 21 brands.

PN6479

?---That's it.

PN6480

Subject to those two corrections are the contents of the statement true and correct to the best of your knowledge and belief?---Yes, at the time they were made.

PN6481

Your Honour, I tender the statement of Mr Carroll signed on 22 May 2018.

PN6482

VICE PRESIDENT HATCHER: The statement of Gary Carroll dated 22 May 2018 will be marked exhibit 94.

**EXHIBIT #94 WITNESS STATEMENT OF GARY CARROLL
DATED 22/05/2018**

PN6483

MR FAGIR: Mr Carroll, do you have your second shorter statement there?---I do.

PN6484

Is that a statement of three pages signed of 29 March this year?---Yes.

*** GARY GRANT CARROLL

XN MR FAGIR

PN6485

Are the contents of that statement true and correct to the best of your knowledge and belief?---Subject to the same correction for 21 brands in paragraph 6, yes.

PN6486

I see. I tender the statement of Mr Carroll signed on 29 March 2019.

PN6487

VICE PRESIDENT HATCHER: The work value statement of Gary Carroll dated 29 March 2019 will be marked exhibit 95.

**EXHIBIT #95 WORK VALUE STATEMENT OF GARY CARROLL
DATED 29/03/2019**

PN6488

MR FAGIR: That's the evidence-in-chief of Mr Carroll.

PN6489

VICE PRESIDENT HATCHER: Mr Taylor?

CROSS-EXAMINATION BY MR TAYLOR

[10.22 AM]

PN6490

MR TAYLOR: Mr Carroll, G8 is the largest not for profit early education provider in Australia?---We're actually the largest for profit provider in Australia.

PN6491

Thank you?---Yes.

PN6492

I misread my own note. Sorry, just so we - G8 is the largest for profit early education provider in Australia?---Yes. That's correct.

PN6493

With 519 centres across the country?---So the 519 include our Singapore centres, so as at December last year it was 502. We're now at 509. Actually we closed a couple, so it's broadly five hundred and - I think we're back to 502 as at today's date.

PN6494

I think - is this the case there's, as at least the end of last year, about almost 10,000 employees?---Yes. That's correct.

PN6495

And on a full-time equivalent basis about 7700 employees?---Yes.

PN6496

The company reports on a calendar year basis; does it not?---Yes, it does.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6497

So the most recent annual report is for the year ending 31 December 2018?---Yes.

PN6498

And that showed a revenue of about 857.7 million for that calendar year?---Yes.

PN6499

A net profit before tax of about 103.6 million?---Yes.

PN6500

A profit margin on that before tax basis of something in the order of 12 to 13 per cent of revenue?---Correct.

PN6501

That being a lower profit margin than G8 has achieved in some of the previous years?---Yes. That's correct.

PN6502

In 2015 the profit margin was something in the order of 22.7 per cent of total revenue?---Yes, on a reported basis. Yes.

PN6503

I'm going to just provide you with a copy of the annual report, and I'll take you to some aspects of it in a moment. Can I just formally have you identify that what I've given you is a copy of the G8's annual report for the calendar year ending 31 December 2018?---Yes, it is.

PN6504

I tender that document.

PN6505

VICE PRESIDENT HATCHER: So G8 Education Annual Report 2018 will be marked exhibit 96.

EXHIBIT #96 G8 EDUCATION ANNUAL REPORT 2018

PN6506

MR TAYLOR: Before I do that I just wanted to ask some questions about the nature of the industry. You've annexed amongst other documents a report by IBISWorld prepared in December 2017. Without holding you to every statement in it, do you say that that document describes in terms that you think is broadly accurate the nature of the early childhood industry in Australia?---Yes.

PN6507

The early childhood industry you'd agree is in the growth phase of its life cycle?---Well, the supply of new centres continues, so on that basis, yes, the industry continues to grow, yes.

PN6508

And demand continues to grow too?---Correct.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6509

Revenue growth is projected to increase as government implements new regulations; do you accept that?---Yes.

PN6510

It's an industry which is expected to outperform the wider economy over the 10 years through to 2023?---Yes.

PN6511

One aspect that IBISWorld reports is that the industry is expected to gradually consolidate over the next five years. Is that a view that you share?---Yes, I do.

PN6512

And consolidate conveys, does it not, that some of the larger providers, such as G8, will in effect take over the running of some of the smaller operators that exist in this industry; is that expected?---Yes.

PN6513

Government assistance over the last five years has helped drive industry revenue growth?---Yes.

PN6514

IBISWorld reports that that growth has been annualised at eight per cent over the last five years, and it expected, it says, to grow by a further annualised six per cent over the next five years. Do you accept that's what it's reported?---Yes, I accept that.

PN6515

VICE PRESIDENT HATCHER: Sorry, just to - is that growth in government or revenue?

PN6516

MR TAYLOR: Sorry, revenue. Revenue for the industry as a whole?---Yes.

PN6517

The fact that government regulations have allowed childcare centres to registered as kindergarten providers is one factor which has bolstered the appeal of long daycare centres allowing them to compete directly with what was previously restricted to the preschool education industry; is that right?---So kindergarten funding has enabled long daycare providers like ourselves to provide an approved kindergarten program which would compete against sessional kindergartens in a number of states, yes.

PN6518

And that has helped drive the growth of the long daycare centre over the last five years?---Yes.

PN6519

Those kindergarten programs are ordinarily conducted in a room of children who are in their last year before school; is that right?---Correct.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6520

They are ordinarily led by a university qualified teacher?---Typically to qualify for the relevant kindergarten funding you actually need to have a university qualified early childhood teacher in that room.

PN6521

Regardless of the reason, this is the case, isn't it: the industry has been shifting towards providing educational services alongside childcare services over the last five years?---So I think as a sector the focus has been gradually shifting from being primarily care based to being a mix of care and education. That actually, depending on the provider and the centre, can occur from as young as six months old in terms of education or, if you like, early learning as another definitional term. So learning begins quite early and a number of centres around Australia are actually starting on a journey of starting that learning process earlier and earlier. We're not waiting until children reach kindergarten age.

PN6522

That's a change which has been, can I suggest, brought about by the advent of the National Quality Standards and the National Law?---That, and there is a growing body of research which demonstrates the power of early learning on a child's brain development. You would have heard of publications like the First 1000 Days where the significant portion of brain development occurs in the first 1000 days and as an early education provider we're picking up on those themes, and structuring our programs so we can accelerate learning at an earlier age.

PN6523

One of the consequences of these changes has been a focus on increasing the qualifications of the staff who provide the early learning outcomes?---Yes.

PN6524

Now, can I just ask you to open the IBIS report. It's annexed to your statement?---Yes.

PN6525

If you could go to page - let me just make sure I find the right - - -

PN6526

VICE PRESIDENT HATCHER: Is this GC2?---Yes.

PN6527

MR TAYLOR: Page 43 deals with competitive landscape and market share concentration?---Mm-hm.

PN6528

Perhaps it's more convenient for me to ask you to turn to page 48. It deals with major companies, one of which is your company G8 Education Limited. At the beginning of this cross-examination you identified you were the largest for profit. There is a larger organisation by way of market share; that's Goodstart Early Learning Limited. Is that right?---That's correct.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6529

They are a not for profit organisation?---They are.

PN6530

After G8 - and I think the description of you appears at page 49 - there is then on page 50 some other companies. Firstly, Affinity Education Group with a market share at that point of less than 2.5 per cent. That's another for profit listed company. Is that right?---It's unlisted. It's for profit. It was listed until 2015. It then got bought by Anchorage Private Equity and has been owned by them since then.

PN6531

The next one is Guardian Early Learning. What is the position with them? They're also not listed for profit?---Correct.

PN6532

The next one at a similar percentage of market share, KU Children's Services. This is a non-government not for profit children's service that operates in New South Wales only - sorry, not in New South Wales only, I withdraw that. Just stopping at it's a non-government not for profit provider?---Correct.

PN6533

Then the last one it lists in this document is Think and that is a listed for profit provider?---Correct.

PN6534

Now, the annual report - which I'll ask you to open in a moment, but it is reporting on results, as I indicated earlier, to the end of 2018. It's reporting that there was at that time an effect - the results were being affected by an increase in supply of childcare services. Is that right?---That's correct.

PN6535

That was in turn affecting occupancy levels?---Yes.

PN6536

Are you familiar with there being analysis which, by industry analysts, identifying an expectation that there will be continued increases in supply over the next five years?---So a number of analysts have commented on supply projections.

PN6537

Yes?---Some have said that supply will slowly decline in terms of growth rate over the ensuing years, although supply will continue to grow.

PN6538

Yes?---Just the quantum of supply growth will reduce over the next two to three years.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6539

Is this the case: notwithstanding that increasing supply, the view is that demand will increase at a rate greater than supply over the foreseeable future?---I think

over the short to medium term, so the next 12 to 24 months, the impact of the new childcare subsidy which came into effect last July is projected to increase demand and when combined with a slowing of the supply growth, the market is projected to be more in balance in the next 12 to 24 months. I personally haven't seen any report saying that demand will exceed supply that period, but much more in balance.

PN6540

Over a longer period - if we're talking about not 12 to 24 months, but over a five-year period - is it the case that analysts are suggesting that over that period there will be increases of supply but they're not expected to be able to meet - they're not such that they will meet the increase in demand over that period?---I actually haven't seen anyone project further than the next 12 to 24 months.

PN6541

Just give me a moment. There is a report by Urban Economics in August 2017, prepared on behalf of the Australian Childcare Alliance, which looks at - it's described as an "independent analysis of factors influencing demand for and supply of childcare in Queensland". It's a Queensland-specific analysis. Are you familiar with that document?---No.

PN6542

One of the other witnesses to this proceedings, Mr Fraser, as annexed it - just for the record, JDF32 - and it has these two dot points that just for convenience I might read to you. I was hoping to show it to you but it seems that the wrong document has been copied. Firstly, it says this:

PN6543

Population growth projections for the zero to four age group in Queensland suggest that an additional 33,000 places or more than 420 childcare centres would be required between 2016 and 2036.

PN6544

So they're looking at a 20 year period?---Mm-hm.

PN6545

Then it says this:

PN6546

Some 156 proposed approved and under construction projects have been identified across Queensland with an ultimate capacity around of 16,600 places.

PN6547

So it appears that the report writers have identified what's coming in the pipeline as they've identified to date.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6548

VICE PRESIDENT HATCHER: Mr Taylor, do you have a page reference for this?

PN6549

MR TAYLOR: Yes, I do, I'm sorry. So, JDF32 starts at Mr Fraser's witness statement 2180, and so that you don't, Mr Carroll, have the difficulty of me having to remember what I'm saying you can have it in front of you. Could I ask for this document in its iPad form to be provided to you. So I'm handing the witness Mr Fraser's statement opened at JDF32, the first page, so that you can see what I'm reading from. You will see there the first page which has the letters and numbers JDF32 in the top right-hand corner is a publication by Urban Economics titled Demographic and Development Impact Analysis Queensland Childcare Centres. You'll see on the next page 2181 who it's prepared by, who it's prepared on behalf of, and the date of August 2017. Then I was reading from the executive summary, which is the following page, 2183, and in particular I'd read the second to last dot point about population growth projections, and I started reading the next dot point in respect of proposed approved under construction projects. Do you have - have you followed me?---Yes, I'm reading that.

PN6550

So the balance of that dot point you'll see says:

PN6551

If all these proposed places proceed half the projected demand over a 20 year period to be provided within this development pipeline by their very nature supply additions are lumpy rather than incremental like population growth or demand for childcare places. However, unchecked this quantum of supply is likely to have implications for some existing facilities and centres at least for the short to medium term.

PN6552

So it was with that analysis in mind that I was asking you about analysis which suggested that over a longer period than the 12 to 24 month period that you had identified there was expected, at least by some analysts, to be an increase in demand that would outstrip currently expected supply. Having shown you that is that a proposition that you, as chief executive, have some knowledge of and in a sense planning in light of?---I'm not - I must say I'm not drawing the same conclusion in that the demand over a 20 year period that you're looking at a current development pipeline which probably is over a two to two-and-a-half year period, so my expectation would be that there would be continued additions to that development pipeline such that it's likely it would be more in balance over that period. That's certainly been the case when we review the overall pipeline across Australia there's additions, deletions every quarter. It's quite a moving number. At an overall level I think we have maintained a medium term forecast that supply and demand will be reasonably in balance.

PN6553

Thank you. Can I just ask you, I was going to ask you about the childcare subsidy impact. You mentioned that in answer to an earlier answer of mine as to how it has impacted on the sort of 12 to 24 month period. This is a change that had commenced on 1 July of last year?---Correct.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6554

Have you identified that that has had an impact on demand and occupancy levels?---So, yes, it positively impacted our occupancy growth in the second half of the year last year, and has continued to do so in the first half of this year, both in terms of existing families taking additional days and we have also attracted additional net new families. You get families leave and families join. On a net basis we've had growth in new families so we've had both which for me is in line with the government's intention around the subsidy, which was to not only make it more affordable for existing families but also to potentially attract families to the sector.

PN6555

You explain in your first statement that occupancy levels are a matter of critical importance to the profitability of a childcare centre, a generic childcare centre?---Yes.

PN6556

Increased occupancy leads in, all other things being equal, to increased profitability?---Yes.

PN6557

We have the annual report and there's some aspects I'm about to ask you to open, but you also produce, do you not, half-yearly results?---Yes, we do.

PN6558

And when are they expected to be available?---26 August. We did provide a trading update at our annual general meeting on 17 April as well. That provides some high level observations of our trading performance year to date.

PN6559

If I could ask you now to open your annual report, and take you to - I'm just seeing if there are - the page numbering - the page after number 1, I think it is number 2, but - yes, the numbering is in the left-hand side, the even pages?---Mm-hm.

PN6560

Under the heading, Supporting and Celebrating the Important Role We Play it says this:

PN6561

Our people are our most valued asset and 2018 saw significant investment in employee remuneration, professional development and learning programs including wage increases in our centre above and beyond.

PN6562

What does above and beyond mean in this context?---That is the reference to our increase in ECT wages which occurred in October of 2018.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6563

That's something you give evidence about in your second statement?---Correct.

PN6564

Is that also earlier in that sentence where it says, "significant investment in employee remuneration", is that also a reference to that same increase or is that a reference to that and something else?---There are a number of changes we made to remuneration in the 2018 year. The two key changes were the ECT wage increase, and, secondly, we re-engineered the incentive framework for our centre managers and centre leaders. We broadened - and by incentive another way to think about that is the yearly bonus. We did a couple of things. We also introduced a quarterly bonus based on occupancy levels, a bonus if centres achieved an improvement in their assessment and rating result, if they got an exceeding result, or they improved from working towards to meeting, as an example. And we broadened the yearly bonus which has a number of factors around earnings, occupancy, debt, safety, customer engagement to be broadened from centre manager, so it actually extended to all room leaders, the ECT and as - because the ECT is one of our room leaders and the centre manager, whereas historically the bonus was only payable to centre managers. And the last thing we did was we actually - instead of just paying a dollar amount to those leaders we also provided capital expenditure funding to the centres that met certain criteria so they could continue to invest in the quality of their centres if they achieved great results, and all of those changes were very positively received by the team.

PN6565

Two of the bonuses you mentioned, one based on occupancy levels, the other one on ratings, can you just clarify who was entitled to receive those bonuses if they achieve - - -?---Those were just for centre managers.

PN6566

Educators who are not early childhood teachers, are they paid at award levels?---Yes, they are.

PN6567

Are there any bonuses that are available to educators who are not ECTs or otherwise centre managers or leaders?---No, only - they would get to, as a full centre, get their capital expenditure benefit but that's not directly payable to any individual.

PN6568

The capital centre benefit that's what you mentioned earlier that money would be spent on the centre - - -?---Yes.

PN6569

- - -the physical environment and the equipment which would enhance, in your view, the environment in which they work?---Correct.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6570

Could I ask you to turn now to page 29 of the report. Susan Forrester, chair of people and culture committee, it appears has drafted this text, certainly signed off on it, effective February of this year. Can I take you to the first column starting,

"Dear Shareholders", and if you drop down to the fourth paragraph and see if you can follow with me - - -?---Yes.

PN6571

- - -as I read it, it says:

PN6572

In terms of our ongoing commitment to our people, we focussed on improving the quality of our early education centre network, improving team engagement and retention of Centre Managers and Early Childhood Teachers ('ECTs'). This is consistent with our strategy to provide both a market-leading customer and employment offer to drive occupancy and profitability of the Group, which in turn provides sustainable growth for shareholders.

PN6573

Just pausing there, do you accept the G8 approach is that retention of early childhood teachers, that is retaining them rather than them leaving is something which is good for profitability of G8?---The two critical roles in our organisation are centre manager and ECT, and retaining both roles drives, not only improved financial performance, but improved family engagement, team engagement and safety typically with the latter of those criteria normally driven by the centre manager, the ECT's role is critical in driving occupancy of the kindergarten room, which is the largest room in all of our centres, is a key driver of overall occupancy.

PN6574

Ms Forrester identifies in the second to last dot point under the heading:

PN6575

The highlights from the People and Culture Committee work plan that were completed in 2018: review and re-setting of base remuneration for ECTs to improve attraction and retention.

PN6576

And is that a reference to the increase in ECT remuneration that you describe in your second statement?---Yes.

PN6577

VICE PRESIDENT HATCHER: Sorry, you said that improving retention in centre managers and ECTs improves parental engagement. Is that because they've got someone familiar they can interact with or was it something else?---Yes. So if we're talking specifically about ECTs parents love the continuity of the same teacher in the kindergarten room. It certainly makes the running of the kindergarten program much more smooth if it's the same person delivering it day in/day out.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6578

MR TAYLOR: Why did the review identify that increasing base remuneration was something that would improve attraction and retention?---So over the course of the 12 to 18 months prior to us changing our base remuneration for ECTs we

received consistent feedback in our recruitment process from candidates that they had been receiving offers that were above the award rate. I would add that that doesn't happen in every application and in every centre, but there's certainly quite a volume of feedback, and that intelligence told us that as a general rule a lot of players were offering around the 10 per cent above the award rate. So for us to maintain our market parity in a competitive market we took the decision to increase the base pay for all. Now, we could have chosen to just do that on an ad hoc basis. We didn't feel that was fair to our existing team members if that was the case, so we took a decision across our entire network.

PN6579

VICE PRESIDENT HATCHER: Before you go on, so you've applied exactly 10 per cent on the award rates and the award structure or is this - - -?---Yes. So if an ECT was already receiving above the award rate, let's say they were five per cent above, they got a five per cent increase. If they were receiving more than 10 per cent above, they didn't get any change, and when the discussion around confidentiality at the start of the conversation, part of our rationale was if people could see the hourly rate they could potentially interpret that as, well, that's more than 10 per cent above the award rate at the top end, which would be kind of concerning for us if that was out in the market, because that would then drive some behaviour that we're not keen to do. But as a - across the board, our pay for each ECT is 10 per cent above the relevant award rate.

PN6580

And are further increases being absorbed into any remaining over awards or are they being maintained?---Sorry, can you just - - -

PN6581

Yes. As the award rates are adjusted, for example, they go up three per cent or they've just gone up three per cent - - -?---So, we - - -

PN6582

- - -is that absorbed into any remaining over award payments or is that being passed on?---We will adjust to maintain the gap.

PN6583

You'll maintain the gap?---Yes.

PN6584

Thank you.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6585

MR TAYLOR: You indicated in feedback that a lot of - I can't remember the word you used - and this is what I want to ask you about, providers, it might have been, are paying 10 per cent above. Were you able to identify the nature of these other employers, within the early childhood industry or employers more generally of teachers?---Yes. I mean, it varies quite significantly as you can imagine by region and by centre. Based on our evidence there was no real distinction between for profit, not for profit players, which led us to the conclusion it

appeared to be a more supply/demand driven change that, particularly for a new centre, we faced quite significant competition for talent from new centres, because when they open for them to get kindergarten funding they need an ECT. It's a pretty vital role for them, and so they would be quite aggressive in trying to recruit the ECTs they need. We continue to face competition from the primary sector. That's twofold, both in terms of pay but also other entitlements like holidays, et cetera.

PN6586

By the primary sector, you mean primary school sector?---Primary school, yes.

PN6587

That is because many of your teachers would have the qualifications and registration which would enable them to teach in a primary school?---Correct. It's subject to the exact degree. Some are nought to eight, nought to 12, but, yes, a number of them can qualify to teach in primary schools.

PN6588

When you were indicating the nature of the other providers being both for profit and not for profit, tell me if this is wrong but you are aware that there are not for profit providers - KU being one of them - who are paying wage rates considerably more than 10 per cent above the award; something in the order of what primary school teachers receive?---Yes.

PN6589

Can I now show you a document dealing with this issue of ECT wage increase?---Do you want to do a swap and I'll give you your iPad back?

PN6590

Yes, that's a good idea?---Thank you.

PN6591

I have just handed you a document bearing the logo of G8 Education. Is this a document that was provided to early childhood teachers employed by G8 Education to explain the change that we have just been discussing; to increase their award rates to 10 per cent - sorry, to increase their rates to 10 per cent above the award?---Yes.

PN6592

I tender that document.

PN6593

VICE PRESIDENT HATCHER: Should that be confidential, Mr Fagir?

PN6594

MR FAGIR: I shouldn't think so, but perhaps it could be temporarily. I will take some instructions. I wouldn't have thought so, but I would just like to get some instructions from Mr Carroll before I say one way or the other. Perhaps Mr Carroll might speak for himself.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6595

VICE PRESIDENT HATCHER: Mr Carroll, is there any confidentiality in your view attaching to that document?---The reference to the bonus percentage is commercially sensitive.

PN6596

All right. We will mark it as a confidential exhibit for the time being. The document headed "G8 Education ECT wage increase" will be marked exhibit 97.

EXHIBIT #97 (CONFIDENTIAL) G8 EDUCATION ECT WAGE INCREASE DOCUMENT

PN6597

THE WITNESS: I am actually happy with the balance of the document, not - - -

PN6598

VICE PRESIDENT HATCHER: Well, it's easier I think to mark the whole document at this stage?---Yes, okay.

PN6599

MR TAYLOR: So amongst other things this document describes what happens to someone - this is the fourth frequently asked question - who is already on an above award salary, what the increase means for them. Is this the case: they didn't receive a 10 per cent increase, they received such increase as would lift them to 10 per cent above the award?---Correct.

PN6600

For those who were receiving remuneration of more than 10 per cent above the award, if there was such a teacher, then the intention is their salary wouldn't adjust until there is some change in the award rate and if it ever changes to a point where their remuneration is less than 10 per cent above the award, then they would receive an increase such that they are at 10 per cent above the award?---Correct.

PN6601

VICE PRESIDENT HATCHER: What is the position with directors who hold a teacher qualification? Are they treated differently from any other directors?---Centre directors?

PN6602

Yes, centre directors?---They get paid as a centre director with the relevant award reference. I can expand on that point if you like.

PN6603

Yes?---So part of the exercise before we took the decision to increase ECT wages was to compare the new ECT wages with centre managers just to ensure that there remained a gap.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6604

Yes?---Because in our view it's a broader role, it's a higher leadership role and should be remunerated at a higher level; so there were a number of centre

managers that also got their wages adjusted off the back of this exercise to ensure that we maintained a gap.

PN6605

Does it follow that you pay centre directors above the minimum rate in the Children's Services Award?---Not always. It varies by centre and experience, et cetera.

PN6606

Thank you.

PN6607

MR TAYLOR: Mr Carroll, can I now ask you to turn back to the annual report and to page 38, which is describing remuneration details for 2018. In particular it is dealing with KPIs. Tell me if you have that page?---Yes.

PN6608

There is a KPI for the team. Firstly, at this point of the annual report who is the team that is being referred to here?---That's the broader team.

PN6609

The?---The broad team, so all G8 team members. The turnover statistic that was the subject of the KPI was split between all centre team members and all support office team members, and there were different targets for both cohorts.

PN6610

This particular year there was a failure to achieve the KPI because of turnover results for both centre based and support office team members. You just identified in a sense, I think, two KPIs. Was it both that failed or one or - - - ?---Both.

PN6611

Both. Was that part of the driver to approach the remuneration of the centre directors and ECTs?---Yes.

PN6612

If you could turn back to page 18. Pages 18 and 19 are your report, and it refers in the second column of page 18 to upskilling of teams as being one of the things that has been a focus of the year. What was being done in respect of upskilling of teams in that year?---There were changes made to the National Quality Standards at the start of the year and we developed and rolled out a training program to assist our centre based teams with meeting the National Quality Standards, and generally improving the level of knowledge around the National Quality Standards and what centres had to do to achieve an exceeding rating in relation to the National Quality Standards.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6613

That is not just training for centre directors, but for all educators?---All educators had access to the training. Our primary focus - so face-to-face training - was with centre managers and we had online training for all educators.

PN6614

Now, you may have been told this, but one of your - that is one of G8's - employees, a Ms Vane-Tempest, has already given evidence in these proceedings and gave evidence about a new training program for ECTs that has been rolled out recently. Is that one you're familiar with?---Yes, the Teaching for Tomorrow program.

PN6615

Yes. Is that a separate exercise to the one that you have just been discussing by way of upskilling of staff?---Yes.

PN6616

That is a program which seeks to provide specific professional development training for the early childhood teachers?---Yes.

PN6617

Can I now hand you some documents which have been taken from the G8 website. Are you able off the top of your head to give a rough estimate of the percentage of the 10,000 employees are early childhood - sorry, I'll withdraw that. Of the employees who are educators, which would be a subset of the total 10,000, are you able to give a rough approximation of what percentage are early childhood teachers as against educators?---Yes. So if we take 10,000 total team members, about 200 are in support roles, including area managers, so that leaves 9,800 educators. These are high level numbers.

PN6618

Yes?---Of that we would have around 550 ECTs and the remainder would be diploma or certificate III qualified educators. That number of ECTs will be increasing quite substantially over the coming months to comply with the ECT 20/20 regulations which mandate an additional ECT for every centre not based in New South Wales in broad terms, so will increase to around 850 ECTs in the coming months.

PN6619

What I've handed you is firstly a printout of the home page of G8 Education and it has in the top right-hand side some tabs, About us, Our Culture, Early Childhood Teachers, and Current Opportunities. If you turn the page the first of those tabs, Early Childhood Teachers appears?---Yes.

PN6620

And then, just so that you understand how this document works, the next page is what one sees at least what one did see on the date marked 30 June 2019 if you tapped on the button, Current Vacancies, that appears on the second page. It's clearly - that is just the first of multiple pages of current vacancies. Do you see that?---Yes. Yes.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6621

Then what the person doing this has done, I want to suggest to you, is on the next page they have, using the tab Current Opportunities, they've typed in the word,

"educator", and as at that date there were 124 jobs matching that word. Do you see that?---Yes.

PN6622

And 116 on the next page jobs matching "teacher"?---So as at that time there are almost as many teacher jobs being sought as educator jobs. Is that something that reflects what you understand to be the position?---Yes, particularly at the moment as we're leading into the ECT 2020 regulations, yes.

PN6623

When did you start recruiting for teachers in respect of that?---We've just started. Part of the increased emphasis on the website around ECTs is reflecting the need to start building our ECT numbers over the coming months.

PN6624

I see.

PN6625

VICE PRESIDENT HATCHER: Where are you recruiting them from? Are they new graduates, are you taking them from other long daycare centres, from schools or all of the above?---Yes, there's three channels to fill that need: one is we recruit in the market and someone from an existing competitor centre applies; the second is you get graduates from universities. Probably not going to happen a lot this time of year, but that wax and wanes as the year goes on. And our third avenue is to actually train up our diploma qualified educators, enrol them in a degree and if you like grow our own timber. Now, that's a much more long-term exercise but given we've got four-and-a-half thousand or so diploma qualified educators it is a source of potential opportunity for us to acquire ECTs over time.

PN6626

Do you ever recruit persons who previously worked in the school system?---We do, and the - without generalising too much their journey is typically they start in an early childhood environment, they would have left to go into primary school, then they actually work out they love being an early childhood teacher, because it is a very different experience. The framework is completely different, the early years framework is very different to the primary school curriculum framework. It is a different style of teaching. And some people absolutely love it, and then they're attracted back to the sector.

PN6627

Thank you.

PN6628

MR TAYLOR: Is a fourth - you mentioned three channels. Is a fourth channel hiring those who are part-way through a degree and have gone sufficiently into their degree, that is more than 50 per cent, to be treated as a teacher for - - -?---As a - - -

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6629

- - -regulatory requirements?---Yes.

PN6630

Turning to the document that I've handed you again, what can I suggest has been done is that having found 116 jobs matching "teacher" on the fifth page, what then occurs is that some of those ads have been opened and printed, and so the first of which is a reference number 154 for an early childhood teacher in five doc, a permanent full-time position?---Yes.

PN6631

And many of these ads contain a link to a position description, and if you turn you see one of those position descriptions, and we printed three ads and three position descriptions and all of those position descriptions are the same. Is this the position, that for an early childhood teacher G8 has a pro forma position description which applies to early childhood teachers throughout its operation?---Yes.

PN6632

That is the position description which has been annexed, I think three times, in this document?---Yes.

PN6633

Is that right?---Yes. Yes.

PN6634

Yes. I tender that bundle of material.

PN6635

VICE PRESIDENT HATCHER: So we'll call it the G8 Education Website Extracts, so that will be marked exhibit 98.

EXHIBIT #98 G8 EDUCATION WEBSITE EXTRACTS

PN6636

MR TAYLOR: Mr Carroll, can you just open one of the position descriptions and can I just identify for you the position objective, which appears as the last entry before the second horizontal line. It says this:

PN6637

Coordinate the learning activities of the allocated group of children including the supervision of all assistants.

PN6638

That is the role that early childhood teachers have in the broad; is it not?---Within the room in which they operate, yes.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6639

To the extent to which you've said in your first statement that there's no hierarchy between early childhood teachers and other educators that must be read in context of the fact that they do indeed supervise the assistants that they lead in their room?---As every lead educator in every room does, yes. So the extent there's a

hierarchy of lead educator and assistant educator the ECT role would be in the same hierarchical level as a lead educator.

PN6640

Yes. That key - supervising assistants, if you just go down the page, the third dot point is one of their - - -?---Mm-hm.

PN6641

- - - specific key responsibilities, to supervise the assistants in the group, and by the group that means, does it, the assistants that are working in the room that they are leading?---Correct.

PN6642

Now, in your first statement you identify that at the time you prepared that statement there were 540 ECTs employed by G8. I think - yes, 540, of which eight were male?---Yes.

PN6643

Now, firstly, is that on an FTE basis or is that a head count basis?---That's head count.

PN6644

On an FTE basis what would it be, do you know approximately?---It would be 450. It's quite high. Most of the roles are essentially full-time.

PN6645

When you indicated earlier that as part of the move to increase ECTs to meet the regulatory requirements that come into effect on 1 January 2020 you would be moving to something like 850, is that a head count number or an FTE number?---No, that's a head count number.

PN6646

And on an FTE basis, what would it come down to approximately?---800. Again, they're essentially full-time roles.

PN6647

Yes. Now, the regulatory requirements both as in respect of total ratio, which is - sorry, let me break this down. There are, in effect, two regulatory requirements. I will deal with them one by one. Firstly, the National Quality Framework, which has regulatory requirements to have early childhood teachers in attendance at certain ratios based on numbers of children in the childcare centre?---Yes.

PN6648

The second regulatory requirement that you have been referring to is that in order to obtain kindergarten subsidy funding, the learning program needs to be delivered by a university qualified teacher?---Yes.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6649

Now, both of those requirements are driven by a view, do you accept, that having university qualified teachers increases the quality of the educational outcome?---Yes.

PN6650

The further increase in early childhood numbers that we expect - sorry, not expect, that will occur from January 2020 will, you would expect, increase further the quality educational outcomes of long daycare centres in this country?---Yes, that's the intent of the change.

PN6651

Now, in your first statement you deal with the effects of increasing teachers' wages, from paragraph 45 onwards. Can I just ask you to look at that - - -

PN6652

VICE PRESIDENT HATCHER: Mr Taylor, you're moving to a new topic now?

PN6653

MR TAYLOR: I am.

PN6654

VICE PRESIDENT HATCHER: Is this a convenient time to take a short adjournment?

PN6655

MR TAYLOR: It's a convenient time. I can indicate for the benefit of the witness I have about 15 minutes or so, maybe a little more, 20 minutes - - -

PN6656

VICE PRESIDENT HATCHER: All right. We will take a short adjournment now.

<THE WITNESS WITHDREW [11.23 AM]

SHORT ADJOURNMENT [11.23 AM]

RESUMED [11.44 AM]

<GARY GRANT CARROLL, RECALLED [11.44 AM]

CROSS-EXAMINATION BY MR TAYLOR, CONTINUING [11.44 AM]

PN6657

MR TAYLOR: Mr Carroll, can I take you to your first statement and to paragraph 48 in which you set out in what appears to be broad terms the cost as you understood it at the time you prepared the statement to G8's bottom line of a 25 per cent claim. You set that out as a dollar figure per thousand ECTs. Do you see that?---Yes.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6658

Then in the next two paragraphs you discuss an ongoing loss of that dollar amount. The next paragraph starts "An ongoing loss of" that dollar amount - and I'm not saying it only because it's confidential and it's one less thing to mark out for the transcript - then at paragraph 50 "to compensate for an additional" dollar amount "cost impact". I think it's clear, is it not, that you didn't at the time you prepared this statement have a thousand ECTs?---No.

PN6659

So we need to really replace that figure with a figure which is referable to about - at the time you prepared the statement - 450 FTE?---Well, on a head count basis 540, but in very high level terms about the half the number that's in that paragraph.

PN6660

I see. Perhaps I was making an assumption wrong. The assumption I was making is that your broad calculation was based on a full-time ECT rather than a head count. Is that likely to be correct or is it per thousand ECTs head count?---Given that most of - you know, the vast majority of our ECTs are full-time, the numbers would be very similar.

PN6661

And of course the impact of any increase would, if it were now to be granted, be significantly less for G8 because since these paragraphs have been drafted ECTs have in fact had their pay increased to a point of 10 per cent above the award?---Correct.

PN6662

Can I take you now to paragraph 64 of your statement. Here you refer to some material that you annex prepared for or by the Australian Childcare Alliance that's referred to as

PN6663

the National Childcare Barometer. You later, in paragraph 68, quote some figures from that document. Now, do you accept that the barometer is derived from a survey of ACA members?---Yes.

PN6664

Something in the order of 270 out of two and a half thousand members?---Yes.

PN6665

This was a survey wherein the survey participants were self-selected?---Correct.

PN6666

It was a voluntary matter whether they responded or not?---Yes.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6667

So do you accept the proposition that one can't draw any useful conclusions as to whether the industry as a whole indeed has the characteristics of the 270 members of ACA?---The purpose of referencing it, which I outlined in paragraph 65, was that the survey respondent's experience was consistent with G8's own experience.

PN6668

In respect of every aspect of that barometer?---In respect of seeing declining occupancy as a result of increasing supply.

PN6669

That decline of occupancy that you were identifying as at May 2018, I think you have already told us has been turned around since then as a result of things such as the childcare subsidy?---Yes.

PN6670

Now, what I found over the break is that I had already asked you a number of the questions that I thought would occupy 20 minutes, so I've only really got one more thing I wanted to raise with you and that is in your second statement - if you have that and open it to where one finds paragraph 14, you have already given some answers to the reasons why ECT wages were increased in the manner that they were in October 2018. And you've already spoken about attraction and retention. This paragraph starts with these words:

PN6671

One of the reasons for increasing ECT wages was to assist G8 with attraction and retention.

PN6672

Firstly, was it the most significant reason?---Yes.

PN6673

What other reasons were there, if any?---We also wanted to address the variability that had been allowed to build up in ECT wages over a period of time. A number of ECTs were being paid at award rates, a number were being paid above award rates, so we actually thought it was important to bring people back to a more standardised wage structure, so that was another reason for doing it. We now have nearly all of our ECTS on about the same wage which is much more easy to manage moving forward.

PN6674

The reason why some had over time, up until this change, some had been paid above the award as against others, was that dealing with specific attraction and retentions issues at a particular centre at a particular point in time?---Yes.

PN6675

VICE PRESIDENT HATCHER: Was it also a function that G8 was buying other people's centres and inheriting wage arrangements?---Yes, we certainly inherited arrangements absolutely.

PN6676

MR TAYLOR: Thank you. They're our questions.

PN6677

VICE PRESIDENT HATCHER: Mr Fagir?

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6678

MR FAGIR: Just two or three things, Mr Carroll. Firstly, you were asked some questions about kindergarten funding and the need to have a qualified ECT in order to qualify for the funding. And according to my note and you referred to the relevant kindergarten funding?---Yes.

PN6679

Is the funding regime, is there one, and is it consistent nationally or is there variation across the country?---It varies by state. So it's an agreement between the Commonwealth and the states, and the Commonwealth advances the funding to the states and they choose whether they pass that on and to what extent they pass it on, much like a number of COAG arrangements, so Victoria is the most generous down to WA is zero.

PN6680

When you say "most generous", in what respect?---So their kindergarten funding subsidy is around \$3000 per child, eligible child. New South Wales is a fair bit lower than that, Queensland is sort of in between, and WA is zero.

PN6681

I see. In the course of your discussion about the increase to wages for ECTs you explained that as part of that exercise you'd acted to ensure that a gap was maintained between the ECT position and centre director positions?---Yes.

PN6682

There was no legal obligation for you to do that; is that right?---That's correct.

PN6683

So why did you do that?---We felt that we needed to do that to reflect that the centre manager is a higher leadership role and should maintain that gap, and it also allowed us to, in some instances, address where, as your Honour pointed out, instances where we'd inherited a remuneration arrangement that maybe we wanted to adjust.

PN6684

I see. You were asked some questions about a position description for an early childhood teacher. Are there other position descriptions established by G8?---Yes, we - for all our centre based teams and nearly all support office roles we have position descriptions in place, but across four positions would cover 90-odd per cent of our team members.

PN6685

What are the other prominent positions?---Assistant educator, lead educator, and ECT would be your main position descriptions.

*** GARY GRANT CARROLL

RXN MR FAGIR

PN6686

The position description for the ECT was read out to you, and I'll just do that again. It was:

PN6687

Coordinate the learning activities of the allocated group of children including the supervision of all assistants, ensure the care and development of each child in the group, and monitor the achievement of education objectives.

PN6688

Tell me if you know, perhaps you don't, how does that position objective compare with the position objective for a lead educator?---It would be almost exactly the same.

PN6689

I see. Finally, in answer to a question from the Vice President, you dealt with the prevalence of attraction of ECTs from the primary school system into your services. And in the course of giving the answer you explained that in your view the curriculum and the teaching process in primary education as opposed to early childhood education is totally different?---Yes.

PN6690

I think that was the phrase you used?---Yes.

PN6691

You might be the only person who hasn't given their view about this so far. Could you briefly explain why you say both the curriculum and the teaching process is different?---Yes. So I'll answer in two ways: one is due to the setting and one is due to the framework. The Early Years Learning Framework is very clear that it is a play based curriculum. The primary school framework is a classroom based curriculum. Our children spend, I don't know, four to five hours a day outside playing whereas in a primary school they would spend the vast majority of their time in a classroom environment at a desk undertaking activities. It's a very - so our ECTs would need to be accomplished at setting up outdoor play environments, but it's just a totally different outdoor versus classroom.

PN6692

I see?---The second is we're in a long daycare setting. An ECT, while the overall hours are broadly similar, if you like they're - depending on what shift they're in, they could start earlier or start later than a primary school teacher.

PN6693

VICE PRESIDENT HATCHER: Would the ECTs have a greater degree of direct contact with children over their hours than a school teacher would have?---Direct contact, as in tactile, physical or - - -

PN6694

No, no, just interaction. That is a classroom time in a school as compared to the time an ECT would be interacting with children in the long daycare centre?---I think that would be generally subject to the classroom size. Our ratio in a kindergarten room is 1 to 11. So if we had 22 children in a room, 25 children in a room with one ECT supported by another educator, teacher to child ratio would be reasonably similar.

GARY GRANT CARROLL

RXN MR FAGIR

PN6695

I wasn't talking about per child?---Yes.

PN6696

I'm just talking about just in general hours when you're spending face-to-face in an ordinary day with children?---Yes. I think as a general rule, yes, they would interact more.

PN6697

Yes?---Yes.

PN6698

Thank you.

PN6699

MR FAGIR: They're my questions, if the Commission pleases.

PN6700

VICE PRESIDENT HATCHER: Thank you for your evidence, Mr Carroll. You're excused and you're free to go?---Thank you.

<THE WITNESS WITHDREW

[11.57 PM]

PN6701

So is Ms Toth the next witness?

PN6702

MR FAGIR: She is. Can I just indicate that over the course of the morning Ms Prendergast has endorsed a statement that we prepared progressively and including late last night. It might be that Mr Taylor would like to have that statement over lunch. We can provide it now or if we break a bit before lunch perhaps we can hand it around then. I'm in your Honour's hands. I wanted to say a couple of things about its content at a convenient time.

PN6703

VICE PRESIDENT HATCHER: If it's convenient, well, you can just provide it now, can't you? Mr Taylor, while we're waiting for that.

PN6704

MR TAYLOR: Yes.

PN6705

VICE PRESIDENT HATCHER: There's reference to partially qualified degree people qualifying as teachers under the various regulatory arrangements.

PN6706

MR TAYLOR: Yes.

*** GARY GRANT CARROLL

RXN MR FAGIR

PN6707

VICE PRESIDENT HATCHER: What's the award classification which would apply to them? That is before they actually get their degree?

PN6708

MR TAYLOR: The way we read the award is that if you have a degree you start at level 3, and then if you have a four year degree you start at level 4. There is then a catch-all which says, "all other teachers would start at level 1". The teacher, that is something who's recognised as a teacher for National Quality Framework is someone who is working towards, and so hence on our view they come within the award at a classification level 1 or 2 if they've been there a second year, and Ms Prendergast I think this afternoon will give evidence that she has someone, maybe more than one person, in this category and she's paying them at level 1, or was at the time she prepared this statement in any event.

PN6709

VICE PRESIDENT HATCHER: If you're a director who is also qualified as an ECT - - -

PN6710

MR TAYLOR: Yes.

PN6711

VICE PRESIDENT HATCHER: - - - when I look at it there seems to be some ambiguity as to whether they're covered by the Children's Services Award or the Teachers Award. The Children's Services Award classification of director refers to a person with a four-year degree or an early childhood education qualification as being one of the people covered, then under the Teaching Award you have an allowance for teachers who are appointed as directors.

PN6712

MR TAYLOR: Yes.

PN6713

VICE PRESIDENT HATCHER: Is there any doubt about that?

PN6714

MR TAYLOR: There is argument about it. There is, on our side, no doubt about it. The question for us is if you are a qualified ECT and you are a director, then you fall within the Teachers Award and the remuneration there, but there are at least some employers - and more than one of which are giving evidence - who take a view that it's a matter for them, in effect, to allocate which of the two awards applies. Some qualified early childhood teachers are being paid as a matter of fact the amount that is applicable to an award covered employee under the Children's Services Award.

PN6715

So it is a matter of contest and it's an issue - I'm not in the proceedings, but Ms Saunders is - that is apparently bubbling up to the surface in the award modification. Apparently in those proceedings there is some application to amend both awards to remove any doubt about the position.

PN6716

VICE PRESIDENT HATCHER: Right. Do you want to say anything about those matters, Mr Fagir?

PN6717

MR FAGIR: It is but one of the many overlapping issues that are being addressed by the Full Bench in the review proceedings that have potential significance in this case. I can say something more about - - -

PN6718

MS SAUNDERS: (Indistinct)

PN6719

MR FAGIR: It is, and that's why we said inevitably we're going to run into these issues, but I was unpersuasive. Could I provide this bundle to the bench. Could I take a moment to explain what this is. Your Honours will see at the front of this bundle is a four-page statement from Ms Prendergast in which she deals with the quality improvement and accreditation system, observations, programming, technology and Ms Connell's table. The bulk of the annexures are in the first two tabs and these are firstly the QIAS handbook in its original version, 1993, and a Quality Practices Guide which is, in effect, a later iteration in 2005.

PN6720

I'll pass over the document at tab 3 for the moment. At tab 4 is a version of Ms Connell's table in which Ms Prendergast has responded to the propositions advanced by Ms Connell, explaining the position at the centres in which she has been involved and centres that she is familiar with. We've done the best we can in the time we have had to identify the QIAS principles which bear upon the issues. Your Honours will see in due course that the short point is Ms Prendergast says:

PN6721

The idea that the EYLF play based learning individualised teaching is some new development is completely wrong. It has been in place at least since the introduction of the QIAS in 1994.

PN6722

There are a variety of documents that effectively give substance to that thesis. So your Honours understand what my client is ultimately going to say about this - and I can do this briefly - if your Honours wouldn't mind turning to tab 1. This is our best attempt to photocopy a book. These documents weren't easy to track down, being 20-odd years old, but eventually we did. If your Honours would turn about 10 pages in. There is a page headed "3. The underlying values" and I just want to say something very briefly about this.

PN6723

I'm sorry, perhaps we could start at the page headed "2. The focus" before coming to "3. The underlying values". Could I just point out that this 1993 document points out that the QIAS focuses on the standard of care and education in every Australian long daycare centre. It points out that there is a perception that the quality improvement system covers the same ground as the laws and regulations, but that is not right.

PN6724

In summary, it points out the regulations deal with - Professor Press, who is the closest of any of the applicant's witnesses to acknowledging this says there were regulations that deal with things like floor space ratios and so on, and there was a different quality improvement system or quality creation system which focused on the quality of the experience of the children. That is the point being made here about the QIAS. In the final paragraph your Honours will see it points out that:

PN6725

By emphasising the actual outcomes for children, it shifts the focus from meeting minimum standards to striving towards the highest level of care.

PN6726

Again, this will be raised perhaps in submissions, but your Honours will have seen in the evidence it was suggested that the outcomes based focus is some new and radical innovation. Again, one can see as of October 1993 that was the approach adopted here. If I could, on the same theme, move forward two pages to the underlying values. Could I just observe that the stated philosophy or the stated underlying values include, beginning at the first paragraph, that the QIAS system - or:

PN6727

The QIAS is based on the belief that the good quality childcare centres appreciate and foster the individuality of all children, including children with special needs.

PN6728

If I pass over the next few paragraphs, the second to last paragraph points out that:

PN6729

These are four areas addressed in detail by the 52 principles. A recurring theme in these principles is that good quality childcare pays close attention to two factors: the individuality of each child and the characteristics they share. Good quality care must appreciate the individuality of each child and treat all children equally.

PN6730

Again passing over for the time being the balance of the paragraph, one sees on the next page:

PN6731

Good quality care must also draw from a sound basic knowledge about early childhood development and the characteristics common to children of different age groups.

PN6732

Now, I could go on, but the point is that there has been a huge amount of evidence - including from supposedly independent experts - the effect of which is the focus on individual children, the focus on proper educational theory or pedagogy and a series of other matters, recent innovations, that's evidence which collides straight with this brick wall which makes it clear as could ever be that the witnesses -

Ms Prendergast will give some content to this and explain that these weren't just words on a page. This was in fact what happened. The basic point is that that evidence can't stand in the face of this and other material.

PN6733

There is more. The document deals with the idea of early childhood education and care moving away over the previous 10 years from a concept of daycare towards a more educationally focused program, so on and so forth. The effect of it all is we will ultimately say that the revolution that is said to have arrived perhaps in 2012 was complete by 1994 at the latest. Could I do one other thing and just hand up - while I'm preventing the efficient receipt of the evidence - this is the very condensed version of the Children's Services Award Classification Structure, and the point, as I foreshadowed yesterday, we're not inviting some amended application or anything of that nature but we're just acknowledging the elephant in the room that there's a claim for increase on work value grounds involving a classification that has nothing to do with work value, particularly if the applicant's case is accepted. I'm talking about progression now. On the other hand it's - - -

PN6734

VICE PRESIDENT HATCHER: Sorry, you've lost me now. What are you saying?

PN6735

MR FAGIR: The Commission is asked to increase rates on a work value basis.

PN6736

VICE PRESIDENT HATCHER: Yes.

PN6737

MR FAGIR: Applying increases to a classification structure that, so far as we can tell, has no connection to work value. It is the - - -

PN6738

VICE PRESIDENT HATCHER: You mean the yearly increments?

PN6739

MR FAGIR: Yes. That's one issue. It's one that becomes particularly acute it seems to us having heard the evidence which suggests that in truth the structure of work in early childcare is not - it doesn't have very much to do with the classification structure in the Teacher's Award but it is much closer to this classification structure which currently appears in the Children's Services Award.

PN6740

I'm grateful for that indulgence and unless I can assist your Honours now in relation to this material I call Ms Merran Toth.

PN6741

VICE PRESIDENT HATCHER: No.

PN6742

MR TAYLOR: Would it be convenient if I just said a couple of things about this now, or is it better to deal with that at the point when my friend tries to tender it?

PN6743

VICE PRESIDENT HATCHER: We better deal with it now so - - -

PN6744

MR TAYLOR: Yes. Tab 4 is a document appears to arise from the evidence that we were given leave to tender. The balance of the material is, and I obviously haven't read it in the minutes that we've received it, but going off what Mr Fagir has described it as, is said to be evidence that would lead this Commission to reject the evidence, the expert evidence, that's been led by a number of our witnesses who have come into the witness box.

PN6745

None of this material was put to our witnesses. The suggestion seems to be that notwithstanding that this Commission would allow this evidence in after our evidentiary case is closed and would lead the Commission to then make various findings contrary to the expert evidence that we've led. It also is clear from the way Mr Fagir has described it in the broad said to be of great breadth, that is, it's said to touch upon a whole variety of aspects of the work of early childhood teachers, that is not just one part of it, but perhaps, if I understand him correctly, everything.

PN6746

The prejudice that would flow from allowing that to go in at this stage is clear. It really is seeking to now, at this late stage, put on a very different case and can I just anticipate or just foreshadow that we reject the notion that that should be allowed to occur at this stage of the proceedings.

PN6747

VICE PRESIDENT HATCHER: I mean, so which tab are you talking about? Tab?

PN6748

MR TAYLOR: Tab 4, as I understand it, and I haven't looked at it, but as described it's an attempt to address the table which set out what staff do in early childhood centres according to Ms Connell, and what, in her experience, they did at an earlier time. But the balance of the material, as Mr Fagir described it, is said to put into evidence a whole range of other material that goes to the NCAC approach in the past, and he, as I understood his submission, he intends to make a series of submissions about the import of that material and how it would not accord with the evidence that this Commission has received from our experts.

PN6749

If there was going to be a proposition that there existed material which was contrary to that expert evidence, then in a matter of fairness and just normal appropriate procedure, natural justice, that material should've been provided in advance and experts should've been cross-examined on that basis. Now at this stage the thought that I would be cross-examining this afternoon a witness who is giving evidence which, according to Mr Fagir, will cut entirely against our entire

expert evidence case without the opportunity of hearing from those experts and getting information and on the basis that it would go in after their evidence has gone in, is just fundamentally unfair and wrong, and this Commission just wouldn't allow it to occur.

PN6750

VICE PRESIDENT HATCHER: I've only been taken to annexure 1. That is self-evidently, is it not, a document of at least historical relevance and potential significance, so, I mean, Mr Taylor, this is a review. It's not an inter-parties proceeding, so it's a bit hard to say we should simply close our eyes to this material because of the way in which it was filed. It's really a case of practically addressing our - the parties are given a fair opportunity to deal with it, isn't it?

PN6751

MR TAYLOR: I think I've said as much as I can on the material, at the time, we've got. It may well be an historical document. It may be an historical document that's been overtaken. It may be an historical document that applied in some places and not others. It might've applied to certain centres and not others. I'm not in a position obviously to get instructions and deal with this today and exactly how you saw this document is I don't know yet. But it's certainly something that was not put as any part of the case to date and the thought that we would effectively be closing the evidentiary case on Thursday in circumstances where something would be going in with this level of information is something which causes us great concern.

PN6752

So Ms Saunders has just handed me a document which is just a potential example, it would appear, of material that could have been put before this Commission as to the nature of the QIAS and its application. It appears to be an article which describes fundamental flaws in it and concerns about quality, and draws attention to the differences between it as a scheme and the National Quality Framework and Standards. No doubt there is other material and no doubt experts could comment on this material if it were put forward. ACA chose not to put on any expert evidence in its own case, but nevertheless is apparently seeking to have Ms Prendergast, whose expertise it would appear is limited to running a childcare centre or two to put material before this Commission which is said to be material from which this Commission would draw some fairly fundamental conclusions.

PN6753

I just anticipate that, firstly, it would cause us significant difficulty if this statement were to be admitted into evidence on the basis that I am to cross-examine on it today, but more generally, and our position on this perhaps is to be considered once we've had a chance to read it, but I anticipate there's going to be a wider issue with it going in at this late stage.

PN6754

VICE PRESIDENT HATCHER: Mr Fagir - - -

PN6755

MR FAGIR: Can I just be heard. I have to say something about - - -

PN6756

VICE PRESIDENT HATCHER: No, no, just hold on. Mr Fagir, the document in tab 1 is that actually in reply to any of the new evidence which the IEU is permitted to call or is it in a different category?

PN6757

MR FAGIR: No, it's no different category. Firstly, can I just say the new evidence was not restricted in any way to the invitation that was given. It wasn't, and we can go to the statements if need to and we'll find they range across a broad range of issues. The idea that we should be restricted specifically, limited to responses to the evidence that was put on is not one we would embrace. In any case this is directly responsive to the evidence, particularly the evidence of Ms Connell who says post 2012 we started doing a whole series of things that had previously been foreign to us.

PN6758

Ms Prendergast says that's not true, we were doing all of those issues. The idea that individualised learning was some new development, for example, is not true. She doesn't just say it as a matter of opinion or assertion a la the union's evidence. She points out that there was a system in place that required principles to be observed, which involved assessment and says that kind of approach in her view would not have survived the accreditation system.

PN6759

Again, instead of just speaking off the top of her head and giving her opinions and paraphrasing things and giving high level conclusions, she's produced the document that makes that point good.

PN6760

Tab 2 is in exactly the same category. It's a later version, a later iteration of the same set of principles and the balance of the documents, there are other documents published by the NCAC from time to time dealing with a series of the issues that are said to be recent innovations post 2012. That is it is directly responsive to the additional evidence, particularly the part of it that matters. That is, we're actually doing things differently and here's how.

PN6761

VICE PRESIDENT HATCHER: Mr Fagir, are you in a position over lunch to provide Mr Taylor with a list of the page references in these documents you seek to rely upon?

PN6762

MR FAGIR: No. No, I'm not. These are documents that we've been scrambling to get them ourselves. The experts come along with a whole series of opinions, don't bother apart from one sentence to acknowledge the existence of this system and it's now said there's some unfairness in this coming in at this stage. The difficulty has fallen upon us to investigate this, to bind copies of all of this and to work through it and it's obvious from what we've seen so far that it's squarely relevant. I can't say that my review of the documents has been exhausted and I can't say I can identify now precisely those pages that are relevant.

PN6763

Can I just say, as a matter of broad approach there's a bit of front in the submission that's just been made. We said this was inevitable, it was plain as day that we were going to come to this point. We said it in our written submissions, we said it a number of times that inevitably if this was allowed we'd do our best to put evidence on in response and inevitably the union was going to complain about being prejudice by a lack of notice.

PN6764

Now before the Full Bench said anything Mr Taylor jumped up to comfort the Full Bench that that would be the price of the admission of the evidence, and as I recall it your Honour indicated that the previous comment had been to the effect - to similar effect and that without completely foreclosing your Honours' minds to the issue that that was likely to be the position. We have come exactly to that point. Mr Taylor says he has a difficulty, obviously he does but he's the author of his own misfortune.

PN6765

VICE PRESIDENT HATCHER: Mr Fagir, can I just ask you over lunch doing the best you can with your current state of knowledge to identify what appears to you at the current time to be relevant in these documents.

PN6766

MR FAGIR: Certainly.

PN6767

VICE PRESIDENT HATCHER: I think we'll just leave it there for the time being and get on with the next witness.

PN6768

MR FAGIR: If the Commission please. I call Mr Merran Toth.

PN6769

MR TAYLOR: While Ms Toth's coming to the witness box could I just indicate that Ms Saunders is going to take this witness.

PN6770

THE ASSOCIATE: Please state your full name and address.

PN6771

MS TOTH: Merran Edith Toth, (address supplied).

<MERRAN EDITH TOTH, AFFIRMED [12.23 PM]

EXAMINATION-IN-CHIEF BY MR FAGIR [12.23 PM]

PN6772

MR FAGIR: Ma'am, once for the record your name is Merran Toth?---Yes.

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6773

Your address for work purposes is what?---My service or my home address?

PN6774

Your service?---69 Point Street, Bulli, New South Wales 2516 and Balgownie Early Learning Centre, 4 Margaret Street, Balgownie, NSW 2519.

PN6775

Do you have a copy of your statement with you there?---No, I don't.

PN6776

Ms Whish will provide you with a copy now. Ms Toth, do you mind turning to page 25 of the statement, which will be the first 25 pages of that bundle?---Yes.

PN6777

Perhaps it's the next page. Do you see there your signature and the date 16 May 2018?---I see my signature and my date 27 March 2019.

PN6778

Are the contents of that statement true and correct to the best of your knowledge and belief?---Yes.

PN6779

VICE PRESIDENT HATCHER: Sorry, I'm just lost about the date now. We just want to make sure we've all got the same document. We've got a document dated 16 May 2018.

PN6780

MR FAGIR: The development is that a couple of paragraphs in the original statement have been struck through and are not read. Could I hand up a version of the later. I hope someone on the Bench has a bulldog clip for the third copy. Now that we're all on roughly the same page, Ms Toth are the contents of that statement true and correct to the best of your knowledge and belief?---Yes.

PN6781

I tender the statement of Ms Toth dated 27 March 2019.

PN6782

VICE PRESIDENT HATCHER: The statement of Merran Edith Toth dated 27 March 2019 will be marked exhibit 99.

**EXHIBIT #99 WITNESS STATEMENT OF MERRAN EDITH TOTH
DATED 27/03/2019**

PN6783

MR FAGIR: Thank you, your Honour. Ms Toth, I just have a few questions - - -

PN6784

VICE PRESIDENT HATCHER: Where are we up to with the confidentiality regime?

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6785

MS SAUNDERS: It's largely agreed, your Honour. The first remaining item is at paragraph 16 and it's agreed that the dollar figure, that should be highlighted in yellow there, should remain confidential. The next items are at 24 and 26. We had previously indicated an issue with those precise rates of pay remain confidential but I think that is (indistinct) earlier rulings on the same point, so we're content for them to remain redacted. The next item is 123 to 124. Yes, I'm sorry, there are some items in the statement that are highlighted in yellow where confidentiality is no longer pressed. The other ones I'm taking the Bench to are where it remains.

PN6786

VICE PRESIDENT HATCHER: I think we need to know the ones that aren't agreed that are not confidential.

PN6787

MS SAUNDERS: Ninety-two. Sorry, I'm missed one earlier, 17.

PN6788

VICE PRESIDENT HATCHER: Seventeen, 92.

PN6789

MS SAUNDERS: Seventeen, 92, 123, 124, the dollar figures are agreed to remain confidential.

PN6790

VICE PRESIDENT HATCHER: Agreed to remain confidential.

PN6791

MS SAUNDERS: Yes.

PN6792

VICE PRESIDENT HATCHER: I want to know the ones that are agreed that will not now be confidential.

PN6793

MS SAUNDERS: Sure, 139, 140, 147, sorry and 49. Sorry, 147 and 149 are not. That's right. 155 with the exception of the dollar figures.

PN6794

VICE PRESIDENT HATCHER: So what does that mean?

PN6795

MS SAUNDERS: It's only the dollar figure. There is a dollar figure in that paragraph which remains confidential.

PN6796

VICE PRESIDENT HATCHER: I want you to tell me what - we've got marked in yellow what is confidential.

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6797

MS SAUNDERS: Actually I'm not certain that the items identified here correspond.

PN6798

VICE PRESIDENT HATCHER: I want you to tell me which ones it is agreed will not be confidential, and then we'll deal with the ones in dispute.

PN6799

MS SAUNDERS: 164.

PN6800

VICE PRESIDENT HATCHER: So one hundred and - I see.

PN6801

MS SAUNDERS: Sorry, I'm just waiting for my friend. 174.

PN6802

VICE PRESIDENT HATCHER: 174 has been struck - the new 174. I see, yes.

PN6803

MS SAUNDERS: Yes, I think that's right.

PN6804

VICE PRESIDENT HATCHER: There's nothing in 174 that's marked as confidential, is there?

PN6805

MS SAUNDERS: It forms part of the ACA's claim that they have provided us. If there's nothing in - - -

PN6806

VICE PRESIDENT HATCHER: No, no, I just want to know which currently confidential parts are agreed not to be confidential.

PN6807

MS SAUNDERS: Given it's been struck I suppose it doesn't matter. MT - - -

PN6808

VICE PRESIDENT HATCHER: Sorry, there's a new paragraph 174.

PN6809

MS SAUNDERS: Yes, I don't understand that to be subject to the claim. It's the old paragraph 174, the text remains.

PN6810

VICE PRESIDENT HATCHER: Thank you. So what's in dispute?

PN6811

MS SAUNDERS: Nothing remains in dispute.

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6812

VICE PRESIDENT HATCHER: No, right.

PN6813

MS SAUNDERS: There are certain elements that remain confidential because there's figures identified which is what I was taking your Honour to earlier, but the only outstanding item was the wage rate question which has been resolved.

PN6814

VICE PRESIDENT HATCHER: Thank you.

PN6815

MR FAGIR: Ms Toth, we've had quite a lot of evidence describing at a high level what happens in an early childhood service day-to-day. What I was hoping you might be able to do is explain to the Bench in the most direct way possible a day in the life of your service?---Of a child or an educator or from - - -

PN6816

A fly on the wall watching what's going on in the service?---Okay.

PN6817

VICE PRESIDENT HATCHER: We're concerned with early childhood teachers and what they do, is that the question? Not describing the whole activities of everyone in the centre?

PN6818

MR FAGIR: We are, because they're one and the same issue.

PN6819

VICE PRESIDENT HATCHER: Go ahead?---Okay. So in the morning the first educators would arrive. They would be - I employ a minimum of two. They would stow their belongings and unlock the centre.

PN6820

Ms Toth, before you go on, I just need to get the terminology correct. So when you use the word "educator" who are you talking about?---I'm talking about certificate III trainees, I'm talking about diploma trained trainees, I'm talking about trained staff. I'm talking about certificate III trained staff. I'm talking about early childhood teachers, and I'm talking about myself as a director, so I'm including everyone in that because at the opening shift I have to have 50 per cent of my diploma trained staff on the service so at least one of those educators there would be diploma trained and the other educator could be a trainee or - which I don't do, but would be another qualified member of staff from any of the categories I've mentioned.

PN6821

I mean, you've done this in part in your statement, but it might be useful so we get the setting to describe the staffing of the centre you're describing?---Okay.

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6822

So are you describing one of these two centres or both in sort of general terms?---Both. Both.

PN6823

Can you describe the staffing structure at one that we could use as an example?---Okay. I can talk about Sandon, if you like. That's my first centre. So at Sandon the manager hierarchy is myself, and then I have my 2IC who is my assistant director, who - Renee is an ECT. Then I have a number of room leaders which are a mixture of - or mainly diploma trained staff members. I have other staff. I have a minimum of two staff in each room because of the numbers of children that I have. I have three age groupings. I have a three to five preschool room, two to three room, and a birth to two room. My centre has 38 children, so that means if I staffed to the minimum requirements I need at least two staff members in each room.

PN6824

So there's three room leaders?---Yes.

PN6825

Diploma qualified?---Yes. Yes. Then I also have - I overstaff my centre each day by at least three staff members not including myself. I do this for a couple of reasons. I've outlined it in my statement. I don't hire casual employees, so I don't want strangers caring for my children. I believe very strongly in continuity of care. I believe very strongly about the need for relationships to be built between families and educators and children in the centre so in the case that we have the plague come through the centre, you know, we've got conjunctivitis or gastro rampaging through and a couple of the staff are off sick, I won't need to call in strangers to care for my children because I will already have enough staff there to do it. I also have an obligation to provide my staff with a certain number of hours of programing and planning time, and my trainees with a minimum of three hours a week study time where they're released from working directly with the children, so by having the extra staff there I'm able to comfortably release those staff from working directly with the children, so they can participate in those activities.

PN6826

So the ETCs, how do they fit into the structure?---The ECTs might be, you know, assistants in the room.

PN6827

So how many do you have in the structure of the Sandon Centre?---Currently? Currently I have myself and I am there usually three days a week at least. I have - but I don't work directly with children unless my staff are away and I need to go and work directly with the children. I have a full-time assistant director who shares her time between administrative duties and working directly with the children. I have another part-time ECT who works for me two days a week working directly with the children. She's not a room leader. I have another staff member who is currently completing her Bachelor of Early Childhood by correspondence as well, so - - -

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6828

And she's already Diploma qualified?---Yes. Yes, she is.

PN6829

Thank you. So let' go back to the start of the day?---Okay. So when I do my rostering, according to the regulations, I'm able to open and close the centre, as we call it, with just one staff member. I don't consider this to be a safe practice by any means, so I always have two members of staff opening and closing the centre. So the two staff members arrive, they'll sign on, they'll put their things away, they'll open up. The families and children will start arriving. We have family grouping in our birth to two room. Family grouping means that the children join together as one group regardless of their age group. As the staff members arrive, because I have staggered shifts through the day to meet the ratios of the children arriving, they come down to the nursery. When a sufficient number of children of an age group have arrived, they will break off with those children and go to their allocated room. Some will go with an educator outside to help set up the outdoor program. Whichever children want to lend their ideas to what sort of equipment they would like to have outdoors - - -

PN6830

So typically what time of day might it be before classes start splitting off?---Probably about quarter past eight to 8.30 depending. It's really bizarre because you get a pattern over the year. Some days - Thursdays you will have 10 children on your doorstep at 7.30, I open at 7.30, and Mondays you might not have 10 children until 8 o'clock. It's very hard to predict, so I have to staff you know accordingly. So that can vary from day to day and it's the same with the pickup as well in the afternoon.

PN6831

So at that point in the morning, you know, from eight till 8.30 I've got about four staff members there. I've got one who'll take some children off outside to set up the outdoor learning program with the assistance of the children. The others will gradually break off into their rooms. The educators will be greeting the families, greeting the children, getting information downloaded to them from parents about how the children slept at night, whether they want them to have one sleep or two sleeps, you know. The babies room, whether they don't want them to sleep at all, if they have medication they need to take, all those sorts of things.

PN6832

Then when we've separated into our groups it's usually time for us to have a yarnning circle in our rooms. So a yarnning circle is a time for us to come together as a group, participate in our welcome to country where we acknowledge the traditional custodians of the land and during that time we will sit as a group, we will discuss any important news that the children have, we'll talk about what they've planned for the program for that day, ask them for suggestions, just have a general discussion. We'll go outside for some free play time.

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6833

We'll have morning tea, so that will involve - I don't provide meals at Sandon Point, so our children are very involved in developing self-help skills and managing their own meals through the day. So we'll support them to do that. We sit down and have morning tea. That's a very social time too, lots of conversations about what they're eating, healthy foods, things that might be coming up on the weekend, things like that. Then after morning tea we usually come inside and we have indoor free play time. We call it free play but what we do is we have different experiences and provocations set up in each of the rooms according to the interests that the children have told us about and that the families have told us about through our web based programming platform. Am I going into too much detail, because I have a tendency to waffle. So just let me know.

PN6834

VICE PRESIDENT HATCHER: No, no, not at all. No, but can you give us some examples of experiences and provocations as you've described them? I assume they vary depending on the age groups?---Very much. So it's - in the birth to 2s room we really rely heavily on the parents to share their weekend activities or afterschool activities, or information about their family unit. We might have Opas coming from Germany to stay with them for a week, so we might introduce into the room some songs and finger plays, learn some German words. We might do some cooking, some strudel, you know for example. We include that in the program. We will do our very best to nag the family to get Opa to come up to the centre and read a story in German to the children. Another example might be if a child tells us that they're going camping, we'll get out the tents and set them up in the playground and in the classroom, build a log fire, pretend roast marshmallows, learn Waltzing Matilda, share experiences of camping, ask the children to bring in photos of them and their families camping. That usually leads into a discussion of maybe flora and fauna and we'll explore that. We conduct bush kinder excursions at our centre so we do a lot of bird watching down at our local reserve as well as identifying native species of plants and learning to recognise the seasons. It involves - - -

PN6835

This camping example, what age group would that be likely to be?---Well, all ages.

PN6836

All age groups?---Yes, yes. Our babies are very, very capable. They're much more capable than people give them credit for and when you spend a lot of one on one time with babies carefully observing them and interacting with them, I don't know if you remember back, it's quite amazing what they will retain and what they will respond to. So yes, our program is quite detailed. I actually have one of my ECTs working in my birth to 2s room at Balgownie because I believe that the first two years are an amazing time of growth and development, both cognitively and physically for very young children and a lot of people are of the view that early childhood teachers should only work in preschool program but I disagree strongly with that.

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6837

Why do you think an ECT is important in that context?---To help lead the program and develop the program. That's not to say that a diploma educator isn't qualified to do that. I'm just talking to the stereotype that people have of ECTs being all knowing, all encompassing, the one who everyone should refer to in that space of transition to school. I don't follow - I don't follow with that train of thought that you have to have an ECT leading or working in the preschool program. My other ECT at Sandon Point is in the 2 to 3s room. They move from room to room each year. Yes, there's just a school of thought out there that thinks that they have this correlation between teachers at the primary school setting and teachers in a preschool setting.

PN6838

Right. You've had some indoor activity after morning tea, so where are we up to in the day now?---Yes, so what we talk about as free play, then we'll come together in the preschool room, we'll do group time, we'll do munch and move, which is a physical education program about healthy eating and diets. We will also have news where the children will be able to get up and talk about something that interests them or something that they've done, they'll bring in something from home. Then it will usually be time to get ready for lunch then. So then they'll go and have lunch. After lunch is normally rest time, so our 2 to 3s and our birth to 2s will - most of them will have a sleep. The ones who don't will do quiet activities. The preschoolers will do guided meditation, yoga, visualisation activities as part of their rest time. Then after rest time is finished we'll get the children - - -

PN6839

What's guided visualisation?---Okay, so there's a program called Visualisation and Verbalisation which greatly helps children with their literacy skills, particularly with their comprehension. It was something that I learned about when I was teaching in high school. What you do - people who are good readers, when they read they form a movie in their head, whether they realise it or not, they will picture what a character looks like, they will picture a setting, they will actually create quite detailed images and that helps them to comprehend the storyline to remember what's happened previously and it will also help them predict further along. That's a skill that you can teach to children to help them with their concentration and their comprehension for when they do go to school and they start learning to read. So that's something that we do with them.

PN6840

Right, thank you. So we have this rest period or quiet period?---Yes.

PN6841

What's after that?---After that we'll have - - -

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6842

Sorry, what time are we up to when the quiet period ends?---We're up to probably about 2 o'clock, where children will start getting up then and they'll be participating in more of the experiences, continuing on from their work in the morning. Projects that they might have started, they might have started building a

city with the blocks or, you know, Batman's hideout with the Lego or they might have been doing some sculpting with some clay. Then they'll go and have afternoon tea and after afternoon tea it will be outdoor play, depending on the weather where we have a number of experiences and provocations again set up outside for the children to participate in as they wish. Then families usually start to come and collect the children. In Winter, depending on how cold it is, the children will begin to come inside at about quarter past four, or 4.30 and they'll have family grouping again in the afternoon. Mr Fagir?

PN6843

MR FAGIR: Ms Toth, can you just help us place the ECTs within all of those things that are happening. Is there some particular role that they'll have in relation to those activities or how do they fit in? Where's the ECT and where are the other educators as all of this unfolds?---Okay, so for example I'm just trying to think of today's roster. One of my ECTs starts at 7.30 today and so she will be with the children in the nursery, the birth to 2s room as the children arrive, then my next ECT doesn't arrive until 9 o'clock, so they will go directly to the outdoor space that will already have been set up and help supervise the children then. Then throughout the day they'll be participating in a variety of roles depending on whether they are allocated programming time or not. They may be working directly with the children in the room or they may be in the staff room completing their programming and planning or working on another project that I may have assigned to them.

PN6844

How does that compare to the things that the non bachelor qualified educators are doing over the course of the day? Do they have a different routine or - - -?---It's the same - no, no, it's the same. There's no specific routine according to qualification at our service. The only difference in duties is with my Cert III trainees they can't administer first aid, they - yes, that's probably the only difference at our service. I've got a master's degree and I clean vomit, I change dirty nappies, I mop floors, I do everything at our service. Everyone completes a whole raft of duties but there's not one thing I don't think that they do to the exclusion of the other staff.

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6845

VICE PRESIDENT HATCHER: The education planning, do they do that?---No, the whole point of the Early Learning Years Framework, I think there's a bit of confusion about that. There's a huge emphasis on collaboration with the program. The children, the families, all of the staff are responsible for developing the program. Everyone has to. If you excluded any one of those groups from your programming process you would get working towards in your rating. We have to show evidence of it. We have to show evidence of communication with the families, how they have access to the program and contribute to it. There's a huge emphasis on the children's voice because previously the temptation has been for educators to go okay, this month we're all going to learn about trains and we'll turn the classroom into a train station and we'll set up a ticket office here and we'll get the train puzzles out and we'll get the trains out on the floor and that was all

you did for a month was trains. But some of the kids couldn't give two hoots about trains, they're not interested in the slightest, so where was their learning going?

PN6846

When you said ECTs spending time in the staff room doing planning?---Yes.

PN6847

What are they actually - can you describe what they're actually doing when they do that?---Yes, so they will be going through observations that they've made on the children and their learning. They might be completing - we do developmental checklists at our service. They might be completing comments on development checklists, they might be researching new ideas on Pinterest or on a couple of the Facebook page groups that there are on ideas for NADOC week activities, things like that. They will be critically reflecting on their own teaching practice and they will also be reflecting on the program.

PN6848

What, when you're critically reflecting you're just sort of sitting there staring into space thinking about things or what are you actually doing?---No, no, critical reflection is also huge. They've made it one of the exceeding themes. So we're expected to critically reflect on our service with regards to ideas of social justice, anti bias, our place in the community and how we engage with the community.

PN6849

So my staff when they critically reflect they might be going in - and this is all staff. This isn't just ECTs. I'll give you an example. So I went to - am I waffling? No. Okay, so I went to an in-service on social justice and they talked about gender bias and language where people were unconsciously showing bias towards children by greeting them. Normally they found that when people greeted girls they greeted them and commented on their appearance. "You look beautiful today, I love what you've done with your hair. Did mummy do your hair for you? That's nice. Come in, come on, what would you like to do today?". When they greeted boys, they talked about, "I've got the trucks out for you, you had such great time with the trucks", and they talked about their play, or they also talked about them as being clever or strong. So those unconscious messages that you were sending to the children about their abilities, their worth, their value it struck me as oh my God, I do that. I actually do that.

PN6850

So I came back to the centre and we had a challenge for the week. We all - I gave each of my staff members jars with glass beads in them and they were called gender jars, and whenever another staff member caught someone out greeting a child or saying "you're a clever girl", or you know, referring to their gender unnecessarily, they got to steal a glass bead from their jar. So at the end of the day everyone had a score of how many glass beads they had left, so they could see how many times they were actually utilising this sort of biased language in their everyday practice, so then after we did that, we had a staff meeting, and we critically reflected on that.

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6851

So they will go - all the staff at my service at the moment have quality improvement plan projects that they need to work on and they critically reflect on different areas that interest them. It might be inclusion, it might be gender bias, it might be anything, how we cater for gifted and talented children. So when they're in their critically reflecting they will be researching that and - - -

PN6852

VICE PRESIDENT HATCHER: And presumably trying to come up with the proposal to rectify some perceived problem?---Yes, a problem. Yes. So people just think that we walk in and chuck a box of Lego on the floor, and go, "How about it, kids". It couldn't be further from that. And for what we do in early childhood education. Yes, so, they're the sorts of things that the staff participate in during their programing and planning time.

PN6853

So, Mr Fagir?

PN6854

MR FAGIR: I just had a couple more questions. I think - - -

PN6855

VICE PRESIDENT HATCHER: I think we should try and get the evidence-in-chief done before the luncheon break.

PN6856

MR FAGIR: Thank you, your Honour. Ms Toth, you just explained to the Vice President what actually happens when someone is off the floor programing. Again, how does the ECTs programing compare - how does the process, the exercise compare between ECTs and educators?---It's the same.

PN6857

Ms Toth, you explained that there was a time where you might decide that this month's theme was trains and that's - - -?---No, we don't do that any more. That was what we don't do, yes.

PN6858

You saw Ms Connell's table that we sent to you whenever it was, last week?---Mm.

PN6859

And you recall Ms Connell said that it was 2012 when her service went from that rigid curriculum to something more flexible. Is that true of your service?---No. No, previously under the old assessment and rating system which was validation that was conducted by the NCAC we had - there was intentional teaching and play base learning and there was a big emphasis on following children's interest. This isn't a new thing. It's not a new concept.

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6860

Ms Connell also suggests that the old way was easier because you didn't have to listen to the children and work out what they were interested in and then build a program around that. You just had your theme, you were going to do trains and then you just had to build a series of activities or projects around trains. And what's your view about that?---I don't know because I haven't really worked - well, that was 30 years ago when I was a primary school teacher that was what we did. We did theme work in primary schools. Today what we're doing I think following the children's interest makes it easier in a sense because you're working in partnership with the children and the families. You're not having to come up with everything yourself and plan everything yourself. You're doing it collaboratively so you have parents coming in and contributing to the program, you have the children excited, enthusiastic about it so they're more engaged, so there's not the behaviour management issues that you would have if you had a - you know, if you had group times which used to be like hostage situations, because you were forcing children to sit to listen, you know, to the information that they didn't care about. So - - -

PN6861

VICE PRESIDENT HATCHER: So, Ms Toth, I'm just trying to understand your CV. So in paragraph 3 you worked as a teacher at a high school till 2010?---Yes.

PN6862

But you said in 2005 you opened the Sandon Centre, so you were doing them simultaneously, were you?---I bought a - yes, I was working - still working at Peakhurst High School as the integration teacher two days a week when I bought Sandon Point in December of 2005, and I kept working - I had to keep working at the high school to earn a wage, and it wasn't until 2010 that I was in a position where I could relinquish my position from the high school.

PN6863

Yes, all right.

PN6864

MR FAGIR: When you taught in schools did you have to do programing? Was that part of your job?---Yes. Yes. Yes.

PN6865

How did that compare to what your educators are doing today in your services?---The amount of programing that you have to do in high school is hectic. It's - I used to spend all of my school holidays writing up my programs, because you'd have to submit them to your supervisor and with what I did in particular because I had a range of children with high support needs in a mainstream class I had to basically pretty much write lesson plans for every single lesson. If you think you have eight children in your class, who have eight different KLAs that they're going to and - - -

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6866

VICE PRESIDENT HATCHER: KLAs are what?---Key learning areas like Maths, Science, English, Geography, History, Visual Arts, PDHPE, a lot of

paperwork. Then on top of that you're having to write assessments for them, and you can't rehash the same assessments, you know, from one year to the next.

They have to be original, so that there's no question of them cheating. Then you're writing reports for them, so if you have, you know, six classes of children with 30 children in each of them you're writing 360 reports and assessing those children, they're learning, and doing parent/teacher interviews. It's enormous. I was a year advisor for a couple of years - well, for six years, and the workload associated with that was, like, unbelievable.

PN6867

MR FAGIR: Lastly, Ms Toth, can I just ask you about technology. Now, do you use some sort of program for sign in/sign out?---Yes, we use Quick Kids Kiosk.

PN6868

What is that?---So it's an iPad that sits at the front of the service and each of the parents create their own PIN number and they walk in and they put in their PIN number and they press sign in, and their child is signed in, and then they do the reverse when they leave at the end of the day.

PN6869

How is that different from what you did before you had Quick Kids?---Before they had Quick Kids they came in and they signed with pen and paper and then they did the same at the end of the day.

PN6870

I see. Ms Connell says her service uses Storypark. Do you know what that is?---That's different again. Storypark is a web-based platform whereby you can enter observations of children. I think on Storypark you can do your program as well. We use KeptMe at our service because I can do the quality improvement plan on that as well. So basically the parents can use devices to take photos of their children through the day and type jot ins as they're happening so when it comes to them going away from working directly with the children to their programing and planning their observations and learning stories are basically half written.

PN6871

Ms Connell says that one of the challenges that Storypark throws up is that parents can be sending messages to educators throughout the course of the day and the educators now have to deal with this new issue of the parents being able to communicate with them more easily than in the past?---I'm actually jumping up and down with KeptMe because we used to struggle. We used to use the old paper portfolios and then we used Lift, which was another web-based program, and we could not get parent input, and that's a really big part of your assessment and rating is parent input to the program. But with this it's like Facebook. You get an alert come up on your phone and - or your iPad or whatever and the parents can like it, and you know that they've read it, and quite often they'll comment on it, and that's gold to us, because that's evidence that the families are actually engaging with the program and if they make a comment or a suggestion, happy days, that gets slotted straight into our program for a follow up.

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6872

Thank you, Ms Toth. That's the evidence-in-chief of Ms Toth.

PN6873

VICE PRESIDENT HATCHER: We'll adjourn now and resume at 2 pm.

<THE WITNESS WITHDREW [1.09 PM]

LUNCHEON ADJOURNMENT [1.09 PM]

RESUMED [2.05 PM]

PN6874

VICE PRESIDENT HATCHER: Ms Saunders, how long with the cross-examination of Ms Toth take?

PN6875

MS SAUNDERS: I had thought an hour and a half, maybe a fraction longer with the additional evidence that's been led.

PN6876

VICE PRESIDENT HATCHER: If we don't get to Ms Prendergast, can she come back tomorrow?

PN6877

MR FAGIR: With difficulty she can. She would prefer to be dealt with today but can be accommodating.

PN6878

VICE PRESIDENT HATCHER: Obviously the difficulty's not ours but in terms of admission of the additional statement it might be a practical way of admitting the statement and at least giving some opportunity for it to be perused and cross-examined upon.

PN6879

MR FAGIR: All I would say about that is that it's not a factor which should carry much weight, even when balanced against Ms Prendergast's convenience, and having gone back and looked at the transcript of this debate what I said before lunch (indistinct) firmly in that view (indistinct) this is going to happen and what's said in response was that's what we expect to happen. That is what we expect will happen and that'll be the price to be paid.

PN6880

VICE PRESIDENT HATCHER: It's not so much the evidence as such, Mr Fagir, it's really just simply the length of the document.

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6881

MR FAGIR: Could I just point that - and I've sent an email although only just before your Honours came back pointing out the crucial documents. The statement itself is four pages long, there are the two QAS documents, which are

lengthy but we've identified really the key parts of them and they're the introductory parts that describe what the system is then we've identified the principles that they're most directly on this issue of the educational program or the approach. We pointed out the table is lengthy, it responds to each proposition and

- - -

PN6882

VICE PRESIDENT HATCHER: The table's not the issue, speaking for myself, I don't think the table's the issue, it's the other documents. Anyway Mr Fagir, we'll just deal with Ms Toth and then we'll see where we're up to, I think.

PN6883

MR FAGIR: Could I just point out one final thing about the documents. There are a series of annexures but the annexures that count are the two QAS documents and the table. The table itself refers to NCAC documents that give some support to the various things that Ms Prendergast is saying but they're really at the margins. What matters is the first two documents and particularly their description of the (indistinct). If the Commission please.

PN6884

VICE PRESIDENT HATCHER: Ms Toth, can you come forward please?

<MERRAN EDITH TOTH, RECALLED [2.08 PM]

CROSS-EXAMINATION BY MR SAUNDERS [2.08 PM]

PN6885

MS SAUNDERS: Ms Toth, I just had a couple of questions about your qualifications. You set out your various degrees and certificates at paragraph 2 of your statement. Would you mind turning that up?---Paragraph 2?

PN6886

Yes?---Sorry, yes.

PN6887

Are those in the order that you got them?---Yes.

PN6888

What's the difference between the Diploma of Teaching and the Bachelor of Teaching?---The Diploma of Teaching, so it used to be a three year degree that you could get. This is many moons ago when I got it, centuries ago. Then I decided to do my fourth year, it was called, but I did it two years part-time. Then while I was doing - I'm waffling, sorry.

PN6889

No, that's all right. No, no, please keep going?---Then when I was doing - there was a professor at the University of New South Wales called Dr Loretta Giorelli who was offering a Certificate of Immigration Studies and that occurred at about the time that I was offered the role of the integration teacher. So I enrolled in that and did that and then was encouraged to do my masters in teaching.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN6890

Sure. When did you get your Bachelor of Teaching? Just roughly is fine?---I'd have to - I think it was around '94 maybe.

PN6891

And what about the Certificate III in children's studies?---Okay. That was interesting. So for me to be counted as an educator at the service despite the fact that I had 20 years of teaching experience I had the Diploma of Teaching, Bachelor, the Masters and the Certificate of Integration Studies, I would not be recognised unless I did my Certificate III.

PN6892

And was that because your teaching qualifications didn't include an early childhood component?---No. No, it wasn't.

PN6893

Why was it?---Because there was a list of qualifications that they would accept and mine sadly weren't on the list.

PN6894

So you did the Certificate III roughly when you bought the Sandon Centre?---A little bit after. I did it through RPL.

PN6895

What's that?---Recognised Prior Learning. So I submitted evidence rather than doing assignments.

PN6896

I see. Thank you. You mentioned when Mr Fagir was asking you questions I think working in early childhood education 30 years ago; is that right?---No.

PN6897

When you were doing the train month kind of - - -?---No, that was primary.

PN6898

That's in primary school?---Yes.

PN6899

I see. You don't have experience in early childhood before about 2005?---Yes.

PN6900

You're saying yes because you agree with me?---I'm agreeing with you, sorry.

PN6901

No, that's all right. You spoke a bit about having an individual focus looking at the particular child and being responsive to their interests. That's how you implement your teaching practice at the Sandon and Balgownie Centres?---It's a combination of - yes, intentional teaching and interest based learning.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN6902

Sure. I'd just like to show you a video. I'm not sure we warned your Honour's associate, but Mr Dowdle will come up. It's the Dinosaurs Rule video that's in the IEU's key document list. We're just going to show you something on the screen?---If this is the song this drives me - - -

PN6903

It's not the song, don't worry?---Okay.

PN6904

Just pause for a second. Are you able to hear that?---No. No, not well.

DVD PLAYBACK

[2.16 PM]

PN6905

So that video, Ms Toth, is that the kind of intentional teaching that you were talking about?---Yes, it is.

PN6906

That's the kind of work that you're educators and teachers do?---Yes.

PN6907

So when your daily routine sheets says "free play" it's not just playing with children, it's that kind of educational activity?---Yes. Yes, it's interactions. Yes, it's not the children running amuck in the room. It's the educators actually interacting with the children.

PN6908

So there was a, what was described there as a spontaneous experience, that's the kids have decided to do something themselves?---Well, that wasn't a spontaneous experience. She said that the child spontaneously came up in the group with the interest in dinosaurs and then from that she took that interest and then thought about how she could accommodate that interest in the classroom.

PN6909

That's right. And was taken through a number of different activities and steps?---Yes.

PN6910

The idea is to use the child's interest to get them to learn a range of different things?---Yes. Yes.

PN6911

And throughout that process the teacher and educators, they're assessing the children?---It - yes, it depends on - yes, I suppose you could say that they're - well, she was trying to determine what their prior knowledge was so that she wasn't giving them information that they already had, and it was also at the same time thinking about where she could branch off the experiences into other areas of learning.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN6912

So working out where the child is at that - to start?---Yes, and then scaffolding.

PN6913

When you say scaffolding, how would you explain that to a non-teacher?---So scaffolding is when you determine what a child's current knowledge is. So for example if they can count one to five in sequence and maybe do one-to-one correspondence, and if they can't do that independently you might set up experiences that allow them to practise that counting and that one-to-one correspondence, and you - if you're of a Montessori then you will sort of stand back and let the child do it themselves and only come in when they need assistance. If you're a Vygotsky person you might sit there with them and question them more to - and give them hints as to what to do, so - yes.

PN6914

This is skilled work, isn't it?---Definitely.

PN6915

You can't just walk off the street and know how to do all the things you've explained?---No.

PN6916

The work can, because it's so play based, it can look simple?---Yes.

PN6917

It can look to the inexperienced eye simpler than formal classroom teaching?---Yes, it can. Yes, I agree with that, and that was my comment about people thinking we just throw a box of Lego on the floor and walk away and let the kids have that at - yes.

PN6918

Of course it's different to teaching a high school student. We're talking about a very different developmental stage?---It is a different developmental stage, but many of the skills transfer across age groups.

PN6919

You of course use the skills you learnt in your teaching qualifications as an early childhood educator?---Yes.

PN6920

An example of something that can look simple, children drawing?---Yes.

PN6921

An outsider might look at that and say that's a child drawing a nice picture, and that's the end of it. A parent might say that?---Yes. And that's part of our job too is to educate the families about learning and development stages and - yes.

PN6922

Not just what the children are doing but why they're doing it each day?---Yes. Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN6923

That drawing example, there can be quite a lot going on and a lot that an educator can evaluate from that activity?---Yes.

PN6924

For example, how developed the child's pencil grip is?---Yes.

PN6925

That's a fundamental pre-writing skill?---Yes.

PN6926

Yes, similarly what they're drawing, how it links to the shapes they're trying to draw can give you clues about their development?---Yes, mathematical concepts.

PN6927

Can you explain how that would - - -?---Well, whether they can name - say they're drawing a dinosaur and they happen to draw the body in the shape of an oval, and you can ask them, "You've just made a shape. Do you know what that one is called?" and if they can name it, then you would store that information away and maybe do some experiences that led them to look at trapeziums and things like that.

PN6928

When you say store the information away, it would probably be recorded as an observation on the child?---Not a complete observation. It may go to a checklist.

PN6929

Sure. Are they those developmental checklists you were discussing?---Yes.

PN6930

Yes. But you'd keep a record for the child so they're then tracked?---Yes.

PN6931

Same with, for example, doing puzzles. I think there's a picture of a puzzle table attached to your statement?---Yes.

PN6932

That's not just a game for the children. It can be an important learning activity?---Yes.

PN6933

What could an educator or a teacher observe from a child doing a puzzle?---Whether they have a pincer grip. If it's a form puzzle and the puzzle pieces have peaks on it, their hand/eye coordination, whether they might have a vision problem, whether they're not able to accurately place a puzzle piece where it's supposed to go. They might have a problem with depth perception, recognising shapes, correspondence between for examples if it's a form puzzle and there's a picture of an apple tree in the shape, the outline in the puzzle and the actual piece itself is an apple, being able to correlate an apple would go where the apple tree is.

PN6934

Sure. And similarly playing with animals, I think your centre has some ducks. That's not just - - -?---They visited, yes.

PN6935

Sure?---Yes.

PN6936

What was the point of that visit?---To teach the children about the lifecycle.

PN6937

Can you elaborate a little bit more? How did that learning experience work?---So what we do is we have Hatch'n'Grow bring some - an incubator with some eggs and the children get to watch the eggs hatch out over a couple of days, and if we're really lucky and the ducklings aren't shy they'll hatch out in front of the children, and so then from that we can talk about lifecycles. We might be lucky enough to get a parent who can bring in some tadpoles for us, and we'll watch the lifecycle of tadpoles. I get butterfly chrysalis sent down from Queensland for me from a place up in Queensland, and they can watch butterflies hatch out. Yes.

PN6938

VICE PRESIDENT HATCHER: What you're describing is a whole class activity, not an individualised activity?---Yes. Yes.

PN6939

MS SAUNDERS: There's a mix of individual and group activities throughout the day; is that right?---Yes. Well, more group than individual, small group.

PN6940

Particularly in the kindergarten room?---In all rooms I would say.

PN6941

One of the National Quality Standards is - and quality standard 1 which relates to the educational program, is about maximising children's opportunities to learn; is that right? Sorry, I just need you to say yes or no?---Yes, sorry. Yes.

PN6942

Part of the way you do that is through how you set up the physical environment; is that right?---Yes.

PN6943

You mentioned setting up provocations I think you called them?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN6944

What does that involve?---So the Reggio approach is where you - because you don't know what you don't know, so in some instances people talking about having a purely play based program. I don't know how that can exist because you do need to actually introduce concepts to children because they don't - you know, if they've not been made aware of it. So what you might do is, for example, we had, you know, some rubbish turn up in our playground, someone had thrown

rubbish in our, you know, front playground over the weekend and the children were very offended by that, so the next morning we might set up an aquarium tank with bits of rubbish in the water and tongs, and the children - and shells and things like that, and the children might have to come in and determine which is rubbish and which belongs in the sea, and actually remove the rubbish from the sea and classify and sort that into recyclables and non-recyclables, so that might be a provocation for them to then think about sustainability in the environment.

PN6945

Sure. So when you describe it as a child led program, it's not that the children just do whatever they feel like. It's that it's about their interests as explored in a very deliberate and controlled environment?---Yes, it's collaboration.

PN6946

Sure, between the children, you and the families?---Yes.

PN6947

Mr Fagir asked you a couple of questions about the differences in the duties performed by educators and teachers. You remember that?---Yes.

PN6948

And you do mention in your statement that they're doing the same kind of work?---Mm.

PN6949

They work the same hours; that's right?---Yes.

PN6950

What you really mean there is that they have similar duties in that they're working with children for most of the day?---Yes.

PN6951

They're delivering or participating in the delivery of an educational program?---Yes.

PN6952

They're all obliged to work in accordance with the National Quality Standards?---Yes.

PN6953

But you would accept that there's different levels of skill in the way that work is performed?---Knowledge and skill.

PN6954

Yes?--- Yes.

PN6955

The higher a person's - and skill can come from a range of different things. It can come from, for example, experience?--- Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN6956

It can come from personal knowledge?---Yes.

PN6957

And part of how someone would get knowledge of an area is through their formal training?---Part of it, yes.

PN6958

The higher a person's skill level the higher the quality of their work. Would you agree with that?---Skill and knowledge. I would say that the two - you can't talk about them as being exclusive of each other.

PN6959

You do talk in your statement about it's not all about qualifications; that's fair?---Yes. No, it's - I value study. I study myself. I - yes.

PN6960

You've known some exceptionally personally talented and very experienced people with only a Diploma qualification?---Yes.

PN6961

And your view was they had a higher level of knowledge and perhaps skill than maybe a first year teacher with no work experience?---Yes. Yes.

PN6962

But it was about those individuals' personal characteristics; you'd agree with that?---Yes.

PN6963

You're not suggesting that formal training has no correlation to skill?---No, no, they're - yes, they're linked.

PN6964

We'll come back to qualifications in a moment, but part of the training is on the job in this kind of work?---If you do a traineeship. When you're doing your Cert III or your Diploma you can either do it at TAFE or, you know, full time and then do placements, like five week placements at a service. Or you can do it through a traineeship where you're working the equivalent of full-time hours or in some cases part-time hours and you get released from working directly with the children to do study at the service. Then when you do teacher training you also have to do practicum placements and Wollongong Uni now does a mentoring program where the students go out and spend a day a week actually in a service, shadowing the leadership. The directors the managers at the service.

PN6965

VICE PRESIDENT HATCHER: I need to ask this, Ms Toth, Sandon is in North Wollongong somewhere?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN6966

MS SAUNDERS: This is work that in part you have to learn by doing isn't it?---Yes, yes.

PN6967

So for a teacher, for example, someone who's been teaching for five years is going to have a higher level of skill than someone straight out of university?---Yes.

PN6968

As a general rule, leaving personal characteristics to one side?---Yes, yes.

PN6969

If I can just show the witness a document. Do you recognise this, Ms Toth?---Yes.

PN6970

Is that a page from your roster?---Yes.

PN6971

What it talks about is your centre's relationship with TAFE and universities?---Yes.

PN6972

You work with both, you're familiar with the TAFE program, Certificate IIIs and diploma workers?---Yes, and - - -

PN6973

You work with, is it the University of Wollongong?---Yes.

PN6974

Do you get many prac students at your service?---I have a million at Sandon at the moment. Yes, I do. Because we have a nursery and nursery - birth to 2 centre - room, and not a lot of services have the opportunity to host a student in that, you know, placement 0 to 2, so that's why we get inundated with requests.

PN6975

How many are you hosting at the moment?---I had two finish last week, they were two ECT placements. One was a second year and one was a fourth year, and I have two mentor students and I have another - I think it's a diploma student starting very soon.

PN6976

What's a mentor student?---So they have a mentorship program running at the University of Wollongong which is really good because the students come out to a service and build a relationship with the staff there. They're there to learn behind the scenes, how a service operates, how it meets its legal obligations, its obligations under the National Quality Framework, and it's an opportunity for them to be mentored by more experienced staff in the sector.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN6977

This is a formal part of the teaching degree?---Yes, at that uni. I don't know whether they do it at other unis or not but it's a good idea.

PN6978

Talking about formal training now. Starting with the Certificate III, that's the introductory qualification, is that fair?---Yes, yes.

PN6979

Someone can do it while working full-time?---Yes.

PN6980

It's done over a single TAFE term?---Not through a traineeship.

PN6981

It can be done through a single TAFE term?---I don't know. I couldn't tell you, sorry.

PN6982

That's all right. Can I show the witness a document?

PN6983

VICE PRESIDENT HATCHER: Did you want to tender this, Ms Saunders?

PN6984

MS SAUNDERS: Sorry, yes.

PN6985

VICE PRESIDENT HATCHER: The Balgownie Early Learning Centre website extract will be marked exhibit 100.

**EXHIBIT #100 BALGOWNIE EARLY LEARNING CENTRE
WEBSITE EXTRACT**

PN6986

MS SAUNDERS: You should hopefully have two documents there, Ms Toth. The first is Certificate III in Early Childhood Education and Care?---Yes.

PN6987

If you turn over the page do you see the grey table?---Yes.

PN6988

Twenty-five hours a week for 18 weeks?---Yes.

PN6989

There's work experience requirements as well. You'd agree with that?---Um - - -

PN6990

You can't see it there. If you just go over - - -?---Sorry.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN6991

No, that's all right?---I haven't got my glasses.

PN6992

The second last page?---Under the heading, "Information Sessions and More About the Course"?---Yes, 160 hours.

PN6993

Yes. A term at TAFE and 160 hours of work experience, that's right? That person would be able to start working as an educator?---Yes.

PN6994

Just go back a page, you'll see a table that goes over to the earlier page?---Yes.

PN6995

Those identify the units of study for a Certificate III. Just take a moment to read those?---Yes.

PN6996

You may not have seen this brochure before but does that look about right to you for the Certificate III course?---Yes, there's that many units, we call them.

PN6997

I tender the document.

PN6998

VICE PRESIDENT HATCHER: TAFE course guide Certificate III will be marked exhibit 101.

EXHIBIT #101 TAFE COURSE GUIDE CERTIFICATE III

PN6999

MS SAUNDERS: The second document, Ms Toth, looks identical except for the words "Diploma of Early Childhood Education and Care"?---Yes.

PN7000

You're also familiar with the diploma qualification?---Yes.

PN7001

In fact you support a lot of your staff upskilling from Certificate III to the diploma don't you?---Yes.

PN7002

Because it helps them improve their skills?---Yes.

PN7003

And in turn deliver a better quality of care?---Yes.

PN7004

Better educational outcome for the children?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7005

So if you look at the second page?---Yes.

PN7006

It's a longer course, 17 hours a week for 36 weeks?---Yes.

PN7007

Is it right to say it takes about a year to get a diploma?---What, this way or - - -

PN7008

In your experience?---Normally it really depends on the student themselves. So if I have a student doing a traineeship with me I won't sign them off on the practical component until I'm convinced that they're capable. So in some cases it might take them 18 months.

PN7009

This will vary person to person?---Yes.

PN7010

But for some people moving from a Certificate III to a diploma, the academic component can be challenging?---Yes, yes.

PN7011

Again, this requires 160 hours of work experience. Does that sound right to you?---Yes.

PN7012

VICE PRESIDENT HATCHER: Is that in the document, Ms Saunders?

PN7013

MS SAUNDERS: Yes, it is. It's under - - -?---Work placements is it?

PN7014

I apologise, I withdraw the question. It does have a work placement component?---It would, yes, definitely.

PN7015

When you've got workers in your service who are progressing to a diploma you have to sign them off as competent in some aspects?---Yes.

PN7016

And sign them off as having completed a certain number of hours?---Yes.

PN7017

If I could just get you to have a look at the rest of the units, which are on the third page, fourth page?---Yes.

PN7018

You'd agree some of these have a pedagogical focus?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7019

Some of them have a care focus?---Yes.

PN7020

A number of them have a business and work focus. So for example working legally and ethically?---Yes.

PN7021

Again, this based on your experience is a fairly accurate reflection of the diploma program?---Well, it is. It can't vary. It doesn't matter what institution you go to, they have to study these modules.

PN7022

I tender the document, your Honour.

PN7023

VICE PRESIDENT HATCHER: TAFE Course Guide, Diploma in Early Childhood Education and Care, exhibit 102.

EXHIBIT #102 TAFE COURSE GUIDE, DIPLOMA IN EARLY CHILDHOOD EDUCATION AND CARE

PN7024

MS SAUNDERS: Of course they don't have to do these - either the Cert III or the diploma through TAFE do they?---No.

PN7025

There are a range of vocational training providers?---Sadly, yes.

PN7026

Why do you say sadly?---Because they vary in quality.

PN7027

They're online providers of perhaps at the lower end of the quality spectrum?---Not necessarily just online but yes, there are.

PN7028

What else apart from the online services?---So there are for example there's a group called Brainwave Learning that I use who - because I do it differently. I have the traineeships, so I have them working full-time while they do their training. So they would have their trainer come to the service every five weeks to sit down with the student and go through the modules that they had to do, answer any questions that they might have and they were the ones responsible for marking their units of work for their assessment.

PN7029

So the quality of the education that someone with a Certificate III or a diploma can vary pretty sharply depending on where they've gotten the qualification?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7030

And how they've gotten the qualification, whether through a traineeship or otherwise?---I suppose that's my personal opinion.

PN7031

Based on your experience?---Yes.

PN7032

A bachelor's degree, let's talk about the University of Wollongong. It's obviously a fully accredited university?---Mm.

PN7033

Sorry, just yes or not?---Sorry, yes.

PN7034

It's four years or full-time study?---Yes.

PN7035

Involves a number of professional placements?---Yes.

PN7036

The focus is perhaps more on the pedagogical side of things?---I don't know the actual list of units that they study, so I can't - - -

PN7037

You're not sure?---I haven't - I haven't physically seen it, no, sorry.

PN7038

VICE PRESIDENT HATCHER: If you just go back a step. What does a placement involve for a university training person?---So they will come out usually in a five week block or a four week block and spend six hours a day working directly with the children and also accessing information from our service. So they might have a unit that requires them to look at our policies and procedures and evaluate them. There's a number of different tasks that they can be asked to do, depending on whether they're first year, second year, third year, fourth year.

PN7039

So across the four years, how many times might you do one of those blocks?---I think at least once but I don't know whether it's once or twice for the full-time.

PN7040

MS SAUNDERS: Have you ever had students coming back as mentor students?---Yes, yes.

PN7041

So perhaps twice?---Yes, but that's a different component of the course. The mentoring program is only for fourth years, is my understanding. The other pracs are requirements and they're not like you don't do it one day a week, you do a block. Well, they call it a block because it's a number of weeks in a row.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7042

There are entry requirements for the course, you're aware of that?---For Wollongong Uni yes, yes.

PN7043

There's a number of pathways in but the most common is finish Year 12, get a sufficiently UAI?---Yes, or you can get - what do they call it, prior - - -

PN7044

Recognition of prior learning?---No, it's called something else. It's called - if you have proven yourself to be a really diligent student - it'll come to me in a minute - really diligent student, your marks have been high throughout school, you've done things like the Duke of Edinburgh Award or extra civil type activities, community service, you can get - I can't think of it but - - -

PN7045

It'll - - -?--- - - - you'll get accepted into the course as long as your HSC mark meets a certain - - -

PN7046

Sure?---Yes.

PN7047

Look, it'll inevitably come to you in about 10 minutes so do feel free to - - - ?---Yes, or at 2 o'clock in the morning.

PN7048

Do feel free to jump in or write. They graduate with a university degree?---Yes.

PN7049

Would you agree that a university education has a more theoretical than vocational focus, or academic than vocational focus I should say?---I'm not sure what you mean by - - -

PN7050

You might expect a university qualified student to have maybe a greater understanding of child development after four years of study?---It depends on what subjects they choose because I know that they are elective subjects that they can choose within the course. Some students gravitate more towards the research side and others gravitate more towards the actual direct working with the children. So it really depends on what pattern of study they've undertaken but there's room for both.

PN7051

They might not be as good as say the practical work health and safety aspect as the diploma qualified person at the start?---This is where my belief that doing a course through a traineeship where you're actually working in a service gives you an advantage over purely just doing a however many week block it was at TAFE.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7052

That's why you said earlier that you think the professional placements and the mentorship program are important and a good idea in a university degree?---Yes, yes.

PN7053

You've supported a number of your diploma qualified staff to upskill to a university qualification?---Yes.

PN7054

It was an improvement on their teaching skills?---Well, sadly two of them left me before they actually graduated, so - - -

PN7055

They had a better offer?---One of them wanted to work in a preschool so that they would have school holidays to do their assignment work, and the other one got poached by a parent as a nanny, which I was not very happy about.

PN7056

Let's talk about the one who went to work in a preschool. Do you mean a preschool attached to a primary school?---No, no, I think she went to Bulli KU.

PN7057

Community owned preschool?---Yes.

PN7058

They pay more than you, don't they?---No, I'm not sure. I know there's two different wage rates for teachers but I think the - it's different for preschools as opposed to long daycare centres.

PN7059

You'd expect - leaving personal characteristics to one side. Pretend it's the same person with - across the example. You'd expect someone with a diploma to be a more skilled educator than someone with just a Cert III?---If they have the same amount of experience there's another factor that you need to take into account. Teachers are born, not made.

PN7060

So they have a personal gift for the job?---I think so. I think just like with doctors and nurses you just have that disposition. You have a talent.

PN7061

Imagine it's one person, they have an average - - -?---Sorry, I'm not trying to make this difficult but - yes.

PN7062

That's all right. They have an average level of inherent talent as an educator?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7063

You would expect that person if they went through a diploma course to have a higher level of skill than if they just did a Cert III course?---A higher level of knowledge maybe, depending on if they both had the same amount of time in a service, depending on which skill you're talking about again, yes.

PN7064

They'd have a higher level of knowledge for one thing?---They would have more in-depth knowledge, probably a bit broader as well because they study different units in the diploma than in the Cert III and they go into some of them in more depth.

PN7065

That's where skill is really about applying knowledge isn't it?---Yes.

PN7066

So the same person but they've been trained up to a diploma level, you'd expect them - you might be disappointed but you'd expect them to have - be able to exercise a higher level of skill as an educator than if they've just done a Cert III?---Yes, I would hope, yes.

PN7067

It's the same again with the bachelor's degree, you would expect that same person, same inherent attributes, otherwise identical, who's done a four year university degree, you'd expect them to, again you might be disappointed but you'd expect them to be able to exercise a higher level of skill than if they'd just done the diploma course?---I would expect that, yes.

PN7068

You do in fact expect that of your teachers?---I expect that of all of my staff regardless of their qualification.

PN7069

To work to their highest level of skill?---Yes.

PN7070

I'm going to come back to the kind of work they do and particularly observations which we've touched on but I do want to speak to you briefly about ratios that you touched on with Mr Fagir. When we're talking about ratios it's a requirement of the national regulations. Is that right?---Yes, staff to child ratios, yes.

PN7071

Staff to child. There are actually two kinds. There's staff to child, that's the first one. Would you agree?---Yes.

PN7072

The second one is how many teachers need to be engaged or employed by a service?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7073

I'm just going to get the Associate to hand you this iPad. If you could just open document 81. If you get stuck the Associate can help you. You got it; 81?---Yes.

PN7074

So these are the national regulations, yes?---Yes.

PN7075

You're obviously very familiar with these?---Yes. Yes.

PN7076

We'll come back to when they were introduced but can I just get you to go to regulation 123 at the beginning?---Do I have to actually go to the page on this, it won't flick to it straight away.

PN7077

If you can go to page 77?---Sorry.

PN7078

It's all right, take your time?---Nearly there. Yes.

PN7079

You did mention earlier not having your glasses. Do you happen to have them here in the court?---No, I don't. That's okay, I'm good. I'll just pull faces.

PN7080

If you need me to read anything aloud to you let me know?---Yes, no worries.

PN7081

First division 3 deals with that first set of ratios, the staff to child. That's right?---Yes.

PN7082

122, it talks about educators working directly with children?---Yes.

PN7083

You're aware that the term "working directly" is defined?---Yes.

PN7084

That they have to be obviously physically present at the centre?---Yes.

PN7085

They also have to be directly engaged in providing educational care to the children?---Yes.

PN7086

So they can't be in another room. Is that right?---Yes, well - yes.

PN7087

With some minor exceptions for breaks but generally they have to be on - - - ?---Yes, toilet breaks, yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7088

- - - on the floor working with the kids?---Yes.

PN7089

Regulation 123 sets out the ratios. These are a little different in New South Wales, is that right?---Yes, they are.

PN7090

In particular regulation 123.1(c) which says, 36 months to plus, so 3 to 5, where that says one educator to 11 children, in New South Wales it's one to 10. Is that right?---Yes.

PN7091

That's been the case since 2004?---Yes. Yes.

PN7092

So there's been no increase in the 3 to 5 room at least in New South Wales in the number of people required to be present, since the National Quality Standards came in?---In - do you mean there's been no change to that ratio for that age group?---Yes, there's been no change to that ratio.

PN7093

These ratios, these staffing ratios, these are partially about safety?---Yes.

PN7094

About making sure there's enough adults there to supervise the children?---Yes.

PN7095

The younger the child is, the more individual attention it needs?---Yes.

PN7096

To be safe?---Yes.

PN7097

But it's also about educational quality isn't it?---Yes.

PN7098

The children have enough access to people who are teaching them?---Yes.

PN7099

That's why there are also qualification requirements?---Yes.

PN7100

If we can just go to that, it's at 126, three pages over?---Yes, with you.

PN7101

So as well as having enough people, it's not enough that there's - sorry, let me start again. It's not enough that there's simply enough people in the room. They have to be at a certain level of qualification. Do you agree with that?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7102

At least 50 per cent of the educators have to be - have at least a diploma or be working towards one?---Yes.

PN7103

The rest have to be holding or working towards a Certificate III?---Yes.

PN7104

A teacher can count towards that diploma requirement, you'd agree with that?---Yes.

PN7105

Only when they're working directly with the children?---Yes.

PN7106

This section is predominantly talking about what we're referring to in these proceedings as educators, Certificate III and diploma qualified workers. Would you agree?---Sorry, say again?

PN7107

This section is predominantly concerned with Certificate III and diploma qualified workers. Do you agree?---No, well it applies to ECTs as well.

PN7108

Ideally though and in fact you don't staff to minimum ratios do you?---No.

PN7109

You don't have the minimum number of people there?---No.

PN7110

Partially because it means you can allow people to take breaks or get sick?---Yes.

PN7111

Partially because it leads to a better educational outcome for the child?---Continuity of care, yes.

PN7112

Similarly you don't staff to minimum qualification requirements?---No.

PN7113

You think it's better to have more qualified people there?---Yes, I think it's important to have people who continuously want to learn and grow in their practice and knowledge.

PN7114

Ideally you'd upskill if you could all your workers to have a degree qualification?---If I won lotto, yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7115

In a perfect world?---In a perfect world I would be - well, it depends. Some people are, I don't know, lacking the confidence and the literacy skills to engage in university work. They struggle through their diploma but that goes back again to that in a previous position towards having a talent for teaching and its - I don't think those people should be looked upon as any less capable, yes, because of that.

PN7116

Yes, so there's two parts to it isn't there. There's education which the teachers are particularly trained in. You'd agree with that?---Well, we're all trained in education.

PN7117

Teachers have spent four years learning about that?---Well, it depends on whether they - when you say teachers, so teachers might have spent much longer learning about it. They might have started with a Cert III, moved to a diploma and then done their degree, and so if they do it within 10 years I think it is their diploma counts for half of their degree. So you can't - - -

PN7118

And there's the care aspect of the work?---Yes.

PN7119

You talk in your evidence about the particular diploma worker you have who does have those literacy difficulties?---Yes.

PN7120

Do you recall that?---Yes.

PN7121

She's someone who's unlikely to be able to upskill to a bachelor degree?---I think it was my Cert III. I think it was my older worker Dee.

PN7122

You're quite right, it was a Certificate III worker who was - did she ultimately get a diploma qualification?---No, no, she - there's - I couldn't convince her to take that on.

PN7123

But where she excels is connecting with children?---Relationships with children, families and also very much on working with children with additional needs.

PN7124

That's an important part of the work you do?---Yes, yes.

PN7125

That's the part that's most likely to be driven by inherent characteristics?---I believe so.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7126

Moving to programming and planning which you talked about. You have ultimate oversight of the educational program in both centres?---Yes.

PN7127

It goes down the chain, you're director at Balgownie and you're assistant director at Sandon. Do they also play a role in that?---Yes, they to a degree oversee it. We have - there is a role, an educational leader that all services needs to have and it's a very - there's no prescriptive way of how the educational leader role is in any particular service. It's up to the service itself to decide that, that they should be also overseeing the programming and planning and observations and in my case the professional development of staff.

PN7128

It's going to be different in every centre isn't it?---Yes. Yes.

PN7129

But in your centre you're not suggesting that teachers don't have a role in programming?---No, every one has a role, yes.

PN7130

To spend time each week setting out a program?---In - - -

PN7131

For their room?---Yes.

PN7132

That's usually the kindergarten room?---No. What, the teachers - - -

PN7133

Yes, sorry I've got that the wrong way round. Your kindergarten room, the program is delivered by - - -?---The preschool room, yes.

PN7134

The preschool room, the program is delivered by a teacher?---Is delivered by the room leader is a diploma who's currently studying her degree, and then there is my diploma full-time who's in there and then they are relieved by Cert III when they have their planning time.

PN7135

VICE PRESIDENT HATCHER: So the room leader counts as the teacher for regulatory purposes because he or she is studying for a degree, or not?---They can.

PN7136

But in the case you just described is that the case?---Well, there's no requirement for me to have an ECT in that particular room. I just need to have - because I'm a 38 place centre, I need to have an ECT on the premises - - -

PN7137

So it's not one of the persons you count for the purposes of the requirement?---Not at the moment, no, no.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7138

MS SAUNDERS: You do receive Start Strong funding?---Yes, yes, I do.

PN7139

That funding is allowing children access to 15 hours a week of a preschool program?---Yes.

PN7140

One of the requirements is the program must be delivered by a qualified teacher?---Yes.

PN7141

So in both your centres the preschool program is in fact delivered by either a teacher or in Balgownie Centre the person who is taken to be a teacher for the purposes of the national law?---No, there is a teacher in the Balgownie Centre. Since the statement I made in 2013 I've managed to get three of my staff members pregnant, so it's - don't drink the water or sit on the toilet seat down at my place. There's had to be like a - - -

PN7142

You're in a period of change?---Yes. Yes, flux, yes.

PN7143

But you do understand that Start Strong funding requires the preschool program to be delivered by a qualified teacher?---Yes.

PN7144

That is the case in both of your centres?---Yes.

PN7145

We should talk about some - and they lead in those rooms don't they when they're delivering the program?---Well, yes. Well, yes and no. It depends. Sometimes - I don't know what you're meaning by leading. Do you mean like if we've got group time, for instance. If we're doing a yarning circle, do you mean it's only the ECT that manages the group time or what do you mean?

PN7146

No, it's a more high level thing. I mean you're not suggesting that the requirement for Start Strong funding to have a teacher delivering the program is a tick a box requirement are you?---(No audible reply)

PN7147

The teacher has to be actively engaged in all aspects of the delivery. Would you agree with that?---I think we're not - I'm not understanding exactly what you mean by leading. Do you mean the whole planning or are you talking about just physically delivering, physically working with the children I suppose.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7148

Yes, they have a leading role in the planning and delivery, the hands on and working with other staff in their work of the preschool program?---They - no, it's a collaboration, yes.

PN7149

I'm not saying it's a hierarchy that they're telling everyone what to do every second of the day?---Yes, yes.

PN7150

But they're a senior member of your staff?---Not always, no. If I have a first year out, four year trained ECT they're not considered a senior member of staff just by the fact that they've got a degree.

PN7151

Your particular ECTs at the moment?---My particular ECTs, yes, because one of them is my assistant director.

PN7152

Leaving aside the theoretical first year, as a matter of fact your ECTs do play a leadership role in the service?---Yes, because they have a nine years experience, yes.

PN7153

Including in the preschool room when they're delivering the program?---Yes.

PN7154

Do they mentor other staff, less qualified staff?---Yes, yes.

PN7155

They'd assist them in delivering the educational program?---Yes, give them guidance.

PN7156

Yes, exactly?---Yes. Sorry.

PN7157

No, that's all right. We should talk about the teacher requirement. It's different to the minimum staffing ratio isn't it? The requirement to have a teacher based on the number of children?---Yes, yes, it depends on your licensed number of places it that's what you're getting at.

PN7158

Again, it's different in New South Wales than in other states. Is that right?---Yes.

PN7159

It's being phased in in other states but the New South Wales requirement wasn't changed by the National Quality Standards?---No, we had transitional savings I think for different states.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7160

Do you still have document 81, the national regulations on that iPad?---Yes.

PN7161

Can you just have a look at regulation 272 which is on page 150. Let me know when you get there?---Sorry, I've gone too far.

PN7162

That's all right?---272?

PN7163

Yes?---Yes.

PN7164

I think there might be a typographical error in your statement but you're familiar with this regulation?---Yes.

PN7165

So your centres Sandon is 38 children?---Yes.

PN7166

So 272.2, you have to have one early childhood teacher in attendance at all times?---That the service is caring for 30 or more children.

PN7167

Yes?---So that doesn't mean you need an ECT on the premises if there's only 29 children there.

PN7168

So you don't always have 38 children?---No.

PN7169

Throughout your operating hours?---No.

PN7170

You have core hours when the children are most likely to be there?---Yes.

PN7171

It's the middle of the day?---Yes.

PN7172

That's when your ECTs are normally rostered?---Yes, it depends, yes.

PN7173

You did mention in your evidence-in-chief and you paused to think about you had one ECT starting at 7.30 and one starting at 9.30. Do they work rotating rosters?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7174

How much notice do you give them?---Well, we usually do the rosters a month in advance, one of my diploma educators does the rosters because it does my head in.

PN7175

Fair enough. It's difficult because of the ratio requirements. Is that a fair thing to say?---And staff wanting leave and needing to have, yes, the 50 per cent diploma or above rostered on at any one time, they have to have current first aid and it goes on and on.

PN7176

That's different to - so their hours can change month to month?---Yes, so can the ECTs, depending on whether they go on holidays and things like that, have RDOs.

PN7177

Sorry, I may have asked the question wrong. That your teachers don't work - don't have the same start and finish times throughout the year do they?---No.

PN7178

They might actually change week to week?---Yes.

PN7179

That's different to the working patterns in primary school isn't it?---Yes.

PN7180

Indeed, the other point of difference is the access to holidays that you mentioned earlier?---Yes. In long daycare centres, yes.

PN7181

Just returning to regulation 272, Balgownie's licensed for 49. Is that right?---Yes.

PN7182

So it requires - when you're at maximum it requires up to two early childhood teaches?---Yes.

PN7183

Then again you're aware that the term in attendance is defined?---Yes.

PN7184

We might just go to that definition, it's - I'm sorry to drag you back and forth through the document. It's just at page 27, regulation - sorry, 26, regulation 11?---Sorry.

PN7185

That's all right?---Yes.

PN7186

Great. Okay. So in attendance is different to working directly with children, isn't it?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7187

They still have to be physically there?---Yes

PN7188

You agree with that?---Yes

PN7189

But it can be when they're working directly with children. That's one option?---Yes.

PN7190

And then there's a range of other things: planning programs, mentoring, coaching or supporting educators, facilitating research, performing the role of education leader, those are all activities that could be conducted off the floor?---Yes.

PN7191

Yes. Those are all activities that are within the scope of the work teachers can do? Teachers do do, I'm sorry?---Yes.

PN7192

Yes. When it says educators there you understand that it's referring to Certificate III and Diploma workers?---Sorry, where it's saying educators where?

PN7193

At (b)(iii), mentoring, coaching or supporting educators?---Are you asking if my Diploma educators do that?

PN7194

No, no, I'm just asking you understand that what that is referring to is Diploma and Certificate III educators?---Yes, or other ECTs with less experience.

PN7195

Yes. So this is a specific set of activities that the regulations contemplate teachers carrying out, isn't it?---Yes.

PN7196

Just in their role as a teacher without any additional title?---I'm not sure what you mean.

PN7197

This is they just have to be teacher. They don't have to be a room leader or the educational leader; you agree with that?---Yes.

PN7198

You don't find anywhere in the regulations which you're obviously very familiar with, you don't find anywhere a reference to a Certificate III or a Diploma educator having those roles?---No. No, I don't.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7199

To some extent the standards treat teachers - no, I withdraw the question. Could we talk now about observations which you were discussing earlier?---Sure.

PN7200

So what this involves, as I understand it - - -

PN7201

VICE PRESIDENT HATCHER: Sorry, Ms Saunders, before you move on, is there a definition of "educator" in the regulation?

PN7202

MS SAUNDERS: No, there is a definition of early childhood teacher.

PN7203

VICE PRESIDENT HATCHER: Thank you.

PN7204

MS SAUNDERS: Which is what you would expect it to be. So observations, so most fundamentally actually observing what the child is doing, is that the starting point?---Yes.

PN7205

In a child led program you have to be paying quite a lot of attention watching what they're doing as the day goes on?---Yes.

PN7206

Looking for anything that could be turned into a learning opportunity?---Yes, or just directly supervising them to ensure they're safe.

PN7207

As well?---Yes. Yes.

PN7208

As you observe the educator or teacher might assess the child's development against one of those checklists?---Yes.

PN7209

And might determine what they're doing and what they could be learning through it?---Yes.

PN7210

Yes. And they would - and the document called an observation is a record of all of this?---Yes.

PN7211

Sometimes it's spontaneous. You might make a note of what the child decided to do one day?---Yes.

PN7212

Sometimes it's a record of a planned experience?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7213

Partly this is about delivering the educational program and monitoring it?---To making observations?

PN7214

Yes?---It's more a part of the planning cycle - - -

PN7215

Sure?--- - - -that we're required to have operating at the service, yes.

PN7216

It's collecting data that you then use for programing?---Yes.

PN7217

For either an individual child or a group?---Yes.

PN7218

But it's also about communicating with parents, isn't it?---Yes.

PN7219

We talked earlier about part of the quality framework, quality area. I think it's 1.3.3 being about essentially bringing families along in the learning journey?---Yes.

PN7220

And the document that's produced has to also do that, doesn't it?---Yes, it's the whole quality area, quality area 6, partnerships with families.

PN7221

You've got a range of different parents at the service?---Range, ages, ethnicities.

PN7222

Education?---Levels of education.

PN7223

Language?---Socio-economic - yes, I've got a range.

PN7224

Yes. You've got to be at - your educators and teachers have to communicate with that whole range of people?---Yes. Our service is mainly middle class in the area that we are in, but other services might have a totally different demographic.

PN7225

Of course. Your parents have a range of different understandings perhaps of the importance of early childhood education?---Initially. By the time they leave they have a whole new appreciation.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7226

They get that appreciation through these observations, don't they?---Through newsletters, through education nights, parent committee meetings, us constantly banging the drum, yes.

PN7227

The observations are one of those steps in explaining - - -?---Yes.

PN7228

- - -that you're not just dropping a box of Lego in front of the kids?---That's right.

PN7229

Yes?---Yes.

PN7230

Yes. So the documents, while they look simple, they're doing a complicated job?---They're doing a - yes, they're doing a couple of things I would say.

PN7231

You've attached helpfully a number of observations to your statement. Do you have the hard copy with you? If I can just get you to look at page 687? I'm not sure which of the two folders that's in, I'm sorry. Perhaps my friend can assist?---Is it MT something?

PN7232

Theoretically, but my version - MT10. My version isn't marked?---Yes.

PN7233

This is an example of an observation completed by an educator?---Yes.

PN7234

By which I mean not an early childhood teacher?---You've blanked out the face. I've got a feeling - no, you haven't.

PN7235

Yes?---Yes, this is a Diploma.

PN7236

Sure?---Yes.

PN7237

So it's a group observation?---Yes.

PN7238

Yes. Maybe just take a brief moment to read through it and re-familiarise yourself with it. The front is a little small?---Yes, that's - I was here for this, yes.

PN7239

Yes, great?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7240

So it's a description of what happened on a group of children's trip to the park?---Yes.

PN7241

The observation itself is very descriptive; you'd agree with that?---Yes.

PN7242

It talks about what everyone as a group did. They all loved the swings?---Yes.

PN7243

Then we get to there's some pictures which I see the parents particularly like?---Yes.

PN7244

Then there's the learning outcomes in the purple box?---Yes.

PN7245

And that's linking it to an Early Years Learning Framework - - -?---Learning Framework, yes.

PN7246

- - -outcome?---Yes.

PN7247

That was introduced in 2012; is that right?---Yes.

PN7248

Over time, through repetition, your educators and teachers have gotten better and quicker at identifying which outcome?---Yes, become more familiar with it.

PN7249

Yes. When it started it might've been more difficult but that skill has increased?---Yes.

PN7250

We then have the box, Analysis and Reflection?---Yes.

PN7251

There it continues over the page, Ms Morgan has described what the children said they like about the park?---Yes, because this is a group observation, not an individual. Yes.

PN7252

Then it's got some links to various developmental areas?---Yes.

PN7253

It doesn't have any future plans?---No.

PN7254

Can we just go over the page?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7255

So this is another observation of the game of Mega Gengar; that's right?---Yes.

PN7256

This is one you completed yourself?---Yes.

PN7257

It's another group observation?---Yes.

PN7258

Smaller group though?---Yes.

PN7259

So you describe - again, it's a description of the activity?---Yes.

PN7260

But you also talk about the children hypothesising about things?---Yes.

PN7261

The techniques they're learning and using?---Yes.

PN7262

Their growth in confidence throughout the game?---Yes.

PN7263

What particular individual children did?---Yes.

PN7264

It's more detailed, you'd agree, than the previous group observation?---Yes.

PN7265

And when you prepare these observations you do draw on your skills as a teacher, don't you?---Yes.

PN7266

We then have again the pictures, the Early Years Learning outcomes?---Yes.

PN7267

There's a few. There's two identified there. So they're problem solving and they're learning to work as a team?---Yes.

PN7268

Then go over the page?---Mm-hm.

PN7269

Your analysis and reflection is a little different than this observation, isn't it?---Yes, it is.

PN7270

You're talking again about the skills being practised?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7271

This is about helping parents understand it. This isn't just a game on a rainy day. This is an important learning experience for these children?---Yes.

PN7272

And it connects - that analysis is they're testing - they're learning about physics which is a physical skill sort of?---No, it's part of STEM. Yes, we have science, technology, engineering and maths in - yes, so its' part of a STEM activity.

PN7273

That's a big focus of your learning program?---It's part of, yes.

PN7274

You're encouraged to incorporate those elements into it, aren't you?---Yes.

PN7275

I did want to ask you, you spoke about the gender bias course you did to avoid gender language for girls?---Mm-hm.

PN7276

Was there any discussion of also encouraging girls to engage in activities that might be seen as things boys like?---Yes. Yes.

PN7277

That's linked to those STEMS outcomes, isn't it?---No.

PN7278

You want them doing - - -?---Yes. Yes, I see what you're getting at. Yes, there's not boys' toys or girls' toys or boys' activities or girls' activities that everyone is - yes, because - - -

PN7279

Yes. You want to them engaged in those foundational activities - - -?---Yes.

PN7280

- - -that might later lead to an interest in science?---That's right. Yes.

PN7281

Can you just have a look at page 679. MT6, thank you. It's another group observation, you'd agree with that?---Yes.

PN7282

Again, it's really just a record of what everyone said?---Yes.

PN7283

And the analysis and reflection over the page?---Yes, got it.

PN7284

Can you tell who prepared this? My copy is blacked out?---Yes, I think this was Austin.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7285

Who is Diploma qualified?---At the time he was studying his Diploma.

PN7286

So the first in the analysis it looks like it's an individual reflection but it's pretty obviously generic. It's saying - - -?---No, it - - -

PN7287

- - -"expresses his/her feelings"?---Yes. Yes, so there's a difference between these groups observations and - - -

PN7288

An individual one?--- - - -the one with the - yes.

PN7289

Yes?---Yes.

PN7290

We'll come to the individual one. We're just on this for the moment?---Mm-hm.

PN7291

And then at the end it's, "all the children are interested". So it's more of a report for the parents on what happened that day?---Yes.

PN7292

Let's look at some of the individual observations now. page 691, MT12. Have you got that?---Yes.

PN7293

Great. So this is an individual observation?---Yes.

PN7294

And you see the first thing we see there is that it has been identified that this has been completed by an early childhood teacher?---Yes, they have to put their level of training in the - yes.

PN7295

But it didn't show up in any of the other ones, did it?---No, it didn't show up in mine either.

PN7296

But it's important information for the parents to know, isn't it, that level of qualification?---Well, they do. They're hit with it in their face as soon as they walk into the service. We've got - - -

PN7297

Same reason?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7298

So they know who's teaching their child?---Yes, and what qualifications they have.

PN7299

The higher the qualification the better the parent might view it?---Initially, yes, I would say that. Yes.

PN7300

So returning to this observation - - -?---Yes.

PN7301

- - -the early childhood teacher describing a child's spontaneous activity?---Mm-hm.

PN7302

So this child is engaged with one of the provocations you put out. The box of kinetic sand?---Yes.

PN7303

Again, this is an activity that's very easy to dismiss. It's just a child playing with sand; you'd agree with that? If people didn't know what they're talking about?---That's right. Yes.

PN7304

VICE PRESIDENT HATCHER: What's kinetic sand?---Kinetic sand is great. It's like it's got a life of its own. It's got a memory. So you can mould it into a shape and it will stay in that shape until you give it a tiny tap and then it will disintegrate away, so it's a really good sensory experience for the children.

PN7305

Thank you?---Yes.

PN7306

MS SAUNDERS: And that's what this child enjoyed, a particular sensory experience?---Yes.

PN7307

So the teacher watches what the child is doing. In the final sentence, "works out why he is enjoying it particularly"?---Yes. This was put out deliberately for this child. This child was on the spectra, has had a diagnosis of autism spectrum disorder and one of the things that his therapist was asking us to work on was his tactile defensiveness whereas he would not like to touch or interact with particular textures or materials.

PN7308

Sure. So it would've been - the early childhood teacher, it would have been notable for her to see him engaging with the kinetic sand?---Yes. Yes.

PN7309

She would've thought about his individual education plan?---His goals.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7310

Yes?---Yes.

PN7311

And thought how can she - and worked out a way to encourage that behaviour?---Yes.

PN7312

Because it's important for his development on a number of different levels?---Yes.

PN7313

So that's the description. Now, if we go over the page we see what's next. That wasn't in any of the other ones?---Yes.

PN7314

So that's the teacher reflecting on the observation and determining what activity she'll lead the child into to extend the particular learning; that's right?---Yes

PN7315

Again, that's an application of skill?---Yes.

PN7316

Then underneath there's a further reflection on what's next, which is perhaps explaining to the parents why the next activity is what it is?---Yes.

PN7317

Yes. I do want to show you one more.

PN7318

VICE PRESIDENT HATCHER: So before we move on, how old would that child have been at the time it was done?---Ollie would've been five. Yes, he would've been five because he went off to big school.

PN7319

Thank you?---Yes.

PN7320

MS SAUNDERS: So in the kindergarten. In the preschool room?---In the preschool room, yes.

PN7321

Sorry, we've been talking to people from different states - - -?---Yes.

PN7322

- - -so if I do accidentally say kindergarten please correct me?---Yes. Yes, no worries.

PN7323

Could you just go to - this is the last observation that I want to talk to you about, 685, MT9?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7324

Again, this is an observation by - sorry, again, it's an individual observation?---Yes.

PN7325

It's by an early childhood teacher as identified?---Yes.

PN7326

And there's the observation itself which explains a number of skills in some detail?---Yes.

PN7327

It discusses what in general happens in the burumin which is the preschool room?---Yes.

PN7328

And then it - - -

PN7329

VICE PRESIDENT HATCHER: Sorry, is that the same boy?---No. That's Ming Wi.

PN7330

It's just got a name towards the bottom?---No, actually it is, sorry.

PN7331

MS SAUNDERS: It's on the - - -?---Sorry, it is, it's Ollie.

PN7332

VICE PRESIDENT HATCHER: Right.

PN7333

MS SAUNDERS: Yes, so it explains in general what's happening when a child is doing prewriting activities?---Yes.

PN7334

And then discusses the skills that this particular child is showing?---Yes.

PN7335

That he is starting to show confidence in this?---Yes.

PN7336

And that he's right hand dominant or showing it. And these are crucial prewriting skills for the transition to school, aren't they?---Yes.

PN7337

There's sort of a "good job" sign. That might be both for the parents and the child to see?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7338

Again, it's about engaging people in this conversation?---Yes.

PN7339

It wouldn't be much good if it was written as a purely academic document or a university essay?---No, the parents would be bored and not interested, and we also read these with the children, so - - -

PN7340

Sure. And they're not ready for something in the style of a year 6 report, are they?---No.

PN7341

No. So the reason the documents look like this and could, if someone didn't know what they were talking about, be described as simplistic is because of the audience?---Yes.

PN7342

So we have analysis and reflection?---Yes.

PN7343

Reflects on Oliver's level of skill?---Yes.

PN7344

And sets a new goal for him?---Yes.

PN7345

So it's about continually moving him along as far as he can get in this particular learning journey?---Yes.

PN7346

Underneath there is a comment "very proud". Is that from a parent?---Yes.

PN7347

Over the page, another comment from a parent?---Yes, this is why we like these - - -

PN7348

Yes, this is the gold you were talking about earlier?---Yes, this is gold, yes.

PN7349

This is a new level of parent contact that you didn't previously enjoy?---No.

PN7350

The teacher can see those?---Yes.

PN7351

If there was a question could respond?---Yes, they're not usually questions there. They're usually just comments and feedback on like what they're doing with them at home to meet that goal as well.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7352

That last part, that in particular the teacher can't ignore can they?---No, you wouldn't. No, you wouldn't.

PN7353

They have to read and that incorporate that into their own practice and plan for the child?---Yes.

PN7354

Then we go to "What's next?"?---Yes.

PN7355

And it's the next step along in the process?---Yes.

PN7356

What's New South Wales Foundation style writing?---There's a particular font that we teach the children. It's the actual shape of the letters so it's different for every state, I don't know why but we just - - -

PN7357

Yes, sure?---So we teach them to form the letters correctly according to that font.

PN7358

It's getting them ready for kindergarten?---Yes.

PN7359

They will learn fully the foundation style of writing in kindergarten?---Yes, that's not our job.

PN7360

No, but you get them - you provide the necessary building blocks?---Yes.

PN7361

You see that parent comment that he loves writing?---Yes.

PN7362

Always looking to add new words and gets great pleasure out of writing sentences.

PN7363

Is there some conflict between that and the teacher's observation that he can write his name well?---Yes, she's a teacher.

PN7364

So she's probably a little bit more accurate?---Well, no, I think she was a bit ambitious - - -

PN7365

The parent's a teacher, I see?---Yes, the parent's a teacher. So the parent was a little bit ambitious for him.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7366

So the early childhood teacher is subject to real-time scrutiny on her work by one of her professional peers?---Well, yes. Yes.

PN7367

I see that it says, "implementation status; planned". So this is something that the teacher's set up for the child?---Yes, because it would have been a goal I would say judging from Janelle's - the mother's comment.

PN7368

You'd agree that this particular observation, it's level of detail, what it identifies displays a higher lever of skill than, for example, the group observation, "going to the park"?---Well, they describe - no, because they're describing different things and you're doing a different thing in the group observation. You're trying to record the children's voices on the spot and what interested them, so you might develop that into an individual observation later or you might not, depending on what you observed the children doing, yes.

PN7369

You've included a number of these observations in your statement?---Yes, but I've not looked for anything in particular when I've provided them. I've just - - -

PN7370

Sure?---Yes.

PN7371

Can we go now to - so the observations, as we've said earlier, they feed into the programming?---Yes, yes.

PN7372

Essentially it's a weekly routine?---Fortnightly.

PN7373

Fortnightly. Can we look at page 695. MT13?---Yes.

PN7374

So this is an example of a weekly plan?---Yes.

PN7375

This is the plan for the whole group?---Yes.

PN7376

This isn't the only bit of planning that goes on, there's programming for individual children as well?---Yes. Well, what normally happens with the program is the photo of the children will come up, so - - -

PN7377

Maybe have a look at 684?---Yes. So that you can see the link.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7378

That's all right, they're a bit all over the place?---The program automatically does it for us.

PN7379

Have a look at 684?---Yes. Yes, so that's how we prove the planning cycle with regards to planning for children's individual goals.

PN7380

Sorry, was that prove the planning cycle?---To some extent because it lacks a valuation - - -

PN7381

You mean for assessment purposes for ACECQA?---Yes.

PN7382

I see, so you document everything so it can be externally reviewed to see if you're meeting the National Quality Standards?---Yes, well you have to then evaluate it and reflect on it and then start the whole cycle again. It's a living thing. It never ends. It's just a continual circle.

PN7383

I want to ask you some very quick questions noting the time about the Day in the Life explanation you gave earlier but I did want to ask you, you've been working now in early childhood education for about 20 years?---Since 2005.

PN7384

Fifteen, closer to?---Yes.

PN7385

You're not suggesting that your work and the work of your educators and teachers is identical today as what it was 15 years ago?---This is what we used to do in the same - in a different format.

PN7386

The duties are the same?---Yes, yes.

PN7387

That it's always about - it's been a steady process of quality improvement?---Yes.

PN7388

Including through upskilling your staff?---Yes.

PN7389

I think you describe in your statement a massive period of change in 2010?---Yes, well between 2010 and 2012 when not only did they change the national law, then they changed the national regulations, then they changed the Work Health Safety Act, then they changed the whole assessment and rating process on it, so in those two years everyone basically lost their mind trying to get their heads around all these changes, re-writing policies, training staff. It was hectic.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7390

It wasn't the same thing with a different hat on, it's what you describe a huge degree of change in the space of approximately 12 months?---It is the same thing with a different hat on, although now you're playing guess what's in the teacher's head instead of having a list of what you need to do to meet these criteria. They've just done it again last year, they've changed the goal posts, so now we've got three exceeding themes that we've got to do on top of what we've just learnt to do now. It's incredibly frustrating. Whereas before when we had the NCAC and we had what they called accreditation, you had 808, I think, different elements that you had to meet and you could have access to a list of those and you could literally go through and tick off the list and make sure that you were meeting all those requirements. Now it's like if you want to be rated exceeding in - sorry, I know I'm getting a bit uptight here but this really gets up my nose. I see people on the Facebook pages going we were rated exceeding and now we've been rated down as working towards. We - for sustainability we installed a water tank, solar panels, we have chooks, we have a veggie garden, we have a recycling program yet we were not rated as meeting that standard. They would say to the field officers what more can we possibly do to meet this standard? Like it's - - -

PN7391

Things that were previously assessed as meeting the standard just aren't anymore?---Well, you don't know. It depends on who walks in your door. It's subjective. I had assessment rating in 2013 and the first thing the field officer said, sorry I'm getting off track. The first thing the field officer said when she walked into my centre was:

PN7392

Don't for a minute think that you're going to receive high quality again. You have a different standard now, it's all changed, it's all different, so lower your expectations.

PN7393

This was the transition to the NQS, you were told you couldn't just expect your old ratings to continue. You would be assessed afresh?---She told me what - - -

PN7394

MR FAGIR: Can you just let her finish what she was saying.

PN7395

MS SAUNDERS: I thought she had finished?---She told me what rating I was going to get before she even signed in, is what I'm saying. It's not that what we were doing was different. It's how the attitude of the field officers that came in, there was an agenda, I believe.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7396

VICE PRESIDENT HATCHER: What's the background of the field officers they use to do these assessments?---Well, they don't even need to work in early childhood to work as a field officer. So Joe Blow from off the street who's worked for the ANZ for the last 20 years can go and do a training course and walk

into my centre and rate me. That rating I get stuck with for up to like five, six years because they're so far behind in the rating process.

PN7397

What are your current overall ratings?---My current ones are exceeding.

PN7398

For both centres?---Yes, but that's not going to stay.

PN7399

Have you applied for the excellent rating through the - - -?---No, because you have to pay for it, which I think is - - -

PN7400

MS SAUNDERS: It is important to you that you maintain your exceeding rating?---Well, yes, it is for staff morale and public perception and reputation but that's what I mean. What we were - yes, I agree that there's always room for improvement and there's always a need for continuous learning, I 100 per cent agree with that. That no one is perfect and everyone can make changes to their service and there's breakthroughs coming in early childhood education all the time, especially with brain development and in the 0 to 2s. So I 100 per cent agree with that but what I do not agree with is having this subjective airy fairy regime that's imposed on us that we can't possibly meet. We could meet it before. I got all high quality before. I knew it before she walked in the door that I was doing everything plus more under the old system that was expected of me. But now who knows?

PN7401

VICE PRESIDENT HATCHER: When was the last time you were assessed?---Balgownie it was around September 2016 and at Sandon Point it was around May 2017, and it was the same field officer, which I thought was bizarre but anyway. So it's no surprise that I think it's now 57 per cent of centres who have been re-rated have gone from exceeding to either working towards or meeting in the last six or eight months. People are having nervous breakdowns over it. It's awful. It's so stressful and it's so demoralising, sorry.

PN7402

MS SAUNDERS: That's all right, I just didn't want to cut you off. It is fair to say that the skills mix in your centres is higher now than it was say 10 years ago?---Yes, I would say so.

PN7403

Very quickly on the Day in the Life, part of implementing the program involves setting up learning environments; indoors and outdoors?---Yes.

PN7404

Teachers are usually rostered in core hours but sometimes they can open and have to do those tasks?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7405

It's physical work?---Yes, yes.

PN7406

The sort of - the kind of work you do in a primary school where the classrooms already there for you?---No, you still have to - primary school's probably a bit different now to what it was when you and I went there, yes. You're a lot younger than me but it's a lot different to when I went there.

PN7407

No, we think it's changed since. Can I just get you to have a look at page 721?---We played with the dinosaurs in the playground. Sorry, what page?

PN7408

Page 721?---Yes.

PN7409

MT23?---Yes.

PN7410

So these are photos of the Sandon Centre, that's right?---Yes.

PN7411

Have you got a sign up at the first photo "Sun smart centre"?---Yes.

PN7412

That's something - sun safety is something you take very seriously of course?---Yes.

PN7413

Monitoring UV ratings daily?---No.

PN7414

You monitor them from time to time?---No, not really. We don't need to.

PN7415

Why not?---Because we've done a shade audit so we don't need to do that daily and we have in our daily routine that we play outside during sun safe hours, which is - our policy's been approved by the Cancer Council so that's kosher with them.

PN7416

That was having that shade set up, getting the policy approved. That was all part of complying with the NQS?---I can't remember whether it's one of the mandatory policies. I don't know that it is.

PN7417

Have a look at page - just over the page now?---Our service looks lot different now.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7418

Yes, but this is essentially what you see inside and outside learning environments?---Yes.

PN7419

So those chairs that are stacked up, those are not adult size chairs?---No.

PN7420

They're the tiny ones for little children?---Yes.

PN7421

There's one normal chair but otherwise it's a standing up job?---No, spend a lot of time on the floor actually grovelling around.

PN7422

Yes, so kneeling, crouching, that kind of thing?---Yes, sitting and, yeah.

PN7423

Quite a physically active role?---Yes, it is, yes.

PN7424

These photos, particularly with the blue, look very peaceful. Is that accurate when it's at full capacity, 20 to 30 children?---No.

PN7425

How are the noise levels?---Well, we don't have kids yelling and screaming and running around. There's noise - when I take parents onto a - like a tour of the centre, when they want to join the waiting list, I tell them that when they go to visit a centre to put their name down at - they should pay attention to things like how many educators there are, how engaged they are with the children, what materials have been placed out for them. There should be noise but it should be -
- -

PN7426

Marginal?---Yes, yes, not frantic noise if that makes sense.

PN7427

So the kids aren't all inside all day together?---No, no.

PN7428

Except possibly when it's raining?---Yes.

PN7429

That can be a difficult day noise wise?---Yes.

PN7430

Not unusual for people to go home with headaches on a rainy day?---Yes. Well, we try - we still do physical activities inside. We still try and do our munch and move and things like that. We do a lot of dancing and those sorts of things to try and get the jiggles out on the rainy days.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7431

VICE PRESIDENT HATCHER: Which centres are these photos of?---This is Sandon Point.

PN7432

I was a bit unclear from your statement whether you actually established the centre or you bought it as a going concern?---I bought it. It had already - it was a purpose built centre that had been built in 1996.

PN7433

Thank you.

PN7434

MS SAUNDERS: Can I just get you to go to page 897, which is MT30. It's a document you've mentioned once or twice?---Sorry, 800-and?

PN7435

Ninety-seven. MT30. You've got it?---Yes.

PN7436

So this is the burumin routine, the routine for your preschool room?---Yes.

PN7437

Burumin means possum in Dharug?---Yes.

PN7438

You do in fact have a number of indigenous children in your service?---We have one at the moment.

PN7439

But you do - we'll come back to that. Starting down the bottom - this is the document you publish to parents?---No, this is in the room. This is up in the room.

PN7440

They can see it?---Yes, yes.

PN7441

It's for them rather than the children who can't yet read?---Yes, yes.

PN7442

So the first thing you say is that the routine is flexible?---Yes.

PN7443

No day is going to look the same at an early childhood centre?---No.

PN7444

It's weather dependent, as we talked about?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7445

It's depending on checking of UV ratings it says there?---Well, we don't do that but - - -

PN7446

It's written down?---No, we - yes. It is but it isn't. We do have a routine, yes.

PN7447

But you are very, very conscious of sun safety I think is the point?---Yes. Yes.

PN7448

7.30 the centre opens from time to time and an ECT will be there?---Yes.

PN7449

Parents arrive somewhere between 7.30 and 8.30?---Sometimes a little bit later, yes.

PN7450

In general terms the parents will have access to a teacher on almost a daily basis?---If they - well I'm here usually so - - -

PN7451

If they want if they want to talk to me they can, yes.

PN7452

The teacher themselves can have contact with parents daily?---Yes.

PN7453

So there's a few specific group activities; language and literacy, music and movement and big burumin group. Those are planned activities for the whole cohort?---Yes.

PN7454

Those are focused on specific learning outcomes?---Yes.

PN7455

It does what it says on the box. You're teaching kids in particular pre reading and writing skills in language and literacy?---Yes.

PN7456

The next step would be what they learn - - -?---We do that from the nursery, yes.

PN7457

It's a step in the journey, you don't start reading Shakespeare, it starts with this and we progress through primary and high school. That's right?---Yes.

PN7458

They're teaching - what's being taught, the content, varies depending on the child's developmental stage?---The content?

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7459

Yes?---Yes.

PN7460

Yes, but a teacher's a teacher fundamentally?---Sorry?

PN7461

A teacher's a teacher fundamentally. It's the same basic skills?---Yes.

PN7462

Then there's some areas indicating free play. We've been through this at length, this isn't just kids running around?---Yes - no.

PN7463

These are the activities that are recorded in those observations?---Yes.

PN7464

We talked earlier about your - - -

PN7465

VICE PRESIDENT HATCHER: Sorry, have you finished with that page, Ms Saunders?

PN7466

MS SAUNDERS: Yes, I have.

PN7467

VICE PRESIDENT HATCHER: Can I just ask you to turn to the next page, Ms Toth?---Yes.

PN7468

Page 898?---Yes.

PN7469

So that's a program of some description is it?---Yes, yes.

PN7470

I'm just curious. So the different names are all different educators are they?---No, they're the children.

PN7471

They're children?---Yes. So this is how we prove that we're planning experiences to meet individual children's goals and this is why this whizz bang app that we've got is fabulous because as we were reading through before when Renee, for example, did that observation on Ollie writing, when she writes in the "What next?", that automatically comes up on this program for us. We don't have to physically go and do a whole new document. It's literally there waiting for the next fortnight cycle.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7472

So just so I understand this. If you go to Monday, the first - very first name that's there?---Flynn, yes.

PN7473

Then it's got, "Dyeing pasta and rice". Is that an activity specific to him. Is that - what's that there?---Yes. That's linked to - so a wild guess, I can't say but just from looking at it I would say that he was having trouble identifying colours and so Corrine has programmed in that activity to give him an opportunity to practise his skills in differentiating between colours.

PN7474

Corrine is what level?---She was the room leader, she's a diploma.

PN7475

Diploma?---Diploma.

PN7476

Right, thank you.

PN7477

MS SAUNDERS: You do access Start Strong funding, we talked about that before?---Yes.

PN7478

As well as the childcare subsidy as it's now called. That has a priority of access scheme?---Well, they did away with priority of access which I am not very happy about but I choose to retain at my service.

PN7479

Yes, you do retain it and it was the case and the upshot of that is that more children from disadvantaged backgrounds were attending preschool?---Yes.

PN7480

That's the point, that's the point of Start Strong funding as well?---Well, it works in opposition to the new CCS rules which again is something that I'm not very happy about but, yes.

PN7481

Yes, and so you have children you might not otherwise be attending preschools. That includes children with disability?---They'd be attending preschool but it wouldn't be a mainstream preschool necessarily. It might be one that - we have Fairy Meadow Dem that has preschool for children with severe to moderate needs.

PN7482

(Indistinct) mainstreamed into your service - into services including yours?---Yes.

PN7483

That website photo I showed you earlier, the front page of Balgownie Centre, exhibit 100, the photograph there, that's not a stock photograph?---No, that's Ashton.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7484

He's an example of a child with a fairly significant physical impairment?---Yes.

PN7485

Who might before - leaving aside the changes, who might before universal access and the priority access scheme not have attended the mainstream preschool?---No, I've always had children with extremely high support needs. Not that's a whole different kettle of fish. That comes under the IDFM. That's the Inclusion Development Fund. I can't give you the year - well actually, I know that it's been going for over 20 years because my son accessed that funding when he started kindergarten. He's now 21 in November and I had a hell of a fight on my hands to get him to qualify for that funding so that he could go to the preschool that I chose for him. So yes, that's different.

PN7486

Similarly children from lower socio economic backgrounds?---No, that actually doesn't support fees. It's the CCS that supports fees.

PN7487

Start Strong funding you're saying doesn't necessarily support fees?---That's in preschools.

PN7488

Yes, just talking about preschool though?---But I'm not a preschool.

PN7489

You do have a preschool program?---Yes, but it's different for preschools and long daycares.

PN7490

You do receive Start Strong funding?---Yes.

PN7491

It's meant to be directed towards, among other things, lowering fees?---No, that's preschools. I'm a long daycare centre. There's different rules for preschools. Preschools have to apply that funding towards reducing fees and it's actually a different type of Start Strong funding than long daycare. It's so confusing. So what I have to spend my Start Strong funding on is equipment, improvements to the environment, upskilling staff so I can make contributions to staff going from certificate to diploma training by paying for some of their training. I can buy some technology with it but there's a limit on it. That's what I have to spend my funding on.

PN7492

But you do agree that - - -?---It's for the children who are of preschool age - - -

PN7493

Increasing access - - -?---In my environment.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7494

Increasing access to a preschool program?---Not necessarily in a long daycare setting. I know - I know what you're saying but it is actually different. What it's meant to do is improve the programs in our setting.

PN7495

Could you just go to paragraph 139(a) of your statement, page 21?---Yes.

PN7496

You refer there to the Start Strong funding you receive?---Yes.

PN7497

You refer there to:

PN7498

Higher rate for disadvantaged children including many Aboriginal children.

PN7499

?---Yes.

PN7500

Have I misunderstood then your talking about the state at large?---Yes.

PN7501

Rather than your service?---Yes.

PN7502

So it might not have affected your service in that way but - - -?---No, long daycare centres.

PN7503

Sure?---Yes, yes.

PN7504

Teachers working in preschools there'd be more students from disadvantaged backgrounds coming through?---Yes, that's right which is very unfair because children from disadvantaged backgrounds should be able to access their local service, I agree with you 100 per cent.

PN7505

I just want to very quickly talk through some costings. You give some evidence -
- -

PN7506

VICE PRESIDENT HATCHER: How much longer do you think you'll be Ms Saunders?

PN7507

MS SAUNDERS: Ten minutes because I'll cut a bit of it out. You pay at or close to award rates in your centre, that's right?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7508

Sandon, both your ECTs are at the award rates or they were at the time you wrote the statement, let's stick with that?---What I've got in my statement, that's like centuries ago for me now so yes, yes.

PN7509

You haven't updated it, that's all we've got so we'll talk about that?---Yes.

PN7510

Balgownie you, at the time your statement was prepared, had two ECTs?---Yes.

PN7511

Both working part-time 30 hours a week?---Yes, and one was off on maternity leave. Don't drink the water.

PN7512

I hear it's catching. One's paid about \$1.64 an hour above the award rate at the time?---Yes.

PN7513

The other's paid 31 cents above the award rate at the time?---I think so.

PN7514

You gave her a number of other benefits as well?---Yes.

PN7515

Including a paid lunch break?---If it's in the statement then yes.

PN7516

How long was that lunch break?---Half an hour or 40 minutes I think, I'm not sure.

PN7517

Half an hour. Are you aware that the teacher's award requires you to provide your teachers with half an hour's paid lunch break?---Sorry?

PN7518

Are you aware that the teacher's award requires you to provide your teachers with a half hour's paid lunch break?---Um - - -

PN7519

If you're not aware of it just say so?---No, no.

PN7520

You've provided - look, ideally you would pay your teachers the same as they would receive in a primary school, yes?---If I could, yes.

PN7521

If you could?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7522

Ideally you'd pay all your staff significantly more than you do now?---Yes.

PN7523

But you say you can't afford it?---No.

PN7524

In support of that you attach a profit and loss statement to your statement. Do you remember that?---Yes.

PN7525

If you could go to that, it's page 965, MT36?---Yes.

PN7526

That is the profit and loss statement for Sandon Point only isn't it?---Yes.

PN7527

It's just for the year 2017. You've removed the 2016 figures?---I think so.

PN7528

If I can show the witness the document. I'm in fact going to provide a bundle of three to save you walking. The first document you see there is an income statement for M Toth Enterprises. Is that right? You've not been given it yet, sorry, I thought she was a little quicker?---Thank you.

PN7529

That's the document that's annexure MT36?---Sorry, which one - - -

PN7530

Sorry, M Toth Enterprises?---Sorry, what am I looking at?

PN7531

It's a document that looks like this?---Yes.

PN7532

It should say "Income statement" at the top and then underneath M Toth Enterprises?---Yes.

PN7533

If you can go to the second page of that?---Yes.

PN7534

We see there the loss figure in 2017 of \$6800?---Yes.

PN7535

It's a much better picture in the earlier year 2016?---Yes.

PN7536

If we go back to the first page?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7537

There's a depreciation expense of \$89,000, obviously a non cash expense Ms Toth?---What do you mean by a non cash?

PN7538

If you don't know what I mean just say so?---I don't know what you mean.

PN7539

Sure. Nevertheless if we just look at Sandon Point, the increase in 2017, it was running at a loss in 2017 wasn't it?---Sandon Point?

PN7540

Yes?---Yes.

PN7541

Have a look at the second income statement.

PN7542

VICE PRESIDENT HATCHER: So the first one relates to Sandon Point only. Is that right or the whole business?---Yes, I think that was the year I did renovations and so - - -

PN7543

MS SAUNDERS: So it's an outlay?---Yes, I think I got a whole heap of GST and stuff.

PN7544

It's an unusual year for you?---Yes, I had to borrow \$135,000 to renovate the toilets, repaint inside, redo an outdoor play area and the floors and everything, I think.

PN7545

VICE PRESIDENT HATCHER: It's got an expense of rent. Who owns the actual property?---A partnership. So my husband and I have a partnership so the rent gets paid to the partnership.

PN7546

MS SAUNDERS: I'm sorry, is that a partnership between you and your husband?---Yes.

PN7547

You own the land?---Yes.

PN7548

The business makes a payment to that partnership under the line item rent?---Yes.

PN7549

You were ordered to produce documents reporting any payments from the centre to yourself or your husband weren't you?---Um - - -

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7550

We can provide that document?---Yes.

PN7551

You haven't provided anything reporting payments to those partnerships?---I don't know. Are they - - -

PN7552

Have you?---I don't know.

PN7553

Did you provide - do you recall providing any documents?---I just asked my accountant to send through the list that I was given.

PN7554

So this as well as - although it's showing a loss, it does record a \$60,000 payment to you and your husband?---Um - - -

PN7555

Under "rent"?---That's the loan. That's the loan I have for the property.

PN7556

Have a look at One Sheep Two Sheep?---Yes.

PN7557

VICE PRESIDENT HATCHER: Before you - first of all, just so I understand this, does M Toth Enterprises pay any rent to you and your husband as owners of the property?---Pardon, sorry?

PN7558

Does M Toth Enterprises pay any rent to you and your husband as a partnership who are owning the property?---Yes, to pay the loan for the property.

PN7559

But the partnership's loan's not a company loan, so that is you own the property - - -?---Yes, I've got - I've got two separate loans. I've one loan on the property and one loan on the business.

PN7560

Just one other thing. The wages and salaries, does that include any wage to yourself as a director?---On M Toth Enterprises, yes, yes, it does.

PN7561

MS SAUNDERS: That document was produced, I should say for completeness. Can we look at One Sheep Two Sheep?---Yes.

PN7562

This operates the Balgownie Centre?---Yes.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

PN7563

That opened in February 2016?---Yes.

PN7564

So the year - the 16 figures, they would only be for February to the end of June 2016?---No, they would have been for the previous financial year because we were building the centre.

PN7565

But the income level, you were only open for four months?---Yes, operating four months, yes.

PN7566

That's why the income's so low. It's not a standard?---Yes, yes.

PN7567

Who owns the land for the Balgownie Centre?---At that time so the Balgownie Centre was built by myself and my best friend Rebecca, so we have a company called One Sheep Two Sheep and so we have the same sort of thing as with Sandon Point. So there's like a partnership that owns the land and that pays the loan for the land, and then there's a loan for the business and One Sheep Two Sheep pays that off.

PN7568

So rent is paid to that partnership of you and Rebecca?---Yes.

PN7569

That in 2017 was 160 - sorry, yes, just under \$160,000?---Yes.

PN7570

Again you haven't produced any documents recording that transaction?---I'm sorry, I thought I'd supplied everything that - - -

PN7571

I suspect it's not your fault. It's not the point anyway. Balgownie is doing quite well. There's an annual profit of \$140,000?---Yes, and that's because we got - with the building we got a lot of GST back on the cost of the build but yes, both centres are full, they're both operating at capacity.

PN7572

I just want to show then - the third document you have is a table?---Yes.

PN7573

These are some calculations, they don't - I'm not asking you to do the maths in the box but what I want to suggest to you, if you moved all of your ECT wages into One Sheep Two Sheep the difference between what you paid at the time and what the IEU's equal pay claim was could have been absorbed with the business still running a profit. Do you agree with that?---No way. I've got - I've got loans.

PN7574

Just have a look at the final box?---\$3.88.

PN7575

Yes, so you could increase fees by \$3.88 across both services or you could have reduced your profit to a bit under \$70,000 after you'd paid your rent?---No, that's -
- -

PN7576

Did you do any calculations of your own before preparing your evidence?---In what respect?

PN7577

About the affordability of the claim?---For - yes, yes. Wages are over 60 per cent of my outlay. And this is what I'm trying to get across. If I could pay higher wages I would but my Sandon Point account, I have \$25,000 sitting in it at the moment with a \$10,000 credit card debt, so I don't know what else to tell you about how fine my operating margins are and the fact that, you know, I can't afford casuals and things like that, and I go in and I do the maintenance myself because I can't afford to have people come in and do it. It's - - -

PN7578

You accept though, Ms Toth, that on the - assuming that the maths in this table is correct and just assume that for a second, on the documents you've provided us, leaving aside all the other information which you haven't provided in your statement or otherwise. On the documents you've provided us the wage increase can be accommodated by your business either with the reduction in profit or a relatively small fee increase. Do you accept that?---No, actually I don't accept that.

PN7579

Nothing further, your Honour.

PN7580

VICE PRESIDENT HATCHER: So do you tender the income statements?

PN7581

MS SAUNDERS: Yes, I'm sorry.

PN7582

VICE PRESIDENT HATCHER: The income statement for M Toth Enterprises Pty Ltd to 30 June 2017 will be marked exhibit 103. The income statement for One Sheep Two Sheep Pty Ltd to 30 June 2017 will be marked exhibit 104. Should I mark the calculations for identification?

PN7583

MS SAUNDERS: For identification, yes.

PN7584

VICE PRESIDENT HATCHER: The Toth calculation documents will be marked as MFI6.

*** MERRAN EDITH TOTH

XXN MR SAUNDERS

**EXHIBIT #103 INCOME STATEMENT FOR M TOTH
ENTERPRISES PTY LTD TO 30/06/2017**

**EXHIBIT #104 INCOME STATEMENT FOR ONE SHEEP TWO
SHEEP PTY LTD TO 30/06/2017**

MFI #6 TOTH CALCULATION DOCUMENTS

PN7585

Any re-examination, Mr Fagir?

RE-EXAMINATION BY MR FAGIR

[4.10 PM]

PN7586

MR FAGIR: Yes. Ms Toth, I know you've been here for quite some time and I won't keep you much longer. You said that when you established the business in 2005 you continued to work in a school until 2010 to draw a wage?---Yes, that's right.

PN7587

Why is that?---Why is that? That's because while things make look on paper like we have this big surplus of money, when you actually get in there and you take over a service and you find that it's been really run down and you need to replace all of the equipment, you need to renovate extensively the environment to make it a fit place where you would want to send your own children, that's just what we had to do. And that was - that was what I faced when I took over the centre and I needed to - I couldn't draw a wage, I don't draw a wage from Balgownie Early Learning Centre in the three years that we've been operating. I pay myself at a diploma level wage even now. I do run my car, my mobile phone, my car insurance and things like that through the business but I've got to tell you, it's not easy. I mean I've just divulged my current bank balance for you and to tell you what it's like to go from week to week where you're worried about whether you're going to be able to pay your staff or not is not a nice feeling to have, or a nice space to live in. I'm no saying this to be a martyr, I'm saying this to tell you that this is the reality for a lot of private centre operators and it is really hurtful when you are continually viewed as some vulture who makes their living off educating children. I don't appreciate it at all and I don't think it's deserving.

*** MERRAN EDITH TOTH

RXN MR FAGIR

PN7588

VICE PRESIDENT HATCHER: Who holds that view?---A lot of people, the general public when you go to training sessions run by the Early Childhood Education Directorate, when you go to training sessions run by the Department of Community Services. Unfortunately out there, there are a lot of people who in the community based centre who think that - look down upon people from private centres because we're just seen as greedy profiteers and it's actually not the case. We work really hard to make a difference for the children, sometimes at the sacrifice of own families but when you see the need out there for quality education and care, and you're driven to provide that and that is what you believe that your vocation in life is, then you will do what you need to do to make that

happen. My son was lucky enough to find a centre who accepted him for who he was, despite the labels that people put on him. They nurtured him, they cared for him, they prepared him for school. I can't begin to tell you the difference that made to him and that inspired me to pay it forward and I've been doing it every day since.

PN7589

MR FAGIR: Ms Toth, on a different topic. You were shown a video in answer to a question on that topic you mentioned that what you saw was a combination of intentional teaching and interest based teaching. Are they two different things?---They talked about as though they're two different things because I don't believe that people have a true understanding of what intentional teaching is and that goes back to my comment too about people just putting out there that we're a play based program. Well, that would be chaos, so you - the two things are sophisticated and they feed off each other and I don't believe that they can operate in isolation from each other in quality practice. That's why it's a focus on the EYLF in part of their practices.

PN7590

You were asked a series of questions about the relative skill levels of educators with different levels of training, and in answer to one of those questions you said, "Well it depends on what skill you're asking about". Could you just explain what you meant by that?---Everyone has something different to offer to the program, regardless of what their level of training is. Some of my educators are fantastic musicians. Other educators are artists and really enjoy working with the children to develop their artistic skills. Others are very skilful at managing children with challenging behaviours, so there's no complete package, everyone has something to bring to the table and there are different skillsets that people need to learn. Some are more naturally disposed towards them than others, I suppose is what I'm trying to say.

PN7591

You explained that the qualifications of your staff are posted somewhere in the centre so parents see them as soon as they walk into the place, and you were asked or it was suggested to you effectively the higher the qualification, the happier the parent is. You said in answer, "Initially, yes". Can you explain what you mean by that, "Initially, yes"?---Because our parents are taught to value all of our educators and we're constantly reminding them that it doesn't matter what age you are, how many years you've been working in the early childhood education field, what your cultural background is, what your orientation is, everyone is valued, everyone has something that they have as a strength that they can bring to our program. The parents see that over time when they interact with our educators and listen to what their children tell them when they come home each day.

PN7592

You were asked some questions about ratings and you said at one point that a - this is my note, you just tell me whether this is right. That a number of services have gone from exceeding to working towards in the last six months?---Yes.

*** MERRAN EDITH TOTH

RXN MR FAGIR

PN7593

Did I capture that correctly?---Yes. Yes. It's about 57 per cent.

PN7594

Centres who have been rated under the current system?---Yes.

PN7595

Have gone backwards?---Yes.

PN7596

VICE PRESIDENT HATCHER: So 50 per cent - - -?---57 per cent - - -

PN7597

Of those - - -?---Who were rated exceeding have been - - -

PN7598

Just hear me out. Is it 50 per cent of all those who were rated exceeding or 57 per cent of those who have been reassessed in the last six months?---57 per cent of those who were previously rated as exceeding have now been rated down to working towards or meeting.

PN7599

Fifty-seven per cent of all of them?---And that includes both privately owned services and community based services.

PN7600

MR FAGIR: It was suggested to you that the setup sort of work that has to be done in early childhood wouldn't be done in primary school, and you said primary school changed a lot since all of us were in primary school. What does that have to do with this set up issue or the idea that you've - the topic that you were being asked about, re-arranging a room?---Primary schools are looking at the work that we're doing in early childhood education and they're recognising the value of play in learning, so rather than adhering that really structured, sit at your table and do worksheet type approach, they're looking at what we're doing and they're taking it on board. Although they still insist on giving the children testing before they even start school. They're still obsessed with NAPLAN and teaching to national testing, which is ridiculous. So, yes, it has changed a lot.

PN7601

Finally, you said in relation to universal access and CCS that they're working in opposition. Did I understand that correctly?---Yes. So what happened when they brought in childcare subsidy is all those children who had parents who may have had mental health issues, drug addiction issues, other sorts of, you know, disabilities that precluded them from being able to work or study now get no funding at all, and so they're the ones that we need most in our settings. They're the ones who need to come and have a person who looks forward to having them every day, who feeds them, cares for them, loves them, shows them affection, shows interest in them, those children are being denied access now to early learning settings, and it's absolutely heartbreaking.

*** MERRAN EDITH TOTH

RXN MR FAGIR

PN7602

Thank you, Ms Toth. They're my questions, if the Commission pleases.

PN7603

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

<THE WITNESS WITHDREW

[4.21 PM]

PN7604

Right, Mr Fagir, so what can we do with Ms Prendergast?

PN7605

MR FAGIR: She's there.

PN7606

VICE PRESIDENT HATCHER: Leaving aside the new statement how long will cross-examination of Ms Prendergast take?

PN7607

MR TAYLOR: Leaving aside the new statement I think I'd estimate it something in the order of an hour-and-a-half.

PN7608

MR FAGIR: 1 to 1.5.

PN7609

VICE PRESIDENT HATCHER: It's not viable if we hear her tonight. So, Mr Fagir, and Mr Taylor, Ms Saunders, we do intend to admit the new statement, so in those circumstances what arrangements are proposed, given that I don't think we can reasonably finish the cross-examination, on any view, this evening?

PN7610

MR FAGIR: What we had proposed is if the Full Bench was prepared to start early tomorrow that we would have Mr Khoury here at 9 am. The current estimate for him is one hour.

PN7611

VICE PRESIDENT HATCHER: Yes, so Mr Khoury at 9 am?

PN7612

MR FAGIR: Yes, the current estimate for him is one hour and allowing another hour margin for safety we would propose that Ms Prendergast give her evidence at 11 am our time, 9 am her time, and then that Ms Hands be available.

PN7613

VICE PRESIDENT HATCHER: Is it a three or two hours difference?

PN7614

MR FAGIR: I think it's two at the moment. Yes.

*** MERRAN EDITH TOTH

RXN MR FAGIR

PN7615

VICE PRESIDENT HATCHER: It will have to be 9.30, Mr Fagir.

PN7616

MR TAYLOR: Can I be heard on this before a decision is made?

PN7617

VICE PRESIDENT HATCHER: Yes.

PN7618

MR TAYLOR: Is that the balance of the timetable for the day?

PN7619

MR FAGIR: No, no, then there's Ms Hands, and we propose again allowing a margin for safety that she be available at 3 pm our time.

PN7620

VICE PRESIDENT HATCHER: Can't we reverse that so Ms Prendergast is later in the day?

PN7621

MR FAGIR: We can. I'm just anxious that she's not - that we give her as predictable a time as possible.

PN7622

VICE PRESIDENT HATCHER: Yes, I understand.

PN7623

MR FAGIR: Given that she's been hanging around all day today.

PN7624

MR TAYLOR: Can I be heard on this?

PN7625

VICE PRESIDENT HATCHER: Yes.

PN7626

MR TAYLOR: Yes.

PN7627

MR FAGIR: Sorry, before Mr Taylor says what he has to say, I'm told that Ms Prendergast has an assessment exercise tomorrow and that's - if she's on at 9 her time she can be here. I'm sorry, 11 her time, and so she needs to be here at 9.

PN7628

VICE PRESIDENT HATCHER: Eleven our time, 9 am Perth time.

PN7629

MR FAGIR: Yes.

PN7630

VICE PRESIDENT HATCHER: She is how long?

PN7631

MR FAGIR: The earlier the easier for Ms Prendergast.

PN7632

VICE PRESIDENT HATCHER: Mr Taylor?

PN7633

MR TAYLOR: Yes, for my part it's going to be impractical for me to be cross-examining Ms Prendergast on a folder of new material that I'm effectively receiving at 4.30 on the basis that I start cross-examining another witness tomorrow at 9 am. This new material, to the extent to which I've been able to view it, purports to suggest that the NCAC quality standards of which there are some in the initial document about 50, and then as a later document which has them recast in a different format in the circumstances where Ms Prendergast doesn't identify when and what changes occurred between those two documents is apparently to then be contrasted with the entire National Quality Framework. For me to go through the process of identifying whether in fact the broad statement that the two are the same is almost inevitably going to require me to take a step-by-step approach.

PN7634

I really haven't had an opportunity to consider to what extent I would need to do that, whether the point could be made in a relatively short form or whether it can only be made by a step-by-step approach throughout the two documents, but there's a real potential for it be something in the order of a further half-day of cross-examination, something which in all realistic assessment I'm not going to be in a position to prepare overnight and I would need to have some assistance from those who have some expertise in this area, and so, with great respect, the potential for me to be able to do this exercise in the time that we have is not practical, and if - Mr Fagir, I think, said he sent an email. I haven't had a chance to see that, but as I understood the position, the broad proposition is the entire document behind tab 1 and the entire document behind tab 2 plus all of the documents behind tabs 5 to 12 all demonstrate a lack of change between then and the National Quality Framework which of course is itself a document of many hundreds of pages, so it's no small exercise. I haven't started it yet and I can't practically complete that between now and 9 am tomorrow.

PN7635

VICE PRESIDENT HATCHER: I thought it was a lack of change in a particular respect.

PN7636

MR TAYLOR: As I said, I haven't seen the email, but, as I understand the broad proposition, the broad proposition as I understood it, is that the National Quality Standards, that is all of them, are ones which set out requirements which previously existed under the NCAC national accreditation system.

PN7637

VICE PRESIDENT HATCHER: Mr Taylor, no doubt as Mr Fagir is about to point out again, this was always going to be the consequence of us allowing you to produce new evidence after the proceedings started, wasn't it?

PN7638

MR TAYLOR: No. No, maybe there was a misunderstanding. We were given leave ultimately to lead evidence only as to what is the day-to-day activities of teachers, and we anticipated that evidence of the sort that Ms Toth gave would be given, if not shortly before they gave evidence viva voce, and we'd have to deal with that. This is an entirely different category. This is providing us with substantial documents which describe how quality was assessed over a 20 year period, how that quality assessment changed over that 20 year period, and how it can be contrasted to the quality assessment program that commenced in 2012. That is a far cry from what teachers do day-to-day which was what the limited basis upon which the evidence went in, and Mr - - -

PN7639

VICE PRESIDENT HATCHER: But unfortunately you were, at the end of the day, allowed to admit evidence that went beyond that subject matter, particularly in respect of Ms Connell's statement.

PN7640

MR TAYLOR: Yes.

PN7641

VICE PRESIDENT HATCHER: That is, as I think you admitted at the time, it wasn't confined to that subject matter at all and it was admitted.

PN7642

MR TAYLOR: It was not so confined insofar as Ms Connell identified that, as far as she was concerned, what was done on a previous stage. There was no - I accept that proposition, but I'm just - and I'm not quibbling with the fact that the Bench has decided to let this evidence in, I'm just giving you the very practical consequence that in order to test the broad propositions - it is true, it's a very short statement, but it's a very short statement that has a very broad proposition. In order to test that I will need some time to examine the material before I can usefully cross-examine on it. Whatever time the Commission gives I'll use as best I can, but particularly if we're to start early tomorrow I don't think it's practical. If Ms Prendergast were to come on Thursday and any witnesses for Thursday to come tomorrow then that would allow me a second evening to try and get on top of this material.

PN7643

VICE PRESIDENT HATCHER: Mr Fagir, is Ms Prendergast coming on Thursday a viable proposition?

PN7644

MR FAGIR: Yes and - - -

PN7645

VICE PRESIDENT HATCHER: Can you just answer that question.

PN7646

MR FAGIR: I don't know.

PN7647

VICE PRESIDENT HATCHER: Can you - - -

PN7648

MR FAGIR: It's not just going to be Ms Prendergast, now every witness is going to have to be re-arranged because the proposition that was put to this Commission contrary to our submission is now being abandoned, so, in my respectful submission, my learned friend shouldn't be heard to say he can't deal with it in circumstances where he said to this Full Bench, your Honour having identified that there was a price that might have to be paid, that your Honour had identified that and that we had no difficulty with that. It's what we expect to occur. This is completely predictable, my first point.

PN7649

Can I just make a second point about this allegedly lengthy statement? It's four pages. The bulk of it comes from the table of response separately to individual propositions in Ms Connell's table. Every document in this bundle is referred to in support of something Ms Prendergast says in response to Ms Connell, and the fact that - - -

PN7650

VICE PRESIDENT HATCHER: If you just stop there. Will Ms Prendergast be able to identify what specific parts you might've already told Mr Taylor in, say, the luncheon adjournment, what parts of those document she is referring to in her table?

PN7651

MR FAGIR: They're set out.

PN7652

VICE PRESIDENT HATCHER: Are they set out with page references? I don't - - -

PN7653

MR FAGIR: Not with page references but with sufficient references to identify them. And she says, for example, in response to the proposition that we constantly reflect on our interactions this isn't new. It's long been expected. Now, the approach that's taken by the union would be to leave it there. She's gone another step and said, "See, for example, quality area 3 2005, and the document marked annexure SP10". The fact that she's taken that step, not just asked the Full Bench to take her word for it, isn't something that should weigh against us or weigh against her.

PN7654

The point that I was trying to make however getting away from is the idea that this is some bundle that, you know, someone is going to have to read from start to finish and try to decipher what it means is quite wrong. Every document is specifically referred to in response to a proposition from Ms Connell's statement, so if there are lengthy or if there are broad propositions, well, we're dealing with what was put against us.

PN7655

VICE PRESIDENT HATCHER: So if Ms Prendergast returns tomorrow at 11 am our time how long is she available before her other commitment?

PN7656

MR FAGIR: We expect that we'll be able to arrange for her to be here for as long as is necessary. But can I just point out the other problem that's coming down the pipeline, Ms Viknarasah has gone through a similar exercise to Ms Prendergast. Responding to the evidence that was filed after the original hearing was adjourned, after evidence and reply evidence was filed - - -

PN7657

VICE PRESIDENT HATCHER: All right, Mr Fagir, can we just confine ourselves to the topic.

PN7658

MR FAGIR: So this idea that there's now going to - - -

PN7659

VICE PRESIDENT HATCHER: So, Mr Fagir, Ms Viknarasah, so she's got an additional statement coming?

PN7660

MR FAGIR: Yes.

PN7661

VICE PRESIDENT HATCHER: When is that going to be served on the IEU do you think?

PN7662

MR FAGIR: We're doing our very best. We were working on this until midnight last night. I don't know if we've had a response to the latest draft from Ms Viknarasah. I can't do any better than say as soon as we can, but to be clear, it's going to be in identical form - - -

PN7663

VICE PRESIDENT HATCHER: And when is she scheduled to come back?

PN7664

MR FAGIR: Thursday.

PN7665

VICE PRESIDENT HATCHER: Thursday, all right. Where does Ms Irvine fit into all of this?

PN7666

MR FAGIR: She's not required for cross-examination, but we have objections to her evidence effectively on the basis that it has nothing to do with day-to-day activities, but whatever the fate of the report we don't require her for cross-examination.

PN7667

VICE PRESIDENT HATCHER: Then Ms Hands.

PN7668

MR FAGIR: She's scheduled for tomorrow. The proposal - - -

PN7669

VICE PRESIDENT HATCHER: She'll just have to be held available until Ms Prendergast is finished, is that the position?

PN7670

MR FAGIR: Yes.

PN7671

VICE PRESIDENT HATCHER: Having heard the parties, we'll deal with the matter in this way, that tomorrow we will hear Ms Khoury at 9.30 Sydney time. We then will hear Ms Prendergast at 11 am Sydney time 9 am Perth time on the basis that the IEU will cross-examine her, and then at some point if there's some allegation of incapacity to complete the cross-examination we will deal with that then, but we expect the IEU to complete her cross-examination as far as that's practically possible, and then Ms Hands will follow from that.

PN7672

MR FAGIR: As the Commission pleases.

PN7673

VICE PRESIDENT HATCHER: Is there any other matters we need to deal with this evening? We'll adjourn and we'll resume at 9.30 am tomorrow morning.

ADJOURNED UNTIL WEDNESDAY, 03 JULY 2019

[4.36 PM]

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