



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, 18 JUNE 2019

Continued from 17/06/2019

PN1738

VICE PRESIDENT HATCHER: Yes, Mr Taylor. Any more dramas before we start?

PN1739

MR TAYLOR: Hopefully not dramas, although if there are dramas, Dr Wright is dealing with them which is trying to rejig our witness list. Firstly, can I indicate what we're doing today, which is unchanged other than the order of witnesses for today has changed. Our first witness will be Simon Huntley a secondary school teacher who will be followed by Cathy Hicky, Assistant Secretary of the IEU Victoria/Tasmanian Branch. We anticipate having spoken to Mr Fagir that both of them will be able to be completed by morning tea-ish. There will then unfortunately be a gap because Mr Spriggs who is a Queensland based organiser for the union is due in weather permitting at Sydney airport sometime around 11 this morning. So we still hold some hope that we can get him in time to be able to complete his evidence, which I understand will be very short before lunch. That's our hope. That will complete today.

PN1740

The overnight of the five further statements that I indicated yesterday would be prepared, I understand, three of them have been filed from three early childhood teachers and I'm told the fourth from Ms Hilaire we expect to be in a position to file during the course of today, and then the fifth is Professor Irvine and we're told by Professor Irvine that we'll be in a position to file that if not at the end of the day then tomorrow morning.

PN1741

We spent some time with the timetable and the current timetable that is in draft form sees each of the four witnesses, four early childhood witnesses who were scheduled for this week moved into next week. We got a request that in addition we also move two other early childhood teachers who are due to be called tomorrow; Margaret Gleeson and Emily Vane Tempest. While there's no further evidence or supplementary evidence being filed Mr Fagir's client's preference is that they also abide into next week. We haven't been able to find out whether that's possible and we will hopefully update that during the course of today if we can.

PN1742

It was suggested that some of the witnesses for next week who are secondary school and primary school teachers could move into this week. We have moved one such witness but the others just are unable due to work commitments to do that. So what that's likely to mean is that we would sit something in the order of half a day only on the next two days but the exact schedule we'll do our best to update you during the course of today.

PN1743

I don't think Mr Fagir is indicating he wishes to respond to that material so that's the position at the moment. We're now in a position to call our next witness Simon Huntley, a secondary school teacher. Simon's here.

PN1744

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

PN1745

MR HUNTLY: Simon Eric Huntley, (address supplied).

<SIMON ERIC HUNTLEY, SWORN

[10.07 AM]

EXAMINATION-IN-CHIEF BY MR TAYLOR

[10.07 AM]

PN1746

MR TAYLOR: Mr Huntley, your full name is Simon Eric Huntley. Is that right?---That's correct.

PN1747

You are employed by Mount Carmel Catholic College in Varroville near Campbelltown?---That's correct.

PN1748

You have prepared for the purposes of these proceedings and signed a statement which you signed on 23 November 2018. Is that right?---That's right.

PN1749

Do you have a copy of that with you?---Correct.

PN1750

In the opening paragraph it says that you're a secondary school teacher and you've been teaching for 28 years. I think you've ticked over, have you, and it's now 29 years?---This will be my 29th year this year, that's correct.

PN1751

In paragraph 2 it identifies your position as house coordinator at Mount Carmel Catholic College and I understand that you are currently acting assistant principal of that school?---That's right.

PN1752

You expect to be so for perhaps another month?---Yes, that's correct.

PN1753

Do you say that the contents of your statement are true and correct to the best of your knowledge and belief?---Based on the interview and what I have in front of me, that's correct.

PN1754

I tender that statement.

*** SIMON ERIC HUNTLEY

XN MR TAYLOR

PN1755

VICE PRESIDENT HATCHER: The statement of Simon Eric Huntley dated 23 November 2018 will be marked exhibit 28.

**EXHIBIT #28 WITNESS STATEMENT OF SIMON ERIC HUNTLEY
DATED 23/11/2018**

PN1756

MR TAYLOR: Thank you, they're my questions.

PN1757

VICE PRESIDENT HATCHER: Mr Fagir.

CROSS-EXAMINATION BY MR FAGIR

[10.09 AM]

PN1758

MR FAGIR: You look a bit young to have been teaching 29 years, Mr Huntley. You must have started at a fairly young age?---Thank you.

PN1759

Now you obtained your Bachelors Degree in 1989 did you?---That's when I finished my study and I think I graduated in March the following year.

PN1760

Do you know, and you may not, when teacher education moved from teachers colleges to bachelor's degrees within universities?---Prior to that. Prior to commencing in 1986.

PN1761

Do you have any sense of when or you're not sure?---I'm not sure, no.

PN1762

You originally were a Phys Ed PD - a Phys Ed teacher?---Yes.

PN1763

And still are?---Yes. There's a new acronym for it, PDHPE.

PN1764

PDHPE?---Yes.

PN1765

You're also a religion teacher?---That's correct.

PN1766

Have you ever has reason to teach any other subjects over your career or has it just been those two?---I've also taught maths, I've taught science and I think that's the only other variations.

PN1767

How did you come to be teaching maths and science?---Due to the nature of my degree where I had a significant amount of exercise, physiology and biomechanics and science are some of my subjects when I did my further degree, part of my original employment was as a PDHPE and science teacher when I first commenced teaching.

*** SIMON ERIC HUNTLEY

XXN MR FAGIR

PN1768

There was a need for maths or a science teacher at some point?---And then later on - yes, at that time. And then later on - well, I can't remember what year it was. It would have been the late '90's - I did teach maths for one year.

PN1769

I see. Now at paragraph - do you have your statement there Mr Huntley?---Yes. Yes.

PN1770

At paragraph five you tell the Commission that the biggest change to teaching over your career, so at the 29 years there's been the introduction and incorporation of technology and its use in standardised testing and comparative results. Now, can I just try to explore that with you a little bit?---Yes.

PN1771

Can you firstly tell the Commission what technology you're referring to and what do you mean by the incorporation of that technology?---Well, just this - or the last two years - we've at the school I'm at now we've gone to NAPLAN testing online. That's where we're at at the moment but there's been a significant implementation of things. Like ACR testing, PAT testing, comprehension testing, various forms of online tests that allow you to get a snapshot of a child's capacity at a given time. The ACR form of testing, in particular, allows you to get feedback in a much more efficient manner than what traditionally NAPLAN has been able to do. The setup NAPLAN is that you do the test in May and quite often you would only get the results of that NAPLAN testing possibly in August or September. So there was a delay of some months.

PN1772

Yes?---The development of technology has now allowed you to get almost instantaneous feedback on tests that students sit. You're able to then get some standardised norms based on how those students are performing compared to other kids in other situations across the State - across the country - and it allows you then to analyse those results and look at ways and means of being able to adjust your teaching programs, implement various strategies in your teaching programs and your curriculum to. Perhaps raise their standard of literacy and numeracy in particular which are the foundations for education.

PN1773

I see. Now, at paragraph eight you deal with something called P-A-T testing?---That's PAT testing. So that's one of the - that's the AC - one of the branches of the ACR and I can't, at this moment, think of what the P-A-T stands for. It's like a general abilities test.

PN1774

Right?---But it's one that not only that - historically it will be used by special needs teachers or learning support staff to identify kids who may have been - identifying signs of having some learning deficiencies.

*** SIMON ERIC HUNTLEY

XXN MR FAGIR

PN1775

Yes?---They would do some PAT testing on them to be able to get some data that would inform specifically what capabilities that child may have in literacy and numeracy and in particular comprehension, reading, writing, et cetera. They are now more a mainstream test. We would once upon a time we would only do PAT tests on students who we thought may have identified some learning deficiencies. We now use that as a matter of course. Our Year 7's coming at Mount Carmel and at the school I taught previously in Wagga, we would do a PAT test on every student when they came into our school so we would have a database and a means of being able to analyse every kid's abilities. And identify not just one student but if there were groups of students who had deficiencies in literacy or numeracy we could then start to target some programs to help service those needs.

PN1776

I see. Now would you explain that this PAP testing produces significant amount of data for each exam the students sit. And you say the teachers are increasingly expected to analyse and filter the meaning of this data and implement it into their teaching practise. Do you see that at eight?---Yes.

PN1777

At seven, on the page before, having described NAPLAN progressive achievement testing - P-A-T - perhaps that's the acronym?---Yes, that's it.

PN1778

They were the words that you were looking for? You go on in seven to say that "this form of analysis of overall data is entirely new to teaching and requires considerable energy to break down standardised test results and so on." Do you see all that?---Yes.

PN1779

Now students have always been tested in schools. That's right, isn't it?---That's correct.

PN1780

So what's the difference?---The difference is that testing historically has been of a predominantly a summative nature. You would have an end of unit test. You would have - and mostly more closely aligned with the content that was being covered in your particular curriculum areas.

PN1781

Yes. That PAT testing and the nature of NAPLAN is specifically targeted at literacy and numeracy. It's another layer of testing. Particularly with NAPLAN and the importance of it, it currently has on our educational operations is that there was a delay - NAPLAN is good because you get comparative data. NAPLAN is purely a tool that indicates a student's capacity on a given day. The marking, the analysis was done offsite so that it was done by - I think it's ACARA that runs NAPLAN.

*** SIMON ERIC HUNTLEY

XXN MR FAGIR

PN1782

Right?---And the schools were given the data back and were able then to dig in and analyse and target based on what they were provided with. ACR - the PAT testing - similarly is marked and given feedback instantaneously but the fact that that data is then real means that teachers have access to a data that's immediate and that they can start to strategise different interventions that may be needed.

PN1783

I see?---On top of their marking of content of summative exams and so on.

PN1784

Now, you've - - -?---Does that answer your question?

PN1785

Yes, thank you, Mr Huntley?---Yes. Okay.

PN1786

Now in your statement you deal with another aspect of technology which is Google and classroom?---Yes.

PN1787

You deal with that at paragraph nine. Do you say that's been the use of Google classroom and perhaps Moodle and other similar programs. Do you say they have produced some significant difference in the way that teaching the program is delivered?---I think so. Most certainly. Particularly around the ability to - for teachers to be able to incorporate some of those 21st century learning skills around collaboration, teamwork, critical thinking and creativity. The nature of Google classroom where you can share documents either individually with kids or to groups of kids or to a whole classroom.

PN1788

Yes?---Allows students to - when doing work - to work in teams to be able to compare thinking to offer suggestions in small teams of kids.

PN1789

I see?---You can then produce that work and you can project it on to a screen with the whole class. So in terms of students being able to learn from each other, that's one of the advantages of Google Classroom. It does it in a much more efficient manner than the old style of teaching where the teacher would own everything and put notes on the whiteboard and puts - it provides for students to be more creative - and for them to have more of an input about the work that they're doing.

PN1790

And is this you say a new method of teaching? Or is it just the same old thing? But instead of putting it on the blackboard you're putting it on a website or sending it out via email or something like that?---No. Or - that's a pedagogical shift for some teachers. Some teachers would do that. They would just project the work and then get the kids to do it as their old methods.

*** SIMON ERIC HUNTLEY

XXN MR FAGIR

PN1791

Yes?---New pedagogy would suggest that if you have the students that work in the teams you then get around it to individualise your work for particular groups of kids. You can identify which students may be struggling with a particular concept. It allows for those students who have - what was I - what's the word I'm looking for here? But those students who are more adept at whatever the particular task is can then lead some of those students through by working in the small team situations. It allows the teacher to have more one on one interaction with groups and individuals as they go. And to offer that support that they need.

PN1792

Now, a couple of minutes ago, I think you referred to something called 21st Century Learning?---Mm.

PN1793

You've also dealt with that in your statement. Can you just tell us what - to your understanding - the 21st Century Learning Model is?---It's part of an OECD teaching that's - or a philosophy that's permeating international education around what are the fundamental skills? Traditionally, literacy and numeracy and the old three R's were probably a common language that people had in education. The transition now to a globalised economy to the integration of technology, to the need for students to be - when they leave school to be project managers, project members, project leaders - these critical skills are things like - like I said creative thinking. We had the implementation of technology about being sustainable, environmentally conscious. Things which the OECD and other global organisations - United Nations et cetera - think those skills which are going to be benefit kids in the future.

PN1794

I see. Now, on a somewhat different topic at paragraph 13, you describe the impact on your work on a daily basis by the use of social media, Snapchat, Facebook and Instagram. Can you just explain to the Commission how those forms of social media actually affect you as a teacher day to day in the classroom, or in the school?---How many examples would you like?

*** SIMON ERIC HUNTLEY

XXN MR FAGIR

PN1795

Maybe just one or two?---Yes, just one to two. I'll try to use an example. There's been a couple of kids turn up at school first thing in the morning and there's an eruption takes place in the playground. Few kids pushing and shoving, or a couple of girls that might be having an argument. You go and break it up, what's going on and when you dig into it, it's because something's been posted on social media the previous night or someone's mother got involved in some Facebook interaction because something happened either at school or out of school or someone said this. Probably the same situations that have been in existence in playgrounds for a long time which they do really seem to be exacerbated by the use of social media. I'll use the example, I went to boarding school for a number of years so I had to live, eat, sleep, breathe with my colleagues 24/7. Most kids in school don't do that but in this day and age with social media it's almost like that. They have no respite from some of those situations at school which cause friction, which cause them to be upset, which cause them grief. It's almost relentless. We

would deal with some issue I would suggest at least on a daily basis at our school because of some fracas over social media.

PN1796

Now finally Mr Huntley, you deal with the subject of parental accountability from paragraphs - or in paragraphs 18 and 19 of your statement?---Yes.

PN1797

You use as an example the receipt of an email from a parent during non-term time while you were marking?---Mm-hm.

PN1798

Are there other occasions when either out of term time or in your own personal time you're required to, for example, deal with parent emails?---Sorry, which paragraph was that one? I'll just have a look here. Yes, one of the conditions at our school is that - without student management system is that staff emails are made available to teachers - sorry, to parents. So there's an unlimited capacity to what people from - parents in particular or carers or guardians to be in contact with teachers 24/7. Does that mean that I respond to them 24/7? No. I would only respond and I encourage my staff that you work from 7.30 or 8 o'clock each day until five or whatever time but I would suggest that after that you don't get caught up in ongoing email communication, unless it's an emergency.

PN1799

VICE PRESIDENT HATCHER: Is there an expectation to respond at some stage, that is if you get - - -?---Most definitely. As part of our professional brief you would respond. Some of those emails are purely looking for assistance. Some emails can be I would say hostile in nature from time to time. In that case, particularly if it was directed to a young teacher I would probably insist that they don't respond to it, that they pass that on to someone in a leadership position to act on their behalf.

PN1800

MR FAGIR: Emails aside, are there occasions when your workload spills into what might be regarded as your non work time, whether it's marking or programming or anything of that nature, or do you manage to contain your work within your set hours?---I'm probably at the stage in my career where I can manage that reasonably well. I know that there are - and particularly early year teachers who are establishing their own methodology for how to program, how to set lessons, how to do reporting and all that sort of thing, they work some long hours. As a leader in a school we need to be conscious of that. Personally I manage it far better now than I probably would have done historically. I used to work some exceptional hours but things like family and life and sleep get in the way of that sometimes.

PN1801

Thank you, Mr Huntley, they're my questions?---Thank you.

*** SIMON ERIC HUNTLEY

XXN MR FAGIR

PN1802

VICE PRESIDENT HATCHER: Re-examination, Mr Taylor?

PN1803

MR TAYLOR: No, nothing arising. If Mr Huntley could be excused.

PN1804

VICE PRESIDENT HATCHER: Yes, thank you for your evidence, Mr Huntley. You're excused?---Thank you.

<THE WITNESS WITHDREW

[10.25 AM]

PN1805

MR TAYLOR: Our next witness is Cathy Hicky who's coming into the room as we speak. The Bench should have one statement from Catherine Hicky dated 23 November 2018 of 32 pages.

PN1806

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

PN1807

MS HICKY: Catherine Margaret Hicky, (address supplied).

<CATHERINE MARGARET HICKY, AFFIRMED

[10.26 AM]

EXAMINATION-IN-CHIEF BY MR TAYLOR

[10.26 AM]

PN1808

MR TAYLOR: Just for the record can you again give the Commission your full name?---Catherine Margaret Hicky.

PN1809

Ms Hicky, you are an office holder with the applicant association Independent Education Union of Australia?---I am.

PN1810

You hold the position of assistant secretary in the Victorian/Tasmanian branch?---I do.

PN1811

You've held that position since November 2013?---That's right.

PN1812

You have been an officer of the Victorian/Tasmania branch since 1997. Is that right?---That's correct.

PN1813

Do I understand that one of the principal or major focuses of your role is education policy?---That's correct.

*** CATHERINE MARGARET HICKY

XN MR TAYLOR

PN1814

For about 10 years prior to becoming an officer of the Victorian/Tasmanian branch you were employed by the New South Wales branch of the IEU?---That's correct.

PN1815

Prior to that, so we're now talking prior to July 1987, you were a secondary school teacher for about eight and a half years?---That's correct.

PN1816

You have prepared for the purpose of these proceedings a 32 page statement which you signed on 23 November 2018?---Yes.

PN1817

You have a copy of that with you?---I do.

PN1818

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

PN1819

I tender that statement.

PN1820

VICE PRESIDENT HATCHER: The statement of Catherine Hicky dated 23 November 2018 will be marked exhibit 29.

EXHIBIT #29 WITNESS STATEMENT OF CATHERINE MARGARET HICKY DATED 23/11/2018

PN1821

MR TAYLOR: Thank you, no further questions.

PN1822

VICE PRESIDENT HATCHER: Mr Fagir.

CROSS-EXAMINATION BY MR FAGIR

[10.28 AM]

PN1823

MR FAGIR: Ms Hicky, do you mind turning to paragraph 30 of your statement please? Do you see there, Ms Hicky, that you deal with what you say are significant changes in the nature of work performed by teachers of the last two decades?---Yes.

PN1824

You see you've set out from (a) through to (i) the changes that you've identified as having occurred over that period?---Yes.

*** CATHERINE MARGARET HICKY

XXN MR FAGIR

PN1825

I just want to explore some of these with you. could I begin with (b). You there explain, or you there say that there's been:

PN1826

A significant move to individualised student learning with greater focus on an individual learning needs, despite key enabling conditions such as class sizes and schedule of teacher preparation time remaining at substantially the same levels over that period.

PN1827

Now you know, don't you Ms Hicky, that in the early childhood context the ratio of children to educators has reduced over the last two decades?---I do understand to a small degree, yes.

PN1828

You understand that there are more early childhood teachers now in early childhood than ever before as a result of regulatory reforms over the last two decades, and particularly in the last 10 or so years?---That's correct.

PN1829

A proposition that there's been a significant move to individualise student learning in circumstances where enabling conditions such as class sizes have remained the same does not hold for early childhood education?---Sorry, are you asking me whether I agree?

PN1830

Yes?---The size - the child/adult ratio in schools is also determined by the learning support officers as well and so if you like teacher aides. So if you're talking about the full staff then in schools there's been a marked increase in learning support officers, teacher aides. So if you're talking about a child/adult ratio as opposed to a teacher ratio, it may well be that in the early childhood setting there is slightly more teacher ratio if you like, the teacher to child ratio, but I would say that in schools and adult/child ratio has also increased but that's increased the work of teachers working with the assistance as that group increases.

PN1831

Ms Hicky, it sounds like you're arguing with your own evidence at (b). Can you have another look at it? The proposition you put that significant change:

PN1832

There's been a significant movement to individualise student learning despite key conditions such as class size remaining unchanged.

PN1833

Is that true or untrue do you say?---Class sizes have been reduced by one to two students, three, over the decade for example, so in a sense yes, class sizes have - the number of children in a class has remained basically the same. The number of adults who might work in that class may differ. That's the role of the teacher and the number of teachers essentially is unchanged.

*** CATHERINE MARGARET HICKY

XXN MR FAGIR

PN1834

You'd also agree with me if I suggested to you that early childhood education has always had a focus on the individual and child, more so than primary and secondary education?---Over the last couple of decades I would say that that increase is probably the same in both sectors.

PN1835

Can I suggest to you that the changes in primary and secondary education if anything have brought those sector closer to what was already happening in childhood education, where the focus was on the individual?---Early childhood may have started slightly earlier than the reforms require that to happen in schools.

PN1836

At (c) you deal with what you say is:

PN1837

A significant movement to include students with significant levels of special needs, disabilities into mainstream classrooms.

PN1838

Can I just ask you whether in your statement anywhere you identify in more specific terms this movement that you describe at (c), whether you give us numbers or statistics or even point us in the direction of statistics available externally?---Probably the best section would be clause 52 onwards which is under the changed conditions, and that is the move to require schools and teachers to focus on very diverse student populations. Not to treat students as a harmonious group and to - - -

PN1839

Ms Hicky, the question I'm asking you is whether anywhere in your statement we can find more specified facts or data or even a reference to other data which would allow the Commission to quantify this movement that you say has occurred over the last two decades?---No, not to - no, I don't quote numbers.

PN1840

At (d) you identify as a significant change:

PN1841

The need to work with students in more holistic ways, including the development of strategies to deal with increase in complex social issues, including -

PN1842

and you set out there four varieties of what you suggest are the cause of increased social issues. Have I understood that correctly?---That's correct.

*** CATHERINE MARGARET HICKY

XXN MR FAGIR

PN1843

The first issue you identify is the increase of divorce and custody issues. Do you see that?---Yes.

PN1844

Do you understand the divorce rate to have increased in recent years?---The number of issues that are outlined there are an amalgam of all the issues that affect society in Australia at the moment, and our schools would certainly report that the number of children from divorced families has increased.

PN1845

Could you just attend a little more directly to my question. Do you understand the rates of divorce to have increased in Australia in recent years?---They would have increased slightly, yes.

PN1846

Can I suggest to you that the rates of divorce now are lower than they have been at any stage since the introduction of no fault divorce in the 1970s. Would you accept that or do you have a different view?---I would accept that, yes.

PN1847

You deal at (iii) with:

PN1848

Issues arising from socio-economic status and poverty/disadvantage.

PN1849

Do you see that?---Yes.

PN1850

When do you say teachers first began to have to deal with students who were poor, disadvantaged or otherwise subject to some socio-economic disability?---They would always have been expected generally to do that but the forms that I've outlined in my report go specifically to the requirement to address those particular students, and to mitigate those effects. That particular goes from very strongly through the Adelaide and Melbourne declarations and they continue in various stage reforms.

PN1851

The position is, isn't it, that teachers have always had to deal with students who are poor, who are not well parented or neglected or who are otherwise disadvantaged?---In a general expectation, not in a specific expectation as is the case in individualised programming and et cetera.

PN1852

Now at (f) you deal with:

PN1853

The development and implementation of a new and innovative curriculum, including the incorporation of ICT.

PN1854

That's information and communication technology is it?---That's correct.

*** CATHERINE MARGARET HICKY

XXN MR FAGIR

PN1855

General capabilities and student learning programs across curriculum approaches and increased focus on science, technology, engineering and mathematics.

PN1856

See that?---That's right.

PN1857

Now you're talking about the Australian curriculum?---That's correct.

PN1858

At (g) you deal with:

PN1859

Significant increases in monitoring data collection and detailed reporting including high stakes national reporting of student and school performance to various parties.

PN1860

Do you see that?---Yes.

PN1861

What do you mean by "high stakes national reporting"?---High stakes national reporting generally refers to in Australia NAPLAN, which is the national standardised test and that's why that is separately referred to in addition to monitoring and data collection that occurs on a daily and weekly basis.

PN1862

Why do you describe that as being high stakes?---That is generally known across schools and governments to be high stakes because it particularly relates to the ranking of schools and that's how it has adopted that terminology.

PN1863

What is the significance of the ranking of schools for the work of teachers?---So the - primarily the significantly increased pressure on schools and teachers then to lift the NAPLAN scores because the schools are identified and newspapers rank them et cetera, so a value has been placed on that particular test and the results of that test probably disproportionality to the general assessment and reporting that occurs. So that's why it has had - it's not the actual doing of the test but it's the huge impact and pressure of that test.

PN1864

At (h) you deal with what you say is:

PN1865

The importance and pressure placed by governments on schools and teachers by international comparisons.

*** CATHERINE MARGARET HICKY

XXN MR FAGIR

PN1866

Do you see that?---That's right.

PN1867

Are they comparisons drawn on the basis of the standardised testing which you've described?---There's a range of international tests, some of them are sample tests, so PISA is one, that's of 15 year olds. Various other countries do basic skills testing by different degrees, so it depends on - but Australia basically looks to all of those international forms of testing and compares Australian results.

PN1868

At 15 and elsewhere in your statement, you deal with what you say is emphasis on increasing the skill base of teachers. Can I just ask you this question. What is the ATAR range for entry into a Bachelor of Education degrees today?---In Victoria, I refer to that in my submission, it's been raised to 70. So it was progressively raised over the last few years by the Victorian government.

PN1869

From?---From essentially it varied from university which was an issue of contention and it could have been from 50 to 60 and so forth. So there's been a progressive - some universities have slightly lower ATAR scores as their selection and there's a move in New South Wales et cetera to raise that ATAR score as a way of selecting higher candidates.

PN1870

The ATAR score remains the lowest really of ATAR scores required for entering into any bachelor degree in Australian universities. You'd accept that as being generally correct?---The minimum, yes, that has been a criticism of particularly some universities who use the minimum - who apply the minimum.

PN1871

Or even if one looks to, for example, the guaranteed minimum entry requirements - guaranteed minimum entry requirements for Bachelor of Education and the various branches of it are typically at the very lowest of any bachelor degree to have been a particular university?---It has been a low minimum. That's correct.

PN1872

It's not that it has been. It is today?---Ah - well, 70. If you actually go to any particular university they will tell you that the minimum is not the largest number. So, yes, the minimum is no doubt probably low. It's been low for some years and it's needed to increase.

PN1873

Now - - -

*** CATHERINE MARGARET HICKY

XXN MR FAGIR

PN1874

VICE PRESIDENT HATCHER: Sorry, is there any data to this point or analysis for the future which indicates that raising the ATAR score will reduce the supply of qualified students entering into education?---Will reduce - sorry? Yes, universities are reporting to various committees that I sit on - the initial Teacher Ed Advisory Committee of the Department of Education that there are some

smaller numbers now coming through. I haven't seen that written anywhere but certainly that is being reported as an issue and the Supply and Demand Committee that I sit on, which is again another Department of Education committee, is monitoring that supply side with the introduction of the higher ATAR.

PN1875

Right. Because, I thought, in effect ATAR's were generally speaking of product of supply and demand, that is, the supply of places and the demand of students wanting to do a particular course?---Well, the universities - some universities have higher ATARs anyway. Like Melbourne University has always had a higher ATAR. So it is actually the - has been the decisions of universities to pick their cut-off and it is - - -

PN1876

Well, is that a decision or is that a result of the fact that Melbourne is seen as a more desirable university and therefore they can be more picky about who they take as distinct from perhaps some other universities?---In the past, I think, certainly Melbourne would see itself as one of the more elite universities in that sense. And so from their point of view it is highly sought after. And it's - they see it as a value-add - that they're ATARs are higher. The Minister in adopting this - you know - 70 as the ATAR is making a policy decision in relation to raising the actual quality of teaching in Victoria where this applies. So universities may have wanted to have more students available and thus had lower ATAR scores because there haven't been caps for some years on the number of places. So it has been a bit of a concern about universities having an oversupply in some areas with lower ATARs where there weren't supply issues. For example, in certain subject areas. So it has been a movable feast, the area of ATAR scores.

PN1877

And I've heard it suggested that at some universities the ATARs are somewhat fictional anyway in that they find ways to admit students with lower scores and various bases to - - -?---That's right.

PN1878

To boost demand?---That's correct. There are other pathways, including students who've come through various TAFE courses and certificates and diplomas and most universities now have this alternative pathway and so the committee that I am on in relation to - in initial Teacher Ed - is looking closely to ensure that those alternative pathways do equate to an ATAR score. So I think it would be true to say that the number of students coming through into teaching from schools who have an ATAR is probably about half now of the population of student teachers. So there are a lot more career change people coming through and that has - and so they've got degrees and other pathways are relevant to that group. So ATARs form an important picture but particularly because you've now got an older generation of people coming through, particularly graduates out of - who teach in science and maths - they supply difficulty areas - ATARs form only part of the picture.

*** CATHERINE MARGARET HICKY

XXN MR FAGIR

PN1879

Yes, thank you.

PN1880

MR FAGIR: Ms Hicky, at paragraph 23 you say some things about matters that are expected of teachers. Do you see that?---Yes.

PN1881

And you explain that while schools will employ specialist staff teachers are expected to and you set out there two - two dot points which you say are things expected of teachers. Do you see that?---That's correct.

PN1882

Is there some reason why you couldn't identify the person who you say has these expectations?---Sorry, could you repeat the - explain the question - the teachers are expected to? So are you wanting - - -

PN1883

Is there some reason why this had to be put in the passive voice as opposed to you saying, "Person X or Group Y expects the following of teachers."?---I think that basically the premise that precedes this statement makes it clear that its governments, employers, the profession and the community and I've stated that in other. So I'm carrying on that particular concept, rather than repeating it.

PN1884

There's a whole gamut of legislation and other regulation - quasi-regulation that bears on teachers that dictates things that teachers are required to do and the matters that are expected of them. That's right, isn't it?---If by 'quasi' you mean systems or school policies and practises that would be true and I refer later in my statement to Catholic Education Commission Victoria Policy Guidelines and they actually do form really a requirement of employment if you like. So they do, in fact, have significant meaning in terms of school. So they won't be regulated specifically in legislation, although the teaching standards, if you look at them closely reflect these particular two batches of - if you like bundles of mega-skills.

PN1885

You see, Ms Hicky, that's the obvious point isn't it? There's a set of standards that you say applies to all teachers in Australia? The APST?---That's right.

PN1886

Now, can I just read you a paragraph from the prefatory part of the Australian Professional Standards for Teachers?

*** CATHERINE MARGARET HICKY

XXN MR FAGIR

PN1887

"The Australian Professional Standards for Teachers are a public statement of what constitutes teacher quality. They define the work of teachers and make explicit the elements of high quality, effective teaching in 21st century schools that will improve educational outcomes for students. The standards do this by providing a framework which makes clear the knowledge, training practise and professional engagement right across teachers' careers. They present a

common understanding and language for discourse between teachers, teacher educators, teacher organisations, professional associations and the public."

PN1888

Now, you would agree with that description of the standards?---Yes.

PN1889

If this Commission wants to understand exactly what is expected of teachers, it has no reason to go anywhere beyond the Australian Professional Standards for Teachers?---The Australian - that would be correct - the Australian Professional Standards of Teachers are adopted by State jurisdictions as a key part of the licensing test.

PN1890

They are the standards that are expected of professional teachers in Australia?---Currently, yes.

PN1891

And can I suggest to you that there's no reason for this Commission to bother with pages and pages of high level statements about things that are expected of teachers when they can just go to the standards and learn exactly what is the consensus, expectation of teachers. Would you agree with that?---They would be useful if you wanted an overall picture. If you want detail you would go further.

PN1892

Yes. And you might get teachers to explain what you're actually doing day to day and how that differs now, as opposed to before the introduction of standards and so on certainly?---That's right.

PN1893

What I'm suggesting to you is things like high level statements like teachers are expected to have and utilise broad and indeed skills and diagnose and assessing learning needs add nothing at all to the debate?---My statements at clause 23 detail the two major areas which is diagnostic and assessment work and then the development of individualised learning sequences and activities. So they formed two large bodies of technical skills.

PN1894

Ms Hicky, the workload of teachers in schools is a constant preoccupation of the Independent Education Union, would you agree with that?---That's correct.

PN1895

For example, in recent years the union has contended that the introduction of the better schools program, AKA Gonski will increase teacher workload?---They will increase teacher workload if there are not changes to the ways in which the workloads are calculated.

*** CATHERINE MARGARET HICKY

XXN MR FAGIR

PN1896

This issue has got to a point where in South Australia in 2016, for example, teachers or some teachers in the Catholic sector went on strike in relation to

workload issues?---I'm sure they did go on strike in relation to workload issues. That forms part of the enterprise bargaining claim.

PN1897

It's the IEU's view that things like standardised testing and some of the things that flow from it, for example, data walls all tend to increase the workload of teachers in schools?---They will increase the workload if the workload is not adjusted in other areas.

PN1898

Thank you, Ms Hicky. They're the questions.

PN1899

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

PN1900

MR TAYLOR: No, there's no further questions for Ms Hicky. If she could be excused.

PN1901

VICE PRESIDENT HATCHER: Thank you for your evidence, Ms Hicky, you're excused?---Thank you.

<THE WITNESS WITHDREW

[10.52 AM]

PN1902

MR TAYLOR: If it's not inconvenient could I take this opportunity to tender three statements from two witnesses who are not required for cross-examination. I hope a note as to this was provided to your Honour's the presiding member's Associate overnight. They are two statements of Martel Menz who is an officer of the AEU's Victorian Branch and who gives evidence about the teaching profession with a particular focus on Victoria and in particular focus on early education. Ms Menz gives evidence that that's an area of her responsibility in respect of AEU members. It's a statement, if the Commission has it, of 20 December 2017.

PN1903

VICE PRESIDENT HATCHER: Just hold on a second, Mr Taylor.

PN1904

MR TAYLOR: Yes.

PN1905

VICE PRESIDENT HATCHER: Yes, so you tender that?

PN1906

MR TAYLOR: Yes, that I tender that statement.

*** CATHERINE MARGARET HICKY

XXN MR FAGIR

PN1907

VICE PRESIDENT HATCHER: Any objection? No. Statement of Martel Menz dated 20/12/2017 will be marked exhibit 30.

EXHIBIT #30 STATEMENT OF MARTEL MENZ DATED 20/12/2017

PN1908

MR TAYLOR: Ms Menz also prepared a statement dated 19 July 2018 in reply to a statement of Jennifer Kearney, one of the statements filed by ACA. I tender that reply statement as well.

PN1909

VICE PRESIDENT HATCHER: Right. The statement in reply of Martel Menz dated 19 July 2018 will be market exhibit 31.

**EXHIBIT #31 STATEMENT IN REPLY OF MARTEL MENZ
DATED 19/07/2018**

PN1910

MR TAYLOR: The other witness we're told is not required for cross-examination is Pam Smith. There's a statement of Pam Smith dated 19 July 2018. She is an assistant secretary of the IEU and she gives evidence as to Stanhope Gardens Catholic Campus where one finds both early childhood teachers and primary school teachers teaching on the same campus and receiving different rates of pay. I tender that statement.

PN1911

VICE PRESIDENT HATCHER: Statement of Pam Smith dated 19 July 2018 will be marked exhibit 32.

EXHIBIT #32 STATEMENT OF PAM SMITH DATED 19/07/2018

PN1912

MR TAYLOR: That is as far as we can take it until Mr Spriggs arrives. As I indicated we understand all things being equal, he will get here somewhere between 12 and 12.30, so I do apologise for the gap now that's going arise but I understand from Mr Fagir that we're able to start him at 12.30 we should be able to finish before lunch. So it seems sensible to take that course but if the Bench has a preference to adjourn to a later time then of course we can accommodate that.

PN1913

VICE PRESIDENT HATCHER: So he'll definitely be here by 12.30?

PN1914

MR TAYLOR: What we can do is we can get a message to your Honour's Associate. He was due to land about now. The moment we hear from him we'll have an update as to his arrival time and we can get that message. I can't give you any guarantee as your Honours have flown in and out of Sydney airport as to arrival times, especially on rainy days.

PN1915

VICE PRESIDENT HATCHER: All right, we'll adjourn to not before 12.30 pm.

PN1916

MR TAYLOR: Thank you.

SHORT ADJOURNMENT

[10.56 AM]

RESUMED

[12.34 PM]

PN1917

VICE PRESIDENT HATCHER: Mr Taylor?

PN1918

MR TAYLOR: Yes, if it pleases the Commission our last witness for today, John Wesley Spriggs of the IEU is now here and can come to the witness box.

PN1919

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

PN1920

MR SPRIGGS: My name is John Wesley Spriggs. I live at (address supplied).

<JOHN WESLEY SPRIGGS, SWORN

[12.34 PM]

EXAMINATION-IN-CHIEF BY MR TAYLOR

[12.34 PM]

PN1921

MR TAYLOR: So your full name is John Wesley Spriggs, is that right?---Correct.

PN1922

And you are employed by the Independent Education Union of Australia's Queensland and Northern Territory Branch as its senior industrial officer?---That's correct.

PN1923

You have been employed by the IEU for about 23 years?---Correct.

PN1924

And amongst your responsibilities you have in addition to a leadership role as being the senior industrial officer, you have a specific responsibility for what's referred to as two occupational branches within the Queensland/Northern Territory Branch?---That's correct.

PN1925

That those two occupational branches being Early Childhood and School Principals?---That's correct.

PN1926

And that's why you say, in paragraph four, that you have a particular responsibility for the Early Childhood Education Sector?---That's correct.

*** JOHN WESLEY SPRIGGS

XN MR TAYLOR

PN1927

And for how long have you had that particular responsibility?---Since I commenced with the union in '95.

PN1928

Now for the purpose of these proceedings you have prepared and signed two witness statements. Is that right?---That's correct.

PN1929

Do you have them both with you?---I do.

PN1930

The first in time that was prepared. Do you have that there? It's undated seven-page statement that was prepared, I understand, in about November 2017?---I have it with me.

PN1931

Do you say that the contents of that statement of 38 paragraphs are true and correct to the best of your knowledge and belief?---The contents are given the influx of time. Attached were some wage rates and it would be useful, I think, to update the wage rates that emanate from the Creche and Kindergarten Association agreement.

PN1932

Yes. I'll take you to that. So at the time it was prepared it was true and correct to the best of your knowledge and belief. Is that right?---That's correct.

PN1933

So taking you to the issue at paragraph 28 of your statement you refer to what you say is an exception to the general approach in Queensland of there being - not being enterprise agreements that apply to early childhood teachers. You identify the exception to that is an employer known as the Creche and Kindergarten Association of Queensland?---That's correct.

PN1934

Now in that paragraph at the time you prepared it you said they operated about 133 community kindergartens. Are you able to update that figure today?---Yes, since that time a number of kindergartens have - it's generally run by parent committees on a volunteer basis have determined that they prepare not to have that responsibility and the best number I can give at the moment is there's 140 kindergartens operated by the Creche and Kindergarten Association.

PN1935

And it is a not for profit association. Is that right?---That's correct.

PN1936

Now you say in that paragraph that it has an enterprise agreement. The C&K Early Childhood Education Enterprise Agreement 2017. Is that enterprise agreement still in effect?---It is.

*** JOHN WESLEY SPRIGGS

XN MR TAYLOR

PN1937

And at the time you prepared that statement the then current rates drawn for that enterprise agreement were annexed as annexure "A" and have you prepared for the purpose of giving your evidence today, an update of annexure "A" recording the current rates drawn from that enterprise agreement?---Yes, I've copied one page - the next page out of the enterprise agreement which shows the rates effective from 1 July '18.

PN1938

Can I show you a document, and I also have three copies for the Bench, of that same page. So there's one page for the witness and three for the Bench. Mr Spriggs, I've handed you a document. Is that the page that you indicated that you'd copied from the enterprise agreement which records the rates that currently apply?---That's correct.

PN1939

And by comparison to the rates that applied to primary school teachers employed by government and the catholic system, how do they compare?---They are comparable, yes.

PN1940

I tender - can we start by tendering the statement, and then I'll separately tender the one page?

PN1941

VICE PRESIDENT HATCHER: All right. Well, I'll treat them both as tendered. So the statement of John Spriggs undated with 38 paragraphs and three annexures will be marked Exhibit 33.

**EXHIBIT #33 WITNESS STATEMENT OF JOHN SPRIGGS
UNDATED WITH 38 PARAGRAPHS AND THREE ANNEXURES**

PN1942

And the table of current rates from the C & K Early Childhood Education Enterprise Agreement 2017 will be marked Exhibit 34.

**EXHIBIT #34 TABLE OF CURRENT RATES FROM THE C & K
EARLY CHILDHOOD EDUCATION ENTERPRISE AGREEMENT
2017**

PN1943

MR TAYLOR: Now, Mr Spriggs, you also prepared for the purposes of these proceedings a second statement titled "Statement in Reply". A three-page statement that you signed on the 19 July 2018. Is that right?---That's correct.

PN1944

And you have a copy of that with you as well?---I do.

*** JOHN WESLEY SPRIGGS

XN MR TAYLOR

PN1945

And that is a statement that replies to some of the evidence given by Jay Fraser - F-r-a-s-e-r - filed by the ACA in these proceedings. Is that right?---That's correct.

PN1946

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

PN1947

I tender that statement.

PN1948

VICE PRESIDENT HATCHER: Yes. The statement in reply of John Spriggs dated 19 July 2018 will be marked Exhibit 35.

EXHIBIT #35 STATEMENT IN REPLY OF JOHN SPRIGGS DATED 19/07/2018

PN1949

MR TAYLOR: Yes, they're the questions for this witness, thank you.

PN1950

VICE PRESIDENT HATCHER: Mr Spriggs, just going back to that paragraph 28 of your first statement in the Creche and Kindergarten Association. So is it the employing entity at these 100 and whatever community kindergartens?---It is the employing entity, yes.

PN1951

I see. Yes, thank you. Mr Fagir?

CROSS-EXAMINATION BY MR FAGIR

[12.41 PM]

PN1952

MR FAGIR: Mr Spriggs, at paragraphs 9 and 10 of your statement you've given us some numbers of community kindergartens and long day-care centres in Queensland. Do you see that?---I do.

PN1953

Is that based on some statistical material? Or is that product of some survey that you've conducted yourself?---That's based on material that was provided to me shortly before constructing this statement by the Queensland Department of Education.

PN1954

Is there some reason why you haven't identified that material in your statement?---It's not, in my opinion, a contentious issue that there are - or were at that time - about that number of kindergartens.

*** JOHN WESLEY SPRIGGS

XXN MR FAGIR

PN1955

All right. At paragraph 18 you say, "The teaching of an educational program which is subject to the Queensland Kindergarten Funding Scheme was considered

to be teaching for the purposes of teacher registration in Queensland." Do you see that?---I do.

PN1956

Is there some legislative basis for that proposition?---Yes, there's an Act called the Education (Queensland College of Teachers) Act. I can't tell you the year but under that Act that teaching is recognised as teaching.

PN1957

Right. And, again, you've elected not to identify that legislation - what for the same reason? You think it's uncontentious?---Correct.

PN1958

Now, 19 to 20, you say - don't you - for the purposes of teacher registration - firstly you point out that the teacher must hold a particular qualification and then you say that, "To achieve full registration the teachers required to move from conditional to full registration on the basis of the first 12 months' satisfactory service as a teacher." You see that in 19?---Yes, I do.

PN1959

Now, 20 you say, "This is a requirement common to teachers in only childhood education and teachers in schools."?---Correct.

PN1960

Now, that's not right?---I'd welcome you identifying what it's not.

PN1961

Do you accept this proposition that not all early childhood teachers in Queensland are required to be registered?---Yes, I accept that. But they move from provisional registration or conditional registration to full registration after 12 months and satisfying the College of Teachers that they have satisfactorily completed that 12 months of teaching service.

PN1962

If they happen to be required to be registered?---No. A number of teachers will move from conditional to full registration regardless of whether their employer or some other thing requires them to be teachers because they want to attain that status.

PN1963

Well, in fact there are many early childhood teachers in Queensland who can't be registered, whether they want to or not?---I wouldn't call it "many". I am aware of a very, very small number of teachers who slipped through the cracks. There is an entity called ACEQA. I don't know whether you've come across that acronym previously. The Australian - sorry - it should be in my mind and I'll get - - -

PN1964

VICE PRESIDENT HATCHER: What's the acronym? What are the letters?---A-C-E-C-Q-A.

*** JOHN WESLEY SPRIGGS

XXN MR FAGIR

PN1965

A-C-E-C-Q-A?---I think it's Australian Childhood - - -

PN1966

MR FAGIR: No, Australian Children's Education and Care Quality Authority?---Thank you. That one. ACEQA has certain requirements for satisfying their requirement that a person be a teacher to deliver an educational program under the university access. There is a very, very small discrepancy between ACEQA's requirements and the Queensland College of Teachers' requirements for what constitutes a teacher to be recognised. So hence I don't say it's many but there are a handful, I would say, of people who fall in that crack.

PN1967

VICE PRESIDENT HATCHER: So they have been - they're qualified according to ACEQA but not according to the Queensland College of Teachers?---That's correct.

PN1968

MR FAGIR: Separately to that issue, Mr Spriggs, there's a category of teachers who are not able to registered because they're not developing - delivering the necessary kind of educational program?---I'm sorry. I'll place that in a different category. If a teacher is employed - sorry, to use the absolute extreme. The garbage collection, obviously they can't use 12 months service to be registered.

PN1969

Yes. But I'm not talking about a teacher employed in garbage collection. I'm talking about teachers employed in long day care centres?---Well, that would depend on whether they're employed as a teacher or not.

PN1970

It's not a matter of what they're employed as. If they're delivering a particular kind of program, they can be registered. If they're not they're not able to be registered no matter how much they might wish to do so?---Well, that goes back to what I said before. If they have 12 months service as a teacher then they can apply to move from conditional to full registration. If they don't have 12 months service as a teacher then they can't apply.

PN1971

The proposition I'm putting to you, Mr Spriggs, is if they have a 100 year service, if they're not delivering a program of the prescribed kind they are not able to be registered?---I'm classing employment as a teacher as a teacher. Now, if you refer to that as of a prescribed kind there is requirements by ACEQA and through the various government agencies that say that - well, under the universal access that there has to be the delivery of 600 hours of an educational program by an appropriately qualified person according to an approved curriculum. Now, I would call that teaching.

*** JOHN WESLEY SPRIGGS

XXN MR FAGIR

PN1972

In paragraph 32 of your statement you explain that the equivalence for equality of wages between schools and - I'm sorry - before going to that can I just raise this other issue with you? And you say at paragraph 27 that "Community kindergartens are subject to enterprise agreements specific to the employer concerned." Do you see that?---That's correct. Yes.

PN1973

Every community kindergarten in Queensland has an enterprise agreement does it?---No, I don't make that claim. By and far the majority do. There might be again a handful out there that don't.

PN1974

And have you conducted some analysis of the contents of these enterprise agreements?---I, in my role, for the union oversight all of the agreements that we are a party of and elsewhere in my statement I refer to the fact we have a staff member who monitors every agreement that's submitted for approval - crassly - so we can see whether we should apply to be covered by it or not. But in doing that then I will look at the content of agreements in Queensland that are submitted for approval.

PN1975

Sorry. You started off by talking about something someone else does and then you moved into talking about something you do. Can we just try to break that down a little bit? The first thing, on what basis do you determine whether you want the union to be covered or not covered by an enterprise agreement?---If we're a bargaining representative according to the definition of the Act.

PN1976

Right. So there's someone else who monitors these agreement approvals?---Well, one of our more junior staff, once a week, looks at what's been filed with the - on the Commission website. Now, if it comes up with an agreement in early childhood she provides a copy of that to me.

PN1977

All right. Now at paragraph 32 of your statement you explain that the equivalence of wages between schools and community kindergartens was achieved in awards in the late '80s and early '90s?---Yes.

PN1978

And you go on to say that the comparability of wages has been maintained since that time?---Correct.

PN1979

When you say 'comparability' you're not suggesting the wages were the same but they were in a similar ballpark. Is that the effect of that term? Or am I misunderstanding it?---In the majority of cases wages are identical. There are a number of areas where they're slightly different but they are within a number of dollars.

*** JOHN WESLEY SPRIGGS

XXN MR FAGIR

PN1980

At paragraph 34 you say that, "This achievement of comparability occurred during a period where the award prescribed the paid rate and the going rate for teachers." What's the difference between the paid rate and the going rate?---Back before the introduction of enterprise bargaining teachers were paid the award rate that was both the going rate and the paid rate. Subsequent to enterprise bargaining the rates - the going rate - contained in enterprise agreements or certified agreements as they were then called initially moved ahead of the award rates.

PN1981

You go on to say the award recognised that being a registered teacher was a requirement and that delivery of an educational program was a requirement in community kindergartens?---That's correct.

PN1982

Now is that some term of some award that you're referring to or is this something that you sort of deduced from the scheme of the award?---No, there was an award made in Queensland in 1990, called the Early Childhood Education Award State. It required again that the person be a teacher and that they deliver an approved curriculum.

PN1983

Now do we take it from that description, firstly, that teachers in Queensland have been registered for decades as there's been a registration scheme in place for decades?---Correct.

PN1984

And that early childhood teachers in kindergartens in Queensland have also been registered for decades?---If they were covered by the Early Childhood Education Award. Correct.

PN1985

And in so far as ECT's in Queensland kindergartens are concerned, the fact that registration is not some novel development?---No.

PN1986

Now, is this the position that the point where the award - the Queensland award - at least - began to fade into insignificance and enterprise agreements came to the fore. The equivalence or the comparability of wages continue in the enterprise agreements that were made between the various parties over the years that followed?---That's correct.

PN1987

The effect of all of this description is this, isn't it, Mr Spriggs that in Queensland the early education sector is divided into two parts. One is the not for profit sector of community kindergartens and the second is the for profit sector of long day care centres?---In very general terms you could find exceptions, but in very general terms, yes.

*** JOHN WESLEY SPRIGGS

XXN MR FAGIR

PN1988

In relation to the first category of not for profit community kindergartens, that is a sector that was historically the subject of awards of the Queensland IRC?---That's correct.

PN1989

And it is a sector which now bargains?---Correct.

PN1990

That is to be distinguished from the second sector, that is the not for profit long day care centre sector? I'm sorry. Before profit long day care?---It can be distinguished in that regard but it can also be distinguished that at the time those awards were made those who were required to deliver they recognised an educational program and who were required to be teachers were covered by the Early Childhood Education Award. I've said earlier in a very general sense - yes, to a question - but at the risk of providing too much detail when that Early Childhood Education Award was made there were five or six long day care centres that for some historical reason - that predated me well and truly - received particular funding and provided an educational program. So that award continued - the Early Childhood Education Award continued to cover them. So the distinction wasn't profit or non-profit. The distinction was educational program versus not delivering an educational program.

PN1991

Now, the workforce in both portions, can I suggest to you, is heavily female?---Very heavily.

PN1992

And can I suggest to you that the wage differential which you describe exists now, is it's obviously the product of the different industrial history of the two sectors of Early Childhood Education in Queensland?---Well, it's a product of changes which have occurred since those basic industrial tenets were first set up.

PN1993

Thank you, Mr Spriggs. They're my questions.

PN1994

VICE PRESIDENT HATCHER: Re-examination?

PN1995

MR TAYLOR: No, thank you, your Honour. If Mr Spriggs could be - - -

PN1996

VICE PRESIDENT HATCHER: Thank you for your evidence, Mr Spriggs, you're excused.

<THE WITNESS WITHDREW

[12.56 PM]

*** JOHN WESLEY SPRIGGS

XXN MR FAGIR

PN1997

MR TAYLOR: If I could update the Commission as to steps that those behind me have been making to rearrange witnesses in light of the matters that have been

discussed with the Bench over the last couple of days? The net effect is this. First we will provide, we think, by the end of the day an updated witness schedule. We have been in discussions for at least - discussions may be too strong a word - we have been informing Mr Fagir as materials come to hand as to what's being proposed. For the next two days what is proposed is as follows, and as I said, it's to be confirmed in the document that will be provided to the Commission later today.

PN1998

There will be three witnesses. Just giving the surnames only Margerison - M-a-r-g-e-r-i-s-o-n. Sorry - surnames only - Atkinson and Vane-Tempest. There was for tomorrow Gleeson who is an early childhood teacher but we've been able to move her in accordance with the request by the ACA to next week. Vane-Tempest is also an early childhood teacher. We endeavoured to also try and move her but her roster for next week, being fixed, she was unable to make herself available for any day next week.

PN1999

So whilst we've endeavoured to meet the request as far as we can and moved every early childhood teacher we can, there's one that can't be moved and that is Emily Vane-Tempest. She is not someone who is providing the supplementary evidence.

PN2000

So we anticipate that the three witnesses will be dealt with by lunch tomorrow. We have been unable to move any of next week's witnesses into this week. So, unfortunately, that will have been a short day tomorrow. Thursday, having moved witnesses out of the week we're left with two witnesses on Thursday. Connellan - C-o-n-n-e-l-l-a-n and Donnelly. Now, unfortunately, Mr Donnelly was only available in the afternoon and by video link. And so on the basis that there's only two witnesses for that day and they'll both be relatively short I have discussed with Mr Fagir that if we start - if it's not inconvenient to the Commission - at one - we expect both of those witnesses to be dealt with between 1.00 and approximately 2.00 - 2.30. And so it will be a short period again.

PN2001

VICE PRESIDENT HATCHER: So, firstly you want to sit us at 1.00 pm?

PN2002

MR TAYLOR: Yes.

PN2003

VICE PRESIDENT HATCHER: And on an estimate of finishing by 2.30.

PN2004

MR TAYLOR: Yes.

PN2005

VICE PRESIDENT HATCHER: And tomorrow we can start at 10.00 on an estimate that we'll finish at - definitely finish by 1.00?

PN2006

MR TAYLOR: Yes. That's what I'm told, yes. Yes, to both of those questions if it pleases, your Honour. And the balance of the witnesses are being scheduled into the following week. It looks like they're all scheduled but we're doing what we can to minimise any difficulties that the ACA may have and we're trying to accommodate them as best we can. So we think we'll be able to provide an updated schedule both to the ACA and to the Commission by the end of the day that we'll show as having our witnesses through to the morning of the Thursday 27 June which was the original time that our evidence was going to end. And it looks like that we can finish our evidence as per the original plan albeit having moved a whole lot of witnesses.

PN2007

VICE PRESIDENT HATCHER: All right. If there's nothing further? Mr Fagir?

PN2008

MR FAGIR: Firstly, we have said that the appropriate course is that we not be required to examine any early childhood teachers before next week. I've done my best to explain the reasons why we say that and we don't resile from that position. Secondly, for our part we have serious concerns about how this evidence is going to be got through next week. We don't share the optimism of Mr Taylor and his client. Thirdly, can I just say - request it before - but we're probably hiding our hand on this. We received a series of statements yesterday - one today - just take one example and this is, I acknowledge, well we'd regard as the worst example. The statement from Ms Connell - this is the fourth statement from her - 25 pages deals with two or three issues in addition to the day to day work issue that has been raised latterly involves 15 pages of assertions about the world now and then. This is exactly the type of thing that we have been complaining about. Just to be clear for our part we are working on a statement and we hope to file it as quickly as we can and we will provide some submissions whether orally or in writing, going to the question of whether this evidence should be admitted. And I just wanted to make it clear that we're continuing to resist the admission and I want it to be thought that we're acquiescing in the receipt of this evidence in so far as we're cooperating with rearrangement of witnesses and so on.

PN2009

VICE PRESIDENT HATCHER: Well, if you're going to do that is it possible to identify in the new statements the paragraphs which you say, in effect, raise totally new issues which is either not responsive to anything that has arisen or doesn't describe the day to day work of early childhood teachers? So that we can, as it were, make an assessment ourselves out of court once they're filed?

PN2010

MR FAGIR: We can do that in submissions, certainly. We can identify that. Just to be clear about it that's one part of the problem but the larger part is, in particular, in relation to the statement of Ms Connell and Ms James. I've said something about the form of Ms James' evidence. Ms Connell's - the form of Ms Connell's evidence is perhaps even in some ways worse than that. That's one of the issues - probably the main issue that we say causes a practical problem. If the Commission pleases.

PN2011

VICE PRESIDENT HATCHER: All right. Can I again say that if there is any issue about completing the relevant witnesses next week the parties can ask us and we will endeavour to accommodate a request for sitting additional hours. All right. We'll now adjourn.

ADJOURNED UNTIL WEDNESDAY, 19 JUNE 2019

[1.03 PM]

LIST OF WITNESSES, EXHIBITS AND MFIs

SIMON ERIC HUNTLEY, SWORN	PN1745
EXAMINATION-IN-CHIEF BY MR TAYLOR.....	PN1745
EXHIBIT #28 WITNESS STATEMENT OF SIMON ERIC HUNTLEY DATED 23/11/2018	PN1755
CROSS-EXAMINATION BY MR FAGIR.....	PN1757
THE WITNESS WITHDREW	PN1804
CATHERINE MARGARET HICKY, AFFIRMED	PN1807
EXAMINATION-IN-CHIEF BY MR TAYLOR.....	PN1807
EXHIBIT #29 WITNESS STATEMENT OF CATHERINE MARGARET HICKY DATED 23/11/2018.....	PN1820
CROSS-EXAMINATION BY MR FAGIR.....	PN1822
THE WITNESS WITHDREW	PN1901
EXHIBIT #30 STATEMENT OF MARTEL MENZ DATED 20/12/2017	PN1907
EXHIBIT #31 STATEMENT IN REPLY OF MARTEL MENZ DATED 19/07/2018	PN1909
EXHIBIT #32 STATEMENT OF PAM SMITH DATED 19/07/2018.....	PN1911
JOHN WESLEY SPRIGGS, SWORN.....	PN1920
EXAMINATION-IN-CHIEF BY MR TAYLOR.....	PN1920
EXHIBIT #33 WITNESS STATEMENT OF JOHN SPRIGGS UNDATED WITH 38 PARAGRAPHS AND THREE ANNEXURES.....	PN1941
EXHIBIT #34 TABLE OF CURRENT RATES FROM THE C & K EARLY CHILDHOOD EDUCATION ENTERPRISE AGREEMENT 2017.....	PN1942
EXHIBIT #35 STATEMENT IN REPLY OF JOHN SPRIGGS DATED 19/07/2018	PN1948
CROSS-EXAMINATION BY MR FAGIR.....	PN1951
THE WITNESS WITHDREW	PN1996