REPORT ON PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 3

STUDENTS WITH A DISABILITY OR SPECIAL NEEDS IN NEW SOUTH WALES SCHOOLS

At Macquarie Room, Parliament House, Sydney on Monday, 3 April 2017

The Committee met at 9:00 am

PRESENT

The Hon. M. Gallacher (Chair)

The Hon. D. Gay
The Hon. J. Graham
The Hon. D. Mookhey
Reverend the Hon. F. Nile
Mr D. Shoebridge

The CHAIR: Welcome to the second hearing of Portfolio Committee No. 3's inquiry into the education of students with a disability or special needs in government and non-government schools in New South Wales. This broad-ranging inquiry will consider a number of important issues including equity of access to resources for students with disability or special needs across the State, the Every Student, Every School policy and current complaint and review mechanisms. The Committee will also examine any developments that have taken place since the last upper House inquiry into disability education which took place in 2010. It is important to point out that this inquiry is not intended to investigate individual cases but rather to consider broader policy solutions to issues raised in the terms of reference.

I acknowledge the Gadigal people who are the traditional custodians of the land on which we meet this morning. I also pay respect to elders past and present of the Eora nation and extend that respect to other Aboriginals present. Today is the second of six hearings we plan to hold in relation to this inquiry. We will hear from education unions, academics and advocacy groups. I will make some brief comments about the procedures for today's hearing. Today's hearing is open to the public and is being broadcast live via the parliamentary website. A transcript of today's hearing will be placed on the Committee's website when it becomes available.

In accordance with the broadcasting guidelines, whilst members of the media may film or record committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing, so I urge witnesses to be careful about any comments they may make to the media or to others after they complete their evidence as such comments would not be protected by parliamentary privilege if another person decided to take action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat.

There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In those circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days. I remind everyone that committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. Witnesses are advised that any messages should be delivered to Committee members through the Committee staff. They will assist you in that regard. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

MAURIE MULHERON, President, NSW Teachers Federation, affirmed and examined

GARY ZADKOVICH, Deputy President, NSW Teachers Federation, affirmed and examined

CLAUDIA VERA, Organiser, NSW Teachers Federation, affirmed and examined

TRACY GOCHER, Councillor, Special Education Committee Member and NESA Special Education Advisory Committee Federation Representative, NSW Teachers Federation, affirmed and examined

The CHAIR: I now welcome our first witnesses from the NSW Teachers Federation. Please state any additional information about the capacity in which you appear at the hearing today.

Ms GOCHER: I am an assistant principal at a school for specific purposes in the Sutherland area. I am also a representative on numerous committees for the NSW Teachers Federation.

The CHAIR: I thank you to all for coming in this morning. As is the custom, I extend to you an opportunity to make an opening statement before we proceed to questions.

Mr MULHERON: Thank you. I was going to make a brief opening statement then throw to Ms Claudia Vera to give a slightly more detailed statement about some of the terms of reference, if that is okay.

The CHAIR: By all means.

Mr MULHERON: As a former high school principal of 10 years and with 34 years of teaching experience in public schools and in my position now as President of the NSW Teachers Federation I need to emphasise at the outset the great significance of the Gonski funding model to the matters before this inquiry. Over a six-year transition period the Gonski funding model is designed to lift all Australian schools to a national school resource standard and in addition provide increased targeted funding for students with greater educational need. This is why Gonski is so widely supported by an overwhelming majority of people across the nation. People see it as fair and just, and crucial for our children's future.

I remind everyone that by the end of this year only 36 per cent of the money will have been allocated. In 2014, public schools in New South Wales were at 84 per cent of the school resource standard. By the end of this year that will have increased to 88 per cent of the school resource standard. The Gonski review rightly identified the need for greater investment in the education of students with disability. The agreement was signed by the New South Wales Government with the Commonwealth to deliver this investment but shamefully the Federal Government is now seeking to renege on this agreement. It has refused to fund to date the students with disability loading and furthermore it is manoeuvring to dismantle the Gonski model altogether.

If the full six years of Gonski funding, including the students with disability loading, from the New South Wales and Federal governments is not delivered, students will be denied the vital support they need. We believe it is crucial that all members of Parliament together with principals, teachers, parents and carers across the State continue to pressure the Federal Government to fully fund Gonski. We note that in New South Wales the Gonski funding model enjoys bipartisan support and indeed support from minor parties and independents as well. It is to be lauded that at least in New South Wales we have put this issue above party politics.

Ms VERA: After decades of reports pointing out serious deficiencies in the education of students with disability in Australia and only four years after the Gonski review called for urgency and provided a well-reasoned rationale for addressing the problem, the Commonwealth's inaction and shrinking contribution to disability funding in education amounts to wilful negligence that is discriminatory, regressive, life-impacting and financially irresponsible.

That we present before you seven years after a Legislative Council inquiry parallel focus, with dismal progress made towards implementation of its recommendations, demonstrates an untenable situation impacting on cohort after cohort of students with disability, their families, teachers and peers. The failure to progress toward equitable education for every student is harming the current experiences and future life outcomes of people with disability, with evidence pointing to widening gaps in social, employment and health outcomes. There is hope, as our president outlined. It is important that the Committee recommends that the State Government continues to advocate for the Federal Government's immediate implementation of the Gonski students with disability loading and to reverse its cuts to the final two transition years of the Gonski funding model.

It is only through additional recurrent needs based investment that the federation believes the urgent improvements required to deliver equitable quality education to students with disability can be achieved. Such investment enables the State Government's adherence to its obligations as an education provider under the Disability Discrimination Act and the disability standards for education. Additional and targeted funding is needed to engage teachers in ongoing professional learning, reflection and dialogue, led and complemented by educational leadership that fosters a culture that goes beyond homogenisation to diversification, provides the time and processes required for relationship building, collaborative planning and development of flexible learning design and establish and maintain technologies, environment and specialist interventions not merely for inclusion within the current norm but which stem from an understanding of difference to remove existing barriers from the outset.

Providing quality education for all is an important and complex task that has fallen too often on individual school communities and teachers whose skill, health and workload are unsustainable in the absence of systemic support, safe work environments and increased funding. Furthermore, strong and ongoing collaboration is required to deliver the holistic, integrated and specialised services necessary to support complex needs. Collaborative relationships with parents and communities that are characterised by mutual respect and facilitate the sharing of expertise, knowledge growth and choice are vital for achievement and well-being through quality education.

In the words of the late Professor Tony Vinson, "An education system has to be built on more than the exceptional talents and motivations of individuals if that system is to help develop the abilities of all of our children and young people". At stake in delivering on such a mandate for students with disability is nothing less than a test of our claim to believe in giving every child a genuine chance to succeed in life. It is under this claim and belief that the federation tasked with protecting and enhancing the growth and well being of our public education system, its students and its teachers for the broader social good presents before you today and thanks you sincerely for the opportunity to do so.

The CHAIR: Thank you for your opening statements. The Committee found on the previous hearing day that rather than sequentially moving from party to party it has been conducive to have an open line of questioning. Following the process that we used last time I will hand over to the Opposition and we will go from there.

The Hon. JOHN GRAHAM: Thank you for your submissions. It has been helpful in sorting through the issues. I wanted to start with the Gonski funding issue. This is a bipartisan position in New South Wales. Clearly for the students with disability loading, a promise should have been delivered by now but has not. Is this the most important thing we can do to cut through this area? We are looking for priorities.

Mr MULHERON: In our opinion, absolutely. Remember that 2014 was the first year of the six years of transition funding. We need to remind ourselves that Gonski is not a finite amount of money that finishes after six years. It is six years of transition to bring schools to resource standard and that funding needs to be maintained at that level so no school ever drops below the resource standard. It is critical because it is the only game in town. It is the only vehicle that will deliver a degree of resourcing that gives us a chance to address many of the issues that have been raised for many years.

The Hon. DUNCAN GAY: There are two areas that operate that have an effect on students with disability, one is Gonski the other is the National Disability Insurance Scheme [NDIS]. They were not developed together; in many instances they were developed in silos at different times. You indicate that they are short on the disability loading. Is it that some of the disability loading is picked up in the NDIS?

Ms VERA: It has been made clear at a State and Federal level that the NDIS will not be picking up any existing gaps or picking up any tasks of the Department of Education with regard to supporting students with disability. In that regard, no. It is counterproductive to deliver on the NDIS without delivering on the students with disability loading because it means that while there may be additional supports provided—

The Hon. DUNCAN GAY: That is not true. As a family with a student with disabilities some of the NDIS money comes into the education area. Is that right?

Ms VERA: The packages of support that will come through for students with disability are for additional supports. They cannot be used to provide and to fill in the gaps that exist in terms of education. In terms of the intersect, there are clear protocols between the NDIS and education and the NDIS is not tasked with filling the gaps that currently exist.

The Hon. DUNCAN GAY: That additional support has some education parameters within it. It is not precluded and in my meetings on NDIS the indication is, yes, support and help in the education area is very much part of what it does.

Ms VERA: It will provide additional supports. Basic supports around healthcare procedures and specialist supports. What it will not do is provide the basic requirements for equitable education for students, which is what is lacking and why it is so imperative that the disability loading is delivered.

Mr DAVID SHOEBRIDGE: It will not operate in the school context. All of us accept that is the way the NDIS operates. You said it was counterproductive which I did not understand.

Ms VERA: Counterproductive to deliver it on the NDIS.

Mr DAVID SHOEBRIDGE: Delivering the NDIS is hardly counterproductive; that is what I did not understand. How is it counterproductive? I understand suboptimal.

Ms VERA: I retrieve the word "counterproductive". It is not optimal to deliver on the NDIS in the absence of delivering on the students with disability Gonski loading.

The Hon. DANIEL MOOKHEY: Is it the case that on the NDIS website it explicitly says that the purpose of NDIS in education is not to supplement funding that would otherwise be provided by other governments through other government services.

Ms VERA: That is correct.

The Hon. DANIEL MOOKHEY: Is it correct that in your submission you say that you took this matter up with the department and asked the department the extent to which the NDIS can be used as an additional supplement with Gonski? In your submission you say the department said it is not tasked with filling the gaps. When did that conversation with the department take place?

Ms VERA: I will have to check the submission. I believe it was early 2014.

The Hon. DANIEL MOOKHEY: To the best of your knowledge the NDIS was never designed to replace systems like Gonski?

Ms VERA: No.

The Hon. DANIEL MOOKHEY: And the department has confirmed that its purpose is not to replace Gonski funding?

Ms VERA: Correct.

The Hon. JOHN GRAHAM: I want to finish on the Gonski funding point. As we are considering our recommendations we must be clear about what has been promised at a Federal level. In your submission you say this promise was made by Christopher Pine, "Every child in Australia with disability will be able to receive the correct loading as they should to match their disability". That was said in June 2015 and it would apply from 2016. You say that does not apply and that is a clear breach?

Mr MULHERON: Yes, the original model began in 2014. The national collection of consistent data took place in 2014 in order for the loading to be introduced by 2015. We are now in 2017 and the loading has still not been funded as per the original recommendation of the Gonski model. It goes to complexity of need, it is not just a flat rate.

The Hon. DUNCAN GAY: In her opening statement Ms Vera impressed me by saying, "Cohort after cohort after cohort", which is a bit like spy versus spy versus spy. I am not sure what that means. Can you clarify that?

Ms VERA: We are looking at decades of underfunding in the area of students with disability. That is what I am referring to by that.

The Hon. DUNCAN GAY: And "cohort after cohort"?

Ms VERA: In talking about "cohorts" I am looking at students who are starting school, finishing primary education and going into secondary schooling without having actually received the benefits of the additional Gonski students with disability loading.

The Hon. DUNCAN GAY: You have a different understanding of the word "cohort" to me.

Mr MULHERON: It is teacher talk I think.

The Hon. DANIEL MOOKHEY: Last week the Committee heard from the department about the extent to which learning support teams were embedded in the processes that plan the expenditure of moneys provided for disability at school level. Do you follow my question?

Mr MULHERON: Yes.

The Hon. DANIEL MOOKHEY: To what extent are support teams included by principals in the decision-making processes as to how that money is spent?

Ms VERA: Learning support teams are required within every school under departmental policy—is our understanding that that is the case.—but the efficacy of those is variable. They are tasked with the distribution and allocation of existing school resources for students with disability. So as far as we are aware principals rely very heavily on that process in order to actually make the decisions around distribution of funds.

Mr DAVID SHOEBRIDGE: What is your understanding of where the discussions are at with the Federal Government's policy position on the student with disability loading? They say they are waiting for the new set of Nationally Consistent Collection of Data [NCCD] but where is that up to? Has any interim adjustment been made?

Mr MULHERON: We believe that the Commonwealth is saying that the data is still not at a satisfactory level where the loading can be applied—that is of now. We have not had detailed conversations with the Government on this—the Federal Government has not met with the Australian Education Union since it took office. We believe that the situation is—through various ministerial council meetings—that NCCD has not gone as well as they would want it to have, to the extent that they are saying that they therefore cannot implement the loading. We dispute that three years on.

Mr DAVID SHOEBRIDGE: Do you get a sense that that is an excuse or is there a validity about the poor data or is it a mix of each?

Ms VERA: The Education Council has put out the report, in terms of the emerging data, and it has indicated that as schools and sectors become more familiar with that process the quality of the data will enhance. There is a built-in auditing process—PricewaterhouseCoopers has undertaken that—and it has not indicated the level of concern and discrepancy that has been put forward by Mr Birmingham. It is absolutely our belief that it is a delay tactic, particularly in the face of the unmet need that the Government's own data has actually unveiled as a result of the data collection and as a result of the Productivity Commission's numbers.

Mr MULHERON: And the fact that there has been no allocation of additional funding for the final two transition years gives rise to our suspicion that it is a delaying tactic.

Mr DAVID SHOEBRIDGE: You say that the Federal Government's own data shows that 13.6 per cent of all students need funded support at school but only 6.2 per cent are currently receiving it. Is that a mixture of the NCCD data and the funding data?

Ms VERA: And the Productivity Commission data.

Mr DAVID SHOEBRIDGE: In the department's submission to this inquiry it states that 14 per cent of students receive adjustments or additional support for disability so that tallies with the Federal Government's figure of 13.6 per cent. So it appears to be firming up around that proportion of the student population.

Ms VERA: Absolutely. The very fact that the department has adopted that figure would indicate that there is certainly a degree of reliability to it because that is the updated figure that has been used throughout New South Wales schools.

Mr DAVID SHOEBRIDGE: At page five of its submission to this inquiry the department stated:

> In 2016 more than 790,000 students were enrolled in New South Wales Government schools, of these more than 105,000 (more than 14 per cent of students) were receiving adjustments or additional support for disability as defined in the Disability Discrimination Act.

That is not necessarily funding support. That is also some adjustment, for example, in the way they take examinations and the like, is that correct?

Mr MULHERON: That is right.

Mr DAVID SHOEBRIDGE: Have you received a breakdown from the department as to the proportion who are getting funding support and those who are getting unfunded adjustments?

Ms VERA: No. That is our difficulty in terms of ascertaining that data. We have asked, for example, for data in regards to support placements and how many students are not receiving support placements—which would obviously be one level of reasonable adjustment—but we have not been able to get that data from the department.

Mr DAVID SHOEBRIDGE: I put to you earlier that the figure of 14 per cent is not the State Government and the department picking up the analysis of the Productivity Commission and the NCCD, there is a correlation between the proportion of students in the State system who are receiving either funding or adjustments because of disability. That correlates with what the Federal Government data is telling us?

Mr MULHERON: Yes.

Mr DAVID SHOEBRIDGE: So what is the roadblock to getting a funding formula that recognises that proportion of our student population are going to need assistance?

Ms VERA: Lack of political will.

Mr DAVID SHOEBRIDGE: Where is that lack of will? Is it at the State or Federal level? Is it amongst the union movement? Is it amongst the parent population?

Ms VERA: Given that the loading has been identified, the formula has been identified, the data in terms of need has been identified and the loading is still sitting with the Federal Government, it would be with the Federal Government.

The Hon. DANIEL MOOKHEY: Are you aware of the employee performance and conduct [EPAC] process? Would you consider it to be a fair, equitable, timely, efficient and just process?

Mr MULHERON: We are aware of EPAC, yes.

The Hon. DANIEL MOOKHEY: The Committee has heard a lot of evidence about the extent to which that is an effective mechanism for complaint resolution for students with a disability and more generally—that is, the extent to which parents or anyone else has a view that incorrect behaviour has occurred to a student with a disability the EPAC process is the second departmental response. Have you had much exposure to this process?

Mr MULHERON: I am sorry I am just trying to get the connection. The EPAC process relating to parents?

The Hon. DANIEL MOOKHEY: The department has presented evidence to the Committee that when an incident occurs with a student who has a disability and either a staff member or a parent takes exception to it they lodge a complaint with the school. If the principal deems it serious enough then he or she will refer the complaint on to the department. The department then hands it to the EPAC division to undertake the investigation and to undertake any action should it be required. Is that reflective of your understanding?

Mr MULHERON: We would prefer to take that question on notice because that is a fairly complex area.

The Hon. DANIEL MOOKHEY: I appreciate that you might need to take a bit more time to reflect on that question. In addition could you also give us your views as to whether or not from the perspective of your members that is a fair process? To what extent is procedural fairness for your members acknowledged in that process? To what extent do your members have any concerns about it? To what extent do you think it is a valid mechanism as to how these investigations should be handled?

Mr MULHERON: Given that it has quite wideranging powers that go beyond the issue of student disability and to the extent that it intersects with that issue we would rather take that on notice and get back to the Committee.

The Hon. JOHN GRAHAM: I am interested in getting more advice about that part of your submission concerning access requests and the extent to which they are encouraged or discouraged. You talked about the department having established a student profiling informal advice process which you say is used to discouraged schools from activating an access request despite the professional advice from principals and teachers and allied health professionals. Will you spell out in more detail how that has happened and how it is working?

Ms VERA: Ms Gocher may want to supply further detail. We did become aware a few years ago through our members that this additional pre-step to what was the long-term established access request process was put in place which actually profiled the student and required the school to provide a view in terms of need against domain, and that that was used instead of actually activating an application for either integration funding or for an alternative and more appropriate support setting.

The Hon. JOHN GRAHAM: For how long has that been in place?

Ms VERA: I could not answer that off the top of my head. I would have to get back to the Committee in terms of when that was initially established.

The Hon. JOHN GRAHAM: You are concerned that there is an informal process before you even get to the formal process and that additional step is acting as a discouragement?

Ms VERA: It would appear that it is a barrier, particularly given when we have reports from members saying that departmental officers then ask for schools to actually lower the assessment, so lower the level of need that they believe the student has against those domains, and then ask them to resubmit. In effect, what they are asking is for the need to actually fit the existing provision or the available provision as opposed to the provision meeting the need.

The Hon. JOHN GRAHAM: Yes, that is your second point—that the department's educational services have been reported as acting as gatekeepers of targeted support, allegedly dissuading schools from submitting access request?

Ms VERA: That is correct.

The Hon. JOHN GRAHAM: That is a second concern.

Ms VERA: That is right.

The Hon. JOHN GRAHAM: For how long has that been the case?

Ms VERA: I believe it came about following the implementation of Every Student, Every School. Obviously that implementation was in 2012, but I could not give you an exact date in terms of the commencement of the student profiling format.

The Hon. JOHN GRAHAM: Do you believe this is a widespread problem or is it something that has been reported in a number of areas and might be in particular regions?

Ms VERA: That is difficult to indicate. I would have to take that on notice.

Mr ZADKOVICH: Could I supplement that? I was at the inquiry here in 2010 talking about similar matters. I must admit I have a good deal of empathy for our colleagues within the department on this issue. It is not necessarily the fault of those department officers that governments for years and years, for various groups or cohorts of students, have denied the department the resources they need to ensure that all students with disabilities have their needs met. It is no wonder, in light of that under-funding for decades of students with disability, department officers have to resort to a range of measures, when the funding is not there, to manage the finite resources they have got. These kinds of practices in my view evolve from that kind of bind in which they find themselves.

The Hon. DUNCAN GAY: Are you saying it did not start in 2012, it started years before?

Mr ZADKOVICH: We have been battling for decades to have students with disability allocated their due right to the funding necessary, from all levels of government, to meet their educational need. It has been a long and arduous battle, quite frankly, for parents, carers, teachers, principals and our colleagues who work within the department. That is the history and that goes back to our opening statement on Gonski. Finally, after decades and indeed, we would say in 40 years at least, we have a needs-based funding model there to be implemented which will finally, if fully implemented, give the department the long overdue capacity to move away from those sorts of containment strategies and have the resources available to support schools in meeting those children's needs. We have to consider the overall funding situation, the needs-based model and how important it is, in casting our eye over the strategies that the department has sometimes had to resort to to try to manage the insufficient funds that governments have made available.

Mr DAVID SHOEBRIDGE: One of the strategies that is used to manage the amount of funds going to children with disability is that schools for specific purpose receive the same funding allocation when they have high school students as they have with primary schools students. The first I heard about that was at the last Committee hearing. Will you explain to the Committee the impact of that in terms of funding and what is the rationale, if any?

Mr ZADKOVICH: There are anomalies that exist in our current system in terms of staffing allocations and funding allocations that go back to that source. There would have been a time when the notion of enrolling secondary age students in a school for specific purposes [SSP] arose and at that point the adjustment to the staffing formula that determines the allocation of teachers would not have been made in accord with that. So there would have been some ad hoc decisions made along the way where the staffing formulae were not adjusted accordingly and we do have anomalous situations.

Mr DAVID SHOEBRIDGE: We are dealing with a very poor historical anomaly. What is the impact of it? Should the Committee recommend that it be fixed?

Ms GOCHER: Yes. On the ground what it looks like—I am working in the schools currently—we are staffed and funded in a K-6 model but we have students from year 7 to year 10. They do not have access to specialist teachers, to careers advisers and high school allocations of counsellors and all of those things. So those students do not have access to the full breadth of services and curriculum that mainstream equivalent students do.

Mr DAVID SHOEBRIDGE: Largely they are being discriminated against because of their disability?

Ms GOCHER: Yes.

The Hon. JOHN GRAHAM: How is it legal for that to be the case given the department's obligations to treat these students equally? You are describing a funding system which treats a high school student in a mainstream school one way with regards to funding but treats these students another way. Is that a clear case of a breach of the law?

Mr DAVID SHOEBRIDGE: The Disability Discrimination Act which is meant to provide equal access to education?

Mr MULHERON: We do not have the expertise to talk about the legality of it. We can describe the situation and others can draw the conclusion about whether it is discrimination. There is the reality that secondary students in a mainstream setting compared to students in a SSP school are treated differently.

The Hon. DUNCAN GAY: Will you detail for the Committee the sorts of things that they are missing out on? It would be really helpful to the Committee if you can state the areas from year 7 to year 10 and beyond where the SSP students are missing out?

Ms GOCHER: I will do my best. We do not have specialist classrooms. We do not have science labs or TAS rooms so we are trying to teach those subjects in classrooms that are built for K-6. We do not have specialist science or music teachers. We have got some K-6 trained teachers trying to teach year 11 and year 12 subjects that they are not trained in. They do their best. They are modified. We do not have the cooking rooms or any of the specialist rooms that you need. Some special schools have, due to funding that they have used over the years, one specialist room. Some schools may have bigger cohorts so they have a bit more money so they can build better resources in that area but there is no across-the-State funded model for that.

The Hon. DUNCAN GAY: What about in the life skills area?

Ms GOCHER: Life skills is dependent on parental agreement that that is an option, a road that students choose to go down with the teachers. Under NESA there has to be a collaborative consultation around that with the parents; it cannot just be a decision at the school. You may have a classroom that has some students on life skills and some students on mainstream curriculum so you are trying to modify the classes of 30 with one or two students on life skills. Year 11 and year 12 in SSPs again there is a broad range of SSPs. Some SSPs have a cohort that are more likely to be all on life skills, other SSPs have a cohort that will not have any life skills because their issues are more mental health than intellectual so they will be mainstream curriculum. They will not have any specialist teachers to help them teach those subjects.

Mr DAVID SHOEBRIDGE: Some schools with special purposes have a fairly large cohort of kids with mental health concerns but they do not get funded for a counsellor. They have some other funding obviously but not the standard counsellor funding?

Ms GOCHER: Correct me if I am wrong. I think they would be funded as K-to-6 schools for counsellor allocations.

Ms VERA: The schools are not equitably allocated school counsellors. It is one of the issues.

The CHAIR: Gary, you are the first witness who has indicated to us that they were here in the 2010 inquiry. There have probably been others, but you are the first to indicate that to us. Are you in a position to indicate to the Committee, following your experience in 2010, how far we have come, where there are missed opportunities and what has improved following 2010? What should we be looking at in terms of what was identified in 2010, what was improved and what has been left behind? You have an experience which would be invaluable to us given the seven-year timeframe.

Mr ZADKOVICH: Some of that detail is in our submission but I can give you a response now. It is difficult to avoid reiteration here. We have had a department and schools without the capacity to implement the kinds of recommendations that were made by the parliamentary inquiry in 2010. So if you look at the checklist about what has been achieved and what has not—it is in the table—you will find, in summary, a disappointing outcome overall. Hence, our strong advocacy for implementing the Gonski needs-based funding model. If that is fully implemented we will see our department and our schools provided with that capacity. Yes, there have been some steps in the right direction on a range of issues. I have to say that there is no doubting the intention and motives of the people who sit on inquiries like this with you, as members of Parliament. The one thing we have in common is wanting to do the very best for our students with disability, wherever they may be.

The CHAIR: Absolutely.

Mr ZADKOVICH: We share that commitment. Hence, we cannot emphasise enough the importance of the governments of this nation allocating the due share of this nation's wealth and income to supporting our neediest students. My summary would be that there have been some steps in the right direction, but the capacity to really change the futures of these children lies in the full implementation of the Gonski needs-based model.

Mr DAVID SHOEBRIDGE: At one point in your submission you talk about what seem to be Schools with a Special Purpose hidden within large mainstream schools. You say at one point:

> Increasingly in some areas, predominantly those outside of metropolitan Sydney, there are reports of Support Units in mainstream schools growing beyond six classes and becoming unmanageable in light of not attracting additional staffing, namely Executive staffing entitlement. Some Support Units across the state have been reported as being as large as Schools for Specific Purposes (SSPs) but running with less administrative, staffing and funding support.

Could you give some examples of where this is, and maybe take it on notice. Could you say what the effect is?

Mr ZADKOVICH: We will take on notice the examples so that we can provide that detail. We have had reports from our schools that we have seen anomalies—as we mentioned before—with secondary student enrolments in Schools for Specific Purposes [SSPs]. We have seen the same anomalies in staff policy generally. Again, we have made representations to successive ministers. Indeed, Minister Piccoli, in his role as State education Minister, was very receptive to recasting how we do staffing formulae for special education settings—but that was pre Gonski. It struck us, time and again, that the capacity was not there to recast the staffing formula such that we could pick up and address those anomalies. If fully implemented, one of the key proposals we would put to Government and the department is: finally, now you have increased funding capacity to rectify those situations, ensure that when you get to more than three or five special education classes in a high school setting, that you get the additional executive position to provide leadership for the delivery of that education.

Mr DAVID SHOEBRIDGE: You say that everything is dependent upon Gonski. In the current formula what should we be doing in terms of recommendations to fix that? Is the recommendation that we spin out more SSPs, or should be provide a funding unit within these large mainstream schools that provides the equitable access. What is your recommendation?

Mr ZADKOVICH: It goes back to when Schools for Specific Purposes were established. The department went to a primary staffing model to determine the formulae in terms of executive structure, executive support and so on. The cut-offs, whereby you would achieve a teacher in a leadership position to oversee the delivery of educational programs, was pre-set on the notion that they would be established on a primary formula. To date, we have not been able to come up with a new staffing formula for SSPs. We have had a history of hybrid staffing formulae that has not properly reflected the meeting of the students' needs and the staffing that is required. I understand your point about emphasising Gonski, but it is the resourcing and the funding which will enable the department to properly support schools in terms of personnel, staffing levels and funding to implement programs at the school level.

Reverend the Hon. FRED NILE: The Senate had an inquiry into funding in 2016. That was mentioned in your submission. That committee recommended:

> The committee recommends that the government commits to funding schools on the basis of need, according to the Gonski Review.

Did the Senate take any action on that? The Government does not control the Senate.

Mr MULHERON: I will have to take that on notice because I am not sure. I remember, but my memory is faulty to answer your question in detail. We will take on notice the response of the Government to that very important recommendation of the Senate inquiry.

Reverend the Hon. FRED NILE: That is what I am trying to get at. We are all frustrated at the lack of funding. How can we put more pressure on the Government to implement that?

Mr MULHERON: We will take that on notice because it is an important issue that you have identified, resulting from the Senate inquiry.

The CHAIR: I thank the witnesses for attending this morning. I am sorry, I have to draw this session to a close because we have quite a number of witnesses this morning and it is important that we stay on time. You took a number of questions on notice. You would have heard me, at the commencement, referring to the

21-day timeframe to report back with those answers. The secretariat of the Committee will be in contact with you to assist you with that process. I thank you very much for attending. I thank you for the support that you give our teachers. Well done.

Mr MULHERON: Thank you very much.

Mr ZADKOVICH: Thank you for this opportunity, and for establishing an inquiry of this kind.

(The witnesses withdrew)

PAM SMITH, Assistant Secretary and Women and Equity Committee Convenor, NSW Independent Education Union, sworn and examined

JAMES JENKINS-FLINT, Organiser, NSW Independent Education Union, sworn and examined

BARBARA LEITON, Member, NSW Independent Education Union, sworn and examined

The CHAIR: Thank you. I will remind all witnesses today at various stages during the course of the day that these hearings are not intended to provide a forum for people to make reflections about other people under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference, and avoid naming individuals unnecessarily. Would the panel, individually or collectively, like to make an opening statement?

Ms SMITH: I am very happy to do so and will also note, as did my colleague from the Teachers Federation, I was here in 2010 as well. The Independent Education Union [IEU] made a submission to a similar inquiry, and in fact I and another colleague gave some evidence on that occasion. I thank you for the opportunity and I am delighted to be back with my colleague Mr Flint-Jenkins and one of our members, Ms Leiton.

Within the context of this inquiry—and I again welcome the opportunity—I think you heard from the Teachers Federation, and some of what we will say, particularly about funding, will endorse their comments. You would have heard also from others in our sector, including the Catholic Education Commission, and also the Association of Independent Schools, because the IEU is the union which covers teachers and support staff in the non-government sector—that is, Catholic and the whole diversity of the independent sector ranging from some of the more well-known private sectors through to schools serving particular religious groups. We cover, for example, the Islamic sector; we cover various community schools. But unlike the Teachers Federation, largely, we cover very much the early childhood sector. That is a bit of a distinction for us, because we are particularly concerned about access to early intervention and support programs which will assist students as they move into schooling, because that is crucial. The AIS and the CEC would have given you the statistics about students with disabilities as they—

Mr DAVID SHOEBRIDGE: The CEC said they did not have any—all too difficult.

The Hon. JOHN GRAHAM: They were somewhat difficult on the subject.

Ms SMITH: We included some figures from the CEC in our submission, but certainly I would respect if they have indicated that they wish perhaps not to rely on those figures particularly. But if we look at those, the CEC and the AIS organisations would say they have significant numbers of students with disabilities, depending on whether you use the State definitions or whether you use the nationally consistent collection of data definitions. Those figures are in the vicinity of around 6 or 8 per cent, if you use the State figures, to around 18 per cent if you use the national figures.

The issue of funding, as we have indicated and you would have heard from the federation, underpins everything, because access to support services for students with disabilities is of crucial importance. That runs the whole gamut from preschool through to primary, secondary and then preparation for work or further study. Certainly issues around curriculum and access to curriculum through NSW Education Standards Authority [NESA], previously Board of Studies, Teaching and Educational Standards NSW [BOSTES], and also, in our sector because the funding comes primarily from the Commonwealth rather than the State, State services for students with disability, particularly in regard to diagnosis is extremely important. I think we have made reference to waiting times.

The area that we are hearing increasingly about is students with mental health problems often come from families with their own mental health issues as well, students with challenging behaviours and students with a range of physical disabilities, which impact on their learning, and much of this exacerbated if students and their families are in rural and regional areas because waiting times can be extraordinary for diagnosis or for access to services. I think we even mentioned students with life-threatening allergies and other conditions, because these are usually in mainstream schools. Teachers are supporting those students often who have a range of other needs. I am happy to leave those introductory comments there, and perhaps either of my colleagues would like to make some comment as well.

Mr JENKINS-FLINT: Although I am currently an organiser with the IEU I previously taught in Catholic schools as a primary teacher for over 10 years, from 2006 to 2017. In my years as a primary teacher I taught numerous children with special needs as part of mainstream class; it goes to the integration programs that Ms Smith addressed earlier. The disabilities of some students I taught range from students with tested low intelligence quotient [IQ], autism spectrum disorder, dyslexia, oppositional defiance disorder and even childhood schizophrenia. When teaching a class with special needs students, the support I experienced as a teacher was intermittent and often insufficient, I felt, to meet the satisfactory educational outcomes of the students.

As an anecdotal example, I recall teaching a year 5 class of about 27 students in 2014 and the class included a student with autism spectrum disorder, another student with diagnosed severe learning difficulties—particularly reading, and a third student with dyslexia, an inability to read almost anything. The support for myself and these students consisted of the two special needs students being withdrawn from the class by a specialist teacher for only about three half-days a week. The student with dyslexia received approximately seven hours per week in teacher aide support. In addition the child with autism was supervised by a teachers aide during lunch breaks, but frequently the specialist teacher was directed to cover other duties in the school and was sometimes unable to withdraw the special needs students. I felt the situation was very difficult and stressful to program to ensure that the needs of the students were catered for while also ensuring that the needs of the other 24 students, themselves with widely varying abilities, remained on track.

The CHAIR: I thank Ms Smith and Mr Jenkins-Flint for the very comprehensive opening comments; we can see you have been here before. Ms Leiton, would you like to make an opening statement?

Ms LEITON: I was going to talk about my experience as a learning support teacher. There are a few things that I see within a system that funding could help with. Obviously, training would be an important one, but not just stopping there. There also needs to be a changing view about who spends the most time with the children with the most needs. At the moment it seems to be a lot of learning support officers, who do not have the necessary training, and the specialist teachers are the ones who are filling in a lot of the documentation. I would say the reason for that is probably lack of funding, because they are less expensive to employ, which means they get more hours covered for the children. They are only really doing the babysitting model rather than doing specific interventions. That is my main area of concern at the moment.

Reverend the Hon. FRED NILE: We have heard some discussion already over the Gonski policy and that the funding should be so much, but the Federal Government payment has stopped and the payment two years behind. The Federal Government uses the excuse that the data is not reliable or sufficient. Obviously in your submission you give a great deal of data about the number of children with disabilities and so on. Is that a genuine excuse from the Federal Government that there is a lack of data?

Ms SMITH: I am aware that there is some contention about the nationally consistent collection of data methodology. Our members, certainly in the IEU and I am sure in the Teachers Federation, spend an enormous amount of time gathering that data, and that data is gathered on the available technology and criteria of the time. I note there was some media attention earlier this year—and I think we refer to it in our submission—about the nationally consistent collection of data. We can argue, I suppose, about some aspects of it, but I think what it does reflect is that there is an enormous unmet need, whether it is from the AIS, the Catholic sector, State or nationally. Our members would indicate that that need is very significant, that need is growing. It has to do with students with learning needs and with a range of other disabilities, including in the emotional, social and behavioural areas. Our members, our teachers and support staff in schools are trying the best they can to deal with that. Yes, we would certainly say that there is a very significant need for increased funding, and it is disappointing, I suppose, particularly at the Federal level, when we think the data is there—however you choose to interpret it—that we are still arguing when there is an enormous unmet need for students in schools. We need to invest in the young people in our care, in the future generation of our nation.

Reverend the Hon. FRED NILE: Thank you.

The Hon. JOHN GRAHAM: I turn to the question of progress since 2010. I am interested in your comments on that issue. The part of the federation's submission dealing with progress was particularly helpful. My count was that in 17 of 30 areas it was felt that either there had not been implementation or there was a long way to go. Do you broadly agree with that sense of the progress since 2010?

Ms SMITH: We would broadly agree. However, our context is a little different because we are not as reliant on the State as the federation given that it operates within the government sector. I think we have said that there is a lot of goodwill. There is enormous goodwill wherever you go, including speaking to government. The fact that this inquiry is in place is evidence of that. There is also the Senate inquiry. Various other organisations and parent bodies also speak to the energy and goodwill around all of this. There have been some areas of improvement. However, the unmet demand is the issue; I will not call it a problem. Whether we assess students and identify their needs perhaps better than we have, there are certainly students on the autism spectrum about whom we have become much better aware, and we are also better aware of their needs. There are students with significant behavioural and social challenges.

One of my roles with the union is that I am the organiser for principals. Whether it is a principal in Bondi, Bourke, Broken Hill, or Ballina, we deal with them across our sector. They all tell us the same story; that is, they are dealing with increasing numbers of students with a range of special needs in the learning, social, emotional and behavioural areas. Many of those students also come from families where there are significant other social issues. It may be unemployment, mental health issues or substance abuse. We are dealing with a context. Our members and principal members would tell us that that has probably intensified in the seven years since the last inquiry.

The Hon. JOHN GRAHAM: Do you agree it is the funding issue that gives us the opportunity to break through on that? Is that the most important thing?

Ms SMITH: I agree .

Mr JENKINS-FLINT: I would agree with that. The load on teachers for data collection and the other requirements when dealing with students with special needs is becoming overwhelming. Hopefully, extra funding would help support those teachers.

Mr DAVID SHOEBRIDGE: It would be doubly frustrating. They are collecting the data and providing it and the Federal Government is ignoring where the data is driving it. It is taking away teaching time to produce the data to get resources that do not come back.

Mr JENKINS-FLINT: It is contradictory.

Ms LEITON: I have had a lot to do with collecting information for the nationally consistent collection of data for students with special needs. The reports that we fill in are very detailed and lengthy. Depending on the complexity of the needs of the child, they can take two to three hours to complete. So it is disappointing from a special needs point of view that all of that work is being done and it is not being recognised by the Government.

The Hon. DUNCAN GAY: You mentioned in your opening statement that you cover the early education where no-one else does—certainly no-one who has appeared before the Committee. This is an important issue. Would you would like to expand on early detection and early intervention? You also talked about appropriate people delivering appropriate support. I am sure you have more to add.

Ms SMITH: Thank you very much for that question. Our submission provides extensive detail about the funding model for preschools and long day-care, and some of the inadequacies. Again, like funding, support for early childhood services is a bit of a political football with State and Federal governments intervening or not at various stages. There seems to be an announcement a week on early childhood. Again, our members who work in the sector—in community and privately owned preschools and long day care—provide evidence of two funding models and some of the technicalities and complexities.

The key message is that if students have access to early intervention services when they go to preschool or long day care, the teachers we cover in those sectors are often best able to up pick up whether there is a hearing, vision, behaviour or learning problem, or early signs of an autism problem. It is then getting that intervention, which is the next crucial step. That seems to be where the logjam occurs. Our submission provides details from one of our preschool practitioners about the complexities in funding. The NSW Teachers Federation does cover early childhood education in preschools attached to schools, so it has some role in that sector. However, we probably provide the main educational cover for the union sector.

Our members certainly say it is a minefield to navigate from the point at which a child is assessed. Where does the intervention come from? What range of services are available and who provides them? Will they come from other community organisations, which often then rely on funding from the Federal or State governments? It might come directly from the State Government. I had a conversation with a parent at a meeting in Parramatta whose daughter was diagnosed with a hearing impairment at about six months. She said that she was dealing with 16 different agencies by the time her daughter got to school. She went to a Catholic primary school in Parramatta. It is not only the funding; sometimes it is about navigating the complexities of those sorts of services.

Mr DAVID SHOEBRIDGE: Should there be a single portal? Perhaps that is a responsibility for the State Government. It could be talking up to the Federal Government and out to the non-government organisations. Perhaps the State Government should establish a single portal.

Ms SMITH: A single portal—a so-called one-stop shop—could be a way to go. That is a constant frustration I hear about.

The Hon. DUNCAN GAY: There is confusion about where to go.

Ms SMITH: Some support associations are excellent, including the Autism Association. I have a niece who is now seven and who has Down Syndrome. She attends a Catholic primary school in the Sydney archdiocese. Her parents had to navigate a range of services. Fortunately, the Down Syndrome NSW helped to organise some of that. Again, there are particular issues in accessing those community organisations if you are in rural and regional areas. It is easier in metropolitan Sydney, but it is not so easy if you have a child with Down Syndrome in the bush.

The Hon. DANIEL MOOKHEY: Your submission goes into some detail about the administrative complexity, and particularly the Preschool Disability Support Program. In fact, you say that one of your members reported that even if you are able to lodge an application for funding and overcome all the hurdles to obtain support, it could take months for the money to arrive.

Ms SMITH: That is what we are advised. I can obtain further information if the Committee wishes me to do so.

The Hon. DANIEL MOOKHEY: We would appreciate that. Please feel free to take my next question on notice. Why is it taking so long for the money to be turned around if the applicant is deemed eligible?

Ms SMITH: We can all speculate whether the funding is available at the time or whether it is about navigating those complexities in provider organisations. Some of the funding is provided directly by government and some of it comes through other organisations. Given your interest in that issue, I would prefer to get specialist advice to respond to that question.

The Hon. DUNCAN GAY: Ms Leiton, can you address the issue of specialists?

Ms LEITON: Again and again we find that evidence-based practices are very important with intervention for children with special needs. Those interventions are complex and require a great deal of training and support. If we are putting in people who have not had that training, it is hardly fair to those children. It means they are bandaid fixes, and we are not looking at the long-term benefits for the child. There is lot of evidence demonstrating that good early intervention will have a positive impact on the child's entire life. That is what we are all aiming for. Without the correct training and personnel, there is probably a big gap somewhere in the staffing levels. We are looking at filling in gaps and holes to babysit a lot of these children.

The Hon. DUNCAN GAY: Is that specialist or additional training to the whole of the profession?

Ms LEITON: Teachers definitely need training—definitely. But I think that specifically for those sorts of tier 3 interventions we are looking at—tier 1, yes, and tier 2 you are talking about a range of children for whom quality-differentiated teaching would be enough—for those children we are seeing more and more of who require individualised interventions, those interventions are quite complex and we need training and additional personnel beyond the classroom teacher to actually do those things.

Mr DAVID SHOEBRIDGE: Mr Jenkins-Flint, this was effectively what you were describing in your opening statement, was it not?

Mr JENKINS-FLINT: Yes, it was. I am not sure whether they were tier 3 specialist needs—one of them may have been—but they were definitely children that required more than teacher aide support in the classroom, in my opinion. They definitely required more time out with a specialist teacher such as Ms Leiton.

Mr DAVID SHOEBRIDGE: Was that within the Catholic school system?

Mr JENKINS-FLINT: Yes.

Mr DAVID SHOEBRIDGE: Who makes the decision about the allocation of special-needs funding in the Catholic system? We know that a lot of special-needs funding in the State system is made by principals—for Every Student, Every School and local decisions. In the Catholic education system is there a sector-wide funding model or do the principals make the funding allocation?

Ms LEITON: I know that there is funding allocated to specific children based on a definition of need. Children on the autism spectrum, children with a sensory impairment and a cognitive delay and some other areas as well do attract funding, but in terms of how it is allocated, that is certainly out of my hands and I am not sure.

Mr DAVID SHOEBRIDGE: Mr Jenkins-Flint, in your experience, was funding attached to the children?

Mr JENKINS-FLINT: In some cases, yes, that funding is attached to the children. Where that funding is going is not in the control of the teacher. My guess is that it would be at the school level that that is determined.

Reverend the Hon. FRED NILE: In your submission you give the figures for the number of children with disabilities in Catholic schools and refer to two different measuring devices. You say one is the New South Wales State criteria, whatever that may be, that give a total of 13,422 children, 5.2 per cent, recognised as students with disabilities. Then you move to the Nationally Consistent Collection of Data on School Students with Disability, the NCCD, which gives a different set of figures: 44,680 or 17.7 per cent. There is quite a difference.

Ms SMITH: There is.

Reverend the Hon. FRED NILE: Is the State criteria spelt out?

Ms SMITH: This is what my colleagues would probably know, because they have been practitioners recently. When there is a student with a special need who would normally apply through criteria that would come to you via your Catholic Education Office—and, as you know, there are 11 dioceses in New South Wales, each of which has a Catholic Education Office—they would probably be then dealing with the Catholic Education Commission, the CEC, as the peak body for New South Wales. That would be one level of definition. The Nationally Consistent Collection of Data is, I suppose, the more recent, newer model, which has attracted some discussion, and my understanding is it collects a broader range of needs. This has been the subject of some discussion—for example, whether students with physical illnesses such as diabetes, anaphylaxis et cetera are included—and certainly some of them should be because they require significant intervention and support. Whatever model you use, there is significant need, but one model has a wider definition and that is why I think it has attracted some discussion as to what support then is actually required. My understanding of the funding model is that Federal Government funding comes via the CEC and then is allocated to the dioceses, and the dioceses then make decisions based on the needs of students in schools. How that actually arrives at a classroom level or a school intervention level would probably be between the CEO of the Catholic Education Office and the principal.

Reverend the Hon. FRED NILE: Are you saying that the Gonski funding is based on the NCCD criteria?

Ms LEITON: That would be ideal, because it is including the wider definition.

Reverend the Hon. FRED NILE: I just asking whether or not it is.

Ms SMITH: I think Gonski has its own definitions. Again, I probably need to take on notice the specific relationship between the Nationally Consistent Collection of Data methodology and Gonski, but certainly the Nationally Consistent Collection of Data methodology was set up within the context of Gonski to obtain more accurate data about the reality of student needs in schools and what it looks like in practice, and that is why teachers like Ms Leiton spend so much time and effort doing that data entry and that is why I hear from principals about what the data is that is actually collected.

Reverend the Hon. FRED NILE: Can you break down the total number of children with disabilities into those who have a certain disability?

Ms SMITH: Without having seen all the Nationally Consistent Collection of Data figures, I understand that would be the case but also, currently, when students have a known disability and they apply or the school applies for funding via the various Catholic dioceses and the CEC, they would have to apply on the basis that this child has a hearing impairment, this child has a cognitive impairment anyway. There are two different processes. One is you know that a child has a need and you apply for funding in what I will perhaps call the usual way; the other one, the national one, is an attempt I think to get a national database dataset, as it has been referred to, of students with disabilities across the nation irrespective of any State or Territory overlay on all of that.

The Hon. DANIEL MOOKHEY: Are you aware of any efforts by the department in New South Wales to align its methodology with the national collection method?

Ms SMITH: I do not deal with the department as such, because I am in the non-government sector. Again, I would have to take that on notice, or the federation may be better placed.

The Hon. DANIEL MOOKHEY: In principle, do you think there is sense in having the two aligned?

Ms SMITH: I suppose what we would see as valuable is having the best methodology available. Obviously your funding is primarily or significantly to come from the Federal Government. If Gonski is to be implemented, you do need nationally consistent data. We would certainly hope that State governments would fit in with that to the greatest extent possible, but I think we all know the complexities of State and Federal interactions.

Mr DAVID SHOEBRIDGE: Ms Leiton, in your experience, when you are inputting the data, do you have a working knowledge of the two different systems—the State criteria and the NCCD?

Ms LEITON: We have a standard where we know the definitions of the children who will definitely get funding as it stands at the moment—

Mr DAVID SHOEBRIDGE: Under the State system?

Ms LEITON: Yes. whereas with the NCCD you are filling in data for any child that you are making reasonable adjustments for within at least 10 weeks. That will include a lot of children who are not that definition—dyslexic children, children who may be undiagnosed but with whom we know there is a learning issue or a behavioural issue. All of those children get collected in that NCCD data.

Mr DAVID SHOEBRIDGE: Therefore the NCCD data is a much richer dataset for the State and that is probably the one we should be looking to.

Ms LEITON: Yes.

Ms SMITH: It is more inclusive, more comprehensive.

The Hon. DUNCAN GAY: Last week at least one, and perhaps two, of the parents gave evidence that they were concerned that disability funding was being moved within the education sector from students with disabilities to other students. We have had other evidence, particularly from the principals, that that was not the case. What is your understanding? Is there any evidence that this is the case? I am happy if you wish to take this on notice.

Ms LEITON: I guess if you are talking about money that should be allocated directly to a child for a particular intervention, if that child has a diagnosis and I guess is verified as being a special needs student and should have that allocation, an example is that a learning support officer might work with another child who has a similar need not diagnosed, but they are working together.

The Hon. DUNCAN GAY: The evidence was outside that area. In fact, the principals said that some funding comes into the disability area.

The Hon. DANIEL MOOKHEY: To be fair, the principals were from the State system.

The Hon. DUNCAN GAY: I am happy for you to take it on notice.

Ms SMITH: I can make an observation from my experience both working with the union, which I have done for some 20-plus years, and previously working in the Catholic sector in the Parramatta diocese and in the Armidale diocese in the special needs area. There is more of a focus these days in some areas of education that diversity is the norm and that all teachers and support staff should be equipped to deal with diversity in their situations in their classroom. We would be very concerned if that meant a watering down or dilution of services and support. I think it goes back to the enormous pressures which principals, teachers and support staff are under, because funding is attracted by certain students. Our members are very much aware of the disability discrimination legislation and would never wish to divert any targeted funding from a child. But I think it goes back to the issue that sometimes if you can use some of that—if you can include another child to be in the situation and in the support—the goodwill that is there and the unmet need will probably let that happen to some extent. I would agree with principals that they are very mindful of never diverting funding from a targeted student but there are significant pressures to spread the resourcing as far as possible because of unmet need.

The Hon. DUNCAN GAY: That was not the allegation.

Mr DAVID SHOEBRIDGE: I think it partly was. If you have special needs funding but the roof is leaking principals might think that with the limited funding they will fix the roof first and then get on with teaching. Are they the kinds of hard decisions that are being made?

Ms SMITH: I think there are enormous pressures. I would not be aware of a principal diverting it in that way. I think they would be very mindful of possible consequences of doing that. But I do understand and agree that there are very significant pressures.

The Hon. DANIEL MOOKHEY: Some parents gave evidence about individual education plans. Some said that they were not aware that there was a requirement to prepare one or that they were entitled to see it or have any input on it. Can you describe how that works in your area and are you aware if those concerns are valid?

Ms LEITON: I have not had experience of that, thankfully. We regard the individual education plan as being paramount to meeting the needs of the child, so we often meet with teachers, we collaborate and we meet with parents. We provide further opportunities to evaluate the individual education plan as well.

The Hon. DANIEL MOOKHEY: How much time does that take?

Ms LEITON: We spend a lot of time on it, the initial writing of it. It is something that we build upon each year.

The Hon. DANIEL MOOKHEY: Is the plan written to cover a year?

Ms LEITON: The goals are measurable for usually a shorter term than that. You would not want to have a goal lasting a year; it is just not really appropriate. It would be at least within a semester and then we would review it and review it again at the end of the year. It is a very time-consuming process but it does mean that everybody, including the parents, have a say in goals for the child and what adjustments are going to be put in place in order to achieve it.

The Hon. DANIEL MOOKHEY: Is it worth it?

Ms LEITON: If it is done effectively, yes. If it is a piece of paper that just gets filed away, obviously no. If it is used to make a plan that you are actually going to put in place these specific strategies to achieve a particular goal for a child, yes it is.

The Hon. JOHN GRAHAM: On the national data set, given you have described that you might be working two or three hours per child to pull that together, it seems we are not going to get more accurate information than that given the significant effort being made at the school level to collect it. There may well then be some policy or funding decisions that flow after looking at that data and making hard choices about what policy or funding applies. I am interested in your view about the accuracy of that information. On the other hand, it might not be surprising that a new data is not being applied consistently and there might be some questions about it, but there is clearly a lot of effort going in. My question is how confident are you, based on your experience, about the accuracy of that national data?

Ms LEITON: From my experience I would say it is very accurate. For every child when we initially started doing this we would go through the student file. We would go through every single assessment, diagnosis, adjustments that had been made and what has been happening all throughout their school life, which is why it is such a lengthy process. I would regard them as being very accurate data. I think that is happening across the school board from what I have been seeing from other teachers who are in similar positions. I know it is far more difficult for the collection of data in high school simply because the child is dealing with seven teachers in a day so collecting sufficient information is far more challenging. At a kindergarten to year 6 level it is easier because you are dealing with the one teacher for a year.

The Hon. JOHN GRAHAM: It is certainly the best information we have, but you are saying we should be confident that it is also quite accurate?

Ms LEITON: Yes, definitely.

Ms SMITH: Certainly my experience of dealing with principal members of the union in the Catholic and independent sectors is it is taken extremely seriously because everyone wants more funding, but I know that principal members of the union have raised with us and raised with their own employers what goes into that nationally consistent collection of data. Sometimes a judgement call has to be made. It has to do with the nature and length of the intervention. It does pick up a range of other needs which would not be picked up if we called it the State data or State criteria. It really is a much richer, more complex set of information about student needs. It is quite robust, because I think a lot of time and energy and effort gets put into it and it does pick up, including for students with significant ongoing medical issues which require some adjustment, and also the mental health and social and emotional issues which sometimes require very significant adjustments.

The Hon. JOHN GRAHAM: How confident are you that it is not varying school by school? Does it vary school by school or is it pretty accurate and consistent across the board?

Mr DAVID SHOEBRIDGE: How much of it is discretionary, if you like? Are teachers making a judgement call that a child is very emotionally disturbed and they will include them in the criteria without a formal diagnosis?

Ms LEITON: I was involved in the pilot project when this first started in our archdiocese. There was obviously support from the regional level to roll out consistency for the people who were doing this. We had clear definitions of what you would fill in, how you would fill it in, examples given and support along the way if questions came up. As new people come on board I believe there is still a person in the office who is available for that sort of support but obviously it has reduced over the years. There certainly was a big area of training to be able to fill it in and be accurate.

Reverend the Hon. FRED NILE: Would it help if our Committee recommended that the State Government replace the State criteria with the national definition of disability in the Disability Discrimination Act 1992?

Ms LEITON: Without a doubt, because at the moment children with, for example, ADHD, dyslexia, dysgraphia or dyscalculia are not included in that definition. They are learning difficulties that require adjustments but they are not included. We are producing adjustments and doing extra work without any extra funding, whereas this nationally consistent collection of data [NCCD] includes those definitions.

Reverend the Hon. FRED NILE: It should be national as well—not just New South Wales but all States.

Ms LEITON: Yes.

Ms SMITH: If I could just comment very briefly, since the previous inquiry in 2010 our understandings of how students learn and the complexities of some of the challenges which they face—and that includes ones that are perhaps easy to label or define and others that may be more complex but still require significant adjustment or intervention—have come a long way as have the sometimes complex interaction of factors that affect a student's learning and wellbeing.

Mr DAVID SHOEBRIDGE: Would it be fair to say that our understanding is significantly greater now—that is, we understand the need—but that has almost created a political nightmare for State and Federal governments to fund that need? If you like, the research and the knowledge has got well ahead of where the funding is.

Ms LEITON: And probably that big discrepancy between what was originally defined as a disability and what the Act actually requires schools to do is quite shocking, I think, for a lot of people to realise. That funding shortfall is a reality and it is what we are dealing with day today.

Reverend the Hon. FRED NILE: Does that mean the Gonski funding model has to be reviewed then? It may have been based on that earlier view.

Mr DAVID SHOEBRIDGE: I think with the Gonski funding model Gonski said, "Get the NCCD data and then we will fund in accordance with the data." That is the way Gonski is modelled.

The Hon. DANIEL MOOKHEY: The State grants system is certainly well behind.

The Hon. DUNCAN GAY: The evidence was that the State one misses out things like dyslexia.

Ms SMITH: I used to work in this area, as I mentioned, at Parramatta Catholic Education Office where I was in a leadership role in regard to students with special need. That was in the 1980s and early 1990s. I am not sure that some of the definitions of what constituted a fundable disability in regard to cognitive impairment, sensory impairment, significant physical disability or a psychiatrically diagnosed very significant medical condition like schizophrenia have really changed that much, so I think we are relying on understandings of what constituted disability some years ago rather than more contemporary understandings. But of course then the funding needs to keep pace with those understandings. We know so much more about the autism spectrum, just as one example.

The CHAIR: Thank you very much to the panel this morning. The Committee appreciates the input and the expertise that you bring to the table and also the work that you do not only for the teachers but also for the students. I note that at least one or two questions were taken on notice. The Committee has resolved that questions taken on notice are to be answered within 21 days. The Committee secretariat will be in contact with you to assist you in that process. Again on behalf of the Committee I thank you very much for your attendance this morning.

Ms SMITH: We thank you for the opportunity.

(The witnesses withdrew)

(Short adjournment)

MARK CARTER, Associate Professor, Department of Educational Studies, Macquarie University, affirmed and examined

CORAL KEMP, Honorary Fellow, Department of Educational Studies, Macquarie University, affirmed and examined

SALLY HOWELL, Principal of the MUSEC School, Department of Educational Studies, Macquarie University, affirmed and examined

CAROL BARNES, Academic and advocate, sworn and examined

SUE O'NEILL, Lecturer in Special Education, School of Education, University of New South Wales, affirmed and examined

THERESE CUMMING, Associate Professor in Special Education, School of Education, University of New South Wales, affirmed and examined

IVA STRNADOVÁ, Associate Professor in Special Education, School of Education, University of New South Wales, sworn and examined

The CHAIR: I welcome our panel of academics. Please state any additional information about the capacity in which you are appearing today.

Ms BARNES: I am an honorary visiting fellow at the University of New South Wales and I am also national convenor of a support group—not a disabilities association but a support group—for parents and children and other people who are wanting to support children with disability who are also gifted, and that is called GLD Australia. I have made my submission, though, in my personal capacity for a reason that I will get into if I make an opening statement.

The CHAIR: I welcome you all to this inquiry. I am mindful of the time. This is a rather large panel and it is important that we get through as much as we can this morning. I remind all witnesses that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I request that witnesses focus on the issues raised in the terms of reference of this inquiry and avoid naming individuals unnecessarily. Does anyone wish to make an opening statement before we proceed with questions?

Dr CARTER: I make a brief opening statement on behalf of the Macquarie University academics. I thank the Committee for the invitation to testify. Given that the opening statement needs to be brief, I will make three points relating to our submission and the terms of reference. Those three points form the foundation of our submission. The first point is a commitment at all levels of education to evidence-based practice. Unlike fields such as medicine, historically education has not based its practices on evidence; rather, it has often based practices on opinion, fad, ideology, anecdote and consensus. When we refer to evidence-based practice we mean rigorous empirical research that has been peer reviewed and is typically published in scientific-based journals.

The second foundation for our submission is a recognition that regardless of setting, providing high quality special education programs involves specialist skills and knowledge. We believe that all special education positions, including learning and support teachers, must have a formal qualification involving at least one year equivalent full-time training, rigorous assessment and supervised practicum. Finally, critical to improving the quality of special education in government and non-government sectors is a rigorous independent system for certifying special education qualification and teachers. Standards and competencies must be based on the best available research evidence and should be subject to ongoing professional development.

Ms BARNES: I thank the Committee for holding this inquiry; it is badly needed. I am told by the secretariat staff that I can take it that the Committee members have read all the submissions, including my monster submission of 99 pages. If that is the case, I commend those of you who have read it. While I am talking about the secretariat could I just commend the secretariat staff on the way they have conducted the dealings with us in preparation for this inquiry. In the early 1980s I had their job at the New South Wales Law Reform Commission and I am telling you that is not an easy job. I commend them for being so utterly responsive and pleasant.

Could I commend quickly the three parents who spoke here last Monday—they were sitting right here or in the other room—and relayed their experiences with the education system. I watched on the webcast. I know that people were watching that and thinking that it could not be true. It is all too horrible and it could not have happened. I know from the emails that I get in my inbox every morning that it actually is true, and I will speak more about that later. In my personal capacity I have advocated for hundreds of parents, and what those parents said is absolutely representative. I have a lot of little stories at the back of my submission—there are several pages of appendices where I give little case summaries. From my point of view I have to say that that is hearsay evidence. In most of those cases I was not present in the room; I have to put that qualification on that. In the interests of transparency I have to say that I am here in my personal capacity. I am a bit of an interloper on this panel. I am an honorary visiting fellow at the University of New South Wales but I am not an employee. I do not get paid. What I say, unlike the submission put in by the academics from the University of New South Wales, which has been expressly approved by the head of school, mine has not. Mine is a personal experiential submission and what I say are my own views.

I am the national coordinator of GLD Australia, children with disability who are also gifted. One of the parents last week talked about twice-exceptional children and she was not picked up on that. Twice-exceptional children are basically children who have two exceptionalities—on the one hand, a very high intelligence quotient [IQ], very clever, gifted children; and on the other hand, some kind of an exceptionality that could be a properly diagnosed disability or something else going on. We have spent a lot of time this morning talking about the various kinds of disability but I will not go into that. Having said all that, can I just say that I am not an educator or a psychologist or a disability expert; I am a recovering lawyer. I do this advocacy work in my personal capacity, not as a lawyer. I do not get paid for it and I do not profess to have any expert knowledge in this area of law. When I was in practice, I did not practice in this area of law. So it is not a business. I have no method or program or anything I report. I have not written a book. I do not really promote anything that I, personally, have made up. I do not collect data. I do not do research. I do not know anything about the Gonski funding. I do not know anything about the funding in general, and I really cannot provide any helpful information about that.

You will notice that my accent is not Australian; it is Canadian, but I have been here for 35 years. The only education system I am going to talk about today is the Australian system. My submission is very long. Obviously we are not going to go into everything. I do not want to revisit any of the issues which have been raised, especially effectively, in the submissions put in by the people on my left and my right, but I am prepared to talk about anything in the submission.

Some of the things that were raised earlier this morning are dealt with expressly in my submission. I am very happy to be asked questions about things that have not been asked of other witnesses—one is with respect to the disability adjustments that are available for children with disability writing State exams, including NAPLAN and, in this context, the New South Wales Higher School Certificate [HSC]. Last time someone in this Committee raised the question of the Arrowsmith program. I allude to that briefly in my submission in Part 5, but I am prepared to talk about that. I am prepared to talk not only about the Arrowsmith program but also about the neuro-babble programs—all its neuro-babble cousins—which are getting in the way of our children with disability being able to show what they have learned and what they can do on the same basis as a child without disability.

I am also prepared to talk about problems stemming from the model of inclusion, which will not make me very popular on this panel. When I say "gifted", I mean having a high ability; I do not mean talented. I do not mean high performance. I do not mean children who are getting good grades in school. Gifted children have high ability and high potential; many of them do not get good grades in school for many reasons, and one is that they have a concomitant disability. The other thing I am prepared to talk about is the list of all the excuses—they are in my submission—which are proffered to parents when they go to schools with disability reports and ask what the school can do. They are told, "We cannot do anything because…" I have listed all the excuses in my submission. That is the end.

The CHAIR: Thank you. Does the University of New South Wales wish to make an opening statement?

Dr O'NEILL: Firstly, we, too, would like to thank the Committee for providing us, the University of New South Wales Special and Inclusive Education Research Group, the opportunity to give evidence this morning. As a group we have a core philosophy about fundamental things—like our friends at the Macquarie University—such as evidence-based practice in the area of special and inclusive education. Our whole purpose is to improve the lives of people with disability across the lifespan. That is what we research.

Our suggestions pretty much fall into two areas. The first is the need for evidence-based practice in everything we do when it comes to people with disabilities. It is imperative that those instructional practices really do reflect what we know to be effective rather than, as our colleague Mark Carter said, those fads or trends that happen in the area of special education. We are very keen to advocate for evidence-based practice as the forefront thing that should be part of the training that pre-service and in-service teachers are receiving in any kind of professional development or initial teacher training that they receive.

For too long, we agree, teaching has been viewed as an art form rather than a science, and we know, through many decades of research in this area, that we have a science of teaching. This applies in the area of special education, as well. We really need to work on getting teachers to seek out and look for research, and be guided by research rather than by hearsay. That is something we want to advocate for very strongly. It is important to us because we believe that there is a need not to waste the time of young people, who desperately need targeted and focused instruction, on fads that come through. They are already behind; we cannot let them get further behind by experiencing practices that have no rigour or proof behind them.

The other point we want to speak to is that we need to do a better job of allowing young people who we are trying to educate, as well as their families, to have a voice in the planning that goes on. Too often we find that teachers and teaching teams are making big life decisions for our young people, and their voices are not heard. That is an area on which we feel very strongly—regardless of whether it is with respect to the students' educational goals or transition goals into post-school life. Transition is an area in which our team conducts a great deal of research on in this country.

The CHAIR: Thank you. I will now open the Committee to questions.

The Hon. DANIEL MOOKHEY: I confess to be one of those members who last week had some discussion about the Arrowsmith program. That might be a place to start when we talk about evidence-based practice. I assume there is widespread awareness of this particular program. I can see lots of nodding from the witnesses. In your view is this a program that is supported by evidence?

Dr CARTER: Do you mean the sort of evidence that we talked about, which is clearly refereed—

The Hon. DANIEL MOOKHEY: To the standard that you made reference to.

Dr CARTER: Most certainly not. The program has existed for 35 years and, to the best of my knowledge, there has not been a single peer-reviewed article in a scientific journal at this point. Certainly I think you could say with absolute confidence that it is not an evidence-based program.

The Hon. DANIEL MOOKHEY: Is there any peer-reviewed research that suggests it is effective? Has it ever been evaluated?

Dr CARTER: Not in terms of peer-reviewed research. No, not to the best of my knowledge.

The Hon. DANIEL MOOKHEY: Does it worry you that it is being taught in schools?

Dr CARTER: Yes.

Mr DAVID SHOEBRIDGE: I think you would go higher than that. You say that it should not be taught in schools. Is that not your position?

Dr KEMP: Absolutely.

Dr O'NEILL: I think it is important to say that that is not the only fad that is being delivered in schools.

The Hon. DANIEL MOOKHEY: Feel free to tell us about the other ones.

Mr DAVID SHOEBRIDGE: Tell us about the joys of phonics.

Dr HOWELL: The New South Wales Government's Department of Education, between 2012 and 2017, will have invested over $500 million in what is called Early Action for Success. The professional learning around the literacy component of that program L3 and L2, are based on reading recovery principles, and neither include systematic and explicit instruction in phonics. That particular rollout and program is meant to address the needs of our most at-risk students in kindergarten to year 2. It astounds us that programs which have no sound research evidence base have been permitted to be rolled out in the capacity of supporting these students.

The professional learning that accompanies that program is 30 hours of accredited teacher professional learning; it does not include any professional learning around systematic and explicit instruction in phonics. Literacy leaders—224 of them so far within the department—do multiple days of training. None of the training addresses systematic and explicit instruction in phonics as part of that program. Those leaders are now being designated as deputy principals and assistant principals in schools. I would suggest that we have guaranteed, through that investment, that we will have future generations of children who are denied the instruction that they need, and future generations of teachers going through their daily business in ignorance of what is effective instruction for beginning reading, particularly for students at risk.

The Hon. DANIEL MOOKHEY: In summary, your evidence is that we are spending half a billion dollars on things that do not work?

Dr STRNADOVA: Absolutely.

Dr KEMP: Absolutely.

Dr HOWELL: Or they are things that do not work as effectively as they might if they included that component in the training.

Dr CUMMING: You started off talking about Arrowsmith. I think reading recovery is a bigger problem just because it is so much more widespread. That seems to be what is looked at as the big panacea that is going to help all of these children that are behind. As Dr Howell said, it does not include that very huge basic component of evidence-based practice, which is phonics instruction.

Mr DAVID SHOEBRIDGE: Ms KEMP, in your submission you extract this paragraph about phonics and you then deconstruct it. Would you like to take us through that?

Dr KEMP: That particular newsletter came from my grandchildren's school, so you can imagine how horrified I was.

Mr DAVID SHOEBRIDGE: This is on page 5 of your submission.

Dr KEMP: I have five grandchildren at school, now. Four of them were at school last year—three of them in kindergarten. I have one granddaughter who has a learning difficulty because she has not been taught properly. Probably up to 25 per cent of our kids really need systematic instruction in those areas. Some kids learn to read almost despite the teaching, but there is a percentage who do not. My granddaughter is one of them.

One of the saddest days of my life was when I went to her place and said, "Can you get a book for nanna to read?" She burst into tears. Children are given books that they cannot read; they are given books that they remember; they are given books they read only by identifying the pictures. They are being taught to use pictures and phrases that they remember by heart to learn to read. That is an absolute disgrace. My grandson said to me one day, "Nanna, the teacher thinks I can read every word in the books she sends home." I said, "Can you, Elliott?" He replied, "No, no, of course not." I responded, "What about the books I give you?" I give him phonics-based readers. He said, "Of course. I can read all of those words. I can read them out for myself." I remember how proud he was the first day he worked out a word for himself. This is tragic. There will be kids who survive this system, but there will be a group who will not.

Dr HOWELL: The Committee will probably receive feedback from the Department of Education espousing the success of the L3 program. It is worth noting that the measure of success for children reading in that program is the level of reader they can read that is a practised book. As Ms KEMP said, we teach them how to remember the book. We then assess whether they can "read" that book. That is the measure of success. Within L3 there is no measure of a child's ability to decode an unknown word or to read unseen text. That is something that should be noted.

Dr STRNADOVA: A number of us are also members of the Australasian Association of Special Education. We have advocated numerous times with the Department of Education and had numerous meetings bringing up these issues, but so far unsuccessfully.

The Hon. DANIEL MOOKHEY: Can you describe the level of peer-reviewed research that has been applied collectively by these groups or others in respect of the L3 strategy, or the aspects factored into it? You may wish to provide an exhaustive response on notice, but can you provide a short summary now? If the Committee were to take this up with the department, it would be helpful to have the evidence base.

Mr DAVID SHOEBRIDGE: Evidence-based questions about evidence-based learning.

The Hon. DANIEL MOOKHEY: Yes.

Dr HOWELL: A ministerial advisory group was convened when the current Government committed substantial funds to its literacy and numeracy program. That group did a literature review on various interventions. It said about the literacy evaluation that there was very limited or no evidence available about the effectiveness of L3. It wrote a paper on this stating, "Based on the criteria used for the review, among the literacy interventions reviewed there is no research evidence, or very limited evidence, available for the efficacy of language learning and literacy." That is in a 2013 paper delivered to the department by the ministerial advisory group. A similar finding was made on numeracy intervention.

The Hon. DANIEL MOOKHEY: Is it your evidence that the department knew there was no evidence before it signed off on this program?

Dr HOWELL: I worked in the Department of Education from 2006 until 2013. What the department deems to be evidence is different from what academics and various--

Mr DAVID SHOEBRIDGE: What is the difference between what the department relies upon and what you would expect it to rely upon?

Dr HOWELL: Most of the department's professional learning programs are evaluated against whether teachers think they know more at the end of the professional learning than they knew at the beginning. The evidence collected and reported on L3 in the annual reports about the program is teacher judgment against the department's literacy continuum. The continuum has never been validated as a tool that can measure teachers' performances. Teachers are asked to meet as a group in their school and to use a continuum to decide what they think is representative of a child being at this level, and they compare children against that. There is no objective measure of success or any evidence that the bands they have allocated are appropriate. If a child is at level 3 in kindergarten, that is deemed success; if they are at level 5 in year 1, that is deemed success; and if they are at level 7 in year 2, that is deemed success. No research has been conducted to prove that if a child is at level 3 in kindergarten—which means they can read a familiar text—they will go on to succeed in literacy.

Reverend the Hon. FRED NILE: What is the reason for the rejection of phonetics? It seems so strong.

Dr HOWELL: It has a long history, and it is complicated by the fact that we are not allowed to mention any names.

Dr KEMP: When I started teaching, whole language emerged as a phenomenon. The idea was that children learnt to read in the same way that they learnt to speak; that is, they picked it up and did not need to be systematically taught. That idea prevailed for a long time in the Department of Education, but it has been modified since. L3 is probably a modification of that. They are trying to introduce some semblance of systematic instruction, but they are denying a massive amount of evidence. Worldwide reviews are using hundreds of thousands of peer-reviewed papers in the area, and they are all coming to the same conclusion. Even if you did not know what the evidence was going to be when you started as the head of one of those inquiries, by the end of it you could not help but be convinced. It is not the same as being a fluent reader. You would be convinced that in order to learn to read children need to know the letter-sound correspondence to be able to blend sounds to make words. That is at the initial instruction level. Of course, they also need good vocabulary and good comprehension. Many of our kids come to school with those skills. If they do not, we need to ensure that is part of the curriculum.

Ms BARNES: I would like to make a brief comment on non-evidence-based programs from a parental point of view. I would like permission to table a document. I have 10 copies. One member asked what are the programs other than Arrowsmith. I have a position statement from the Specific Learning Difficulties Association NSW [SPELD NSW] that lists them—

Document tabled.

Mr DAVID SHOEBRIDGE: These are non-evidence-based programs?

Ms BARNES: They are non-evidence-based interventions that SPELD NSW and Learning Difficulties Australia expressly do not recommend. From the parental point of view, we have in our group parent after parent who has tried program after program after program. There are all the neuro-babble programs, all the after-school programs, and all the programs that are done at home with the mother supervising. These courses are run by edu-businesses, not the Department of Education. If they do not succeed, they are told that they are the only people who have not been successful having done this miracle program that has not worked. Developmental paediatricians tell me that their waiting rooms are filled every day with the only person for whom this whiz-bang or that whiz-bang program has not worked.

I was lecturing in public and a woman came up to me at the end of the lecture and said, "I have had to take my child out of the Arrowsmith program. My child is being very badly damaged. It is so expensive. I have put so much effort into it. We have tried so hard. Look at me, guess what I do for a living." She said, "I am an oncologist. Do you not think that if there is anyone in Australia who would have said, 'Show me the evidence; give me the articles from the peer-reviewed journals. Show me how it works', that that would be me? No, my school said, "Why don't you enrol him in this. It is going to rewire his brain"—that is what we used to call learning—"so that he will learn to read and learn to do math and all those things. I could not get the $7,000 out of my purse fast enough to say yes." Parents are desperate and all the edu-business and neuro-babble programs are playing on that desperation.

The Hon. DANIEL MOOKHEY: Your evidence is that they are selling snake oil.

Ms BARNES: Yes. They are selling snake oil. They are selling medical cures which the medical community wants to suppress: Doctors would be upset if they knew how easy it was to cure dyslexia, ADHD and all these other things! I do not want to be cross-examined on this but those things are all caused by different problems, different root causes and different parts of the brain—they are not all going to be cured by this one program that entails doing exercises on a computer. Granted, there is some evidence that you do get a little bit better at doing the exercises on the computer because your mother is sitting beside you and you have to do it and your mother keeps reminding you that we have spent all this money. Some of the parents for whom I advocate have a money tree in the backyard and they try everything, but for parents for whom I advocate who are on Centrelink, this takes their whole holiday money. And when it does not work, the disappointment! The child's point of view has been mentioned: From the point of view of the child with disability, they have tried something else: "It didn't work again. What a failure I must be."

Dr CUMMING: All the time that is wasted while they are doing that when they could have been doing something that is effective—that is a really big problem.

The Hon. DUNCAN GAY: We have some coloured glasses at home—

Dr CUMMING: Exactly.

The CHAIR: We have rose-coloured glasses in the Parliament too!

Dr O'NEILL: Respectfully, if we put you in a darkened room, spin you out on a chair and throw small beanbags at you, and you catch those, that will fix your problems. That is the level that we are talking about with some of these, to borrow a phrase from Mr Mookhey, snake oil interventions. Again whether it is that by getting you to balance on a balance beam or whether we do all these other things that somehow will activate some other area in your brain and somehow remedy all these other issues, as my colleague said, this is the time when we should be focusing our attention on things that we know work. That is the thing that frustrates the people on this panel: We have the research, we know what we are talking about and when we try to have these conversations with various bodies—nothing.

Mr DAVID SHOEBRIDGE: How much of these snake oil programs or non-evidence-based programs are actually taught in schools, as opposed to parents in desperation teaching them on a Saturday morning or Wednesday afternoon after school?

Dr CARTER: We have done a number of studies and it is difficult to know, because you can only rely on schools responding or publicly available information. Certainly programs like multisensory rooms and sensorimotor programs are embedded in schools, and there is at the very least a failure of education departments to recommend against these sorts of programs and provide guidance to schools.

Mr DAVID SHOEBRIDGE: Is that in both State and non-government schools?

Dr CARTER: Both.

The Hon. DANIEL MOOKHEY: Your evidence is that Reading Recovery, which is one of the most widespread State-funded programs, just does not work.

Dr O'NEILL: For one in three, it does not. It has some limited period of time where there is a gain, but beyond, when you leave the program—nothing.

The Hon. DANIEL MOOKHEY: For the non-academic like me, is this a point of academic dispute or is there unanimity of this opinion?

Mr DAVID SHOEBRIDGE: If we had witnesses from Sydney University in here, would they say, "Macquarie and New South Wales are wrongheaded on this"?

Dr STRNADOVA: No. If I can go back to your question of what is the difference when we talk about evidence, we are talking about a rigorous evidence-based program. These programs are established by independent people and independent researchers across numerous populations of children across different conditions and across different schools by rigorous method so at the end we can say it is effective—and that is not just the opinion of the teacher who works in the school. That is what we are calling for.

The Hon. DUNCAN GAY: Would Charles Sturt and Sydney universities have a similar view?

Dr STRNADOVA: Absolutely.

Dr O'NEILL: We are consistent as a body, I believe, in our frustration when it comes to knowing what works—

Dr STRNADOVA: It is like if you ask medical professionals: They will tell you which practices are evidence-based and which are not.

Dr HOWELL: With regard to Reading Recovery, the department's own Centre for Education Statistics and Evaluation published an evaluation and report on Reading Recovery only last year which confirms what the academic world says about Reading Recovery. It is interesting to note that within a couple of weeks of that report being published by the department itself, numerous positions were advertised to train Reading Recovery tutors, investing more money in sending them over to New Zealand—

The Hon. JOHN GRAHAM: Has the department responded to that report since it was issued last year?

Dr HOWELL: In the latest strategy, mention is made that some of the things we do are not always effective but schools can continue to employ Reading Recovery. As I say, the department itself advertised investing money in training more Reading Recovery tutors. I have here some information from L3, which is based on the Reading Recovery approach to teaching reading, and it says: "The inspirational work of Dr Gwenneth Phillips and Professor Dame Marie Clay has informed the development of L3". The teaching procedures that underpin L3 are the same teaching procedures that underpin Reading Recovery.

Now we have the situation where children in kindergarten get L3. If they fail at that, they can go and get more of the same in Reading Recovery, and if they fail at that they can go and get more of the same in L2 in year 2. Then, when they hit year 3 and they still cannot read, they are recognised as having a disability and are handed over. Somehow someone is meant to pick up the pieces—and all those vital years of early instruction have not been delivered at a level that those children need. It is a tragedy.

The Hon. DUNCAN GAY: Dr O'Neill, you mentioned the role of deputy principals and how many of them are, in their role of authority, taking it forward and entrenching it. I would like you to elaborate on that, but do you have anything to add to the previous issue first?

Dr HOWELL: That was actually me. The model that has been implemented for Early Action for Success in terms of mentoring and coaching people to be experts in the field is actually a very good model. We would support that model; we just think that it would be wonderful if the training that people received was in evidence-based practice. What happens with literacy leaders is that they only receive the training in how to deliver L3—again, this Reading Recovery approach to the teaching of reading. That is the only thing that is endorsed at a State level. Once you have done your training and you have become a literacy leader, part of the program is that you are then accorded an executive position, so you become a deputy principal.

My argument is that, if you have a deputy principal at a school who has only been trained in one approach and if you ask for the reference list that underpins the training, you will not see any references that relate to research studies into beginning reading instruction for children at risk. You will only see Reading Recovery-type references. These deputy principals are the ones that we now expect to mentor our newly qualified teachers. Anecdotally we have stories of people who have gone into their first year of teaching with a belief in the teaching of phonics. I personally know of one case where she is teaching kindergarten for the first year this year and has been told, "We do L3—forget all that stuff they told you about phonics at Macquarie."

Reverend the Hon. FRED NILE: Dr Carter, in your submission you made a recommendation to reinstate specialist centres that focus on the provision of instruction to students with special education needs. You said "to reinstate". Why were they removed?

Dr CARTER: I am probably not the right person to ask that particular question of. There were two specialists, at least until very recently, in New South Wales at Newcastle and at Macquarie, and decisions were made by the administration for their own strategic reasons that that perhaps was not a priority for them. I certainly think that it would be one small step in terms of ensuring that special education expertise continues to be developed. We conducted a review of core units in inclusion in special education a number of years back and we found that about 30 per cent of people delivering those units actually had a qualification in special education. Less than 50 per cent had either a qualification in special education or relevant publications that would suggest that they had expertise in that area. In terms of preparing both special educators and also preparing regular teachers in giving them the skills they need to effectively work with students with special needs that sort of core of expertise is important. Having main centres means that they are less likely to be disbanded despite recent experience, so it gives a course structure. I think those sorts of centres are very important and it would be fruitful to consider reinstating them.

Reverend the Hon. FRED NILE: There has been a big change in putting children with disabilities into a normal classroom and the teacher struggling to handle that child. Is there any argument that it would be better to group children with a specific disability in a class with a specialist teacher?

Dr CARTER: There are arguments both ways. I would argue that regardless of where a child is and where instruction is delivered the critical thing is the quality of that instruction. You can argue the case as to whether inclusive or segregated settings are better, but certainly the research evidence would suggest that instruction has a much greater effect on learning than where the instruction is actually delivered. I think this is probably the area where we are really falling down at the moment in terms of quality instruction.

Dr STRNADOVA: You also asked about inclusive education. Part of the problem, and it was also part of our submission, is the issue of learning support teams that are at schools. What we are arguing for and advocating for is that there is always somebody who has education in special education, who has a degree in special education. Unfortunately, the last research indicated I think around 40 per cent of special educators did not have that qualification.

Dr CARTER: Nobody knows. If you look at the 2010 inquiry that information was conspicuously absent in terms of the percentage of teachers working in special education positions, including learning support, who had a qualification. If that information was available to this inquiry that would provide us with at least a baseline to see whether we are making progress.

Mr DAVID SHOEBRIDGE: At a minimum we should ask the department staff that before they come back.

Dr CARTER: That would be an excellent idea.

Dr O'NEILL: The criteria of living, breathing and willing—I think there should be some more argument as to whether or not you hold a position as the special education go-to person in a school. That is a big problem that we have. If you look at any of the advertisements for special education positions it is qualifications and/or experience. Depending on the position, where it is and what it entails, we cannot guarantee who will come forward to put their hand up for that position. It may well be someone with very little experience or perhaps someone who has done a couple of elective courses during their pre-service teacher education. That is what we are talking about; we have this grey area for who can be a special education teacher.

Reverend the Hon. FRED NILE: Should an extra year be added to their teacher training course? If they want to do special education they could do another year of study.

Dr O'NEILL: Correct.

Dr STRNADOVA: We have masters of special education that actually offer that. What we are calling for is to make that mandatory for anybody who wants to be employed in that position. I think internationally in different places that is actually a requirement. In the United States you have to have a degree in that area. I come from Czech Republic, which has a much worse educational system, but we still have it. I was so shocked it is not here. Even as a parent I would be really concerned that I have a special educator who is a specialist, they know what they are doing. Very often they have no idea.

Reverend the Hon. FRED NILE: Is that a one-year course?

Dr STRNADOVA: One year.

Dr CUMMING: It is a one-year postgraduate course, full-time.

Reverend the Hon. FRED NILE: After they have done their teacher training course for four years.

Dr O'NEILL: Yes.

Dr CUMMING: To the department's credit, although they are not requiring that, they have made provisions for people that want to retrain. There are scholarships for people to go ahead and do the one-year courses, but until they make it a requirement it is just very voluntary.

The Hon. JOHN GRAHAM: What other things could we do? Obviously getting the data and being up-front about where we are at would be a good start. What else would help, or why has this not progressed since 2010? It is one of the common threads in all of your submissions.

Dr CARTER: The key issue is that we need at some point to bite the bullet and say that in order for someone to be permanently employed in a special education position, including learning and support teachers, a formal qualification is required.

Mr DAVID SHOEBRIDGE: We would need a transitional approach, would we not, to protect people's positions?

Dr CARTER: I think you would have to grandfather people.

Mr DAVID SHOEBRIDGE: Is there a pool of sufficiently qualified teachers that we could draw from?

Dr CUMMING: No.

Dr CARTER: I think probably not.

Dr STRNADOVA: We can see that we have a growing number of people doing masters in special education, so there is a hunger for that, but there will be a need for, as you say, a transitional period.

Mr DAVID SHOEBRIDGE: What do you say to the obvious question about self-interest? Here we have witnesses from two kinds of departments that teach these kinds of skills saying that we need more of them teaching these kinds of skills.

Dr CARTER: I can say personally I am not looking for any extra work. Obviously it would be an advantage to the universities but our concern is for the students who are receiving the instruction.

Dr KEMP: I am no longer teaching and am not employed at a university. But I work with parents as an advocate for families. I have worked in expert witness positions where I have seen the tragedy of what can go wrong when a person does not know what they are doing. If you have a whole school where not one person is qualified in special education then it is not surprising that things go wrong and people get hurt. It is all covered up because it never goes to court. It is always settled out of court.

The Hon. DUNCAN GAY: Is the only way with a one-year postgraduate course or are there other segments that you could add to your existing qualification?

Dr O'NEILL: Would you like to talk to the quality of the modules?

Mr DAVID SHOEBRIDGE: We are not going to get a whole lot of teachers to pull a year out of their careers. How else can we upskill them, is the question?

Dr CARTER: There are probably a couple of answers. One of the difficulties now is there is not really much incentive for people. Many people do postgraduate qualifications but obviously there is no incentive for them at the end of that other than their own desire to improve their practice. If we could recognise that additional training in some way with some financial incentive that would certainly encourage students to do that. There may be at least one undergraduate special education program embedded into a primary program in New South Wales but the difficulty is that the program is so full it is extremely difficult to finish within three years. We looked at that a number of years and ago and the best we could do would be to add six months to their existing program. More realistically, to do a reasonable job, it would take 12 months additional.

The Hon. DANIEL MOOKHEY: Is there anything in the categories of professional learning development or continuous learning programs that is worthy?

Dr HOWELL: I will let other people talk about the modules. Having a long history working in special education, in the 1990s, when I would say perhaps special education had a higher profile in our schools, there was actually training offered within the Department of Education. The training was developed in collaboration with universities. Teachers who did the training offered as professional learning could get credit as one unit towards a postgraduate qualification if they wanted to take up that option.

The Hon. DUNCAN GAY: Has that gone?

Dr HOWELL: That disappeared a long, long time ago.

The CHAIR: Is there also an incentive in terms of placement? For example, could a younger person who is finding it difficult getting into teaching go to a country or regional area and through that we would be investing into those areas that we have been told in these hearings are missing out? Areas on the north and south coast and more attractive areas could equally use it is an incentive to attract more people.

Dr KEMP: I remember a very talented student of mine many years ago—one of my top students—got a position in quite a difficult western New South Wales region. The problem is when you send a new graduate into that sort of environment where there is no proper support and no valuing of what she has to offer. She resigned from teaching after about a year because it was just so difficult for her. We need to support those people. You cannot put one-offs into difficult positions.

The Hon. DANIEL MOOKHEY: Dr Howell, can you explain to us what the Macquarie University Special Education Centre [MUSEC] is, why it was formed and how it is funded?

Dr HOWELL: My colleagues here would have a longer history and might be able to talk to you about why it was established. It is currently a special school for 44 children, kindergarten to year 6. All of the children who attend the school do have diagnosed disability. We provide what we say is an exemplary model of special education because we reflect what is taught in the postgraduate program in special education. All of our teachers have qualifications, obviously, and we are also a research site so that research in special education can be conducted at the school. Originally the school was established so that it could provide a practicum site for our postgraduate students so that they would see being put into practice what they were learning in theory. It is a community service in that it is a school, and also it does offer research sites, but that is a fairly recent incarnation of the school. Since about 2004 that is what MUSEC school has been. Dr Carol Kemp will probably talk about it prior to that.

Dr KEMP: I was around when the special education centre was established in 1975—that was when I was doing my masters in special education. It was originally set up to cater for kids with learning difficulties. In the early days, even though it was an independent school—it was registered to help fund the school—there was a very close relationship between the centre and the Department of Education and Catholic Education. We took in students that they found difficult to cope with. We had them come to the school four days a week and they would go back into their own schools, so there was a double enrolment happening there.

Those kids were funded. Even though they had learning difficulties and not disabilities, there was some sort of a deal going on. I do not know how it worked. But at some point it was decided that we could not fund kids with learning difficulties. I think that was a tragedy because, as I have mentioned in my submission, kids with severe learning difficulties are so disadvantaged. I see 15-year-old kids in high school with reading ages of six. They cannot negotiate the curriculum, they are ostracised by their peers, they are made to feel like fools by their teachers and they go on to have quite significant emotional problems.

I am working with a child through the school at the moment with quite a significant learning difficulty—age 12 with a reading age of six. His brother is in high school, also with a learning difficulty, and mum told me he is now talking about suicide. That is a tragedy. We need to provide for these kids. They have a huge amount to offer. Some of our ex-students who came to the school as kids with learning difficulties have come back and said, "Thank you. You changed our lives. We were able to make a success of our lives because of the intensive instruction we got through MUSEC."

The Hon. DANIEL MOOKHEY: Dr Howell, is your funding secure?

Dr HOWELL: We are funded—well—

Mr DAVID SHOEBRIDGE: Nobody's funding is secure.

Dr HOWELL: Nobody's funding is secure. The staff—

The Hon. DANIEL MOOKHEY: But you are funded on a 12-month—

Dr HOWELL: We get funding every 12 months but the teachers' contracts and my contract are on a three-yearly basis. That is because we cannot guarantee that funding is always going to be available for the school. We receive funding from the Federal Government and from the State Government but we are registered as a private school with the Association of Independent Schools, so we do charge school fees and that is how we manage to survive. In the good old days when the school was first established, the university used to pay the salary of the teachers, but that went a long, long time ago.

Reverend the Hon. FRED NILE: That experiment that you had supports my earlier proposition. Is there an advantage in having children with a similar difficulty in the same class? You just proved it was—that those with learning difficulties could advance in one class together. I assume that they did improve and learn.

Dr KEMP: With kids with learning difficulties, I look at the meta-analyses that were done on inclusion in the 1980s. They were inconclusive, as Dr Mark Carter said. It was all about quality of instruction, but there was a hint that the kids with learning difficulties, by being pulled out and given intensive instruction, did have an advantage. Do not forget that those kids do not have the same social problems that kids with disabilities have. They have normal intelligence, they can mix freely with their peers at home and so on. There are probably lots of advantages for them to come out, get intensive instruction and then, obviously, go back into the mainstream.

In terms of kids with disabilities, Dr Sally Howell will tell you there are some kids of whom she will say to the parents: "You need to put that child back in the mainstream. He or she will benefit more from mainstream." But for other kids I have seen the most tragic situations in mainstream schools because teachers do not know what they are doing. What you are really doing is limiting the inclusion for that kid in the long term. Do not forget inclusion is about inclusion in life, not just inclusion in an educational institution. We need to be working to make sure that child has the best opportunity to be included in the wider community.

Dr STRNADOVA: If I can just jump in, I would be very worried if the discussion turned into "special educational settings are better than inclusive settings". That is not what we are talking about here. We are talking about asking: "What is best for the child?" For a majority of children who have disabilities or difficulties, the mainstream settings are a good place to study at but they need to have supports in place and they need to have educated teachers who understand evidence-based practices. I am just cautioning about this issue.

Ms BARNES: Could I just add from the parent point of view there? What we hear most often is that the child is supported in the classroom by the teacher who is very, very busy because they have all these children in one classroom and they all have varying needs. There is no-one in the school trained in special education, as we have just been talking about, so they get them a teacher aide. So what we do is we take the adults with the least specialised training and we give them to the children with the greatest needs. Most of these people are very well intentioned and they want to do the very best they can, but they are told by the classroom teacher, "Your job is to keep him quiet."

Mr DAVID SHOEBRIDGE: It is the babysitter model.

Dr O'NEILL: Yes.

Ms BARNES: They are babysitters. The children come home and say, "I have a new teacher aide. I really like her and I know her—she is the school cleaner." I am not saying that some school cleaners do not have a specialisation in special ed. Or: "It is Sally's grandma. She used to come and help us with reading. Now she is my teacher aide." "What do you do with her?" "Oh, we mostly just play games. You see, they have to train everyone else for NAPLAN." I get this from the gifted angle as well. Every March I get calls from parents saying: "My gifted child has been told they will have to sit and colour in in the corner until May because the teacher has to prepare the rest of the class for NAPLAN." Some of them just sit and colour in. Other gifted children are told: "You can look after Sally and Freddie because they will not be doing NAPLAN. You can do NAPLAN with half your brain tied behind your back. These children will not be doing NAPLAN because we already know they are going to have the flu that day." So the teacher is focused on teaching the children in the middle how to do NAPLAN.

From the Australian Council for Educational Research [ACER] we know, because we have this policy of encasing children in classrooms according to date of manufacture rather than according to readiness to learn, that in every year the most advanced 10 per cent of children in the class are performing five to six years higher than the least advanced 10 per cent. For example, a year 4 class teacher with the best will in the world teaching the Australian curriculum for year 4 which says, "You have to study this this year," has children who are reading and doing math at a year 6 or year 7 level and children who are, as we heard, tragically, reading and doing math at a year 1 level, left alone in the classroom and told, "There you go. This is called inclusion. This is called differentiation. And, by the way, we do not have time or money to train you in it, so just do your best."

Mr DAVID SHOEBRIDGE: I thought your evidence on the Reading Recovery Program was some of the most disturbing that I have heard. But I had thought that the Government had dumped it, effectively. The Government made an announcement in September last year and the Minister said that they had taken on board the review. But then I have just double-checked the department's website. The Reading Recovery page says it was last updated 7 December 2016 and it says:

> Reading Recovery is a research-based intervention to target Year 1 students under-performing in literacy learning.

What observations do you have about that—apart from laughing in desperation?

Dr O'NEILL: To be honest, when the Department of Education announced that they were going to have their research branch, I was almost at a hallelujah stage. I thought, "At last they are actually going to have a group within the department that are going to—maybe—look at some of the things that are out there and try to help teachers, schools and the education sector focus on the things that have some evidence-based practice." I feel that that has not happened.

Dr HOWELL: They have certainly, as you say, raised the awareness. They do not have any role in dictating what is actually going to happen in schools so schools can go on, but at the senior State office level reading recovery is still endorsed.

Mr DAVID SHOEBRIDGE: So we do not do another reading recovery and invest $55 million a year in a project that is not working, what is your one key recommendation to turn it around and make sure that it does not happen again?

Dr CARTER: Back in the 1990s, I think, there was a special education advisory committee to the then Minister, who might have been Virginia Chadwick. It seems to me that re-establishing a committee of that type which has included in its remit to look at an evidence base for newly implemented programs might be a good starting point.

Mr DAVID SHOEBRIDGE: The main line to the Minister.

Dr CARTER: A direct line, yes.

The CHAIR: I am sure that we could keep going but, sadly, we have run over time. I have to say that when I saw seven people on the panel I thought it would be an interesting mix. Your evidence has been outstanding. You are a magnificent seven, and I offer my congratulations to each of you.

Dr CUMMING: We never got to the transition part of things. We brought some additional evidence with us. Can we table those documents?

The CHAIR: Yes.

Documents tabled.

Dr O'NEILL: That should position exactly what Australia has actually signed up for with regards to transition planning. We hope that will be helpful.

The CHAIR: Thank you for the work that you do for our children and for helping other educators.

(The witnesses withdrew)

(Short adjournment)

JOEL DANIEL MATTHEWS, Vice President, Federation of Parents and Citizens Associations of New South Wales, sworn and examined

RACHEL SOWDEN, Delegate, Federation of Parents and Citizens Associations of New South Wales, sworn and examined:

The CHAIR: Before I ask if one or both of you would like to make an opening statement, I remind everyone that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I request that witnesses focus on the issues raised in the terms of reference of this inquiry and avoid naming individuals unnecessarily.

Mr DAVID SHOEBRIDGE: Quite often when witnesses come to make a presentation such as this they agree between themselves that one will be responsible for making the opening statement. Ms Boyd, the president of the association, has not arrived as yet. Was Ms Boyd going to make that statement?

Dr SOWDEN: Yes.

Mr DAVID SHOEBRIDGE: Are you in a position to proceed at the moment or do you want the Committee to consider whether it should wait for Ms Boyd to arrive? I do not want to see you in a difficult situation.

Mr MATTHEWS: I have not prepared anything because Susie Boyd was meant to be here.

Mr DAVID SHOEBRIDGE: I do not want to catch you on the hop. The Committee is mindful that you are in a difficult situation.

Dr SOWDEN: We are not sure where she is but we do not want to hold the Committee up. I would like to declare that I have made a personal submission to the Committee. I am not here to discuss that personal submission; I am here on behalf of the Federation of Parents and Citizens Associations of New South Wales.

The CHAIR: Thank you.

Dr SOWDEN: The Federation of Parents and Citizens Associations of New South Wales represents 2,200-odd schools in New South Wales and the parents of those schools. We advocate for parents in the schools and see the need for inclusive education for all students as a paramount thing that should be provided by the State Government as a right to our children.

The CHAIR: If Ms Boyd arrives we will swear her in and she might be able to make some opening comments. We will now proceed with questions.

The Hon. JOHN GRAHAM: I am interested in that part of your submission that deals with training and professional development. In particular, you talk about the two training modules that the department has developed on disability standards that inform teachers about their legal obligations. You also say that most teachers have done the first module but considerably less have done the second module—64,000 the first and 16,900 the second. When the Committee talked to the department earlier about this they were keen to emphasise how many teachers have done this legal standards training. Obviously the large drop in numbers in the second module is of concern. Are you able to tell the Committee exactly what training is involved in the second module? Is it about legal standards training or is it more general?

Dr SOWDEN: It is my belief that it is just general training on the disability education standards. Given that there are 2,200 schools there is less than three people at a school who has actually had that training when you average it out—maybe four. Sorry, maths has never been my best bit. It is very concerning that so few of the teachers have completed that module. And it is of concern, too, that it is a mandatory thing to make sure that you are following the disability education standards under the—

The Hon. JOHN GRAHAM: When we talked it through earlier on, we found that it was a mandatory requirement, but not mandatory training. That was one of the things which attracted some attention.

Mr DAVID SHOEBRIDGE: Do you think it should be mandatory at both ends—if we are going to have a mandatory set of legal standards there should be mandatory training to meet them?

Dr SOWDEN: When the department came and spoke to us about Every Student, Every School [ESES]—I was at the P&C in 2009 when it was first being rolled out, before the 2010 inquiry—they talked about 110 hours of mandatory training that they were going to give their special education teachers, that it was going to be fantastic for our teachers. Then they came back and said, "Actually, we cannot make our training mandatory for teachers because we cannot enforce that." They now have accreditation. They have to be accredited and do a certain number of hours across standards through the New South Wales Education Standards Authority [NESA]. That would provide a perfect opportunity to make sure that these teachers get an opportunity to get the training done. Whole school cohorts could do it on a school development day. They sometimes struggle to find things to do on a school development day.

The Hon. JOHN GRAHAM: There is obviously other training which deals with specific disabilities. You can really delve deeply into some other areas of training but this is really just the basics. What you are saying, in your submission, is that, just on the basics, when it comes to completing the first and the second module, the number of teachers is way too low to be able to tackle this problem.

Dr SOWDEN: That is correct. It makes it very difficult for them to cater properly for the students with disabilities, and to do the differentiating that is required. If you do not know what you need to do, how do you do it? So we need more time for teachers to do that. I think we suggested in the submission that teachers have professional learning time on school development days and also at other times. They can have afternoons where they run sessions that equate to their school development day at the end of the year—so they can have a day when they are not at school. There certainly are opportunities for teachers to do that.

Reverend the Hon. FRED NILE: We have had some parents give us evidence, as well. In section 4 of your submission you talk about the complaint and review mechanism. You quote a particular incident that affected one of the parents, which was very bad. Do you have some feedback in the P&C about children with disabilities, and their unhappiness about how they are being treated?

Dr SOWDEN: Was that the email, Reverend Nile?

Reverend the Hon. FRED NILE: It was when the principal of—

Dr SOWDEN: I would have to declare that that was me.

The CHAIR: We should avoid that part where we are identifying schools and individual cases. From what I understand, Dr Sowden is here to represent the P&C. The matter that you have alluded to is of a personal nature. Is that correct?

Dr SOWDEN: It is. However—

Reverend the Hon. FRED NILE: I did not want you to discuss that with us now. I am just asking whether the P&C had had many complaints from parents, in more general terms?

Dr SOWDEN: Yes. We often get lots of complaints from parents who are told that they are being difficult parents and that they are wanting too much for their children. They are told that they need to be grateful for what they are given. Or they are told, "There are lots of kids who are worse off than your child so suck it up," basically. It is a little bit funny, but as a parent of a child with a disability, it is extremely disturbing.

Can I say, for the record, that I miss the fact that Dr John Kaye is not here today, because he was a wonderful advocate for making sure that there was equality in our schools. We need to make sure that our kids can access what they need to access. I heard you talk about Reading Recovery with the academics. I am aware of children who were referred off Reading Recovery because they would skew the data. It is a bit like what happens with the NAPLAN, where children may be told not to come to school on that day, although schools have now learnt that they need the bottom 10 per cent of the NAPLAN data to show that they need the extra funding under ESES.

Even last night I was talking to a parent and giving her links and telling her to go to the Centre for Effective Reading. I was saying, "Here is some information; here are some things," because schools are not necessarily great at telling parents where they can go to find that support.

The Hon. DANIEL MOOKHEY: The department says that its complaints-handling procedures and processes and policies are well known, well understood and easily accessible to parents. Is that correct?

Mr MATTHEWS: No.

Dr SOWDEN: No.

The Hon. DANIEL MOOKHEY: Tell us.

Dr SOWDEN: Usually the person who you complain about is the person who reviews what you have complained about, so there is a little bit of a conflict of interest there. Or you may complain to the direct supervisor, which also often becomes an issue. Parents are often not told that they can put in a complaint. We are often told that if they do put in a complaint their child is victimised. We have anecdotal evidence of parents who have said, "I did not complain because I did not want my kid to be singled out at school by the teachers." Those are some concerns.

Mr MATTHEWS: That happens more often than not. A lot of people think that the principal is the be-all and end-all at the school, and that that is their last avenue of complaining about anything within schools.

Reverend the Hon. FRED NILE: We may need a course on how the teachers should respond to parents—teacher-parent relationships.

Dr SOWDEN: Actually, I am one of them.

The Hon. DANIEL MOOKHEY: You say that you are one of them. Without necessarily revealing names or locations—anything that would identify a person—could you talk in general about your experience of the complaint process?

Dr SOWDEN: I will tell you of my experience of one complaint process. I took a support person. I had a complaint. Mediation was done. I was told, at that mediation, that most parents with children with disability would just accept what the school said to be gospel and would not make a big deal about it. They would just be grateful that their child was at school and not suspended.

The Hon. DANIEL MOOKHEY: There are multiple things one could say were wrong with that. In general your view is that the culture is that, essentially, the department or the system is doing you a favour by including your child and therefore you should not complain.

Dr SOWDEN: Yes. I will go public on this one. My child had a visibility vest. He was included wearing a big, fat visibility vest. His inclusion included making him stand out in the playground so much that everyone knew that he was the kid with the disability.

The Hon. DANIEL MOOKHEY: Who made that decision?

Dr SOWDEN: That was made after he ran away from school, but the child who had not run away from school, who was in the year above him, who had Down Syndrome, also had a visibility vest. So all the kids with disabilities at the school had visibility vests to make sure that the teachers could see them.

Mr MATTHEWS: We have had a situation at one of the schools that I have been working with where they have had reflector tape put onto their school uniforms for exactly the same reason—so that they can be identified. They are kids that have no circumstances except their special needs. That generally came from the learning support teacher who was on playground duty to look after them, so that they could identify who the children were, to give them an extra look.

The Hon. DUNCAN GAY: I would like to ask a general question. It may go to Dr Sowden, but it might be for Mr Matthews, as well. We have not had a lot of regionally based people coming before the committee. I guess my general question is: are there specific regional issues that you would like to enlighten us on?

Dr SOWDEN: I am aware of a family that moved from Inverell to Goulburn to access better services. In Tamworth there is a four-year waiting list to get in to see a paediatrician to get a diagnosis. This is a wider, systemic thing; it is not just education. It then comes down to what other services are available to families in their area. We have a 12-year-old child who now travels 90 kilometres a day each way in a taxi that is funded by the Government to be in an appropriate placement for a support class because there is no appropriate place anywhere else. There are certainly concerns about regional access to support.

Our submission refers to Aspect satellite classes, but they are in very few places. There are three or four available to public school children. Now that they have Every Student, Every School [ESES], the support that higher-needs children require is back in schools and not accessible to all schools, only to the school the child came from. There were all these higher-level regional staff who were skilled support teachers, but they have now all been put back into schools. That is great, but if your school does not have that specific knowledge, it cannot access it. Schools for Specific Purposes [SSPs] were meant to be lighthouse schools, but they do not have the time. I was on a panel for a principal pool at an SSP. They do not have enough time for the children they have in their schools, let alone outsourcing their staff to other people. The department says they do, but on the ground they do not.

Reverend the Hon. FRED NILE: You said 90 kilometres.

Dr SOWDEN: Yes, each way. It is a 90-minute trip; it is 120 kilometres.

Reverend the Hon. FRED NILE: Each way?

Dr SOWDEN: Yes, each way in a taxi.

The CHAIR: That is 1,000 kilometres a week.

Dr SOWDEN: Yes, and that is assisted.

Reverend the Hon. FRED NILE: It would not help the disability, would it?

Dr SOWDEN: No, not for a 12-year-old who has behavioural problems. Sitting in a taxi for three hours a day—

Mr DAVID SHOEBRIDGE: It is a terrible way start to a school day.

Dr SOWDEN: It is, but that is the reality for many students. They are also being told that they can go to school for only half the day. They are told they will have to go home at lunchtime because after that they are unmanageable. Sometimes school is the safest place for them to be. Their parents might have other issues, and that might be the reason the children have behavioural issues in the first place. Sometimes they are left to go home with a "See you later."

The Hon. DANIEL MOOKHEY: Is it easy to get your child admitted to school?

Dr SOWDEN: A mainstream school?

The Hon. DANIEL MOOKHEY: Yes. In terms of the rights you have to have your child enrolled—

Mr DAVID SHOEBRIDGE: This is a child with special needs?

The Hon. DANIEL MOOKHEY: Yes. Is it easy to get them enrolled?

Mr MATTHEWS: My child also has special needs. We have not had an issue in getting him into the mainstream schooling system. In fact, I have always been a strong advocate that that is where he would be going. It is not an issue.

The Hon. DANIEL MOOKHEY: The Committee has heard evidence from other parents who have said they have had to approach eight different schools to get their child enrolled. It has taken a huge amount of time and planning. When they do try, they are often greeted with subtle, coercive pressure to go elsewhere.

Dr SOWDEN: That certainly happens. The local public school is meant to take the child regardless of whether they are in the zone. However, there are then often discussions about behaviours that they cannot manage and they are told that they might be better off going to a different school. The school also has to do a risk assessment, so the child has more time off school while the assessment is done. Then they say that you are not in the zone so they will not take you. You might go to eight schools before you get a school that will accept your child. Getting into a support class is also very difficult if that is where you want your child to be. That is not what ESES is about.

The Hon. JOHN GRAHAM: This is very informative. What do you think are some of the pressures? You have described some of the subtle discouragement you experience. From a school point of view, what are some of the pressures? They have a clear obligation to accept these children. Why is that not happening?

Dr SOWDEN: There are obligations to students and staff in terms of safety. There is a litany of reasons.

Mr DAVID SHOEBRIDGE: Sometimes it is the physical environment of the school, and because modifications would be expensive.

Dr SOWDEN: Yes, certainly. Does the school have a fence if you have a runner? You can see where the department is stymied by what it has. Often a parent will say they want their child to go to a particular school and they are in a wheelchair. The school across the road might have wheelchair access and they could be told to take their child to that school because it is unreasonable to expect a $200,000 lift to be installed when there—

The Hon. JOHN GRAHAM: If that works, that is well and good. There are some obvious practical difficulties and it might be very complicated. That is one of the pressures. How much of it do you think is a lack of understanding about their obligations? Does it simply get too hard, or do you think schools are not aware of their obligations?

Dr SOWDEN: A lot of it might be that they have a little bit of an understanding about disability education standards. The principal might know—

The Hon. DUNCAN GAY: Principals have told the Committee that 80 per cent of children with disabilities are in the mainstream education system; that is, 20 per cent are not. From your observation and experience, are you saying that that is incorrect?

Dr SOWDEN: I would not disagree with that. I think most children move more towards inclusion, as do schools.

The Hon. DUNCAN GAY: From the outside, with 80 per cent already in mainstream education and 20 per cent not, it does not seem that a large number of people who want their children in the mainstream have not achieved that, or am I wrong?

Dr SOWDEN: My son is now in a support class, but he was in a mainstream classroom for eight years. In the end, we decided that he needed to be in a support class because he is now 14 and he can write [EVIDENCE OMITTED BY RESOLUTION OF THE COMMITTEE 3 APRIL 2017] but not [EVIDENCE OMITTED BY RESOLUTION OF THE COMMITTEE 3 APRIL 2017]. Many parents start off saying that their child will be included. You want your child to be differentiated but also included. You want them to be able to go to the pub when they turn 18 and know their friends because they went to school with them. As a parent, that is what you want. You want them to be able to read an iTunes contract or to sign a workplace agreement. Sometimes, as they fall further and further behind, or their behaviour becomes worse and worse, parents decide that their child will have to be moved.

There is a real desire on the part of parents to have their child in mainstream education. However, they do not want their child to be told not to sit the NAPLAN test, or any of those things. As you get further into the education system, you see that under the current system the teachers in the support classes have the best skills and smaller classes. You might not want your child in one of those classes, but—

Reverend the Hon. FRED NILE: Did you see a big improvement with your child being in a support class?

Dr SOWDEN: My child's support class is amazing, and the school that my children currently go to is amazing. He is integrated for the subjects that he can cope with—

Reverend the Hon. FRED NILE: His reading and writing improved?

Dr SOWDEN: —and he is in support where he needs it. For math, science and English, he is in a support class. He does shooting as a school sport and he is very, very good at it. He was actually on television for shooting—

The CHAIR: Proud mum.

Dr SOWDEN: Actually, I do not know how I feel about that. I am anti guns but it is a skill that he has and he enjoys, so you have to go with their passions.

The Hon. DANIEL MOOKHEY: I turn to how the department goes about investigating complaints and examining the performance of its employees. Are you familiar with Employee Performance and Conduct?

Dr SOWDEN: EPAC, yes.

The Hon. DANIEL MOOKHEY: Can you succinctly give us your view of the effectiveness, timeliness, transparency and fairness of the process, including specifically how it communicates with parents, how it takes and investigates parents' concerns, and how it reports the results of those investigations?

Mr MATTHEWS: For me personally, it is a waste of time. We currently have a complaint with them, with the school, regarding special needs and behaviour in teacher and children relationships. We got the notification that the complaint was lodged—mind you, it was a bit late—and now it has basically been dropped on the grounds of "Yep, we feel like they've done everything". We have now escalated this internally with the department because the behaviour that is happening at that particular school is unacceptable in that example.

The Hon. DANIEL MOOKHEY: You were told that investigation was happening, and you were told that investigation was completed. Were you told anything in between?

Mr MATTHEWS: That was it.

The Hon. DANIEL MOOKHEY: Were you asked to provide a submission?

Mr MATTHEWS: As part of the acknowledgement, we put a document together that outlined everything, and that was the most that we were told about.

The Hon. DANIEL MOOKHEY: That was your original complaint.

Mr MATTHEWS: Yes.

The Hon. DANIEL MOOKHEY: Were you shown the investigation report?

Mr MATTHEWS: No.

The Hon. DANIEL MOOKHEY: Were you told who was doing the investigation?

Mr MATTHEWS: No.

The Hon. DANIEL MOOKHEY: Were you provided with a contact number or email address for the team that was doing the investigation?

Mr MATTHEWS: My understanding is no.

Mr DAVID SHOEBRIDGE: Were you given a time frame?

Mr MATTHEWS: The time frame that we were given was from the initial acknowledgement that they actually got the complaint, which was within 48 hours, I think.

Reverend the Hon. FRED NILE: Did they give you a complaint form to fill in? Is there such a thing?

Dr SOWDEN: There is a complaint form, but that does not necessarily mean it goes to EPAC. I also have experience with EPAC of not knowing that it went in to EPAC. I put in a complaint and did not know it went to EPAC—

Reverend the Hon. FRED NILE: Was it in writing?

Dr SOWDEN: It was in writing to an executive director of the department. It went to EPAC. I am still waiting to hear officially. I did get a phone call on Thursday to tell me that actually it went to EPAC—and "Sorry, I forgot to tell you"—but I have no knowledge of what happened with it. I find the best way to get anything done is to have Adam Marshall on speed dial, as my local member.

The Hon. DANIEL MOOKHEY: He will be pleased to know that!

Dr SOWDEN: But realistically, for getting things done in the department, if you have a complaint as a parent it seems to be the best way.

The Hon. DANIEL MOOKHEY: Do you have confidence that the department can investigate itself?

Dr SOWDEN: No.

Mr MATTHEWS: No.

The Hon. DANIEL MOOKHEY: Do you think there is merit in separating the complaints handling process from the Department and handing it to an independent body?

Dr SOWDEN: Yes, but I think NESA needs more people.

The Hon. DANIEL MOOKHEY: Do you think it should be NESA?

Dr SOWDEN: Not necessarily, but that is the—

The Hon. DANIEL MOOKHEY: The logical place.

Dr SOWDEN: —the logical place. But if you are going to do that you are going to have to up the resourcing. As someone who uses NESA quite a bit, I see their resources have reduced significantly in the last three or four years.

Mr DAVID SHOEBRIDGE: I have a question on a totally different point: disability provisions for the Higher School Certificate. All the evidence we have had shows that there is a disproportionately high rate of children with disabilities in the public system as opposed to the private, Catholic or independent, but the figures you have show that, when it comes to making claims for disability provisions in high school, 13.2 per cent of students in independent schools make claims, 9.6 per cent of students from Catholic schools make claims but only eight per cent of students from public schools are making claims, which is the exact reverse of the proportion of kids. What is going wrong, and what do we have to do to fix it?

Dr SOWDEN: Parents do not know how to do it, and parents do not know how to ask schools to do it.

Mr DAVID SHOEBRIDGE: But if the schools have had children with them for 12 years, how is it that they themselves are not making the—

Dr SOWDEN: You tell me.

Mr DAVID SHOEBRIDGE: I am not here to give evidence; you tell us what we need to do and what the schools need to do, rather than just rely on parents so that we are sort of reinforcing failure.

Dr SOWDEN: Yes, I think so. I think parents do not know. I will give you a new word, the new one over helicopter parents—lawnmower parents, where they just mow you all down. If you are not a lawnmower parent—

The CHAIR: And fertilise you.

Dr SOWDEN: I would not do that. If you are not a lawnmower parent who jumps up and down and advocates for your child, if you have been told time and again that the school is doing the best it can for your child, if you perhaps were not particularly successful at school yourself or you might have a disability yourself, it makes it harder to jump through the hoops. Also, you need evidence like occupational therapy reports, speech therapy reports, a paediatrician's report, a psychologist's or psychiatrist's report—all of those allied health reports that then go to make the evidence, which makes it harder for parents, and particularly parents in the rural and remote areas. We are aware of a school in western New South Wales where the teachers take the students to the health service in Dubbo.

Mr DAVID SHOEBRIDGE: I find it extraordinary that by year 12 that kind of knowledge is not already in the school system and we require this sort of fresh application in year 12. How do we capture that knowledge in the school system?

The Hon. DUNCAN GAY: Are they out of Dubbo?

Dr SOWDEN: Collarenebri. They drive them from Collarenebri down to Dubbo. They are out of school for two days.

Reverend the Hon. FRED NILE: Once parents are treated as you have been and the word spreads, parents are reluctant to make complaints, so you get a culture of not making complaints.

Mr DAVID SHOEBRIDGE: But this is just about asking for the allowance for the extra 25 minutes because of the reading problems or for the assistance for the HSC.

Dr SOWDEN: Until now, because they are students that have been told not to do NAPLAN—"Stay home: You're sick that week"—there is no backup evidence either. There is no system in place that says, "These are the kids we need to support". Maybe the only good thing that will come from "You need to be at year 8 and year 9 NAPLAN" will be that these kids are—

Mr DAVID SHOEBRIDGE: Identified earlier.

Dr SOWDEN: —identified better. I have a letter from Adrian that says, "Your kid'll be right", and I am going to be using it when he gets to year 12. He is in year 9 now. Other than that there are is a huge lack of understanding with parents and with schools that are really busy places. We might slap them around and say, "You don't do this very well", but they are very busy and there is a lot they have to do and a lot that they have to provide for students, so sometimes it gets put down the bottom of the list.

The CHAIR: I thank both of you very much for appearing. I do not know where you have travelled from, Mr Matthews, but I understand Ms Sowden has travelled from New England. Thank you for making the journey. I think your president in her absence would be proud of the presentation both of you have given today, which has been very comprehensive.

Dr SOWDEN: Thank you very much for the opportunity. We appreciate it, and we look forward to the outcome.

(The witnesses withdrew)

(Luncheon adjournment)

MEREDITH LEA, Policy Officer, Violence Prevention, People with Disability Australia, affirmed and examined

KATE FINCH, Manager, Systemic Advocacy, People with Disability Australia, affirmed and examined

PAULINA GUTIERREZ, Individual Advocate, People with Disability Australia, affirmed and examined

JESSICA CADWALLADER, Project Manager, Violence Prevention, People with Disability Australia, before the Committee via teleconference, affirmed and examined

The CHAIR: I welcome our witnesses from People with Disability Australia. As I always do at the commencement of each session, I remind people that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the terms of reference of the inquiry and avoid naming individuals unnecessarily. Would any of you like to make an opening statement?

Ms FINCH: We thank the Committee for the opportunity to provide further evidence to this inquiry. As you would have seen from our submission, People with Disability Australia [PWDA] is a peak New South Wales representative organisation of and for people with disability. We provide individual advocacy throughout the State and our submission is directly informed by the experiences of the students with disability that we support. Ms Gutierrez, who is here from our individual advocacy team, has supported numerous young people through the education system in New South Wales. One such young person is Sean. That is not his real name. I will ask Ms Gutierrez to tell you a little bit more about him.

Ms GUTIERREZ: Sean is a 13-year-old boy who has a diagnosis of an autism spectrum disorder, attention deficit hyperactivity disorder [ADHD] and a sensory processing disorder. Sean is currently in year 7 and attends a support unit at a mainstream high school in the Illawarra region. Teachers of this unit have named it the SPED unit, which is short for special education. Sean has never had a positive experience in his schooling life. Both in primary school and in his current high school Sean has been suspended on multiple occasions for both short- and long-term periods. This is mostly evident in his primary school years as he is only in term one of year 7 to date. However, in this school term alone in year 7 Sean has been suspended on two occasions. The first time was for two days. When he returned to school for one hour he was suspended for a further four days.

He was due to return to school on Thursday last week but has not returned due to his anxiety. He has actually been quite ill and does not wish to return. Sean's parents were not called to the meeting for the suspension; they were merely advised by telephone that they needed to pick him up, he was being suspended. They then received a letter in the mail a couple of days or up to a week later advising them that he had been suspended. Up until this point in time the current school is trying to move Sean from the school into another school called Para Meadows, which is a special education school catering from kindergarten to year 12 for children with high disability needs. At this point in time nothing has happened with that. We have a meeting with the school hopefully soon to find out what is happening.

The CHAIR: Dr Cadwallader, do you wish to make an opening statement?

Dr CADWALLADER: Ms Finch's opening statement is from all of us.

Ms FINCH: I will just add that despite a policy and legislative framework in New South Wales that is meant to facilitate the inclusion of students with disability, in reality there remains a significant gap between this rhetoric and the realities of the young people that we have worked with. As Sean's story clearly demonstrates, pervasive low expectations, discrimination and the legacy of a medical model of disability remain the biggest barriers to inclusion. Students with disability are routinely denied access to the mainstream school environment. They are segregated in special schools and special education units. Not only are they denied the educational opportunities available to their peers, they are also unnecessarily marginalised and stigmatised. What does the name "emotionally disturbed unit" tell these children about what society thinks of them?

The segregation of students with disability from their peers also provides for the greater risk of neglect, violence and abuse despite evidence showing that these children experience violence and abuse to a far greater extent in the community. In addition, the use of restrictive practices and isolation is commonplace for "behaviour management" of students with disability despite the fact that these constitute abuse or at least reportable conduct and under no circumstances would be deemed appropriate for students without disability.

The National Disability Strategy [NDS] is the Council of Australian Governments [COAG] agreed mechanism through which all levels of government in Australia are moving towards fulfilling their obligations under the convention on the rights of people with disabilities. It is only through the full implementation of the NDS that inclusion for people with disability of New South Wales will be realised. The National Disability Insurance Scheme is one component of the NDS. We acknowledge the NDIS is a really significant social reform. It has the potential to fundamentally shift the lives of people with disability through the provision of tailored disability support services. Some students with disability in New South Wales will receive individualised support through the NDIS. However, we wanted to note here today that the NDIS will not make schools more inclusive of students with disability. This responsibility rests with the Department of Education.

The NDIS will not make schools more accessible, it will not pay for a ramp, it will not widen a corridor, it will not address the lack of training for staff and principals and it will not initiate or fund best-practice methods of identifying the range of support needs that might be required for students with disability and implement them. The NDIS will not address the deep-rooted stigma and discrimination that remains around disability in our communities. In fact, with only a renewed focus on the NDS, the promise of the NDIS will be undermined. At the recent COAG Disability Reform Council meeting it was noted that the council agreed to reinvigorate all-government effort to drive progress under the NDS. We urge the Committee to push the New South Wales Government to identify how they will prioritise efforts around inclusive education.

The CHAIR: Thank you again for your opening statements. I now open the Committee to questions.

The Hon. JOHN GRAHAM: I turn first to your earlier recommendations which largely go to a set of questions about data, exactly what is going on in the school system, which incidents are reportable and which are not, and the systems around those. A lot of this information seems pretty straightforward. We asked for some of it in the Committee's first hearing. What efforts have you or others made that you are aware of to request this information from the department in the past?

Ms FINCH: In regard to this inquiry we have not directly approached the department for this. I believe in the past we have tried to access data particularly around suspensions and expulsions and we have been told that is not available. We have spoken to other organisations and they have tried that as well.

The Hon. JOHN GRAHAM: What is the reason you are given for that information not being available?

Ms FINCH: That those records are not kept. In regard to the information around students with disability, in some cases those students would not be categorised as a student with disability because they are not officially receiving learning support.

The Hon. JOHN GRAHAM: So your recommendation is that this data be requested for the purposes of this Committee. It looks like the sort of information that the school system might, if possible, regularly report if we are to shed some light on these issues. Is that the sort of thing you would support?

Ms FINCH: Yes, definitely. The nationally consistent collection of data in schools—I think that is the official name—only goes so far. It is largely led by the staff themselves identifying and categorising students with disability and therefore it will only capture those students that those staff deem as having disability, whereas we know with the social model that that goes much more broadly. Particularly with Indigenous students there may be high numbers of students with disability that are not actually labelled because they have not had a diagnosis.

Mr DAVID SHOEBRIDGE: The evidence we have is that it is capturing about three times as many students, maybe even more, as are being captured under the existing State criteria.

Ms FINCH: The nationally consistent data?

Mr DAVID SHOEBRIDGE: Yes.

Ms FINCH: Oh, okay. I was not aware of that.

The Hon. DUNCAN GAY: I go back to the example of Sean. The suspensions are pretty horrendous. Your example was put in to indicate where things are going wrong. How would you suggest to make it better for someone like Sean with those suspensions? For example, were the parents, who seem to have had very little contact as part of that suspension, given reasons why there was a suspension? Was an attempt made to work through ways to address these issues with the parents or the primary carer?

Ms GUTIERREZ: Is this specifically regarding the recent one from this term or from his primary school or as a whole?

The Hon. DUNCAN GAY: You gave the example and I am asking you to expand on the example. It is one thing to give an example but you have to have meaning in why that example is there. You need to tell us how we can help you and how it could be better. We agree with you that it is a horrible situation. What happened both in high school and during primary school and what are the ways to make it better?

Ms GUTIERREZ: In regard to his high school I am not quite sure what has happened there. I have not had the chance to meet with the parents in person or had a conversation with the school as to why he was suspended. They have just been called and told he has been suspended. During his primary school years it was always put down to his behavioural needs. He was bullied a lot by one particular child. Sean would retaliate and get very angry and upset. Sean was the one who was pulled aside and put into what was known as the timeout room—which was later called "jail" by one of the aides—in that school on a consistent basis, sometimes for up to hours a day.

The Hon. DUNCAN GAY: What sort of information, if any, went to his carers to be able to work through to make the situation better in future?

Ms GUTIERREZ: That he was being provoked and he was provoking this other student. There were no real reasons given as to why he might be getting upset. His behavioural needs are quite significant but there has not been any investigation as to why his behaviours will escalate at a particular point or around particular people; it is just that his behaviours are escalating and we need to do something about it.

The Hon. DUNCAN GAY: "We need to do something." Is part of that procedure identifying and working with his tormentor?

Ms GUTIERREZ: I would assume so, yes.

The Hon. DUNCAN GAY: Are you saying that is one of the areas?

Ms GUTIERREZ: One thing that would be very beneficial would be to actually look at the root cause. That could be his disability or it could be an environmental thing. There could be lots of factors. Those factors are not taken into consideration, they are not being investigated. People are just assuming and reacting rather than actually looking at the broader picture.

The Hon. DUNCAN GAY: So the concerns you have raised are that the parents or carers were not involved in this decision. Can you help the Committee with what sort of information actually goes to them?

Ms GUTIERREZ: At this point in time regarding the recent suspensions I am not quite sure what information has gotten to them. I know that they have received a letter.

The Hon. DUNCAN GAY: As a general issue, it does not necessarily have to be Sean. You raised Sean to identify a problem.

Ms GUTIERREZ: Sean is actually the only student where I have worked that has been suspended so, unfortunately, I cannot really go into broader issues.

Ms FINCH: Can I just add to that?

The Hon. DUNCAN GAY: Yes.

Ms FINCH: I think one of the problems identified in this case study is that students who are being suspended or expelled may actually benefit from an earlier initiation of a learning support plan. They may have disability that may or may not be identified and that young person might have been bullied and expressed behaviours that ultimately resulted in him being suspended. But if that initiative had been put in place earlier, then that suspension could have been avoided because perhaps with a supporter, perhaps with an alteration of his environment—perhaps he is being provoked by a young person and he has moved—the suspensions that we have seen are resulting in an end that that young person may not necessarily need to get to if the supports are put in place earlier.

Mr DAVID SHOEBRIDGE: The Committee has received a number of submissions suggesting that this kind of punishment behaviour is focused on symptoms. It may be very poor behaviour from a child but it may also be a symptom of their learning disability and poor teaching that is producing the symptom. It may be where they are identified as being a child with special needs and then bullied. It is too much a symptom-focused response as opposed to looking at the underlying causes.

Ms FINCH: Yes, we would definitely agree with that. In addition, the current policy in New South Wales around suspensions and expulsions is that the parents and the students are allowed a support person at meetings with the school. That support person is not allowed to act as an advocate for them. So if the young person does not have their parent there to advocate on their behalf or help them through that meeting, they are not allowed to have an independent advocate with them as part of that policy. So that could help during those processes.

Mr DAVID SHOEBRIDGE: So no-one is speaking for them apart from the child with the disability?

Ms FINCH: The child with the disability who potentially is very angry, very hurt. They have disability and may not be able to—

Mr DAVID SHOEBRIDGE: Particularly if the disability is to do with their verbal communication skills then they do not stand a chance?

Ms FINCH: Yes, exactly.

Reverend the Hon. FRED NILE: In your submission you gave the example of nine-year-old Jade.

Ms FINCH: Who was sexually assaulted at school?

Reverend the Hon. FRED NILE: Yes. In the last part of that example there seems to be an implication that the principal not only appeared to be unconcerned about those attacks but he himself also put his hands on the girl, who was nine when it started but would have been 12 by then, and rubbed her shoulders. Is there some suggestion that he was not only tolerating the sexual abuse but that he was also attracted to the girl?

Ms FINCH: That was not implied. It was more that there had been numerous expressions of concern around the fact that the young person was moved to a new school and the principal was also moving to the new school where she was. What we were illustrating in that was that those concerns were raised and yet that was still done. He is the principal of the school. Ultimately principals have a lot of say as to the outcomes of their students and the support for those students with disability in particular.

The CHAIR: Dr Cadwallader, if you would like to interpose at any stage please feel free to do so. We will be able to hear you.

Dr CADWALLADER: Thank you.

Reverend the Hon. FRED NILE: Principals have a lot of power and he was exercising that power over that 12-year-old girl. You also made some very strong recommendations to transfer the authority from the Department of Education to the New South Wales Ombudsman. What gives you confidence that he or she would be any better? I am thinking of some of cases we have had where the Ombudsman has failed in other investigations. The Ombudsman is not perfect.

Ms FINCH: I might defer that question to Jessica Cadwallader if I can because she is the person within our team who works very closely on those cases.

Dr CADWALLADER: We do obviously have concerns about investigations that the Ombudsman makes around these issues. I suppose what we are trying to highlight is that children with disability are responded to quite differently to other children, even through mechanisms like the reportable conduct scheme, which has been taken as a model by other States looking to introduce reportable conduct schemes as well. I think there are concerns from our side that there are particular forms of behaviour that are routinely excluded from consideration by the Ombudsman—even where there are responses for certain categories of behaviour towards children particularly without disability, those responses do not necessarily kick into gear for children with disability. So this is I suppose an equalising move in some ways. It is an attempt to get the same level of oversight that occurs for other children to occur for children with disability as well.

Mr DAVID SHOEBRIDGE: The Ombudsman is reviewing the class or kind determination in relation to children with disability in the school system. Do you support an exclusion from the class or kind determination where there is conduct in relation to a child with disability so that it automatically goes to the Ombudsman?

Dr CADWALLADER: My concern about approaching it in that way is that the definition of "child with disability" taken by the reportable conduct scheme as far as I understand is the Department of Education's definition, which effectively means that only those children who have existing support plans in place will be considered to be children with disability. So the problem then is that we have a bit of a circular issue where those children whose disability has not been identified or diagnosed, who do not have the support needs in place and who are more likely to experience this kind of reportable conduct against them, may still be excluded. Does that make sense?

Mr DAVID SHOEBRIDGE: It does, but you would support the exclusion of children who have been identified with a disability under the State criteria, it is just that you suggest it should be broadened?

Dr CADWALLADER: Yes. I suppose the concern about the class or kind determination is that it can collude with assumptions that are made about children with disability in ways that mean that those forms of behaviour are not examined by the Ombudsman when they occur against a child with disability. The class or kind determination is concerningly broad. I understand that there are some practical difficulties that the Ombudsman has mentioned to us occasionally when we have raised these issues, which are that they are concerned that the numbers of reports would be very high if there was not a class or kind determination written like this. So I recognise that that is a problem but I do not think that the way to deal with that is to maintain it as it is. Yes, we would support changing it but I think there is some information that would be useful to gather before we make decisions about how to change it—for example, the Ombudsman has powers to audit those cases that have been excluded under the class or kind determination. I think that would be an excellent place to start in terms of working out where the gaps might be created and how to address them.

Mr DAVID SHOEBRIDGE: Lastly, that is, I assume, on both the State system and the Catholic and independent systems, audits on each.

Dr CADWALLADER: I think the class or kind determination is problematic in and of itself so yes, I would like to see it considered across all systems.

The Hon. JOHN GRAHAM: Has it been audited at any point to date?

Dr CADWALLADER: Not to my knowledge. I have asked the Ombudsman this before, and I do not think so. But I would have to take that on notice to confirm.

Reverend the Hon. FRED NILE: With the special area, would there be a need to appoint an assistant ombudsman responsible for cases involving children with disabilities?

Dr CADWALLADER: That would be one strategy that may work quite well. My concern is that one of the things we are trying to argue for in this space is for the forms of conduct that are unacceptable towards other children are also unacceptable towards children with disability. My concern is that when we have specialist categories or groups within an oversight body, like the Ombudsman, it can wind up reproducing the same problem we are trying to deal with—if that makes sense.

The Hon. DANIEL MOOKHEY: The part of your submission that I find most shocking—

The CHAIR: Who are you directing your question to?

The Hon. DANIEL MOOKHEY: To the whole panel. The part was a section to do with violence in schools. I found it sufficiently startling that I went on to read the freedom of information [FOI] request that you footnoted, which is the 2014 freedom of information request listing all the incidents that were reported, with some of them investigated, I presume, and the action that was taken. I read things like an incident where a principal failed to manage behaviour of her students and used her vehicle on school grounds to chase absconding students. The department investigated her, but did not take any disciplinary action. I read other incidents of teachers pulling hair and taking students by their wrists and ankles to their seats. The conduct was found to be sustained—that is, the department found the conduct to have happened—but no misconduct was recorded and no action was taken. I am sure you have read the freedom of information request, and the more you read it the more you ask: What is the department thinking if those are deemed not to be the types of incidents that warrant more severe action than simply saying they occurred and there was a slap on the wrist?

Ms FINCH: In terms of what other benchmarks they are setting?

The Hon. DANIEL MOOKHEY: What are these people thinking? If you chase a student in your car on school grounds, and no action is taken against the principal who did that, what is going wrong? That is what I am asking. You might not be able to tell us, from the department's perspective, but perhaps you can shed some light on the type of culture we are dealing with.

Mr DAVID SHOEBRIDGE: You probably cannot answer any individual case. I think the question is more about the systemic issues.

The CHAIR: And your views on the oversight.

The Hon. DUNCAN GAY: Following up on that, I note, Ms Lea, your role is violence prevention. There are two areas of violence. One is violence perpetrated against people with disabilities and the other important area is violence coming from people with disabilities out of the frustration of what happens in their day. What sorts of suggestions would you like to make in addressing both of these areas?

Ms LEA: I would defer to Dr Cadwallader. She is the specialist; I am here to provide backup in case we have any technical issues. Maybe Dr Cadwallader can speak to that and I can provide any additional thoughts.

Dr CADWALLADER: To return very briefly to the FOI, this highlights the problems we see around class or kind determinations—for example, they might not even count this as something that needs to be reported or they might make it as far as the Department of Education and then not be reported to the Ombudsman, so there is limited oversight there. In terms of addressing some of the problems, we would like to see increased support for children with disability in mainstream schools. There are an extraordinary number of benefits to mainstream education, both visually and otherwise, and we do think there are ongoing problems with the segregation of children with disability that tend to result in outcomes for them and also can mean that they are understandably frustrated with this situation that they are forced to be learning in. In terms of addressing the potential violence of children with disability, I really do think that with adequate access to support, these problems do not need to occur. That is something that has been well recognised really, that it does require some education of teachers and other people in the schools and also it does require funding to ensure that there are adequate supports provided to assist students in dealing with a school environment.

The Hon. DUNCAN GAY: In the area violence, are too many drugs being prescribed for children to calm them and overcome potential violence in the classroom and/or the home?

Dr CADWALLADER: In general we have concerns, particularly where sedative drugs may be used to what we call "chemically restrain" people with disability. I would have to examine in more detail the situation specifically around children, particularly in schools. But it is a general concern of ours that there may be the use of chemical restraint around people with disability rather than other approaches being taken that actually respect their human rights.

Mr DAVID SHOEBRIDGE: I have had a look at the class or kind agreements that have been signed, and there are separate ones within different sectors. One of the things that troubles me in a 2012 class or kind agreement with the independent schools is, in talking about physical assault, it says, "An assault is any act by which a person intentionally inflicts unjustified use of physical force against another". The use of the term "unjustified use of physical force" is novel, in my eyes as a lawyer. Do you have any comment on the use of the term "unjustified use of force"? Is that the problem?

Dr CADWALLADER: Absolutely. There are a number of different problems with the way the class or kind agreements are drawn up. This is one of them. It would be of interest to me in whose eyes it is unjustified; is the violence that which a child may be experiencing from the child's perspective? If so, it is all unjustified and we would like to believe that violence against children with disability, and all violence against children, can never be justified really. This goes to the ongoing problem that there is a big gap when it comes to reportable conduct, and it does need to be addressed.

Mr DAVID SHOEBRIDGE: There clearly are cases where force does need to be used in a school—for example, separating two children who are fighting may require some force. Is the use of that value judgement about what is or is not justified force form part of the answer to the question put by the Hon. Daniel Mookhey about why these things are being ticked off with no adverse findings because everything can be justified? The Hon. Daniel Mookhey suggested there was a series of instances of violence that, on the face of it, look to be totally unacceptable and yet no action comes from the investigation. Is that because there is the ability for these things to be seen as justified force or justified violence, which means it never gets to the Ombudsman?

Dr CADWALLADER: Absolutely. In our submission, if I can point back to it, the class or kind determination is the one that is referring to the class or kind determination for the Department of Education, but it does indicate that the Ombudsman may never even receive any notification about what may be quite substantial violence and the questions about the use of reasonable action and disarming a child, separating a child, restraining a child or moving a child away from a place where the person may be harmed. The problem is that when we take all of those kinds of behaviours out of oversight we never actually work out whether or not these are problems. Effectively, there is all this behaviour occurring towards children that is excluded from the Ombudsman's oversight. I am not saying that every single instance is going to be understood as violence and that it is conduct that needs to be responded to, but it does need to be examined to see whether or not it is appropriate in the circumstances.

The CHAIR: Sadly, I have to draw this session to a close. I thank Dr Cadwallader for her perseverance in relation to the tyranny of distance. Her input has been very beneficial at this stage in the Committee's hearing. I equally thank the other three witnesses for attending today. One question was taken on notice. The Committee has resolved that questions taken on notice are required to be answered within 21 days. To assist you, the Committee staff will be in contact with you to ensure that it moves as smoothly as possible.

(The witnesses withdrew)

RUTH CALLAGHAN, General Manager Stakeholder Relations, Northcott, affirmed and examined

ABY HUTCHINSON-WEST, Manager Multidisciplinary Services, Northcott, affirmed and examined

The CHAIR: I have been reading this to all witnesses; it is not a personal reflection. I remind everyone here today that Committee hearings are not intended to provide a forum for people to make adverse reflection about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. Would either or both of you like to make an opening statement before we go to questions?

Ms CALLAGHAN: I would, on behalf of both of us, and the organisation.

The CHAIR: Feel free.

Ms CALLAGHAN: Thank you for inviting us today. It is an important opportunity for us because we represent Northcott and, more importantly, we are here to give voice to the people—young people and children with disability that we work with, and their families and carers. Often, their lived experience can be invisible to the broader community. It is a great thing that this inquiry is happening, from that perspective.

The 2012 Australian Bureau of Statistics [ABS] survey on disability states that 7.3 per cent of children under the age of 18 in Australia have a disability. That is a lot of children. It equates to approximately 117,000 children under 18 in New South Wales who have a disability. Not all of these children are eligible for an NDIS package, as some of them have low levels of support needs. Many will need some level of support to fully access the education system, and I guess we are very mindful of that. We would like the Committee to be mindful of that in this process.

As well as understanding the substantial evidence base that supports mainstream inclusion as the best driver of good outcomes for children with disability, Northcott's values are that all people should be able to live in an inclusive society, and live the life they choose. We view mainstream inclusion for children as a human right, and this belief permeates all the work we do in working with children and young people. In this context it is worth noting that the Australian Government—and, through it, the State and Territory governments—is a signatory to the UN Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. Articles 23, 28 and 29 all refer to the importance of education for all children, and the responsibility of government to ensure that all children receive and participate in education—including those with a disability or a special need. The Convention says:

> The education of the child shall be directed to the development of the child’s personality, talents, and mental and physical abilities to their fullest potential.

Northcott works with young children and young people with disability or developmental delay, and their parents and carers, to improve learning and develop capability to ensure that they are able to participate, as all other citizens, in meaningful education experiences to the best of their ability, and to transition well through life stages, such as to work and to high school. Our programs range from services delivered on behalf of the New South Wales Department of Education to preschool and school-age children, to services in the Australian Capital Territory to provide specialised outside school hours care. We are the only provider to do so.

We understand that working with children with disability can be rewarding, inspiring and at times challenging. We do a lot of work to ensure that families, teachers and children can develop effective and practical strategies to reduce behaviour that other people might find concerning. I guess that is relevant to some of the comments that were made by the preceding witnesses.

As our submission sets out, there has been progress in education provision for children and young people with disability; however, support services remain fragmented, poorly coordinated and under-resourced. Capacity-building for teachers that includes practical strategies and tools for classroom management and interaction with children are particularly crucial. It is not just about understanding the essential legal obligations and requirements; it is also about going beyond that, and maximising the potential of every child and young person to be the best they can be, and embedding that in the educational context, as we do for all other children.

The CHAIR: Thank you for your opening comments.

Reverend the Hon. FRED NILE: Thank you very much for coming. You say in your submission that there must be special efforts at "pivotal" transitional stages at years 6 and 10. What are the special pressures on children with disabilities at that point?

Ms CALLAGHAN: I might give a broad answer, and then Aby can chip in. Those are key transition points for any child. Leaving primary school and moving into a high school environment is a right of passage for any child, and a major transition point for any family. Those issues are particularly complex for children with disability and special needs, whether they are in a mainstream education environment or going into a special support class. Generally, a lot of the needs that children have in transition periods do not get identified, and can exacerbate problems later on. They might already be a bit behind the eight ball with learning disabilities or undiagnosed issues. If those things are not picked up and managed during a transition it will cause a lot of problems for the children, but also for the schools who are receiving these children.

Year 10 has traditionally been a really important year because it is the year where kids—like my son, last year—go through work experience and all those kinds of things that prepare them for the workforce. A lot of kids with disability either do not participate in those activities in mainstream schools, or schools are unable—sometimes unwilling—to take that into consideration. In a sense, you have kids missing out on things that will contribute to their long-term ability to participate.

Reverend the Hon. FRED NILE: What can be done at that point? What are your recommendations?

Ms HUTCHINSON-WEST: I think it is about planning and getting to know the kids and making sure the information transfers from one setting to another—and that is not always the case—and identifying the need. When you are talking about moving from primary to secondary, it is a massive change in environment and sometimes the most important stuff does not get to go with the child; it is more about the education levels rather than they might find it difficult to move from classroom to classroom, how do they plan for that. Often families fill that gap and do that planning themselves. They would have to take the information from one school to the next bit rather than that being really well transferred.

Ruth's point about moving into work experience, very few kids with disabilities get the opportunity to do those programs, which is a shame because it would be great because then you can practically start them on the journey to being employed. What they get provided with when the other people are doing that is not really an equal system.

Mr DAVID SHOEBRIDGE: The academics from the University of New South Wales recommend individualised transition plans for students with disabilities. Do you support that?

Ms HUTCHINSON-WEST: Yes. Anything that is individualised and tailored that is going to gather someone's information has got to be better than a general approach, I think. Yes, they are only as good as the time that someone has got to put into them—that is one of the constraints, I think, for teachers passing on information.

The Hon. DANIEL MOOKHEY: You made reference to some of the difficulties about accessing allied health services, particularly in regional and rural New South Wales. Can you expand upon that and tell us the types of services that are most in short supply and what impacts they have in terms of diagnostic, access to resources?

Ms HUTCHINSON-WEST: At Northcott we operate lots of metro sites, but we also have regional offices in Moree and places like that—so quite interesting communities that we get to support. Very often in those local areas there is not somebody who is a speech therapist or an occupational therapist and there may not be anybody who is doing diagnostic work in that area. People might fly in and out but it is a very different process. It might be that a family might have to travel two, three or four hours to get to somebody, and for a lot of these kids with disabilities, especially learning disabilities, travel in itself is tricky, so that is not going to be manageable. We certainly find that recruitment in those areas is tough because there are just not a lot of people living there that have these skill sets.

The Hon. DANIEL MOOKHEY: So what does Northcott do? How does your organisation adapt?

Ms CALLAGHAN: It is Aby's specialist area, but a lot of what we do increasingly is around telehealth—so having Northcott maybe in a family's home with an iPad and Skyping, being able to sometimes get a team of people together and teleconferencing with a child and a family. Obviously some of the cues that you might want to be picking up in relation to the diagnosis, that is not an ideal situation, but if you are confronted with nothing more than a teleconference—

Mr DAVID SHOEBRIDGE: Or the four-year waiting period that we have heard to get a paediatric appointment in Tamworth.

Ms CALLAGHAN: Yes. There is a statewide shortage that I am sure you will hear, and the health department could certainly attest to that, but some of it I think is also about being a bit more flexible about the kind of people you recruit and the kind of work conditions you offer.

Ms HUTCHINSON-WEST: I think it is trying to be a value-add and try and make sure that people come on board because they can afford to come on board—they are not always choosing health as an option. But I think it is about being flexible. I think some of that telehealth is really exciting for therapists; they get to plan a different way and get some reward back from that. Often we have found the most successful way to do that is to have somebody at the other end, say like a family support worker, who can start doing that coaching and link it in, so they are not family having to take it on themselves. We do not get a lot of take-up on that with schools at the moment; they prefer you to fly in and be physically there, which is okay if there is funding for that but there is very little funding for that, so it is difficult for us to put therapists in places where we do not have someone.

The Hon. JOHN GRAHAM: What sorts of delays are we talking about, particularly as people are first dealing with the system at that first point of diagnosis?

Ms HUTCHINSON-WEST: Anecdotally—I would not want to state statistical stuff—you flagged it: there is a four-year delay for diagnosis, something that is very typical in more of the regional areas, and we are not even talking super-remote; we are talking about probably big country towns. They are genuinely having to wait two or three years for something that in a metro sense you would be able to get to.

Mr DAVID SHOEBRIDGE: But then the child's education might already be lost before you get the diagnosis—not irreparably but deeply harmed before you get the diagnosis.

Ms CALLAGHAN: I think that is a really important point because we talk about early intervention, but in fact one of the interesting things for Northcott is we administer the Preschool Disability Support Program for the Department of Education, and it is a great program; it is funding for mainstream community preschools to build capacity and include children with disabilities or special need. The children we are seeing in community preschools, if you can work with them early they do not always need really high-end therapeutic intervention; sometimes it is really about people having better skills to work with them around how they learn and why they do what they do, and it costs the system less money over time to get them early. The other thing is that those services and GP services are often where families are interacting with the service system before things get to the pointy end. So I think there is a lot more we could do in that space.

The Hon. DUNCAN GAY: I heard you say that you provide for the department the preschool program for help and diagnosis for early intervention. We heard from people earlier who were not aware that that was actually happening. One of the concerns they raised was that that was not even happening. Or have I misinterpreted it?

Mr DAVID SHOEBRIDGE: I think they said that it was an area where there should be a greater focus.

The Hon. DANIEL MOOKHEY: Insufficient capacity at that level.

Mr DAVID SHOEBRIDGE: Insufficient funding and insufficient capacity.

The Hon. DUNCAN GAY: I cannot quite see how that is different to what I just said.

Ms HUTCHINSON-WEST: We do not do diagnosis in that space.

Ms CALLAGHAN: We administer government funding for that program.

Mr DAVID SHOEBRIDGE: Once somebody has been admitted into the stream, is that right?

Ms CALLAGHAN: We work with community preschools so that they understand what funding they can access through the education department, but we take those applications that come in at different levels, and if a child has a written diagnosis the preschool can access additional funding from the department.

The Hon. DUNCAN GAY: So you are not part of helping them identify and get a diagnosis; once the diagnosis is made your part is showing where and how they can get help?

Ms CALLAGHAN: Yes, but I think the important bit to keep in mind, because there are parallels with the school system, is that part of what we do is work with early educators around the kind of things they might pick up with children where if they are better clued into their learning need they can work with them and they can be more engaged and participate in a way that does not then require much more therapeutic intervention later on. For example, they will be much better prepared for the transition into kindergarten and to mainstream school and potentially not need a one-on-one assistant in the classroom.

The Hon. DANIEL MOOKHEY: Given your involvement in that aspect of the system, can you tell us, firstly, how many community preschools you are talking about?

Ms CALLAGHAN: Over 760, give or take.

The Hon. DANIEL MOOKHEY: Is the level of funding adequate?

Ms CALLAGHAN: That is always a trick question. You can always have more funding.

The Hon. DANIEL MOOKHEY: It was not intended as a trick question.

Ms CALLAGHAN: I am sorry, I am being flippant. We have had a 10 per cent increase in demand and applications we have approved just in the last year. Probably in the three years Northcott has been administering the program it would be close to between 15 and 20 per cent, but I could give you that figure.

Mr DAVID SHOEBRIDGE: That is growth in—

Ms CALLAGHAN: Demand.

Mr DAVID SHOEBRIDGE: What about funding?

Ms CALLAGHAN: No, funding has not kept pace with that demand, although, to be fair, the department approved an additional $1 million in the last funding round to meet increasing demand.

Reverend the Hon. FRED NILE: And that funding is from the education department?

Ms CALLAGHAN: Yes.

The Hon. DANIEL MOOKHEY: What is the nature of the disabilities that are growing the fastest?

Ms HUTCHINSON-WEST: Predominantly I think we are seeing an increase in the diagnosis of more learning disabilities like autism and Tourette's and ADHD and things like that—more the learning disabilities rather than physical disabilities.

Ms CALLAGHAN: And, again, that is what we are seeing in the preschool disabilities support. If you think about the cohort of children in child care and preschool, they are the cohort coming through school, there is no doubt at all that that population group has increased over time.

Mr DAVID SHOEBRIDGE: The department's own figures show a 50 per cent increase in the funded places for children on the autism spectrum just since 2012, and that is consistent with what you are seeing?

Ms CALLAGHAN: Absolutely. And I think what you are finding now is that there are healthy children checks at the GP that I understand are bulk-billed. Often those children are picked up at the GP or, in fact, they are picked up in an early learning environment where maybe an educator has picked something up with a child and raised it with the parents, who then go on to seek a diagnosis.

The Hon. DANIEL MOOKHEY: We had this debate last week about whether or not there are more autistic children in this generation than the previous generation or whether or not we are just diagnosing people much better than we were before. Your evidence would suggest that we are just doing the diagnostics better.

Ms CALLAGHAN: I think it is both.

Ms HITCHINSON-WEST: Yes, I think it is both. You would have some who were previously diagnosed as something else We now have diagnostic substitution. We have better tools, more awareness, and people are more comfortable voicing their concerns. That means diagnoses increase. There is also greater neuro diversity than there was 10 or 15 years ago. Some of that is simply that we diagnose it earlier and better.

Reverend the Hon. FRED NILE: Your submission states that you help 14,000 people. How many disabled children would that include?

Ms CALLAGHAN: The majority of our clients—

Reverend the Hon. FRED NILE: It could be a family with a child with disability.

Ms HITCHINSON-WEST: Most of the children and young people Northcott works with are birth to 29. That is our primary cohort. We do go across the lifespan, but that is the bulk of the people we work with.

The Hon. DUNCAN GAY: I ask this question reluctantly. There is a belief that good funding goes with a diagnosis of autism, and that some people might be pushing into that area because, although it is not easy, in some regards it is easier to generate funding to help a child with disabilities.

Ms HITCHINSON-WEST: There are specific criteria to get an autism diagnosis. We might have had a small percentage of children who were given outdated labels, such as having "autistic traits", and so on, or there might have been pervasive developmental disorder not otherwise specified [PDDNOS]. They were clustered around autism. However, they have tried to put all those little diagnoses under one umbrella. That does not mean there are fewer people with disabilities; it means we have labelled them slightly differently within the diagnostic manual. That kind of funding is not related to a disability type; it is about need. We are certainly not seeing any drop off in any diagnosis because of that.

The Hon. DANIEL MOOKHEY: You state in your submission that Northcott assists parents through the complaints process. In fact, you provided a case study about one incident. Can you tell the Committee more about that case study and the experiences parents have had of the complaints process more generally?

Ms HITCHINSON-WEST: Families come to the system wanting a good education experience for their children and wanting to work with schools. However, the schools hold all the power. It is sometimes a struggle to get a disabled child into school.

The Hon. DANIEL MOOKHEY: Do you assist parents?

Ms HITCHINSON-WEST: Yes.

The Hon. DANIEL MOOKHEY: How do you find it?

Ms HITCHINSON-WEST: Sometimes it is great and they connect with the school, but at other times there are many closed doors. In our behaviour support program we might be funded to support a family. There are numerous families that have had to do a lot of leg work to get their child into school because as soon as the school finds out that their child has a disability, especially one that involves concerning behaviours, suddenly there is no room and they are not welcome. If an incident happens in school, one would hope that the family would be aware of it. However, we know that sometimes they are not told; sometimes we have witnessed things that happened in school that have not been communicated to families.

I think part of that reflects the culture issue referred to earlier. They do not see it is an incident that needs to be investigated. Part of that is that they do not want to go through that process. We have been involved with many families that wanted follow-up about their concerns regarding how their young person or child is being treated or supported in school. However, as soon as they start those conversations they feel very vulnerable that their child will not be able to stay at the school and that the doors will be shut. They do not want to be labelled the "difficult" parent. At the end of the day, many of their children are not verbal and might not be able advocate for themselves.

Ms CALLAGHAN: It is important to note that Northcott takes a very holistic approach to working with children and families. Where staff like Ms Hutchinson-West's team become involved, it is because families ask them to. It is often because they can identify an issue or a problem, but they do not know how to advocate for their child. They are not sure how to navigate the bureaucracy and, in a sense, they need someone simply to walk alongside them. It is certainly not because we go out inviting complaints.

The Hon. DANIEL MOOKHEY: How many parents are we talking about as a percentage of your client base?

Ms HITCHINSON-WEST: That depends on which service you are talking about.

The Hon. DANIEL MOOKHEY: How many approaches do you get each week?

Ms HITCHINSON-WEST: It is difficult to say because it depends on the service. A week would not go by without staff coming to see me about something that has happened in a classroom and asking for advice about how they should address it. Should they go to the principal, or is it something that should be subject to a mandatory report to the Department of Family and Community Services, which we have done on occasion?

The Hon. DUNCAN GAY: Do you provide independent advice for others in this area?

Ms CALLAGHAN: Yes. Ms Hutchinson-West heads the team at Northcott in this area. We are considered experts in New South Wales around positive behaviour support, and how to work with children and young people to anticipate some of the behaviours other people might find confronting or "violent" that are in fact a way that a non-verbal child or young adult might be expressing a grave issue or discomfort that needs addressing.

Mr DAVID SHOEBRIDGE: A child yelling in a classroom may be symptomatic of something going deeply wrong in the learning experience.

Ms CALLAGHAN: Frequently it is.

Ms HITCHINSON-WEST: I think we must always look at why something is happening. Unfortunately, with the current resources and the pressure on teachers to control the environment it becomes about controlling the expression and not looking at why it is happening.

Mr DAVID SHOEBRIDGE: A number of submissions have pointed out the extent of disability in Aboriginal children in New South Wales. The Australian Bureau Statistics figures consistently reveal that Aboriginal children are more than twice as likely to be diagnosed with a disability than non-Aboriginal children. Is there something specifically that we should be doing in New South Wales to address disability among Aboriginal communities, and should we do it differently in those communities compared with non-Aboriginal communities?

Ms CALLAGHAN: Yes, and absolutely. It is a very difficult space. Many Aboriginal people, including our own Aboriginal staff, would say that in some respects in Aboriginal communities the way people talk about disability is not the same as we do in non-Aboriginal communities. In a sense, people are judged on who they are and how they are. That label can be quite confronting and even unusual. Often when behaviour is picked up in Aboriginal communities it is labelled as "acting-out behaviour". As members would know, suspension rates among Aboriginal children in our public schools are more than double those for non-Aboriginal children. The Jarjum project referred to in our submission is a tangible and practical way to work with Aboriginal communities in a supportive environment. Teachers can be given practical strategies, and it is generalisable to broader, mainstream public schools.

Mr DAVID SHOEBRIDGE: Is that yet another pilot program that went really well but which was not implemented across the State, or has it been implemented?

Ms CALLAGHAN: The project has been philanthropically funded. Northcott originally received $20,000 from the Vincent Fairfax Family Foundation. We certainly believed in the project to the extent that we fundraised for it, and we have kept it going through the very generous support of a number of our major donors. We have just done a proposal for Fairfax in partnership with Jarjum to get the project funded for another three years. However, if the Committee wanted to look at outcomes for individual children and effective ways of working, it is a generalisable project, and that is why we stuck with it.

The CHAIR: We will conclude on that point. Thank you not only for your written submission but also for your appearance here today. You will have noticed the wideranging interest of members in this area. I have no doubt that you have added to our further understanding of the problems. I thank you, your organisation and the people you represent.

Ms CALLAGHAN: We appreciate the opportunity.

(The witnesses withdrew)

JULIE PHILLIPS, Disability Advocate, Children and Young People with Disability Australia [CYDA], sworn and examined

STEPHANIE GOTLIB, Chief Executive Officer, Children and Young People with Disability Australia, affirmed and examined

ALEX BALTINS, Member, Children and Young People with Disability Australia, sworn and examined

The CHAIR: Before I start, I remind all witnesses that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. Before we go to questions do any of you wish to make an opening statement?

Ms GOTLIB: I will. Thank you for the opportunity to appear today. I have with me today Ms Alex Baltins, who is a mother of a young student with a disability. Her son and her family are just one example of what is a typical experience of students with disability as they go about what most of us take for granted—accessing and participating in school education in Australia. I also have accompanying me Ms Julie Phillips, who is a member of CYDA and also a colleague who, as a disability advocate, frequently assists students with disability and their families to access the legal system to try to achieve solution or remedy to the usually exasperating, all-consuming and long battle they have been having regarding school education.

For those of you who do not know, Children and Young People with Disability Australia, or CYDA, is the national representative persons organisation for children and young people with disability aged 0 to 25. We have a national membership of about 5,500 with about 24 per cent of our members coming from New South Wales. CYDA also has a social media reach of about 20,000. The organisation is primarily funded by the Commonwealth Department of Social Services. Our work ostensibly has a national focus and we do primarily systemic advocacy, so not working in that individual advocacy space.

The value and importance of education is deeply embedded in the Australian community and internationally. In addition, the benefits of education to children and young people in providing opportunities for future social and economic participation are widely recognised and clearly established in research evidence. At an individual level, individual studies have identified a clear link between educational attainment and positive outcomes across a range of life areas, including employment, poverty and health. This was demonstrated by an OECD report, which states that people with high educational attainment generally have better health, are more socially engaged and have higher employment rates and higher relative earnings.

CYDA is deeply concerned that the present education system is not providing students with disability with the necessary knowledge, skills and resources to support future meaningful social, community and economic participation post-school. Students with disability contend with profound barriers and disadvantage within the New South Wales education system. A typical education for students with disability involves discrimination, limited or no funding for support, inadequate expertise of staff, a systemic culture of low expectations, exclusion and bullying.

There are also increasing incidents of restraint and seclusion reported to CYDA and also reflected in the freedom of information which I heard in a previous session you were referring to which CYDA requested. The value of education, which is so highly thought of and applied to children without disability, is often seen as inapplicable or irrelevant to students with disability. Assumptions are often made about limitations regarding what and how students with disability will learn and what the future life opportunities will be. Underlying assumptions frequently position students with disability as incapable or a burden, or even violent, as I heard recently. Further, poor education attainment is often attributed to the impact of disability and without identification or consideration of systemic barriers.

As detailed in CYDA's submission to this inquiry, strategic reform that is adequately resourced to effect better change for students with disability is urgently needed. This must involve a focus both on a systemic reform and individual adjustments and include specific actions in relation to school culture, adequate funding, access to expertise, teacher education and the law. Direct experience of students with disability clearly demonstrates that the reform cannot be restricted to short-term initiatives. CYDA recommends that a plan for educational reform for students with disability is developed which clearly articulates, drives and measures the urgent and critical reform needed. Thank you.

Ms BALTINS: My son was diagnosed with autism, sleep initiation disorder, sensory processing, severe attention deficit hyperactivity disorder [ADHD] and oppositional defiant disorder. He is seven years old and he is enrolled in his local government school. Enrolling him was a very difficult process for us. I was told that he could no longer attend his preschool as they could not cater to his needs so we were forced into the mainstream school system after our applications for supported classes were all rejected. He was very lucky in kindergarten because he had a teacher and a school learning support officer [SLSO] who were very supportive of him. However, that is as far as our support really went. I was forced every term to sign documents to apply for partial day exemptions, which interfered with my ability to complete my studies and find employment due to practically homeschooling my son.

When he went into year 1 things got even more challenging and upsetting. Staff would openly make pretty horrible comments about his day in front of him and everything he did wrong throughout the day. Nothing was ever positive. This caused massive anxiety for him. He was also excluded from his school activities, athletics carnivals, excursions, dancing and Healthy Harold, just to name a few. He was also removed from the class and given kindergarten work so he would not distract the rest of the class during the learning portion of the day. He was also relentlessly bullied. He came home with large bruises regularly and he became terrified of bathrooms, which made hygiene a massive battle at home.

I provided photographic evidence of the bruising and was told that he was just clumsy. He is not clumsy and the positioning and intensity of the bruises were not from tripping over. I even saw the bullying occur but the school did nothing. I also know several other parents who have withdrawn their children from local schools due to the same occurrences. In the final week of my son attending that school I was told they had found some children at after-school care plotting what they could do to him the next day. Those children were given verbal warnings but my son was given two suspensions within two weeks for lesser behaviours.

I was in constant contact with the school and the Department of Education. I had regular meetings, emails, phone calls, face-to-face in regards to all of these issues and many more but the school always denied wrongdoing by him and in fact they blamed my son for wrongdoing by them. Needless to say, he was removed from the school and we moved to Dubbo to be closer to my mum, who is my biggest support and just to give my son a fresh start. I actually pulled him out a week earlier after the school double-dosed his medications and even though he was passing out on his desk, the school never called me. When I asked why I was not contacted they said he was leaving in a week anyway.

I am pleased to report that he is now about to complete his first full term at his new school. He dances at assembly, finally met Healthy Harold and is keeping up with his classmates. His current school is proof that schools can be inclusive. However, the system is failing too many of our children. The mainstream system needs a massive overhaul and schools need to be held accountable for the mistreatment of children with disabilities. Thank you.

The CHAIR: Thank you for the very compelling evidence you have just given. I will now open the floor to questions.

Reverend the Hon. FRED NILE: Parents have been telling us their stories and it is terrible for parents as well as the child to have to go through that. What disability does your son have?

Ms BALTINS: My son has autism, sleep initiation disorder, severe ADHD and oppositional defiance disorder—all sensory processing.

Reverend the Hon. FRED NILE: That is three or four different disorders.

Ms BALTINS: He has a very complex diagnosis.

The Hon. DUNCAN GAY: Is he at Westhaven now?

Ms BALTINS: No, he is attending his mainstream school. He is considered quite high functioning and even though he was not in his classroom for the majority of his schooling he is still keeping up with his classmates.

Reverend the Hon. FRED NILE: Ms Gotlib, in your submission you are critical of any attempt to isolate the child in a room or outside the class and suggest that should be regarded as a form of abuse. Could you please elaborate on that?

Ms GOTLIB: Absolutely. I think it is a form of abuse. It is not acceptable. We are seeing this happen increasingly, and often without any expertise or any reason. More importantly we are getting increasing reports of restraint and seclusion, but I see that as just the tip of the iceberg as to what is wrong. We have fundamental issues within the provision of education to kids with disability, so therefore we are getting crisis after crisis.

Kids' behaviour is exacerbating. We are never looking at kids from the very beginning and thinking, "What is happening with this young person? Why aren't they engaged with their learning? What is this kid trying to communicate around some of the behaviours that are called things like behaviours of concern or violent?". Then we commonly see situations where it completely exacerbates. We get inadequate responses, to put it nicely, from schools, where they respond with violence to behaviours of concern and it all snowballs.

Obviously, like the child, we would get more violent if we were treated like this—if we knew that our daily routine would be to be dragged into a cupboard, or told to sit on a chair, or ignored when we cannot talk and try to communicate something and are told to be quiet because we are making noises because we cannot use words. If that were our everyday experience, we would respond in exactly the same way, and it is shameful that we are now getting the extent of these reports and that is all being framed as "Look at this epidemic we have to deal with with these violent, horrible children" when we are absolutely failing these kids.

Reverend the Hon. FRED NILE: The teachers and the principals need extra training on how to deal with children with disability. They do not seem to know how to cope with them.

Ms GOTLIB: Absolutely. Ms Phillips can speak to this as well but I think we need to be very clear that there are good pockets of practice, but unfortunately it is patchy and not the norm. I think teachers need a hell of a lot of support and expertise. A lot of the teachers I deal with—and I work a lot with the Teachers Federation—want to know how to better educate these kids. They want to know how they can assist the child to get them in the space where they are best able to learn and have good outcomes, but to do that they need appropriate training and the appropriate resourcing and appropriate expertise, whether that is their individual training or access to professionals.

Mr DAVID SHOEBRIDGE: The tenor of the evidence we have received in hundreds of submissions is that there are pockets and examples of excellence in both State and non-public education, but the system itself is not providing uniform access for or uniform benefits to kids. Is that what you have experienced, Ms Baltins? You have seen two schools within the State sector—one is great; one is not.

Ms BALTINS: Yes. That is exactly what I have experienced. I have experienced one where my son became invisible in the system. He was completely removed, bullying was denied and every poor practice of the school against my child was completely and utterly denied even though there was evidence. Now, moving across to the new school, they have read the reports, they have seen everything—they have seen the evidence as well—and they are the complete opposite. I think it is really important that we find a way to get all schools to be really consistent and treat our children equally.

The Hon. DANIEL MOOKHEY: What is the point of difference between the two schools? Was it the principal?

Ms BALTINS: The principals are very different, yes. The school is just completely inclusive. At his new school, they really pride themselves on inclusion.

The Hon. DANIEL MOOKHEY: Is it a culture thing?

Ms BALTINS: It is definitely a culture thing. That is part of it. Also the teachers have more training in special education.

The Hon. DUNCAN GAY: Were both the schools in Dubbo?

Ms BALTINS: No, one was in the Sutherland shire and one is in Dubbo.

Mr DAVID SHOEBRIDGE: This is one of those rare cases where you left metropolitan Sydney and found a better level of service out in the regions.

Ms BALTINS: No. We found a better school out in the regions, but the actual level of service out there—no, there is not very much available to us. We have had to take a different route for therapies.

The Hon. DANIEL MOOKHEY: The impact on your child of changing schools was dramatic.

Ms BALTINS: It has been. He feels much more confident. He feels safer.

Mr DAVID SHOEBRIDGE: Do you see that as being leadership from the principal or as a combination of that leadership and better training?

Ms BALTINS: I think that the principal has a bit of a pyramid effect across the staff too. If a principal is going to be inclusive and encourage training amongst school staff, I think that is going to be helpful.

The Hon. JOHN GRAHAM: How much training had happened at the old school?

Ms BALTINS: I do not believe any of the staff were trained in special education.

Mr DAVID SHOEBRIDGE: Do the staff at your child's current school have specialist training in special education?

Ms BALTINS: His teacher actually worked in a supported classroom for several years before going across to mainstream. That is his current teacher. It will be interesting to see next year, I suppose, when he might have a less trained teacher.

The Hon. DANIEL MOOKHEY: But your child is currently in a supported class.

Ms BALTINS: No, he is not. The teacher has just gone across to mainstream from working in supported classes.

Mr DAVID SHOEBRIDGE: Would it be CYDA's recommendation across the board that we have mandated levels of qualification for special education and mandated education for special ed for teachers?

Ms GOTLIB: I think it needs to be embedded in the school. I think it needs a really careful look. The framework we are looking at for education pre- and post-qualification is around inclusive education and then around specific expertise in disability studies. I do think that that needs to be mandated for all teachers.

Mr DAVID SHOEBRIDGE: At a bare minimum, at least one tertiary-qualified special ed teacher at every school.

Ms GOTLIB: At a minimum. I am not quite sure why it is not a part of every teacher's training. I mean, if Australia is serious about meeting its obligations under CRPD, and looking at the General Comment on the Right to Inclusive Education that was released last year, I think it needs to be a mandatory part of every teacher's education.

Mr DAVID SHOEBRIDGE: The academics who appeared before us earlier today said that that would likely increase teaching degrees by a minimum of six months. Do you think that would be a worthwhile or necessary investment?

Ms GOTLIB: Absolutely. If you want to be crude about it and just look at it in terms of a cost, if it is going to mean the difference between a child being able to access and participate in their education and the economic outcomes for that child, yes—it is going to be an absolutely worthy investment.

Ms PHILLIPS: I just want to add to that: I think that is part of the story but I think that the other important thing is that many of these children who have complex presentations—for example, multiple disabilities, particularly with cognitive disabilities like autism spectrum disorder, ADD et cetera—this extra six months training is not going to be enough. Schools have to recognise and be resourced when they need to bring experts in. I think this is particularly important in terms of behaviours of concern which have such drastic responses, such as assault and false imprisonment—I do not like being euphemistic and using "restraint and seclusion". As you know, that goes on here. As someone from Victoria who has just started working up here in New South Wales, I think it seems the same in every State, but I have seen it personally here: You have these responses to behaviours of concern with complex disabilities that are simply not able to be addressed by teachers in multi-cat units where, in theory, special expertise exists. It is not existing and it needs to be recognised that schools have to have the resources to bring expertise in—and intensively sometimes—to ensure that these problems are rectified.

The Hon. DANIEL MOOKHEY: In your child's first school you made an application for access to a support class, which was refused.

Ms BALTINS: We made several. We applied for all the local supported classes.

The Hon. DANIEL MOOKHEY: What reasons were given to you for the refusal?

Ms BALTINS: That there were not enough spaces. I have said it before—and I think a lot of parents are similar to me—that it is like winning the lottery if your child gets into one of these supported classroom environments. They are just so rare. Because of the teacher-to-student ratio there are just not enough positions at all.

The Hon. DUNCAN GAY: Ms Gotlib, we heard earlier from People with Disability Australia. You are from Children and Young People with Disability Australia. What is the difference between the organisations and do you work collaboratively?

Ms GOTLIB: They have a State function and a national function. They work extensively with adults, is my understanding.

The Hon. DUNCAN GAY: They said they worked from nought right through and you go from nought to 25.

Ms GOTLIB: You would need to check with them around that, but my understanding is their focus and most of their work is with adults. Ours is a specific focus on children and young people aged nought to 25. My understanding is they work in an individual advocacy capacity in New South Wales. They also work as the national peak body for People with Disability Australia in a similar capacity to what we do in that national space. We do a lot of work with them.

I was thinking around the discussion we were just having before. In this space there is a lot of assumed expertise around kids with disability in the system. I think that is very dangerous. We often see practices like restraint and seclusion, which are not evidence based, and teaching modifications that are not evidence based. It is really important when we look forward that there is an evidence base for what we are going to do in reform. Often we hear that people have done the same thing for 20 years and it has always worked. But we know that segregation is not best practice. We know that through all the research through time. It does not mean that people with disability do not learn in segregated education, but it is not best practice.

Mr DAVID SHOEBRIDGE: Your recommendation No. 2 is the evaluation and review of the Every Student, Every School initiative with a specific focus on whether the program aligns with research regarding inclusive education. Do you know if the department is doing a review of Every Student, Every School?

Ms GOTLIB: No, I do not.

Mr DAVID SHOEBRIDGE: I imagine you would be willing to participate if they did?

Ms GOTLIB: Absolutely.

Reverend the Hon. FRED NILE: It could be old habits that have been there for 30 and 40 years and have just been repeated by teachers thinking it is the way you handle the child.

Ms GOTLIB: That is essentially what segregation is.

The Hon. DANIEL MOOKHEY: Earlier I made reference to a freedom of information request that your organisation has lodged about violence and abuse in schools. This would be an ideal time for you to explain what led you to lodge that request, what information you received, what steps you took with the department to get further answers and whether you think the current level of incidents is the same as that reported to you in 2014.

Ms GOTLIB: We did that same freedom of information request to every State and Territory within Australia. I suppose a positive thing around it was that New South Wales actually had some data to give us. We did get a couple of others but they could make *The Hollowmen* for the amount of redactions on them. One is completely blank but they still provided us with the document. What led us to it was an issue that we have raised in our submission. That is, the lack of data on this type of occurrence, so those of a child protection nature, and also picking up on the discrepancy between what comes to attention and what is actually occurring. Often things may not end up being a formal complaint so they are not recorded anywhere. We were very interested to see what records the department had.

Mr DAVID SHOEBRIDGE: You have a national perspective. New South Wales is the only State that has longstanding reportable conduct provisions. Is there another State that has the oversight and the response to instances of violence involving kids with disability? Is there any State doing it better than New South Wales or are we head of the pack?

Ms GOTLIB: I think the mandatory implementation of the child safety standards in Victoria may have potential. They are doing a reportable incidents scheme there. It may lead to a better outcome but it is very early days yet. Even though my understanding is there is room for improvement with the reportable conduct scheme it is probably better than what we have in other States and Territories.

Ms PHILLIPS: I am Victorian and it is interesting why I have had to start working in New South Wales now and South Australia and Queensland. I have a little bit of a grip on some of those systems. All States and departments of education have some sort of reporting mechanism such as mandatory incident reporting. Some of them are external, some of them are internal. However, the most significant flaw for all of them is getting the information that is happening at the school level out. It is for sure my experience in New South Wales that the first priority of departments at all times is to always protect their own staff and defend themselves from legal complaints. They either get around some of these things by not documenting, documenting in a manner which is euphemistic and sometimes—although I hate to say it—hiding information.

If you do not change the whole culture at the top of the Department of Education here and in other States in terms of changing the priorities from defence of the Department of Education people to protection of marginalised and vulnerable children these schemes will never really work. We all have child protection laws, for example, as well. Most States have had those for many years. In theory, any child that you think is in danger or has been abused, whether it is by your colleague or at home, should be reported but it has not been used in that manner.

The Hon. DANIEL MOOKHEY: Is there merit in separating the complaints function from the Department of Education?

Ms PHILLIPS: Yes. I heard you talk about the Ombudsman before. I have had quite good experiences with the Ombudsman up here, much superior to that in Victoria. But you need a body that has absolutely no conflict of interest. It just cannot be within the Department of Education. It has proven itself time and again not to have the best interests of kids with disabilities at heart.

Mr DAVID SHOEBRIDGE: They have a very complicated task because they have to protect the legitimate industrial rights of teachers whilst also looking at the children and having their own reputational concerns.

Ms PHILLIPS: It is a confluence of interest, I believe. You can look at it as a conflict but protecting staff and doing the best by children actually has the same effect for all of those groups. If you bring evidence-based practices to children with disabilities you do not get behaviours of concern, you do not get WorkCover complaints, you do not get assaults.

The Hon. DANIEL MOOKHEY: In theory.

Ms PHILLIPS: In theory, but it is the way you look at it. It should be a confluence of interest.

Mr DAVID SHOEBRIDGE: That is what the department representatives said. They said all of the interests should align, therefore, we can do it all internally. You are suggesting those interests would best align if it was done by someone external?

Ms PHILLIPS: Well, absolutely. Why am I involved? I do legal work. I help parents sue the Department of Education. That is the manner in which I work and that is why I am being asked to work down here. So obviously you have seen a complaints procedure which has absolutely failed at every single level because no-one wants to see me unless they are absolutely desperate. Where is the evidence of what they say? There is no evidence that this will be how it will work or of how it has worked. There is no evidence. So it is what it is.

Reverend the Hon. FRED NILE: You have given the case in your submission about a boy being forced to wear a pelican belt. What is a pelican belt?

Ms GOTLIB: I would have to look it up.

Reverend the Hon. FRED NILE: On page 22 of your submission it says:

> (A pelican) belt was used for a prolonged period without an occupational therapist or my approval. It was hidden under (my son's) shirt and left on for longer than the suggested time.

Ms GOTLIB: I would have to look that up and get back to you.

Reverend the Hon. FRED NILE: Is it a restraint or something?

Ms GOTLIB: I think so.

Ms PHILLIPS: I have never heard of it.

Reverend the Hon. FRED NILE: I was not sure whether it would cause some pain to the boy.

The Hon. DANIEL MOOKHEY: Ms Baltins, on that earlier question about whether or not there is merit in separating the complaints process from the department, are you able to discuss your experience with the complaints process or at least give your general views or attitudes towards it after your experience?

Ms BALTINS: I have lodged a lot of complaints. I even went with Children and Young People with Disability Australia to the Commonwealth Ombudsman and lodged through there too.

The Hon. DANIEL MOOKHEY: Did you have a good experience?

Ms BALTINS: The department tries—they come across as very helpful and very sincere but at the end of the day not one thing got done by the department in regard to my complaints about my child.

Reverend the Hon. FRED NILE: And you were labelled as a troublesome parent.

Ms BALTINS: I was definitely labelled that parent and I have no problem with that whatsoever because my job is to take care of my children.

The CHAIR: Sadly we will have to bring the discussion to a conclusion. I have had a look at a pelican belt—it is some sort of restraint.

Ms GOTLIB: I was looking at my phone to Google it too.

The CHAIR: Yes, I looked it up. I had not heard of it before. Thank you for raising it, Reverend the Hon. Fred Nile. We have learnt a little bit more. To all three of you, thank you very much for giving us your evidence today, particularly the personal insight that you have given us and the steel that you have shown by coming and talking about your personal experience, knowing that what you are saying will help others beyond your own family. Thankfully your mum is there giving you support. Again, to all three of you, thank you for coming along today and making the trip from Dubbo.

Ms BALTINS: Thank you.

Ms GOTLIB: And I am going to leave for all of you a copy of some issue papers that CYDA has commissioned some universities to do on inclusive education and belonging and connection.

The CHAIR: Thank you.

(The witnesses withdrew)

SUZANNE BECKER, Chief Executive Officer, Lifestart, affirmed and examined

JENNIFER KEMP, General Manager, Client Services, Lifestart, affirmed and examined

The CHAIR: Thank you for coming along today. As you would have seen earlier we will ask you very shortly if you would like to make an opening statement. I will just say a couple of words beforehand as has been the practice with all the witnesses appearing today, so it is nothing personal. I remind everyone here today that Committee hearings are not intended to provide a forum for people to make adverse reflections about other people under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. Would either or both of you like to make an opening statement?

Ms BECKER: Lifestart welcomes the opportunity to speak to the inquiry. All children in Australia have the right of full access to inclusive education of their parents' or carers’ choice. It is also mandatory for all children six years and over to attend school. This right has not been recognised for many children and young people living with disability or delay in the New South Wales education system. A commitment to inclusive education is enshrined in international conventions and protocols to which Australia is a signatory. There is also a range of Commonwealth, States and Territories legislation to protect the right of all children to access inclusive education.

It is now almost 25 years since the Disability Discrimination Act 1992 was proclaimed. Important objectives of the Act included eliminating discrimination in education and barriers to accessing an inclusive education. Equitable access to inclusive education for their child remains a pipe dream for many families. The barriers that students and their families encounter should not exist in a State where education is the right of all children of school age. This issue continues to be the biggest area of concern which families report to Lifestart on a regular basis. We support approximately 2,500 families and carers, including around 1,640 children and young people of school age.

It is of serious concern that questions around access to inclusive education figure so largely in Lifestart's work in supporting families, children and young people. Recognising diversity and understanding difference is vital to improving students' access to education, either by way of entry or remaining in inclusive education settings. We operate within a rights and strengths based approach in supporting children, young people and their families. We believe strongly in consulting and working collaboratively with the education system to build the capacity of individual students within the student cohort, educators and broader school community to enable students to achieve their full educational outcomes.

There have been multiple Commonwealth and State reviews into the education system. It is shameful that in the intervening years since 1992 many school students in New South Wales, as well as young children about to enter the school system, are facing structural and perceived barriers to an inclusive education. With the right to access this education goes the assumption that reasonable adjustments to curriculum delivery and assessment will be made available to all students. We recognise that there have been improvements in the system since that time, but much remains to be done, including many recommendations from the 2010 New South Wales upper House "Inquiry into the provision of education to students with disability or special needs".

We recognise that there are many educators and education policy makers who are committed to ensuring quality education outcomes for all children and consistently demonstrate that commitment. However, there is something very flawed in the system when we see so many examples of things going wrong with the education of students living with disability and the challenges their families face, often on a daily basis, in advocating for their child's access to education. While there are success stories there are many shocking stories of how children and young people and their families are treated in either seeking access to education or being maintained in the system in the same manner as their peers.

The Disability Standards for Education 2005, and subsequent review reported in 2012, should have prevented the current situation in which some students and their families find themselves in the education system in New South Wales across all sectors. The Gonski "Review of Funding for Schooling Final Report" and the 2016 Senate report on "Access to real learning: the impact of policy, funding and culture on students with disability" also clearly articulate that much remains to be done in guaranteeing equitable access to education for all students. In New South Wales the Government's Disability Inclusion Action Plan and the National Disability Strategy both reflect frameworks for provision of inclusive education.

Concerns and barriers for both students and their families include: inconsistent attitude to training across the system to developing and embedding skills in working with students with disability or delay; lack of consultation with families and other key stakeholders; issues around transparent communications with families, including in ongoing planning processes; families denied access to a school of their choice or being forced into an education sector not of their choice; negative attitudes from schools' leadership, educators and community and a failure to have the same high expectations that most children are afforded; complaints handling and fears of families in making a complaint; and finally, families being forced to give up or reduce employment options as they try to navigate and manage an obstructive education pathway.

We know that achieving positive outcomes and meaningful inclusive education for all students can have significant social impact on the whole student cohort as they grow to adulthood. This impact can then broaden to the wider community and increase social and economic participation for all young people and their family members. The barriers to economic and social participation in our community are a natural progression from the negative impact on the student's and family's well-being. Lifestart receives many positive stories about family experiences as they transition their child through the education system from the early years to post-school. This tells us that inclusion can be done.

There is significant anecdotal reporting of individual circumstances where children are discriminated against, at times with subtlety and other times quite openly. We hope that this inquiry can bring about positive change for students and families. What we want to see is consistency in how schools engage with families at the entry point into the education pathway and as they transition through. It would be fantastic to hear that all families and students when they first approach the education system get to hear, "What can we do for you?" Rather than what we cannot.

The Hon. JOHN GRAHAM: I describe your submission as one of the more wide-ranging submissions. You have covered a lot of ground. You have described a system where the culture has not shifted. You have noted the progress but the culture has not moved as much as it should. What do you think are the most crucial things to shifting that culture?

Ms BECKER: The most important stand-out thing for us is—families come to us on a weekly basis with concerns, even more than on a weekly basis—we cannot give you the actual statistics but the most common issue of concern we hear from families—we support 2,500 families and that is a lot of negative reports and a lot of families—is families are being made to feel not welcome. But more important than that is being made to feel concerned and scared about making a complaint. It was picked up in the last discussion around the need to separate out the formal complaints around teacher conduct and that of other members of the education system as distinct from complaints that families want to make around how they have been treated in seeking an education for their child. So that is the stand-out stuff. Then another thing is often we are seeing that families are not communicated with when decisions are being made about the educational outcomes for their child. We will often hear reports where a family will find out 12 months down the track, for example, that an individual education program has been written for their child but nobody thought to actually consult with them about what their goals were for that child.

The Hon. JOHN GRAHAM: Is being made welcome and being able to raise concerns without feeling that is going to be to their disadvantage or to the disadvantage of their child more of a problem, in your experience, more at the start when they are trying to access the system or right throughout the process?

Ms BECKER: I would say with confidence at the start but also throughout.

Ms KEMP: The thing is the scene is set at that first encounter with the school. The kind of gatekeeping that goes on for families is really widespread. Families start considering this when their child is three: How am I going to tell the school? What are they going to say? What will this be like for me? Unfortunately, that is not a positive experience and all the way through that trauma keeps repeating itself for families.

The Hon. DANIEL MOOKHEY: Can you give us examples of the type of behaviours that make parents feel unwelcome?

Ms KEMP: Yes. They can be as small as a parent finding their local school to request an appointment with the school principal about enrolling their child and the school secretary doing a little bit of detective work on the phone and ascertaining that that child has a disability and telling that family that that school would not be able to cater to their needs. This is not even getting beyond the person who answers the phone. It can be very subtle—for example, a family was wanting to access their local Catholic parish school. They already had three children at that school, their fourth child had autism. They approached the school and without even interviewing the family the school said that perhaps they should consider an Aspect class for their child. On further discussion they agreed to consider enrolment but that family waited for two months past the point that the other families had enrolments confirmed. Those kinds of messages are subtle sometimes but extremely strong and perceived as their child not being welcome there. Then families are very worried that if they make any complaint following that then that will tip the bucket for their child not being able to attend that particular school.

Reverend the Hon. FRED NILE: In your submission you say from your experience at Lifestart that education providers are not fully conversant with the Disability Standards for Education 2005. That is also supported by discussions this Committee has had with people who seem to be ignorant about it. Who is responsible for promoting this and for educating teachers about the importance of those standards?

Ms BECKER: There is online training for teachers and other school members so as to have an understanding around the disability education standards—

Reverend the Hon. FRED NILE: Do you run that training or the department?

Ms BECKER: No, the Education department runs that. It is the responsibility of the education system to ensure that all their employees conform and are compliant with any legislation around disabilities because immediately they are not, they are in breach of the Disability Discrimination Act.

Reverend the Hon. FRED NILE: But are they doing active things to promote that standard?

Ms BECKER: We hear varying stories. Very much so there are many teachers and members of the education community that understand it; there are many more who just do not reference that in their decision making or in their relationships with families, carers and students.

The Hon. DUNCAN GAY: I really liked that your opening statement ended with "what we can do" rather than "what we cannot do". You also addressed a couple of outstanding issues, including the recommendations of the 2010 report not being implemented. Firstly, can you indicate which were the most important recommendations that were not implemented? Secondly, you used the term "inconsistent" training across the board. The Committee has heard a lot of evidence about "inadequate" training, but that is the first time I have heard the term "inconsistent"—maybe that is going towards "inadequate" or maybe it is something entirely different. Can you elaborate on those two issues?

Ms BECKER: Last year we had about 100 students on university placements with us. A number of those students were education students. We employ more than 200 staff, mainly allied health professionals and educators, social workers and psychologists, and we know from talking to our early years graduates as well as the students they often say that they wish they had more training around supporting children with disability in the school system. They are not getting that training.

The Hon. DUNCAN GAY: How much more training?

Ms BECKER: We should be approaching training from the concept that every child is unique and every child is diverse. So we go from that starting point and you come back. All training should be around being able to work as a teacher with any child. That training should be embedded in all aspects of university training on education. Do you want to say any more on that?

Ms KEMP: On your point of "inconsistent", training is available through the Department of Education—for example, online eLearning. But what is available at the local level in a local school is very much at the discretion of the principal or the learning support team about who they might be engaged with in their community, if it is with a disability service or somewhere else, and what kind of training might be on offer to them as part of the service provided by that disability organisation or other agency. It is also what they can afford to purchase from an external agency. That varies and will be more proactive in some schools than in others and more reactive in some schools than in others or not available.

Reverend the Hon. FRED NILE: I note in your submission you say that Lifestart has some of its services under the National Disability Insurance Scheme and that by 2018 it will have all its services under that scheme. The Committee has heard evidence from other organisations about the lack of funds through the NDIS—as if it has been frozen by the Federal Government?

Ms BECKER: That is a difficult question or statement to answer. The rollout of the NDIS is governed by the Council of Australian Governments bilateral agreement and signed up to by the New South Wales Government and other State and Territory governments. There are particular numbers of people transferring from what we call "defined services" in New South Wales across to the NDIS. Those are people who are currently in receipt of funding from the State Government. There are issues around going through that transfer process now—some of it is pretty rocky and other bits are really good. Lifestart firmly believes in the NDIS and we think at the end of the day it will work much better than the scheme is working now. It will not be a rationed system.

The Hon. DANIEL MOOKHEY: Are you as enthusiastic a supporter of the Gonski model?

Ms BECKER: Yes.

Reverend the Hon. FRED NILE: It is the Gonski model. That is what it is.

Ms BECKER: Yes.

The Hon. DUNCAN GAY: It was the disability loading out of Gonski.

Ms KEMP: One of the real issues is partly a misunderstanding by everyone about whose jurisdiction particular responsibilities lie in. The National Disability Insurance Agency is clear where the Department of Education's responsibilities are. I think there have been expectations by families and by our staff, who would like to think that there would be more funding through the NDIS for work in schools, but that is the responsibility of the education system.

Ms BECKER: There has been a lot of shadowing between the NDIS applied principles which articulate the responsibilities of each jurisdiction, whether it is education and disability, disability and housing, disability and community services or health. That messaging has been unclear from both the Commonwealth and State governments, and families are caught in the middle. Service providers such as Lifestart have also been seen as the ones obfuscating any fluid or seamless transfer. There is a lot of confusion around where education sits in that transfer, and what is the responsibility of third parties in the education setting. We understand why parents and teachers get confused.

The Hon. DUNCAN GAY: But educators can deliver some of the NDIS funding.

Ms BECKER: Not per se. We have educators who work from an allied health and educator perspective in terms of supporting families. That is not necessarily in the context of delivering education outcomes in the school setting. It is about educators in the education system working in partnership with other stakeholders—it might be allied health professionals, behaviour specialists or whoever—to ensure that reasonable adjustments are made for an individual child so that they can achieve the best learning outcomes. The NDIS will come in when there are particular supports required to enable that child to participate in the education setting.

Ms KEMP: That is all still to be clarified between the service systems over the next two or three years while we are transitioning.

The Hon. DANIEL MOOKHEY: To be clear, the NDIS was not designed to replace funding that would be made available under Gonski. That is correct, isn't it?

Ms KEMP: Definitely correct.

Ms BECKER: Yes, Gonski is for education.

The Hon. DANIEL MOOKHEY: And the Department of Education explicitly states that it intends to continue with its funding support for students with disability and is not relying on the NDIS as the primary source of funding for education in schools.

Ms BECKER: That is correct.

The Hon. DANIEL MOOKHEY: I heard in a previous inquiry that you can use the NDIS money to bring around an Auslan translator in TAFE if you require one. That is the type of stuff we are talking about.

Ms KEMP: That may be possible. It is in the grey zone.

Ms BECKER: There are a lot of grey zones around the NDIS and the way it fits with other jurisdictions.

The Hon. DANIEL MOOKHEY: We are making our way through a very important national reform to get that system right, but we are still at that point where there are a lot of these decisions to be made.

Ms KEMP: Correct.

The Hon. DANIEL MOOKHEY: You made some mention before, to an earlier question from my colleague the Hon. John Graham, about the importance of overhauling the complaints mechanisms as perhaps the most important reform we could do, or words to that effect. Did I hear that correctly?

Ms BECKER: Yes, I said that. It is one of the most important reforms. We know where the employee performance and conduct [EPAC] issue came from but we need to separate out issues around the conduct of officers of the education system as distinct from issues around complaints that parents may have about access or their children remaining in that system.

The Hon. DANIEL MOOKHEY: So, a system that is built around detecting and disciplining employee misconduct is not the right organisation to look at standard breaches?

Ms BECKER: Exactly.

Ms KEMP: That is right.

Ms BECKER: It is also a very negative approach. We need to have the school community, families and students work collaboratively in a partnership. The minute you have the negative context of that investigation system a negative barrier is set up—an adversarial situation.

The Hon. DANIEL MOOKHEY: Presumably, the implication is that someone's employment is in jeopardy. That, in itself, creates whole additional levels. Firstly, there is a requirement for procedural fairness, which is valid and necessary. Secondly, there is a level of scepticism or defensiveness by the staff in that process.

Ms KEMP: Yes.

The Hon. DANIEL MOOKHEY: I have asked this of other witnesses. Do you think there is merit in separating the complaints process from the Department of Education altogether?

Ms BECKER: Yes.

Ms KEMP: Yes, we do.

Ms BECKER: It is not just about the Department of Education. That complaints process should cut across all education sectors—Catholic, independent and public school systems.

The Hon. DANIEL MOOKHEY: Do you have a view about the most appropriate body for that? Should it be the Ombudsman? Should it be NESA? Should it be some combination of the two?

Ms BECKER: I do not think it should be NESA. I think the Ombudsman's office would be more appropriate.

Ms KEMP: I would have said the same.

Reverend the Hon. FRED NILE: I was just going to quote your own recommendation. You recommend that an independent formal complaints arrangement be established to achieve systematic changes to the education system et cetera, because there have been lots of complaints from parents about how unhappy they were about the complaints system. You do not specify the Ombudsman; you just say that there should be an independent formal complaints arrangement. What did you have in mind?

Ms BECKER: Given the role of the Ombudsman across the whole disability sector—across the whole community—we think that the Ombudsman's office is well suited to manage these complaints. There is a system in place, and it should be able to be implemented fairly easily.

Reverend the Hon. FRED NILE: It would be independent too.

Ms BECKER: It would be independent. It would be reporting straight back to Government so there would be no barriers for the Parliament to hear what is happening. It is no different from death in review reports, and any other sort of report.

Reverend the Hon. FRED NILE: The Government cannot file the report away.

The Hon. DANIEL MOOKHEY: Do you assist parents in the complaints process with the department?

Ms KEMP: We do.

The Hon. DANIEL MOOKHEY: Do you find that process to be transparent, effective and timely?

Ms KEMP: No would be the answer to most of those things. Our allied health workers work closely with families, and part of their role is to be holistic and to support them with their advocacy if they need to. So when a complaint is raised—we have multiple examples—parents are encouraged to go to their school and raise that complaint with the principal. For all sorts of reasons that may not be a good route to go down. They may not be heard. They may not get the outcome that they want. We have supported families to do the simple thing of going to the Department of Education's website to find out how to advance that complaint but there is no phone number or form that we have been able to locate.

The Hon. DANIEL MOOKHEY: The Department is very proud of its website. They say that it provides all the information parents name in a way that is accessible and easy to understand.

Ms KEMP: There is a lot of information, but I am not sure that you can do anything with it, to be honest. We have supported families to take their complaints to the Ombudsman or to the Human Rights Commission. On all of those occasions it has been a highly adversarial process. Where we can engage with the school principal locally—when they are willing to enter into that—that has always achieved a positive outcome.

The Hon. DANIEL MOOKHEY: You say that there are parents who are somewhat fearful of retaliatory action being taken against them should they exercise their rights to make a complaint. Are you able to give examples or descriptions of the kinds of actions that you are talking about?

Ms BECKER: We can.

Ms KEMP: I can think of the kind of retaliatory action where a family heard—third or fourth hand—about discussions in the staffroom around the complaint that they had made. They heard some of the derogatory terms that had been used about them for making that complaint. That returned to them and they were aware that the entire staff was aware of that complaint, in a different light, and were quite fearful about how the staff would engage and interact in a positive way with their child.

Reverend the Hon. FRED NILE: Who would have informed the staff and the principal?

Ms KEMP: Whoever heard about the complaint. Sometimes that can come through a school counsellor, a teacher, or a teacher's aide.

Ms BECKER: Or a principal.

Reverend the Hon. FRED NILE: That is a breach of confidence, isn't it?

The Hon. DANIEL MOOKHEY: And privacy.

Ms KEMP: Yes.

The Hon. DANIEL MOOKHEY: Do you have any other examples that you wish to give us?

Ms KEMP: Parents feel that if they make a complaint about a teacher the teacher will not be motivated to engage with their child or to carry through on the things they want to do—or that child will be removed to a different class to avoid being in a classroom with that teacher. From the outside, that looks like a positive outcome but nobody learns from that experience, and a child has to make a change in their routine, which can be quite damaging to them.

Ms BECKER: There are other examples where parents have heard from other families in particular schools that if they make a complaint their child's hours will be reduced.

The Hon. DANIEL MOOKHEY: Do you mean hours at the school?

Ms BECKER: Attendance hours at the school. They might be welcome at the school from, say, 10 to 12 or "You must pick your child up by 12."

Dr KEMP: At recess.

Ms BECKER: At recess. Other family members report that they have spoken with assistant principals and principals about particular issues around teachers and then the issues that were raised were not dealt with and the particular behaviour has continued. That family then feels totally powerless about going through the correct processes around making a complaint. We are always told when we support families that we should be helping those families resolve any complaints or issues they have at a local level. So that means at the school or wherever it is emanating from.

The Hon. DANIEL MOOKHEY: Who tells you that?

Ms BECKER: The department.

The Hon. DANIEL MOOKHEY: You contact the department with a complaint. The department's advice is to go back to the school?

Ms BECKER: Yes, we have been told, "Why haven't management of complaints come through the school system?" Another example is a complaint in a special school where a mum would go to pick up her child who was in nappies—I think the child may have been six or seven at the time—and the child was in a soiled nappy. The complaint was "Please can you change my child's nappy?" Then being told, "Sorry, but the teacher's aides don't change nappies after 1.30." That child was in a wheelchair in a soiled nappy from 1.30 to 3.30 when picked up. That is just not appropriate behaviour on a whole range of fronts. Make a complaint, then you are labelled a neurotic, difficult or challenging parent.

Ms KEMP: We can see that with our staff too. We have had occasions where our staff have been asked not to come back to a school where they may have been providing support for a child with a disability.

The Hon. DANIEL MOOKHEY: You cop retaliation?

Ms KEMP: Yes. The school principal said, Lifestart staff are no longer welcome to work in our school.

The Hon. DANIEL MOOKHEY: The Committee will provide some sort of confidentiality but will you provide on notice where it happened and by whom?

Ms KEMP: We can in confidence, yes.

Reverend the Hon. FRED NILE: You recommend that children should be enrolled in their school catchment area and obviously that is not happening. How do we make that happen?

Ms BECKER: It should be a given. If the New South Wales Department of Education Access Plan, its web site, the National Disability Strategy and the Disability Education Standards are being followed that should not be happening. Every child has a right to the school in their area. We have examples of children being transported by their parents from one side of Sydney to the other—

Ms KEMP: In transport for an hour at a time.

Reverend the Hon. FRED NILE: Yes, the Committee has received evidence that the child will not be put in the school in the catchment area.

Ms BECKER: "There is another school that is better suited to your child" or "Actually you really should be in a special school, not our school. That place can offer you better support than we can."

The CHAIR: A question from the Hon. Daniel Mookhey was taken on notice. The Committee has resolved that answers to questions taken on notice will be provided within 21 days. The Committee secretariat will be in contact with you to assist in that process.

(The witnesses withdrew)

MEG CLEMENT-COUZNER, Senior Systemic Advocate, Family Advocacy, affirmed and examined

YOLANDE CAILLY, Member, Family Advocacy, affirmed and examined

The CHAIR: Do you want to make an opening statement? I remind everyone that Committee hearings are not intended to provide a forum for people to make adverse reflections about other people under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the terms of reference of the Committee inquiry and avoid naming individuals unnecessarily.

Ms CLEMENT-COUZNER: Yes. Over 25 years ago when Family Advocacy began, families of people with disability were seeing their children, grandchildren and siblings living separate institutionalised lives. People who were already vulnerable were being grouped with other people with disability, often with nothing more in common than a diagnosis and whose vulnerabilities when grouped together were compounded. These beloved family members were on a separate pathway from birth, from the dire medical language used at the hospital to special early therapies, with a special school where they might go on a special bus, later the group home and perhaps the special sheltered workshop.

The families who started Family Advocacy had a different vision, one where people would not be special but ordinary, one of the kids at preschool, primary school and high school, a friend, a housemate, a partner, a university student, an employee or a business owner. Nearly three decades later we are happy to see that society is changing and some of these visions have become reality, but in the education system many students still travel to that special school or unit. This situation is one that we feel jars with our values as Australians of inclusiveness and opportunity for all and that results in worse outcomes for students with disability and their peers. We know that inclusion can and does work because we now have many lived examples, yet segregation is persisting and sets our kids up on this separate pathway.

As a brief summary, our submission highlighted structural barriers to full inclusion that can and should be changed; a parallel system of support units in schools which enables frequent principal and school rejection of students with disability from the regular local school; often default enrolment of children with disabilities into these separate settings; failure to systematically alert parents to the rights of their child and include them in planning and decisions about their child; and consequently increased enrolments in special schools and disregard for the evidence base that shows clearly that outcomes improve for students with disabilities and their peers when inclusion is practised. I commend the Committee for its work bringing this situation to light. I welcome any questions. I table a resource booklet produced by Family Advocacy entitled "All Students Learning Together".

Ms CAILLY: I do not have such a wonderful opening statement to make but I want to clarify my position. I happen to work for the Department of Education and I want to make it clear that I am not here as an employee of the department, I am here as a member of Family Advocacy. I have a daughter who has an intellectual disability and is attending a mainstream classroom. I joined Family Advocacy because I share its values. I want to make sure that the Committee understands that it should not have to be so hard. A lot of the issues about which we have heard should not be so difficult to deal with.

The CHAIR: The Committee will explore that with you shortly.

Reverend the Hon. FRED NILE: I have a general question. How do you deal with the tension between your organisation's policy of inclusion and a parent who may want their child in a special needs school or class, thinking that is the best for their child?

Ms CLEMENT-COUZNER: I think without a doubt that almost without exception parents want the best for their children. What we know as a society is that if you want an outcome in life, you have to take steps to get there. You might have a vision of what it is you want, but as a society, when it comes to people with disability, sometimes it does seem that we have a bit of collective amnesia, almost, about what it is that might lead to the good outcomes in life that most people in Australia would want and seek. That reaction, that kind of culture of thinking differently about people with disability, is evident in our systems and processes and, indeed, in the Department of Education.

For someone to get certain outcomes—a good life, a regular life, a job, friends in the community—we would think about what would set them up for that. We would think they should be interacting with their peers, who have high levels of competence, rather than perhaps having great difficulties with communication. A student with very great difficulty with communication would be best placed with students of high levels of communication, who can assist that person and bring that person the sorts of skills that they have. But it seems that for people with disability we often forget this basic principle of life. That would be my response.

The Hon. JOHN GRAHAM: Often the approach of society generally has been in the direction you have described, to put the schooling system aside. That is an overall direction we are heading in. We have heard evidence about some of the subtle barriers that are stopping that process inside education, and you have outlined some of them in your submission. What do you think are the things we can most easily do to effect that cultural change?

Ms CAILLY: I think one of the most basic things would be the enrolment process, because we cannot even start talking about choice when you walk to your local school and time and time again families tell us they were unwelcome at their local school. How can you even start talking about the special school versus the mainstream school? You are not on a fair basis, because your choice of school is greatly reduced the moment you have a child with a disability. If we look at work in that area and prevent that from happening we would have a better start for everyone else.

The Hon. JOHN GRAHAM: We have heard quite conflicting views about that. We have had parents say strongly they have been subtly discouraged. Some principals presented evidence that they were really surprised that that was the experience. That may have reflected the approach of schools they headed, but there was a real conflict in the stories about the first moment of interaction with the system, which is clearly crucial.

The Hon. DANIEL MOOKHEY: Are you able to describe the process you went through in order to obtain an enrolment for your daughter?

Ms CAILLY: Yes. My child was attending mainstream long day care and she was receiving early intervention services. It came time to think about enrolment a year before school started and we were advised to enrol our daughter in an early intervention preschool, which is run by the Department of Education. At the end of that year we had a really small panel where it was recommended that she went to a support unit. It turned out our local school had a support unit. At the time I was in a very difficult family situation and it was never my intention originally to have her in a support unit, but I did not have the emotional strength to fight the decision. I felt quite compelled to enrol her in the support unit at the local school—I thought, let us go with that for her first year at school. I did not really know the education system in Australia, even though I work for the Department of Education but I have nothing to do with schools themselves. I was educated in France, not Australia.

After a couple of years—during that time I educated myself about what would be best for my child. That is when I started to read about what is the best in terms of education. I decided to move my daughter into mainstream classroom within the same school, and that in itself is a big challenge. I was lucky to have a supportive principal, but some people felt quite challenged within the school system. We are in a good place now, but it has been a long, continuous, tiring journey where I gave up a lot of my own time to try to educate people around inclusive education. It is possible, but there is clearly a lack of understanding of what inclusive education looks like, what it means in practical terms, what teachers can do. For instance, it is not my child sitting at the back of the classroom working on material that has nothing to do with what the other students are doing, which was happening, but instead bringing her into the group work and finding ways to do that.

The Hon. DANIEL MOOKHEY: When you said there is a lack of understanding, do you mean at the level of the classroom and school administration, the principal and above?

Ms CAILLY: Yes. I attended once a presentation by a lady from the Department of Education. Her idea of inclusive education included special schools and support units, but that conflicts with our idea of inclusive education. Inclusive is where you would be if you did not have the disability; that is inclusion.

The CHAIR: Without going into personal identifiers, is your daughter still in primary school?

Ms CAILLY: She is still in primary, yes.

The CHAIR: How are you preparing for the next gateway process? Are you a couple of years away?

Ms CAILLY: We are a couple of years away, and I have already encountered one person who—I am trying not to give too much detail—basically lectured me about moving my child back into the special support unit at least. I left the meeting very distraught because of that reason. Again, it comes back to the idea of choice. I have made my choice; stop questioning it if it is a choice. If you keep questioning my choice, is it really a choice? We are there already, and yet we are two years away from it and already I am having the conversations.

The CHAIR: I take it that you are determined about your choice?

Ms CAILLY: I am. It is my choice because I know, not just in my heart but in my head as well from the research I have done, that this is the right choice for my child.

The Hon. DANIEL MOOKHEY: What other types of reforms are necessary? Which ones should have priority in terms of preparing the system for the model of inclusive education that Family Advocacy favours?

Ms CLEMENT-COUZNER: I think that there are a number of areas. I completely agree with Ms Cailly that enrolments are the absolute priority, because at the moment, as I am sure you heard from other evidence, there is an absolute swathe of parents who are experiencing rejection at the point of enrolment, at the point of attempting to enrol in their local school. Even the standard text on the MySchool website says that the decision can be made to send your child to the regular school, rather than that the decision is the decision of the parent or, indeed, should be made in the best interests of the student themselves. The evidence of rejection indicates the desperate need for mandatory training for principals and staff regarding the rights of students with disability and, indeed, the rights of all students. As members have heard, the other thing that needs to be considered is the complaints process. The principle of parent involvement in education planning is also an issue. Evidence suggests that parental involvement in educational planning is one of the key factors that leads to the success of inclusive education and education of students with disabilities. Every Student, Every School had parental involvement in educational planning as a guiding principle. However, I do not see formal applications of this—

The Hon. DANIEL MOOKHEY: But there is a requirement for an individual plan to be prepared with parental involvement. Is it your evidence that that does not happen?

Ms CLEMENT-COUZNER: My evidence is that it does not always happen; in fact, there are many times when it does not happen. I can think of one example. There is a parent who had their child with an intellectual disability successfully included in the local primary school. They have a good relationship with the school, but they have not seen an Individual Education Plan [IEP] in the time they have been there, and it has been some years.

The Hon. DANIEL MOOKHEY: Why do you think it is not taking place? Is it a resource or a time issue? Is it a lack of attention to detail at the school level?

Ms CLEMENT-COUZNER: It is all of those things. However, it is also a lack of leadership on the part of the department and those responsible for education. Fundamentally, there needs to be an understanding that parents usually know their child best, and will understand and have examples of things that will work, for example, removing triggers for their child to facilitate the child's learning. That knowledge does not seem to be desired or respected at times.

The Hon. DUNCAN GAY: You say that parents normally know best. I have listened to the contribution from your organisation, and I cannot see a role where an educator can give advice. Perhaps I am misinterpreting it, but you seem to be suggesting that you get the right to say something, but they do not get the right to suggest that there may be other ways. Have I misinterpreted that?

Ms CLEMENT-COUZNER: That is certainly not the impression I intend to give. Family Advocacy has a very good relationship with a number of academics and educators. I am not talking about special educators but experts in including and making adjustments for students with disabilities.

The Hon. DUNCAN GAY: What if the advice is different?

Ms CLEMENT-COUZNER: It is not simply a case of parents knowing best. There are many parents who may take a path that evidence suggests will not result in the best outcome for their child.

The Hon. DUNCAN GAY: What if these educators are suggesting a different path from that suggested by the parents? Does your organisation always go along with the parents in that case, or do your advocates say, "Maybe you should listen to the educator in this particular case"?

Ms CLEMENT-COUZNER: Thank you for that question; it is an important clarification. As you may or may not understand, Family Advocacy is guided by principles of inclusion and what we consider to be a valued life pathway for a person with disabilities or, indeed, any one of us. That thing being said, we also know that there are many experts on inclusive education in the world. Therefore, there are principles that we would suggest parents might adhere to or discuss with the educator in their child's classroom. Often educators have very good suggestions about how to include children with disabilities and how to adjust for different needs. However, unfortunately often we are seeing situations where parents of children with disability are asking for what I would call and what policy language would call reasonable adjustments, but they are unfortunately finding themselves at loggerheads with educators.

The Hon. DANIEL MOOKHEY: If I understand it correctly, your evidence is not that parents should have unilateral say over all decisions.

Ms CLEMENT-COUZNER: Certainly not.

The Hon. DANIEL MOOKHEY: Nor should educators. In fact, there should be collaboration.

Ms CLEMENT-COUZNER: That is exactly correct.

The Hon. DANIEL MOOKHEY: Your evidence is that the system does not currently have meaningful input from parents so that that collaborative relationship can develop.

Ms CLEMENT-COUZNER: That is an excellent summary.

The Hon. DANIEL MOOKHEY: Taking that principle forward into the context of the actual system, we have explored the enrolment aspect. What about the access request process by which places in support classes or SSPs are accessed? Is it your evidence, Ms Cailly, that those requests can go forward without parental consent? Did that happen in your case—was that recommended for your child and you did not want it?

Ms CAILLY: To go into the support unit?

The Hon. DANIEL MOOKHEY: Yes.

Ms CAILLY: We were strongly recommended. I still had the choice at the time. But things were said to me and I wondered whether I was prepared to fight them.

The Hon. DANIEL MOOKHEY: You thought there was a power imbalance?

Ms CAILLY: Yes. I refer back to the IEPs. Until recently, IEP meetings consisted of myself to represent my child's interests, and if I was lucky I could book a therapist to come along. Otherwise, there were five people representing the interests of the Department of Education: the classroom teacher; the school counsellor; the learning support teacher; a member of the executive; and at times the regional representative. There definitely is a power imbalance.

Reverend the Hon. FRED NILE: What is your child's disability?

Ms CAILLY: She has Down syndrome.

The Hon. DANIEL MOOKHEY: Some parents would welcome that level of attention from the system to help plan for their child's needs.

Ms CAILLY: If they all knew my child, I would welcome such attention. The school counsellor is a lovely man, but he had never met me before and he did not know my child, either. Was it necessary to have the school executive given that the learning support teacher was there? I ended up questioning the value of it. When you think about having five staff members there, that is lot of time and money being spent on one child. All I wanted to do was to establish my child's learning goals for the next term. I now have IEP meetings directly with the classroom teacher and the learning support teacher.

Reverend the Hon. FRED NILE: They all physically met you?

Ms CAILLY: Yes. It is a lot easier because now they know my child. They know that she can count to 30. What is her next goal—to count to 40? It is the nitty-gritty.

Reverend the Hon. FRED NILE: Where was that confrontation with the five Department of Education representatives?

Ms CAILLY: In the school.

Reverend the Hon. FRED NILE: You went to the school?

Ms CAILLY: Yes, I would go to the school, often after school hours.

The Hon. DANIEL MOOKHEY: Do you have examples of the type of modifications which parents have requested and which schools have refused?

Ms CLEMENT-COUZNER: I would to need to take that question on notice. I am sure I can supply examples for the Committee.

Ms CAILLY: It has been mentioned recently that a teacher was finding it difficult to use visual support within the classroom. A mother was asking for photographs to be used. I was sure they could work it out. The mother could say where it should go and the teacher could just do it. Sometimes we get down to that level of simple requests.

Ms CLEMENT-COUZNER: I could also give an immediate example that I can call to mind, which is that I took a phone call some months ago from a mother from the north coast of New South Wales whose son had a hearing impairment and the mother had had the assistant principal for hearing out to the school and also a local expert—I cannot remember the term for a hearing doctor—to the school to suggest adjustments and they were repeatedly refused by both the teacher and the principal. She had then attempted to make a complaint to the director and the local director had also not had any luck. At that point, Family Advocacy really attempts not to take an adversarial approach with schools because we understand that our parents and the students are often in such a vulnerable position. However, I really did not see what options she had if she wanted those adjustments for her son beyond taking her complaint further, but, as you would have heard, that is also a very difficult process and at that point I think she was simply considering moving schools.

The CHAIR: We might conclude at that point. Sadly, the time allocation has run out. You have taken a question on notice, the answer to which I assume is probably going to be quite lengthy. The Committee has resolved that answers to questions taken on notice are to be received within 21 days. But to assist you, the Committee staff will be in contact with you to ensure a smooth process there. I thank you both for the evidence you have given, particularly your personal reflection, which is tough, but you have been very strong in the case you put forward. What is becoming very clear to all of us is that not only are we seeing the technical and the bureaucratic difficulties but also the human face of those policy decisions that are being made. Thank you very much for your attendance here this afternoon.

(The witnesses withdrew)

ELLEKER COHEN, Sector Development Officer, National Disability Service, affirmed and examined

JESSICA LOBO, Senior Sector Development Officer, National Disability Service, affirmed and examined

HENRY NEWTON, Sector Development Officer, National Disability Service, affirmed and examined

The CHAIR: I welcome representatives from the National Disability Service [NDS] this afternoon. In a few moments I will ask one or all of you if you wish to make an opening statement. Just be mindful of your time; the more it cuts into questions and answers it may well leave you a bit unfulfilled if there are things you want to raise in the question and answer session. I remind everyone here today that committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. Would one or all of you like to make an opening statement?

Ms LOBO: Just me for the moment, thanks. As you might be aware, the National Disability Service is the peak body for non-government disability services. We represent over 1,100 services across the country and we thank you for requesting our appearance today on behalf of all those services. The inquiry is very timely, with considerable change for people with disability occurring with the introduction of the National Disability Insurance Scheme. NDS fully supports the scheme as it aims to provide people with disability the means to live an ordinary life. For students with disability this means support to access and participate in their learning environment and school community and, importantly, to strive to achieve future goals of economic participation.

In saying this, it is critical for the Committee to be aware that there are some areas where there are considerable challenges that will emerge with the interface of disability services and education services. A central focus of this inquiry is school resourcing and it is critical for the Committee to examine the impact of disability support organisations withdrawing or reducing some of the support that they previously provided to schools, due to some constraints posed by the NDIS. With the rollout of the NDIS, funding models are tightening and the demarcation lines between disability services and mainstream services like education are changing. It is no longer possible for the disability sector to fill some of the gaps in the education system in the way it has done previously.

NDS, through consultation with its members, focused on four key areas in light of the terms of reference for this inquiry. The first is inadequate funding, which is fundamental and inextricably linked to all of the other areas that we will describe. The second area is around the need to foster better inclusion and personalisation in schools. The best evidence for achieving this imperative is better training for teachers. In addition, we also propose the implementation of disability action plans for each school as well as the monitoring of these plans and the provision of incentives for schools who actually do well in meeting inclusion indicators.

The third area is restrictive practices and complaint handling within schools. This continues to be an area of concern for families and disability service providers alike. There is a much heightened awareness of positive behaviour support strategies in the disability sector in recent years, with commitments made both under the NDIS safeguarding framework and the National Framework for the Reduction and Elimination of Restrictive Practices in the Disability Sector. However, it is really troubling that in education, education services are completely outside the jurisdiction of those sorts of policies and procedures that promote positive behaviour support and reduce restrictive practices in schools.

Another area which is interrelated is that there is an urgent need to improve complaint handling processes about a range of matters at all levels within the school system. Due to a lack of accessible information, there is very little recourse for students, their families or carers to escalate complaints if they are not able to be resolved locally. Having a better skilled internal team within the Department of Education, established to handle complaints should they need to be escalated, would lead to better outcomes in the handling of complaints.

The fourth area that we would like to focus on is the joint planning between schools, families and the NDIS, and this includes collaborative approaches to planning for school-to-work transitions. We particularly want to note the NDS Ticket to Work initiative, which has achieved some fantastic outcomes for students post school. It is a well-known fact that people with disability experience significant barriers when entering the tertiary education system and the workforce, and those barriers can be significantly reduced by ensuring that people with disability achieve appropriate support at school.

The CHAIR: Thank you for that very comprehensive and directional statement you have made. I will now open up to questions.

Reverend the Hon. FRED NILE: In your submission you quote the NSW Audit Office as finding that some of the biggest barriers to translating positive policy reforms into practice are cultural resistance and a lack of expertise among some teachers. How would you describe that cultural resistance?

Ms LOBO: The cultural resistance definitely stems from low expectations that teachers have of students with disability and that stems from a lack of teacher training. That is probably one of the most critical areas. We all talk about training as a broad concept but there are some really specific things that I think teachers need training around and they may seem obvious at first to teachers but they are actually very specific around students' disabilities. A lot of teachers do not know that for students who are deaf, for example, those students actually do not really need visual materials to support their learning because it disenables that student from focusing on what the teacher is actually saying and it is quite distracting. There are specific types of training the teachers need around different types of disabilities that are imperative. As I said, without a knowledge of those sorts of things teachers do not expect much of students with disability because they do not understand disability.

Reverend the Hon. FRED NILE: You are also critical of money being spent on teacher aides rather than improving the quality of the actual teachers. What is the problem with the use of teacher aides?

Ms LOBO: The point that our members made was basically that a lot of families and schools invest in teacher aides as a support to be a float within the classroom but that funding would probably be better spent on long-term investments like teacher training so that not only is that one student supported but other students that teacher encounters during their teaching at school.

Mr NEWTON: Just to clarify, it was not a criticism of teacher aides at all or saying that they do not have a use; it was the reliance on teacher aides in place of what we would consider maybe more long-terms solutions.

Reverend the Hon. FRED NILE: It is a priority issue?

Ms LOBO: Yes.

The Hon. DANIEL MOOKHEY: We as a Committee have been having discussions about the appropriate role of the NDIS here and we are proceeding on the basis, as you point out in your submission, that the NDIS is not intended to be the primary source of educational funding for students with disability. In fact, you go so far as to say that it is quite explicit and it is ring-fenced; it is explicitly stated that it cannot be used for that purpose. Do you think that it should be used for that purpose? Do you think that ring-fencing is too strict?

Ms LOBO: I think that is a really interesting question and it applies not just to education but to a whole range of services. A key point we made in our submission is that disability services have been going above and beyond what they are actually required to do currently. They are not actually funded to do a lot of the things that they are doing with schools, with hospitals and with transport but they have had to do that to fill the gaps in those systems, so as a principle we think that those organisations should be able to continue to provide those services but the reality under the NDIS is that they cannot because of funding and because of those strict demarcation lines of the NDIS.

The Hon. DANIEL MOOKHEY: Just to unpack that, your evidence is, is it, that before when they were block funded they would use hidden forms of assistance or utilise their funding in a way which would allow them to provide these other services which were not funded through the block system?

Ms LOBO: Yes, block funding was a lot more flexible in order to do that.

The Hon. DANIEL MOOKHEY: And now that we have gone to the NDIS there is no mechanism of cost recovery for other services; that is the evidence?

Ms LOBO: For a lot of areas, that is right, yes.

The Hon. DANIEL MOOKHEY: Do you support the Gonski disability principles?

Ms LOBO: Yes, we do. The needs-based funding, if it is done correctly, and there is an appropriate target loading—

The Hon. DANIEL MOOKHEY: And it is actually funded?

Ms LOBO: Yes.

The Hon. DUNCAN GAY: Is there a crossover with the Gonski disability loading?

Ms LOBO: There is no crossover. In terms of the numbers of students with disabilities who will have access to the NDIS, in public schools that will only be around 3 to 4 per cent of students who will have NDIS plans, so you are looking at a very small number of students who will be accessing the NDIS and therefore Education needs to do its part as well.

The Hon. DANIEL MOOKHEY: When you say 3 to 4 per cent, you mean 3 to 4 per cent of the 17 per cent of students with disability have access to the NDIS?

Ms LOBO: Yes, so 30,000 students, so that would be roughly 3 to 4 per cent of 790,000.

The Hon. DANIEL MOOKHEY: Total students?

Ms LOBO: Yes, of total students in public schools.

The Hon. DANIEL MOOKHEY: So the balance, which is 14 per cent, and including the 3 per cent incidentally that you mentioned, are still overwhelmingly reliant on the Gonski system to have their funding needs met to enable them to have their education?

Ms LOBO: Absolutely.

The Hon. DANIEL MOOKHEY: You made mention in your opening statement about the complaints process and this has certainly been an aspect of serious scrutiny by the Committee so far in its hearings. Firstly, does your organisation advocate for parents in this respect or for disability providers?

Ms LOBO: Just disability service providers and people with disability directly.

The Hon. DANIEL MOOKHEY: So they have fed this concern back to you?

Ms LOBO: We consult with disability support organisations who advocate for students and families and this is the feedback that those support or advocacy organisations gave us.

The Hon. DANIEL MOOKHEY: And what are they saying?

Ms LOBO: Some of them were saying that often it is really difficult to get complaints escalated if they are not resolved locally; that it can work really well when they are resolved with principals and teachers and that really varies across schools. Some schools are really inclusive and have a positive approach to complaints handling.

The Hon. DUNCAN GAY: In your opening statement you indicated that you favour an internal specialist team at Education. You are the only organisation that has said that. Other organisations have said they very much would prefer a model outside, for example, an ombudsman. Could you explain how this internal independent group would work?

Ms LOBO: We support both internal and external review mechanisms but we think that the current internal review mechanisms are not working at the moment. We do think that the Human Rights Commission and the NSW Ombudsman are effective but they are not the most appropriate place to go for families. Some of the complaints they receive should really be resolved by the Department of Education. Last week the department appeared at this inquiry and stated that it was easy for families to contact their regional directors and we found that those details are not available on the website. I tried to locate them and could not locate them. However, there was information about the NSW Ombudsman and the Human Rights Commission and contact details for them but nothing in place around any internal processes.

The Hon. DANIEL MOOKHEY: So the implication is: either you do not complain or you escalate the complaint to its maximum level straightaway and that what is lacking is that interim—

Ms LOBO: Yes.

Ms COHEN: At the end of the day local issues should be addressed at a local level as well and that is what we are seeing is not really happening. It is about having that middle ground and making sure that people are heard.

Ms LOBO: And building the expertise of schools to actually be able to handle complaints in an effective and sensitive way.

Ms COHEN: It is kind of unfortunate that complaints have such a negative connotation to begin with. Really at the end of the day it is about feedback. If you can take on feedback you tend to have really great outcomes, so it is a discussion. We do not get things right the first time pretty much any time. If a family is able to feed back and say, "This is not really working for us", there is a good chance that it is not working for five other people, whether they have a child with a disability or not. The more conversations that we can have with teachers and principals—it is what you have heard a lot about; changing that to a culture of inclusion. If we can start having those conversations at a local level we are going to see that those things will change.

The Hon. DUNCAN GAY: It may be just me, but I am confused about your role and NDIS; the similarity in the names. Can you give me a quick clarification? I am almost too embarrassed to asked the question in case I was the only one.

Ms COHEN: I work here and I still get confused so I understand.

Mr NEWTON: It is very easy, especially with the letters being so close to one another.

The Hon. DANIEL MOOKHEY: Did you steal their copyright or did they steal yours?

Mr NEWTON: They stole ours! I am pretty sure we encouraged them to go a little bit further away. As Ms Lobo has mentioned, we are basically a member organisation. We represent disability service providers—a lot of the time that may be making recommendations on behalf of disability service providers to the National Disability Insurance Agency, which is the implementation body of the National Disability Insurance Scheme. I presume you know a little bit about the NDIA—it is a Federal body basically designed to implement the scheme—and we are a not-for-profit, member-funded organisation and we primarily represent disability service providers.

Reverend the Hon. FRED NILE: For non-government organisations.

Ms LOBO: We are supporting them at the moment to transition their business models to be able to cope with that cost-recovery model or business-like model they need to operate in. It is a massive shift for those organisations and their capacity to support education and to prop it up, which they have done so far and it is diminishing in some senses.

The Hon. DUNCAN GAY: The key is you represent the providers.

Mr NEWTON: Correct.

The Hon. DANIEL MOOKHEY: In your submission you introduced a concept we have not heard as much about, certainly in the language you use, which is "personalisation of education". Can you give us an expansion of what that means?

Ms LOBO: In terms of our work being heavily focused on the NDIS, it is all around putting the person with disability at the centre of all decision-making around their needs.

Reverend the Hon. FRED NILE: Is that the individual education plan idea?

Ms LOBO: Education plans align with the person with disability having a National Disability Insurance Scheme plan as well. It is looking at that child's goals and looking at other supports around them that are needed to achieve that goal and not standardising support but tailoring group learning to that child so that they can be included as well.

The Hon. DANIEL MOOKHEY: In an NDIS setting, because the funding is available at the client level and is client directed, that means that the personalisation is meaningfully backed up by spending power.

Mr NEWTON: That is the theory.

The Hon. DANIEL MOOKHEY: That is the theory—we are still finding out whether that is true. In education, in the absence of such a mechanism of the funding devolving to the student, how would a personalisation plan, process or policy work?

Ms LOBO: In the absence of NDIS funding?

The Hon. DANIEL MOOKHEY: Short of us going to voucher-style education funding, which might be more controversial than this Committee could perhaps examine, if the funding is not going to devolve to the student and be student directed, how would you be able to have a like personalisation plan in education? Do you follow?

Mr NEWTON: I think it is difficult because maybe it goes back to the division that was addressed previously this afternoon about what is the role of education and what is the role of the NDIA. The NDIA is not going to provide education. There are questions over whether or not, and the degree to which, it will facilitate the provision of education for a person with disability. If a person needs an interpreter to be in a classroom to receive the same level of education as a person without disability, in our understanding, it falls on education to provide that.

The Hon. DUNCAN GAY: I am looking at the notes I took when you were talking about school-to-work. If part of the NDIS package that went to the student was school-to-work, it may well be provided by the same provider who provides education.

Ms LOBO: The NDIS will not actually support education—

The Hon. DUNCAN GAY: I am asking the question.

Ms LOBO: Under the NDIS, education providers will not fall under that scheme. They will not be able to deliver NDIS supports. You need to be a registered provider to deliver NDIS supports, and to achieve that registration there are various areas. The NDIS will in some cases supply some of that school-to-work transition, but that is mainly post-school, whereas in-school preparation and career planning is probably a grey area, but education and New South Wales schools would be responsible for most of that.

The Hon. DUNCAN GAY: I was not necessarily talking about the NSW Department of Education schools.

Ms LOBO: But all schools across sectors.

The Hon. DANIEL MOOKHEY: Are you familiar with the Every Student, Every School policy?

Ms LOBO: We did not comment on that policy in our submission because we did not receive evidence from our members around that.

The Hon. DANIEL MOOKHEY: That might be indicative of the question I was going to ask, which is: Are you seeing the widespread use by principals of disability providers that you represent? Are they using that money and the new flexibility and autonomy that they have to partner with disability organisations in schools? Do you have any evidence of that?

Ms LOBO: There are a lot of great examples of partnerships between schools and disability service providers. Another provider who provided a submission to this Committee, Northcott, has some really fantastic examples where it has built the capacity of teachers through a program called SPOT, which is Speech Pathology Occupational Therapy. It has done that in Western Sydney, the Hunter and the Central Coast as well.

The Hon. DANIEL MOOKHEY: Is it exceptional for there to be this level of collaboration, or is it normative?

Ms LOBO: There are some schools that do not have a closed-door policy towards external providers coming in, but certainly some schools see that as an additional thing to monitor in terms of the principal being responsible and having that duty of care around the welfare of students. Having external providers coming in constantly, we have been informed, has been a bit too onerous for schools.

The Hon. DANIEL MOOKHEY: Is that because if a disability organisation has to come into a school it has to meet all the requirements, such as background checks and Working With Children Checks? Is that what you are referring to when you say "onerous"?

Ms COHEN: There is that aspect but when we had the person from Education come in, it was about making sure that when providers did come into the school it was for educational outcomes—which is understandable. That is fine. You have the example that at one particular school there were more than 100 different providers that would come to the school to provide different sorts of support. You can understand that that is a huge responsibility for a principal have to manage. But disability organisations are here because we have the expertise and skills to provide that help to schools, so why not make the most of that? Certainly some of the experiences we have heard are that there is a lot of resistance. It tends to be the norm that there is more resistance to have people in. Maybe it is because of the administration function around having those checks or whatever it might be, but also being able to accommodate that in a safe and appropriate way. Having a specialist come into a classroom: how disruptive is that? Do they need an extra space within the school? Who provides that supervision? There are lots of factors to put into that, but if you look at the positive contribution that providers can make, such as the programs that Ms Lobo just cited, it is around capacity building.

The Hon. DANIEL MOOKHEY: Is there awareness of what the sector could do for schools and students within the department or the school system—not just public but also private and Catholic as well?

Ms COHEN: Do you mean from an educator's point of view?

The Hon. DANIEL MOOKHEY: Yes—for example, are the principals of all these schools actually aware of the services your members are able to provide them under this policy?

Ms LOBO: It is very hard to say but, based on the members that we know, we support them and they are the ones that tell us of the stories where they do work well with schools. But we do not know of the stories where schools are not working well with the disability service providers. But we think it is invaluable that service providers are able to access schools. Obviously there are challenges for schools to have people coming onto their grounds—

The Hon. DANIEL MOOKHEY: When you say "invaluable", you mean for students.

Ms LOBO: For students, yes, absolutely.

Ms COHEN: For the whole school community. I mean, there is a saying in the disability sector that you want to do yourself out of a job. If a service provider is going into a school and doing its job well, essentially you are passing it on—that is what capacity building means. It is being able to transfer those skills. Rather than providing more sort of clinical staff therapy, you can upskill a teacher and that teacher has that skill for life. It does not just benefit that one student that they are there for. Everybody has such different learning styles and needs within that sort of school environment that it has better outcomes for the whole school community.

Ms LOBO: There are stories where a lot of teachers have been resistant to listening to the advice of disability experts and even ignoring the advice they have for input into the education plans. We think that is again due to a resistance and lack of knowledge around disability

Reverend the Hon. FRED NILE: One of my concerns when we talk about "providers" is that, for example, a lot of commercial people have seen child care as a way to make money and have set up childcare centres. Is there a danger of commercial people becoming providers who do not have a real concern for the disabled person but see it as a way of making money?

Ms COHEN: It is an interesting time when you open up a market like this that has predominantly been overseen by not-for-profits. We are not in it for money, but it would be nice to make money. It is an underpaid area. Sure, why not? There might be providers that see that as a money-making opportunity.

Reverend the Hon. FRED NILE: I am not referring to the NGOs; I am referring to commercial companies.

Ms COHEN: For commercial companies, even for other people as well, whatever it might be. I guess that is why there are lots of safeguards in place within the disability sector. That is what we have seen as a gap as well. We have the framework that the disability sector will be undertaking and there seems to be a serious lack within the education system around such safeguards. That was definitely one of our recommendations as well, for the education system to adopt something similar where there are safeguards put in place to make sure that best practice is happening, whether that is around encouraging better support with positive behaviour or best practice in other areas as well.

The CHAIR: Sadly, our time has now concluded. Thank you for your evidence. You did not take any questions on notice, so I do not have to advise you in relation to that. Thank you also for the work you do in the sector.

(The witnesses withdrew)

(The Committee adjourned at 4.32 p.m.)