

REPORT ON PROCEEDINGS BEFORE

PORTFOLIO COMMITTEE NO. 3 – EDUCATION

**EDUCATION LEGISLATION AMENDMENT (PARENTAL RIGHTS)
BILL 2020**

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At Macquarie Room, Parliament House, Sydney, on Wednesday 21 April 2021

The Committee met at 8:15

PRESENT

The Hon. Mark Latham (Chair)

The Hon. Anthony D'Adam

The Hon. Wes Fang (Acting Deputy Chair)

The Hon. Scott Farlow

The Hon. Courtney Houssos

Mr David Shoebridge

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The CHAIR: Welcome to the second day of the hearing of the Portfolio Committee No. 3 – Education inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020. Before I commence, it is the custom of this Parliament to acknowledge the traditional inhabitants of this land, the Gadigal people of the Eora Nation. I do so with all due respect as well as acknowledging other important contributors to the history of this site—those who constructed the Parliament House building, very often working in a dangerous industry, and the parliamentary staff over many decades who have supported members of Parliament and made our work in a representative role possible. We acknowledge and thank them all.

Today we will be hearing from a number of organisations concerning this bill, as we did yesterday. We thank them all for their participation. The hearings will be broadcast live on the Parliament's website. In accordance with the broadcasting guidelines, media representatives are reminded to take responsibility for what they publish. Parliamentary privilege applies to witnesses giving evidence today, but it does not apply to what witnesses say outside of their evidence at the hearing. I therefore urge witnesses to be careful about comments they make to the media or to others after they complete their evidence and also to avoid adverse reflection on others under the protection of parliamentary privilege. We ask that you stick to the issues, as per the inquiry terms of reference, and avoid naming individuals unnecessarily.

All witnesses have a right to procedural fairness, according to the resolution of the House. If witnesses cannot answer a question or they need more time or they need to consult documents, it is available to them to take that question on notice and furnish the Committee with a response within 21 days. Would everyone speak into their microphones, particularly with the videoconference system. There are no spectators in the public gallery, unlike yesterday, so I do not need to go through that procedure. Finally, I ask everyone to turn off their mobile phones to silent for the duration of the hearing and those participating via videoconference to please mute their microphones when they are not speaking.

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KIRRALIE SMITH, National Spokeswoman, Binary Australia, sworn and examined

JOHN HALDANE, Individual, before the Committee via videoconference, sworn and examined

MARY HASSON, Kate O'Beirne Fellow, Ethics and Public Policy Centre, before the Committee via videoconference, sworn and examined

The CHAIR: It is available to each of the witnesses to make a short opening statement to the Committee as part of these proceedings for a few minutes if they choose to. Kirralie, you do?

Ms SMITH: I do, yes. I find it quite interesting and farcical that we can have this kind of inquiry without the definitions of the term "man" or "woman". I think that they are very crucial to this kind of debate. Without such definitions, there is confusion, bias, discrimination and inaccuracies. On one hand we are teaching our school students scientific methods and evidence-based practices but on the other we are saying, "Reject the science in favour of an ideology that relies on stereotypical feelings and appearances." The terms "man" and "woman" have historically and scientifically been synonymous with the biological reality of male and female. As we know, our DNA is written on every single cell in our bodies. It identifies us as unique and marvellous individuals. Do all people have all aspects of a perfectly functioning biological system? No, of course they do not. However, the components are evidence-based and determine our genetic and biological make-up, which in turn dictates the reality of our lived experience. These components are measurable, observable and reliable—otherwise known as science.

In 2013 the Anti-Discrimination Act de-gendered the language and conflated sexual orientation with gender identity. This has created an absurd situation where lesbians, gays and bisexual orientations depend on biology whereas the transgender ideology or identities reject the biological reality. Now the official statement from every Minister for women in this country, including the New South Wales Minister for women, Bronnie Taylor, can be summed up by the nonsensical expression, "Anyone who wants to be a man can be and anyone who identifies as a woman is a woman." But how can you identify something if it is not defined? How can you identify as a man if we do not know what a man is? Worse still, how can a man or woman be reduced to a set of emotions or feelings or a stereotypical appearance? To say, "I feel like a woman," does not make a person a woman. Who can say what a woman feels like? It is not measurable, definable, consistent or reliable. Women's feelings, as we all know, change all day every day and we are the butt of many jokes when it comes to that.

To say "I feel like a woman" because of my dress or high heels or make-up is insulting and infantile. That is simply dress-ups. The lived experience and oppression for women is directly correlated to our biology. Menstruation, pregnancy, breastfeeding, motherhood, menopause, our physical capacity and strength all dictate this. Oppression, sexual harassment and abuse is a direct result of our sex-based reality. These definitions are absolutely crucial to this inquiry. Gender fluidity is an ideology rooted in feelings and stereotypes that have no scientific basis. Gender fluidity is at odds with the scientific method that we expect our school students to adhere to. Gender fluidity is a political ideology that has no place in our schools. Parental rights are essential to this debate and if scientific facts cannot be relied upon, then what can be relied upon? Parents have the right to expect their children to be educated, not indoctrinated, in New South Wales public schools. Schools must stick to teaching scientific, evidence-based facts and steer well clear of political ideologies. Thank you.

The CHAIR: Thank you, Kirralie. Mary, do you want to make an opening statement?

Ms HASSON: Yes. Thank you, distinguished members. I appreciate the chance to speak with you today. I have worked extensively with government and faith-based organisations and parents organisations nationally and internationally on education and parental rights as they relate to sexuality and gender. In my brief remarks here I want to highlight three particular reasons why I support the education parental rights bill, because it prohibits the teaching of gender fluidity and aims to protect the primacy of parental responsibility for instilling core values in their children. First is that gender fluidity is an ideological, contested and evolving set of beliefs and as such it has no place in the primary and secondary educational environment. The language of gender ideology, or the ideology of gender fluidity, has changed over time and continues to evolve. The definition and understandings of gender and terminology related to gender fluidity are vigorously contested in international arenas such as the United Nations. If diplomats vigorously contest these ideas, they have no place being presented to children as fact.

Activists, including some submissions to this parliamentary Committee, themselves disagree over the nature of gender and its fluidity. Again, if activists dispute these points among themselves, why should they be taught as fact to children? Gender fluidity ideology is contested by a broad spectrum of groups globally from radical feminists to atheists, biologists, parents of all religious and political beliefs, and faith leaders. Secondly,

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imposing gender fluidity in the classrooms or schools causes harm to vulnerable children. There is evidence that the school requirement can serve as a catalyst to gender fluid social [function] causing vulnerable children or adolescents to become confused about identity and some to seek harmful gender transitions, oftentimes without their parents' knowledge or permission. We have detransitioners' testimonies about the extent of school exposure to gender ideology and the role it played in their own journeys. We have research from people like Lisa Littman, who researched the views of parents of trans-identifying kids and reported on the social contagion effect. We have statistics that show an unprecedented rise in numbers of teens embracing a fluid gender or declaring a trans identity and this rise corresponds to the increasing exposure to gender fluidity concepts in schools and in media.

Third, allowing schools to teach gender fluidity usurps [audio malfunction] not only to [audio malfunction] their children in values but also to protect them from actual harm. As several witnesses testified yesterday, school officials might conceal a child's expression of gender fluidity from parents simply because the school judges the parents to be unsafe. But the law presumes that parents act with the child's best interest in mind. By permitting teachers, staff, counsellors to unilaterally decide to prevent parents from knowing or acting on a matter of such primary importance as identity, the law would flip this presumption on its head, presuming that every parent cannot be trusted unless proven otherwise and presuming that teachers are somehow better positioned than parents to decide what is in the child's best interests. This bill would prevent that from happening.

When parents are kept in the dark about gender ideology and about what children are exposed to related to gender fluidity, they face an increased risk of harm. School officials and others do not know of, or may disregard, a child's personal history—perhaps trauma or abuse or other diagnosed conditions, whether autism or mental health issues. They may play a role in a child's identity concerns. Parents are the ones who need to be free to decide what to expose their children to in terms of information that may be confusing or harmful and how much and when. This bill protects that parental authority to make those decisions on behalf of their children with the idea that parents know best what their children need and to do otherwise would be to undermine not just parental rights but that precious bond between parent and child.

Professor HALDANE: I would be reading a statement but I would like, if I may, to make a few brief opening comments. You, Chair, referred to the fact that you received a large number of submissions from organisations. I have taken the opportunity to look through a number of those submissions. Many, as you know, come from religious groups, ideological groups, political groups, activists and so on and other invested parties. I should make clear at the outset that I am not representing any organisation and nor am I approaching these matters through the point of view of any religious ideological or political stance. My approach is that of an academic philosopher.

I think that two sets of issues are raised in relation to this legislation. One draws on questions to do with anthropology or human nature, and these are matters on which I have written from the point of view of a philosopher. The second set of issues I think are ethical ones to do with propriety of public policy but also to do with the special position of parents in relation to the education of children. In my presentation, therefore, in the submission paper I address these matters in turn, beginning with the role of the family, and I am happy to address questions that may be raised.

I should perhaps just add a methodological point which is that in the discussions of public policy, particularly within the Anglosphere—the United States, UK and Australia—there has developed over the last 20 years or so a concern with the idea of public reason. That is to say that arguments and reasoning given in relation to public policy should be of a sort that invoke concepts that it is reasonable to expect that parties will appreciate and agree to and to try to avoid, wherever possible, controversial concepts, notions and arguments. I have sought to follow that standard of reason. It is not one that is universally accepted. Some people find it unduly constraining, but I am working within a broad liberal tradition. The ancestor of that principally I suppose lies with John Stuart Mill on liberty. I think that the possibilities of addressing serious questions for public policy are advanced, not inhibited, by operating on a basis of trying to advance our aims in terms of public reasonability. So far as the substance of what I have to say is concerned, perhaps I could just draw the attention of members of the Committee to the conclusion of my submission in which I say:

Whatever view might be taken philosophically or psychologically of the issue, what is clear is that the very notion of 'Gender fluidity' and of kindred notions is theoretically highly controversial, contested, and practically challenging inasmuch as it is taken by advocates to ground moral and political claims of recognition and rights. As such while it might be a matter for discussion in the Humanities and Social Sciences learning area of the ... Curriculum (presumably in relation to Civics and Citizenship) it could not and should not be presented as uncontroversial, and the sorts of points summarised above would need to be cited along with the views of advocates.

To do otherwise would be intellectually dishonest and educationally unprofessional; and to do so in the face of opposition from parents would be to violate their rights in respect of the moral education of their children cited earlier and implied in the Universal Declaration of Human Rights ...

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Specifically article 16.3 and article 26.3, the latter stating that parents have a prior right to choose the kind of education that should be given to their children. With that brief summary and those remarks, I am happy to conclude.

The CHAIR: If I could start the questioning to each of the panel members—Ms Hasson from your public policy expertise, Professor Haldane from a philosophical base and Ms Smith with these case studies that you presented in your submission. Could I ask each of you, have we now got to the point that the teaching of gender fluidity for children as young as three, four, five or six years old is a form of child abuse?

Ms SMITH: That is certainly what many of the parents or community members who are contacting me are claiming, absolutely. They are saying that their children are becoming very confused and not being taught factual information in their schools and particularly in the preschools, where the books are being read and the "days" are being entered into, and this is causing great confusion for the children. They do feel that that is a form of child abuse.

Ms HASSON: I would agree. We have seen cases, certainly in the United States, where children have been so confused that they are under emotional distress and their parents have had to seek psychological treatment for them, simply because they are being told something that is not true and that introduces doubt to them about their own circumstance. I think it is also abusive for the schools to step in and be a wedge between parent and child and to encourage some sort of secrecy. Again, we have seen in the United States, in the UK and from what I gathered from the testimony yesterday increasing willingness on the part of schools to hide salient facts from parents about whether a child is questioning or struggling with their identity. For a school to interject or particular school personnel to interject, their own theological beliefs into a situation like that and to cut parents out is abusive. It is a different kind of abuse but it completely usurps that relationship and sends a message to the child that their parents cannot be trusted.

Professor HALDANE: Again, in looking at many of the submissions, pro and con, I am conscious of the fact that a number of those who have written have presented their ideas in a somewhat rhetorical fashion. I think rhetoric has a part to play but I am concerned about a sort of rhetorical inflation and escalatory language. I would not use the expression "child abuse", in part because of its current connotations, culturally speaking, specifically with regard to sexual abuse. But I do think, that said, that it is an abuse of the role of the teacher to usurp the values of the parents and particularly at an early age when parents and the home more generally have a formative role and is providing a context in which children are coming to understand themselves as human beings and what that means. The nature of relationships is those that are given to them in the most immediate form within the family. For schools to seek to influence, through a kind of advocacy and instruction, children's perceptions of such controversial matters [audio malfunction].

The Hon. COURTNEY HOUSSOS: I thank all of you for your time and for your submissions, especially our international guests. I think someone might need to be on mute.

The CHAIR: Professor Haldane and Ms Hasson, would you mute while you are not speaking please because the interference is coming back through. Thank you.

The Hon. COURTNEY HOUSSOS: Thank you very much for your time. It is heartening to know that even over there in the States you are keeping an eye on us, Ms Hasson. Professor Haldane, my first question is to you. One of the things that we have heard is that there is a strong basis in international conventions for parental rights. That is across a number of different international conventions and you talk about those in your submission. Another submission that we have received has talked about a particular part of the UN declaration on the rights of the child and says that actually might override this view of parental rights. What is your position, or what would your view be on that particular debate?

Professor HALDANE: With regard to that I think there are two points. So far as the legal issue is concerned, that obviously is a matter that would be argued out in civil law applicable with regard to where you have got, as you say, the sort of adoption of international declarations and so on. I am not going to try to second-guess what would be the arguments given or the resolution in the context of that being taken before a court, though myself I would expect that the parental rights would trump. But let me say as a second point why it is that in the Universal Declaration of Human Rights the rights of parents were given emphasis. It relates to two matters: one is with respect to having a family and the other one is with respect to the kind of education that would be given to children. The roots of that are very deep indeed and it is very simply this, actually, that the natural context in which children come into the world and in which they develop some kind of self-consciousness through mutual recognition, through coming to see others seeing them and coming to see themselves as objects of affection and love in the eyes of others, that context—the primary context of that—is exactly the family.

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Moral education goes on from the earliest stages, even in the nurturing stage in the relationship between the mother and the child, as I say, coming to that mutual recognition in which each sees the other seeing them in that mutual gaze. In all of that I think there is a primary kind of formation that takes place. The role of organised education—and, of course, let's remember most education historically has not gone on within the institutions of things like schools and so on and in many places still does not go on in schools, and even where it does go on in schools that is often at a later stage. So the primary responsibility for moral education lies with the home. Because they have the primary duty, they also have the correlative rights with regard to that. Now obviously in an organised society parents deputise that responsibility, or at least part of that responsibility, to others through schooling. That is part of the division of labour that takes place within society. But in deputising part of that role to teachers and to others, they do not in any way relinquish either their responsibilities or their correlative rights with regard to that. That seems to be the philosophical foundation of this idea, and it is precisely that sort of argument that I expect to see put forward in any context in which the matter was being litigated or disputed.

The Hon. COURTNEY HOUSSOS: Thank you very much, Professor Haldane. I just wanted to ask you one more question about your submission. You talk about longstanding scientific, medical, philosophical and anthropological understandings and that the terms that are being generated are part of a broad cultural and political movement involving advocacy of changing ideas and norms and criticism of existing ones. In your experience as an academic, what would be the normal expectation around academic debate before this would be introduced particularly to very young children?

Professor HALDANE: I am not absolutely sure that I understand that. Do you mean what would be—sorry, could you just clarify that question a little?

The Hon. COURTNEY HOUSSOS: Sure, sorry. On page 2 of your submission you state that there are changing ideas and norms and criticism of new ones by those who propose that we should teach this in our schools. But you say that these terms are not generated in line with longstanding scientific, medical, philosophical and anthropological understandings. Can you just explain that a little bit more?

Professor HALDANE: Yes. In relation to that it might be worth me just picking up points that were made in the submission which you did not quote with regard to the distinction between what I called concepts and conceptions. Where a concept has become stable in discourse—scientific discourse or other discourse—it has criteria for its application. That is to say conditions that have to be satisfied for its correct application. In scientific discourse and in philosophical discourse and other regimented rigorous discourse—analytical discourse, if you like—these conditions for application are objective. That is to say there are objective standards for the correct application of the term. There is a sort of weaker basis that might sometimes be drawn upon, which is sort of intersubjective agreement. It is not objective; people are not asserting that these are, as it were, factual, but they are matters of common agreement. And then beyond that you have something that would just really amount to individuals asserting that they intend to use a term in a certain way or not.

In the resolution of the matter, what we would be looking for is some sort of objective foundation. My point is this: The concepts "male and female" are well defined and have objective criteria for their application. The concept "gender", which is used in its contemporary usage even by theorists advocating its use, is seen not as having objective criteria but as having something like cultural or social or intersubjective basis. The more radical position associated with something like gender fluidity even gives up on that because it does not even think that the notion of gender can be well defined, but rather that, as it were, it is determined by the individual themselves. So it is simply a question of an asserted identity. Now that would not pass muster in the context in which one was trying to debate matters in a way that was sort of rigorous, well defined and sought to meet agreed criteria. So that really is I suppose what I was saying, that this is where it reveals the extent to which these are contested notions and even the very coherence of gender fluidity is contested.

I should perhaps add—I am sure you are well aware of this. I do not know whether you have submissions relating to that, but it is most vigorously challenged currently in the academy actually by feminists—more specifically, I think, by lesbian feminists, and to some extent also by male gay writers. But it is a matter of controversy within the academy. But the controversy consists of the opposition to notions of gender fluidity presented by advocates of earlier gender theory and of course those who even have escaped the concept of gender and would prefer simply to refer to the more traditional established notions of male and female. So it is that contested and controversial character that I think is important when thinking about the suitability of introducing notions in any context other than simply a sociological one of reporting the fact that some people say these things. That is a different matter. There will be a place for that.

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The Hon. COURTNEY HOUSSOS: Thank you very much. Leading on from what Professor Haldane said just then, Ms Hasson, your submission actually says that these concepts should not be taught until university. What is the basis for that?

Ms HASSON: The point there was that these concepts of gender fluidity as it is being debated currently within the academy and within political spheres is such an indeterminate and contested nature that it is not the kind of thing to present to children as part of their formative education. So that is one thing. To pick up on something in the question that you directed to Professor Haldane, the Convention on the Rights of the Child talks about the right of the child to have access to information but according to evolving capacities of the child. There is a recognition that as children become old they are more able to discuss and to analyse certain concepts, even those that might be discordant with their learning at home.

Part of that is a parental judgement there about when a child is ready to be exposed to that, because children mature at different rates. They are ready to absorb or analyse information at different ages and stages and in light of certain experiences. In my submission when I said that it was not appropriate in primary and secondary education, that is because the nature of this particular issue—gender fluidity—is not only so contested but so at odds with the [audio malfunction] understanding, scientifically evidence-based nature of the human person that has been widely accepted. You do not overturn that just because it has been batted about in academic circles, even for a decade or two. It is still contested. It is not something you can measure or can prove, so it is not suitable to be given to young children who are still in the stage of receiving information. They are not at the stage where they are analysing, dissecting and forming their own opinions, as they would be at a university level.

The CHAIR: Thank you. The Hon. Anthony D'Adam, Committee member from the Opposition party.

The Hon. ANTHONY D'ADAM: I just want to ask Ms Smith a couple of questions. Can I just clarify that you are Kirralie Smith, the anti-Islam campaigner? You are the same person, are you not?

The CHAIR: I am ruling the question out of order because it is not relevant to the terms of reference. We were all something in the past, but—

The Hon. ANTHONY D'ADAM: I just want to clarify the witness's credentials.

The CHAIR: No. That is out of order and you are being silly. Move on.

The Hon. ANTHONY D'ADAM: I am not being silly. I want to know if this person is the same person.

Ms SMITH: I am the national spokesperson for Binary Australia. I am in that capacity here.

The Hon. ANTHONY D'ADAM: Can I ask you about Binary Australia? When was that organisation established?

Ms SMITH: It came out of Marriage Alliance after—it was 2017, I think—the debate around same-sex marriage.

The Hon. ANTHONY D'ADAM: So when did you become involved in Binary Australia? Were you a founding member?

Ms SMITH: Yes, absolutely.

The Hon. ANTHONY D'ADAM: Were you the driving force behind it?

Ms SMITH: There were several people.

The Hon. ANTHONY D'ADAM: And when did you switch from hating Muslims to trying to direct hate towards trans people?

The CHAIR: Okay, the question is out of order. We are not here to be abusive towards witnesses. You must stick to the terms of reference, please.

The Hon. ANTHONY D'ADAM: Okay. I will ask about your submission.

The CHAIR: Good idea.

The Hon. ANTHONY D'ADAM: You have cited a couple of emails, I think, that have been directed towards you. I want to ask about this email from "T.W.". You are aware of that?

Ms SMITH: Yes.

The Hon. ANTHONY D'ADAM: It is a person talking about their niece. Is that right?

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Ms SMITH: That is what I understand it to be, yes.

The Hon. ANTHONY D'ADAM: Yes, okay. It seems that in the case study that you are citing here, the parent of the child in question—the one that the aunt or uncle, whoever it is, is raising concerns about—is affirming the decision of the child or of the identity of the child as a trans child. Do you think in the circumstances that parent's choice to guide that child should be affirmed?

Ms SMITH: I think that this email—it is one, as you can see, it is one of several emails that this person has sent to me. In the context, it was about the broad spectrum of people influencing this child and there was talk of schools, medical people, parents and whatnot. The simple answer is: No, I do not agree with your premise.

The Hon. ANTHONY D'ADAM: You do not agree—

Ms SMITH: No.

The Hon. ANTHONY D'ADAM: —that that parent is making a choice that they think is in the best interests of their child?

Ms SMITH: Because I think that there are broader people who can speak into that, and that is one example of where there has been influence at school, there has been influence in society and there has been influence from different sectors.

The Hon. ANTHONY D'ADAM: Do you think being trans is a sin?

Ms SMITH: I think that is irrelevant to this discussion.

The Hon. ANTHONY D'ADAM: I am just trying to establish the basis for the position that you are taking.

Ms SMITH: I think that you are using very inflammatory terms like "hating people" and "sin", and I am not using those terms. I am not going to be drawn into you, as a male, trying to use inflammatory language that is completely irrelevant to my submission.

The Hon. ANTHONY D'ADAM: I am going to pose a situation where a teacher is in a classroom. They are a case similar to the one you have identified with T.W., where a parent is affirming the identity of a child. The child is a trans child. They are in a classroom. Do you think it is inappropriate for the teacher to not use the preferred pronouns of that child?

Ms SMITH: I think it is part of a much bigger question. I think that every individual deserves respect, but there is a lot more to it than this, because this will also affect other children. It will affect school policy. It affects things like this, and we are talking at a policy level right here, not at an individual level. And so, at a policy level, the schools need to be able to confidently write policies that are based on facts and realities, not based on ideology and feelings.

The Hon. ANTHONY D'ADAM: Okay, so you think—

The CHAIR: The Hon. Scott Farlow? We have to share the questions around. You have had five or six and we have got two other members. Our international guests need to leave at nine, so I am sorry.

The Hon. SCOTT FARLOW: Thank you very much, Mr Chair. Ms Smith, I am just interested in these examples that you have outlined, as well. Are any of those in New South Wales that you are aware of?

Ms SMITH: Yes, some of them are.

The Hon. SCOTT FARLOW: Can you identify which ones, at all?

Ms SMITH: I will have to go back—

The Hon. SCOTT FARLOW: You can take that on notice, perhaps.

Ms SMITH: Yes, sure.

The Hon. SCOTT FARLOW: That would just be interesting, particularly when it comes to some of the education examples.

Ms SMITH: No problem.

The Hon. SCOTT FARLOW: That would be good to know in terms of what is being taught or professed to be taught in New South Wales schools on that part. Just for our international witnesses, I am wanting to just turn to a couple of other questions. I am interested very much in terms of parental rights and the position

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of parental rights when it comes to education. I am not sure if you have got any ideas or understanding in terms of how that is implemented in schools both in the UK and the US and how that may be different from what we do here in New South Wales?

Professor HALDANE: Sorry, [inaudible]. The situation—I mean, I am not an educational lawyer. The situation with regard to the United Kingdom and the United States is significantly different between those, given the nature of their education systems and particularly in regard to the United States the fact that education for the most part is a matter of State law rather than Federal law. I am sure that could be spoken to by Mary Hasson. In the UK there has been a very strong tradition of the idea of teachers functioning in loco parentis. Of course there have—you will, I am sure, be aware, as there are in Australia also—been some recent controversies, particularly surrounding schools with large Muslim communities, with regard to not so much parents but actually activist groups and using parents as a medium of trying to influence school in certain ways, and so on. But I do not know that I would be in a position to be very helpful with regard to a comparative analysis.

The Hon. SCOTT FARLOW: Ms Hasson, is there anything that you could add from the US perspective?

Ms HASSON: Sure. We generally have the perspective that parents are working with the schools and that the school—that the power resides on the local level in terms of determining curriculum and determining particular procedures and policies. So it is not from the top down; it is very much local. But even with that, because of the rise of ideology relating to gender, there are several lawsuits that have been filed in the past six months to nine months suing school districts that have chosen to promote the ideology of gender fluidity without parental permission, or even facilitating a child's social transition without letting the parents know that the child, for example, requested the use of pronouns.

So these issues are very much contested because of that tradition of respecting parents' rights, and I think we are going to see more of this because of some indications from the Biden administration that they are going to be pushing this. And yet there is a significant backlash among parents, who are very concerned. They know their kids best. They want to be the ones making the decision. They do not want the schools—and they feel it is a violation of due process and their own parental rights for schools to intervene and to form children in this direction according to this ideology without parental notice or permission.

The Hon. SCOTT FARLOW: The bill before you, of course, outlines gender fluidity, defines it and, of course, gives it a special position under the Act, being actually prescribed. There is a whole range of things that parents may be concerned about or object to that their children could potentially be taught. I am just interested in terms of whether there is a process that occurs in either the US or the UK where parents could have their concerns—whether they can take those up with the school, whether they can withdraw their students from certain programs that are undertaken by the school or whether they can object to their children being taught something.

Ms HASSON: Sure. At least in the United States—again it depends on the State—many States, regarding controversial subjects, for example, things related to sexuality or gender, will give parents an opt-out where parents for any reason can decide to opt their children out of instruction pertaining to sexuality because that is recognised as something sensitive and really belonging to the family first, and that it may be delegated to the school but that parents retain that right. As far as other subjects, there is less leeway. So, for example, if a parent objected to a particular approach to teaching math, they had to go through a much more rigorous process perhaps to contest the curriculum materials or they would work on a personal basis with the child's teacher and ask for something that they believe would fit better. So there is a distinction between subject areas that are non-controversial—science, things like that, geography—versus things that relate to the formation of the person and the upbringing of the child, where it is recognised that parents have a greater interest. So there are procedures in place that vary and parents who exercise those options.

The Hon. SCOTT FARLOW: Thank you. That is it from me.

The CHAIR: The Hon. Wes Fang, who is also a member of the Government parties.

The Hon. WES FANG: Thank you all for appearing today. This is a question for all three of you. Yesterday we heard from a number of advocacy groups, and they made the point that children who are school aged are certainly able to determine for themselves about their issues around gender and that it has come up at quite an early age for them. But these are typically the same groups that are also pushing for a change in, say, the age of criminality from 10 to 14 because they say that a child has not yet formed right and wrong and the ability to determine right and wrong. So I find both of those things at odds with each other, and I am wondering about your opinion on this and how they can be reconciled.

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Ms SMITH: I do not think they can be reconciled, and we do have laws surrounding children making decisions about life-altering concepts such as getting a tattoo, getting married, driving a vehicle, drinking alcohol. There are a lot of different concepts that we recognise are all due to brain development and immaturity, and I think that this gender fluidity concept goes with those sorts of things. As we know, not a lot of rigorous studies have been done because of cancel culture and the rest, but we do know that there have been studies that 80 per cent to 90 per cent of children left without interventions do embrace their biological sex as adults. So I think that is an excellent point that you and those groups have brought up.

The CHAIR: Professor Haldane or Ms Hasson?

Professor HALDANE: Go ahead, Ms Hasson.

Ms HASSON: I would agree that there needs to be a recognition that a child's maturity develops over time and that, generally speaking, what we see is a recognition of that. So you do not drive until 16. Over here you cannot drink alcohol until 21, you cannot vote until you are 18. We have these graduated steps. But what is happening in the nature of gender fluidity and the whole contested area of gender identity is that there is a pressure from the activists to say that children, even very young children, somehow know that their identity is something different from and at odds with their biological sex. I can tell you I have raised seven children, and there are many things that children think and believe with great persistence and hold onto rigorously where they are simply wrong; and that is where adults need to be making sense of reality for a child, and the basic reality here is that they are male or female. So even the promise of having, choosing or declaring some other gender identity is not going to change that fundamental reality.

One of the things I am hearing from parents whose children become persuaded of this—for example, in school or through social media—is that their children have very unrealistic perceptions about what is possible. And yet if you look at the informed consent documents of the gender clinics that are doing interventions, they state specifically that they are not changing anyone's sex—that is simply not possible. But children will latch onto this idea, and that is one of the things we need to protect them from. And so I think I would look askance at activist groups that are promoting the idea that young children can make these decisions for themselves when we would not let them [audio malfunction] things that are going to have lifelong consequences and make those decisions for themselves.

Professor HALDANE: Could I just supplement that perhaps by saying that across a whole range of areas to do with the stages of development and so on with regard to a child—and indeed this is true of many adults also—we would not regard [audio malfunction] in question—the child or perhaps an adult—as having a kind of first-person authority on these matters of identity. That is to say, whether somebody is or is not of a certain sort or does or does not have a certain sort of character, let us say, are not matters that can simply be resolved by claiming to be such and such or to have such and such. In these circumstances—this is one of the important roles of parents and of educators also—we have to sort of help children along, not by, as it were, taking their own declarations of their identities as simply settling the matter but trying to trace those within the context of an understanding of, indeed, their variability, changing character and unsettled character and, to a degree, not very deeply rooted often aspect of people's responses to things.

If I could, by the way—I know your time considerations and so on—but just on the matter of the parental say, Mary Hasson talked about recognising parental interests. I think it is actually stronger than that; it is parental rights. In fact, there are different jurisdictions within the UK, both in Scotland and in England, but in the various changes and introductions of national curricula and so on there has always been preserved the right of parents to withdraw children in relation to things like sex education. This is not a criticism, it is just to emphasise the point. I think it is not merely that parents have an interest in how their children are taught with regard to these matters. It is precisely because of the parental or prior parental responsibility that the right attaches to the parents with regard to such matters. I just want to emphasise that point, if I may.

The Hon. ANTHONY D'ADAM: We are at time, I think.

Ms HASSON: If I could add a comment—

The Hon. ANTHONY D'ADAM: Point of order: We are at time. In fact, we have exceeded time.

The CHAIR: That is not unusual.

The Hon. SCOTT FARLOW: We went over time in several yesterday.

The CHAIR: Yes, that is not unusual. Ms Hasson, you had something else to contribute?

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Ms HASSON: I was just saying that I agree with Professor Haldane. I agree it is a right of the parents. The distinction I was making was that some States recognise that right, others are more limited in the recognition of the right. But I agree completely: Parents have that right. It is much stronger than an interest.

The CHAIR: Thank you. We are at our time limit. I want to thank Professor Haldane and Mary Hasson for joining us, for your international expertise, and the balance of the panel: Ms Smith's practical experience here in New South Wales, Ms Hasson's public policy analysis and Professor Haldane's philosophical perspective. It has been a great panel. We thank you very much and very much value the contribution you have made today. Ms Smith, thank you for giving your time here in person. The Committee will adjourn until 9.30 a.m. when we will start our second panel for the day.

(Short adjournment)

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DAMIEN RIGGS, Professor in Psychology, Australian Research Council Future Fellowship, College of Education, Psychology and Social Work, Flinders University, affirmed and examined

RENATA FIELD, Research and Policy Manager, Domestic Violence NSW, affirmed and examined

JACQUELINE ULLMAN, Associate Professor, Adolescent Development, Behaviour, Well-Being and Pedagogical Studies, Western Sydney University, sworn and examined

TANIA FERFOLJA, Associate Professor, Primary Education, School of Education, Western Sydney University, affirmed and examined

The CHAIR: It is available to witnesses to make a short statement of a few minutes, if they so choose, and does tend to be the practice at the hearings. I also point out that during the questioning that will follow, if any of the witnesses feel like they need more time to think about the answer or to consult documents and data, it is available for you to take questions on notice and come back to the Committee within 21 days to furnish a fuller answer. You are not under any pressure to answer everything but we do appreciate your time and consideration here today. Dr Ferfolja, do you want to start with a short statement?

Associate Professor FERFOLJA: Firstly, we would like to thank the Committee for the opportunity to share our research findings with the panel today. My name is Tania Ferfolja and I am here with my colleague Jacqueline Ullman. We are both associate professors in the School of Education at Western Sydney University. We have experience as former teachers and we are both currently researchers and pre-service teacher educators. Our research and knowledge of the field of gender and sexuality diversity in education informs our response to the Education Legislation Amendment (Parental Rights) Bill 2020 that is under discussion today.

We are currently undertaking research entitled "Gender and Sexuality Diversity in Schools: Parental Experiences and Schooling Responses". This is a research project funded by the Australian Research Council [ARC] We are in the final year of the work and our findings are currently under peer review. This research is nationally representative and examines parents' perspectives regarding the in- or ex-clusion of gender and sexuality diversity in the school curriculum across Australia. Data were collected from parents of school-aged children via a detailed survey generating 2,093 useable surveys. Of those, 616 were from New South Wales and of the samples, 32 per cent of parents were from households where a language other than English is spoken and 44 per cent identified as Christian, 58 per cent identified as Liberal or National voters.

The survey questions were comprehensive and used a variety of question types, including multiple choice, sliding scales and some short answers. An associated qualitative component seeks to understand how parents of gender- and sexuality-diverse children navigate their child's experiences in public schooling. Can I say at this point that the majority of the parents who responded to the qualitative component were parents of trans and gender diverse children. Considering the results of this national study in combination with our ongoing research in the field, we consider that the bill is highly problematic on a number of fronts. It conflates parental rights with notions of core values and its singling out of gender fluidity. We are particularly concerned with the bill's potential detrimental impact on the mental health and wellbeing of gender- and sexuality-diverse young people and their families.

We are particularly concerned with the silencing by the bill of teachers and any subsequent support that they could offer parents of gender- and sexuality-diverse children. We are particularly concerned with the proposed silencing of academic discourse and debate in teacher preparation courses and the ongoing implications of this for pre-service teachers entering the teaching profession with potentially no knowledge or education in this area. We believe that the bill also conflicts with numerous national and local policy guidelines and does not take account of current research and understandings in the field or the changed landscape around gender and sexuality diversity among young people.

Our current research demonstrates that this approach is contradictory to and not representative of broader mainstream parental wishes for the education of their children around this area of diversity generally. Only 3.4 per cent of New South Wales parents would like to see the removal of relationships and sexual health education from the curriculum—and this is where most of the gender and sexuality diversity curriculum sits. Eighty-six per cent of New South Wales parents would like to see their children understand gender diversity across the primary and secondary schooling years. New South Wales parents support inclusive curriculum because of their sense that schools should treat students equally and that inclusive education supports the wellbeing of gender and sexuality diverse students, and that is from the research. This bill assumes that all parents are opposed to their child or children learning about gender diversity and erases the needs and rights of parents of children who are gender and

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sexuality diverse, particularly gender diverse. We reject the bill in its entirety and welcome further discussion on the research findings. Thank you.

The CHAIR: Associate Professor Ullman?

Associate Professor ULLMAN: No, that was from both of us.

Ms FIELD: Firstly, thank you very much for taking the time to consider our submission and invite us to present evidence today. I would like to start by acknowledging the traditional owners of the land on which we meet, the Gadigal people of the Eora nation and pay my respects to elders past, present and emerging. I am here today representing Domestic Violence NSW which is the peak body for specialist domestic and family violence services across New South Wales, representing over 80 services. Each of the organisations that join Domestic Violence NSW also sign onto the Our Watch – Change the Story framework, which the New South Wales Government has also signed onto.

Domestic Violence NSW opposes the bill on the following grounds. Firstly, our organisation strives towards communities which exist free from violence. We believe that the bill does not foster a safe learning environment for workers or for students who are attending schools. Secondly, the bill acts in opposition to the comprehensive research upon which the whole of Australia's national plan to end violence against women and their children is based—Change the Story, a shared framework for primary prevention of violence against women and their children from 2015. Thirdly, the bill contradicts non-discrimination obligations under the Anti-Discrimination Act from 1977 and the Sex Discrimination Act from 1984.

Due to our expertise in this area and also because primarily on the research regarding primary prevention of domestic and family violence in Australia, we know that at least one-in-four women and one-in-13 men experiences domestic and family violence. The rates of violence towards general and sexuality-diverse people are at similar, if not higher, levels than those experienced by women. However, domestic and family violence is a preventable social health issue. Our Change the Story framework thoroughly explored international evidence finding that gender inequality was the root cause of gender violence. This is opposed to something like poverty or alcohol usage—some people who drink may be violent, others who drink will not be violent. But the critical part in the gender inequality was the context which led towards violence, so Change the Story demonstrates that that is part of the work that we need to do to create equality and, therefore, prevent violence.

Within that overarching framework, there are four drivers of violence, and one of those is rigid gender stereotypes and identities. The evidence demonstrates a link between pervasive gender stereotypes and inequality and the high levels of violence against women that we experience in Australia. The research highlights how gender norms encourage Australians to adopt gender identities and stereotype gender roles within the hierarchy that historically positions masculine roles above feminine roles. Further, Pride and Prevention, which is the prevention piece by Rainbow Health, Victoria, notes the common experiences of discrimination and pervasive gender stereotypes by gender- and sexuality-diverse peoples. What this research demonstrates is that it is in the best interests of all Australians to teach ideas of gender which are not rigid, and this is a proven way that we can prevent high levels of domestic and family violence we currently experience in Australia. Thank you.

The CHAIR: Professor Riggs, do you wish to make an opening statement?

Professor RIGGS: No, thank you.

The CHAIR: Thank you everyone. I will start questions. Professor Ferfolja, you mentioned the research base as presented in your submission. I noted in the university's promotional journal *Future-Makers* at this time last year and the impression given in the article *Gender and sexuality in the classroom* that one of the purposes of your research is to overturn the Safe Schools decision here in New South Wales in 2017 to ban Safe Schools gender fluidity teaching. Is that one of the objectives of the project?

Associate Professor FERFOLJA: No, I would not say that one of the objectives of the project is to overturn anything in particular. The objective of the project is to actually ascertain what parents want in schools. Associate Professor Ullman and I first came to have an interest in this area working with pre-service teachers who were very confused about what is actually available to teachers and what teachers can actually use in schools and talk about in schools basically. We set off on this journey to try to find out what it is that parents actually want. The research has nothing to do with overturning anything like that.

The CHAIR: Do you support the ban on Safe Schools teaching in New South Wales schools?

Associate Professor FERFOLJA: I think there is an issue with the fact that there is very little professional development for teachers around gender and sexuality diversity generally, particularly around gender diversity. It is irrelevant whether I support the ban not. What is really critical here is the fact that young people in

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schools are not being adequately supported and that there really needs to be more education for teachers around those issues generally.

The CHAIR: Right. The *Future-Makers* article states that the Australian Research Council [ARC] funded this and it says the survey you have conducted that is referred to in your submission and opening statement was advertised via Facebook to the parents of children who attend any public school in Australia. In politics we are familiar with surveys, opinion polling, quant.

Mr DAVID SHOEBRIDGE: Including the crooked one for this inquiry.

The CHAIR: We normally try to make them demographically balanced. So how can you, off a self-selected Facebook group, achieve that representative sample?

Associate Professor FERFOLJA: Can I defer to Associate Professor Ullman?

Associate Professor ULLMAN: Yes, I am happy to speak to that. We worked closely with the Social Research Centre, which is based in ANU. You are correct that when we use Facebook for survey recruitment, we are using a non-probability sample. We are using opt-in methods. We work with the Social Research Centre to use their high-quality reference probability sample to estimate the selection mechanism for our own non-probability sample and to align it as closely as possible with the probability sample on key survey items. For this survey the reference sample was the Life in Australia survey, which is an online probability sample of Australian adults.

While non-probability samples are generally not as accurate as probability samples, the derived weights reduce errors as much as possible and enable inference with respect to the target population. Sometimes you will see in work that researchers will try to weight their sample on primary characteristics—things like age, gender and location—but those can actually serve to increase error. Working with the Social Research Centre, with a sort of state-of-the-art way of ensuring that we have national representativity, ensured that our final weighted sample could be described as nationally representative. However, it is important to say as a caveat that, as is the case with any survey, some level of bias will always remain. But our job is to make it as small as possible.

The CHAIR: Right, and how do you advertise on Facebook to draw the people in? I am a regular Facebook user and I have never seen this sort of advertising in the system. How is it actually conducted?

Associate Professor ULLMAN: Facebook allows you to choose certain characteristics of people that you wish to see your post. Posts can also be ads and posts can include, as we did, the URL for the survey. You can, behind the scenes, choose particular demographics. We limited it to people who were based in Australia, we limited it to particular age groups and we limited it to parents using the best estimates that we had.

The CHAIR: Right. I live in Australia, I am a parent and I have an age group, so why would I not have been invited to participate in the survey?

Associate Professor ULLMAN: That I cannot explain to you.

The CHAIR: No? How did you weight it?

Associate Professor ULLMAN: We used the Life in Australia survey's probability sample to estimate the weights. I can go into further detail than what I have just read to you now.

The CHAIR: Yes, maybe you can take that on notice but why was this Facebook methodology not mentioned in your submission or the opening statement?

Associate Professor FERFOLJA: Because we wanted to keep the opening statement short.

The CHAIR: And the submission?

Associate Professor FERFOLJA: Because we did not really think about putting that in the submission.

The CHAIR: Okay, but it is a self-selected Facebook survey where you have weighted certain demographics.

Mr DAVID SHOEBRIDGE: Sorry, that is not representing the answers that we got. There was an element of that and then there was an element of something else.

The CHAIR: No, I am asking a question.

Mr DAVID SHOEBRIDGE: You are trying to denigrate the survey, and the way you are doing it, misrepresenting it, is not fair.

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The Hon. WES FANG: Mr Shoebridge, are you taking a point of order?

Mr DAVID SHOEBRIDGE: Yes, point of order: The Chair is inappropriately and inaccurately summarising their evidence.

The CHAIR: No, I am asking questions about the survey methodology and why I had to go to the *Future-Makers* document to find out it was a Facebook survey and it was not mentioned in the submission. I think that is fair enough for the Committee to know. But just moving on, Associate Professor Ullman, in various forums you have promoted a text entitled *Schools as Queer Transformative Spaces*. Why should schools be queer transformative spaces?

Associate Professor ULLMAN: Firstly I would like to say that the text that you are referring to is an edited collection, to which Tania and I both submitted a chapter. I think that is important to state. I noted that one of the submissions mischaracterised that as if I was the author of that book. I am not the author of that book. One of the previous submissions also mischaracterised a resource that was included in that book written by other people, which was misattributed to me. I had never even seen that resource. But as far as why schools should be queer transformative spaces—the idea of queer transformativity is the sense that we move away from limiting, normative ideas. Whether that is in relationship to gender, which I think we can all argue we have made significant progress in that area in terms of what is available and in terms of life choices to young women and men—that is transformation. When we are talking about "queer", when we are talking about non-normative sexualities and we are talking about gender-expansive identities, I would absolutely argue that it is important for young people to be exposed to diversity as part of their education—moving Australia closer to social cohesion.

Mr DAVID SHOEBRIDGE: Thank you all for your detailed submissions and particularly to you, Associate Professor Ullman and Associate Professor Ferfolja, for your actual detailed research work. Associate Professor Ullman, you have published a series of studies about the impact on gender- and sexually diverse students of different responses at school, when the school environment is positive and affirming and when it is not. Will you speak to us about that?

Associate Professor ULLMAN: Sure, I would be happy to. You may be familiar with my 2015 work, which was the *Free2Be?* study. Hot off the press just recently is the follow-up to that, which is *Free2Be... Yet?* That just came out; I just put it online last month. The sole purpose of that work is to understand how students' perceptions of their school climate are related to their sense of belonging, their sense of school connection and their sense of academic self-concept. My work is not the only work in that field; I think that is important to say. But if I am talking about my own work, those relationships are clearly present. Would you like me to tell you some of the findings?

Mr DAVID SHOEBRIDGE: I would.

Associate Professor ULLMAN: Okay. Firstly, it is important to say that this particular survey had 2,376 young people. Of those, 29 per cent self-identified as trans or gender diverse. That included young people who felt that their gender identity was non-binary and those who wished to select another gender identity that was not available to them in the survey. They were aged 13 to 18 years old. They attended high schools across the three sectors in Australia. Those young people report that homophobic and transphobic language is rife in their schools and they also report that their teachers do not respond to this with consistency. That is problematic on multiple levels. What is most problematic is the young people who feel that their teachers are ignoring it because they do not know what to say and perhaps because they are afraid to engage in conversation, or in some cases because they are afraid that if they do engage in conversation then the harassment or potential vilification will be turned on them. Looking at associations for school wellbeing, which I think are the most important findings, students' reported frequency of homophobic and transphobic language and frequency of teacher intervention in those instances were significantly correlated with a variety of measures of students' school-based wellbeing.

These measures were derived from the Student Attitudes to School Survey that is used across the State in Victoria. We use something similar here in the Tell Them From Me survey in New South Wales. This measure looks at things like students' sense of connectedness, students' sense of voice and agency and, most importantly, students' sense of whether or not they have an advocate for them at school. These measures of school climate were significantly correlated with these outcomes, including their sense of academic self-concept. I think it is important to note that there is real material impact of what is going on in schools and that also included whether or not students were aware of a harassment policy at the school that actually particularly articulated same-sex attraction and gender diversity.

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Mr DAVID SHOEBRIDGE: I am interested in Professor Riggs' perspective in terms of his expertise in dealing with gender- and sexually diverse students. Does your expertise marry with those kinds of conclusions from Associate Professor Ullman?

Professor RIGGS: I do not work with trans and gender-diverse students but certainly the research that we have conducted with teachers definitely speaks to the concerns raised by both associate professors in regards to the lack of training for teachers to be able to suitably be supportive of trans and gender-diverse students.

Mr DAVID SHOEBRIDGE: What are teachers saying to you about the resources that they have and the skills that they have in dealing with gender- and sexually diverse students?

Professor RIGGS: I think often there is a sense of being between a rock and a hard place of wanting to do their job, which is to support the students that they are teaching, and also having to navigate perhaps the views of their principal and also the policy, if they are a public school, that they are directed by and the views of the broader school community and what it wants teachers to be doing. I think teachers not only often do not have that clear guidance about how they should approach things, but then there are many different vested parties directing their attention.

Mr DAVID SHOEBRIDGE: Are they aware of the research that shows how damaging an unsupported environment can be for their students and how important a supportive environment can be for their students? Are they aware of that research?

Professor RIGGS: It is hard to say for all teachers, and certainly when it comes to the needs of trans and gender-diverse students I often think that is one of the most overlooked populations in regards to teacher training and knowledge. But certainly more broadly teachers are aware of the positive net benefits of inclusion for all students in marginalised groups and schools and do the very best to try and foster that inclusion so that the outcomes can be as good as possible for all students.

Mr DAVID SHOEBRIDGE: Before I hand over to somebody else, Professor Riggs, have you had a look at the submission from the Australian Psychological Society [APS] which strongly opposes this bill on the basis it would prevent them doing a fundamental part of their work with gender- and sexually diverse students. Have you had a look at that submission?

Professor RIGGS: Yes.

Mr DAVID SHOEBRIDGE: Do you have any observations about it?

Professor RIGGS: I think the APS does a very solid job of making the case of harm and I think we have ample evidence, including that of both associate professors speaking today, of the harm that can come to young people in schools when they are not included, when they do not see themselves reflected in the school and the class materials. I think the APS makes a very strong case for harm. And obviously as a professional body, the APS is charged to do no harm, and I think the same injunction is on teachers and on all of us. I think the focus on that potential for harm, which is very clearly evident in the research, is a very appropriate focus of their submission.

The Hon. WES FANG: Thank you everyone for appearing today. I will first ask the question of the associate professors who are on the panel. With your research, have you formed a view around issues with the formation of children's decision-making. We have seen in some jurisdictions recently the attempt to raise the age of criminality from 10 to 14. The arguments around that are with children's decision-making, that it is not properly formed, they have not been able to fully grasp the concept of right and wrong, and we need to, I guess, build in an increased barrier to acknowledge that that is the case. Have you formed a view on that through your research?

Associate Professor ULLMAN: That is not really the purpose of the research that we are here to talk about today.

The Hon. WES FANG: I understand that. I was just curious as to whether you have done some research in that area.

Associate Professor ULLMAN: No. That is not really a purpose or aim of the Australian Research Council [ARC] study that we are here to talk about.

The Hon. WES FANG: I find it a little bit disconnected from some of the arguments that have been presented around the need to have these discussions in school for students who have formed a view very early on about their view on gender. I guess we see often groups saying that they are aware what their gender is. I will say those groups on the left of politics will then turn around and say that we need to raise the age of criminality because of all the arguments that were made around decision-making in young children's minds. As researchers,

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I was actually hoping that there may be an opinion about how both of those arguments are not able to be drawn in parallel.

Mr DAVID SHOEBRIDGE: You want to jail 10-year-old kids but you will not let them express their own gender. That is your political homework and that is what you are asking these witnesses.

The CHAIR: No. The proposition is to jail—

Mr DAVID SHOEBRIDGE: You want to jail 10-year-old kids but you will not allow them to express their own gender. Is that your proposition?

The CHAIR: The proposition is to bring into custody people who steal cars, sell drugs, break into homes, terrorise neighbourhoods—

Mr DAVID SHOEBRIDGE: Ten-year-old kids.

The CHAIR: We are here protecting working people, law-abiding people who do the right thing. You do these things on the basis of skin colour, that is your problem, not that of anyone else. Do you want to finish the question, Mr Fang.

The Hon. WES FANG: Just regarding Mr Shoebridge's outburst—which I think is grossly unfair and certainly not at all what I am trying to do—I am trying to work at the two arguments, which seem to be made by similar political groups. They do not correlate and I am seeking some guidance from people that do research around children and young people how that could be the case, how you can see differences and whether you have an opinion on the matter.

Associate Professor FERFOLJA: My feeling is that as we have seen over the last 24 hours in these various Committee hearings—or whatever they are called—parents are coming forward and saying our children are very young when they realise and are exploring their gender identity from a very young age. I am not really trying to link that up in any way with this other proposal. I am not really familiar with that and I think it is beyond our area of research. What we do know is that in schools we have young children and we have teenagers who identify as gender diverse and we basically really need to be assisting those and supporting those young people in schools. That has come out of our research in terms of what parents have sent to us, and parents believe their children early on, many of them, are actually identifying in ways that are not necessarily considered standard.

The Hon. WES FANG: I accept that. And certainly I will be the first person to be standing up and advocating for and demanding that a child who has perhaps determined that they are not the gender with which they were born or are currently positioned in by society or their parents that they be supported by the school and teachers if that is required. That is not really the question that I am asking though. The question that I am asking is on the one hand we talk about needing to raise the age of criminality and jurisdictions like the ACT—

The Hon. ANTHONY D'ADAM: Point of order: You are asking a question that the panellists have already provided an answer to. They have said it is not within their area of expertise.

The Hon. WES FANG: I am now going to ask that of the other witnesses.

Mr DAVID SHOEBRIDGE: To the point of order: It is not only that the witnesses have said that it is not within their area of expertise, but it is outside the terms of reference of this inquiry.

The CHAIR: It was addressed earlier in the day and it was not out of order then. I will allow the Hon. Wes Fang to address the other two witnesses with the same proposition.

Mr DAVID SHOEBRIDGE: Further to the point of order: Simply because some other witness spoke to something that was outside the terms of reference does not bring it into the terms of reference now. That is not a rational ruling.

The CHAIR: In relation to the point of order, part of our inquiry is this bill, which raises the question of age-appropriate teaching in school and that is relative to the ability of young people to make these decisions. There was a lengthy discussion this morning, Mr Shoebridge, for which you were not present. No Committee member raised any problem with that. Issues of criminality, driving cars, drinking alcohol and sexual consent ages were all raised and it was a productive, normal part of our deliberations. I cannot see how the point of order is valid, given that earlier it was part of the Committee deliberation that is already on the public record.

Mr DAVID SHOEBRIDGE: I understand there was some weird and fevered evidence while I was out at a Local Government NSW function this morning but that does not make it in order.

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The CHAIR: Order! If you are not here you cannot reflect on that just because your staff tell you certain things. You did not turn up to the hearing and that is a completely uncalled for, unfair representation of the earlier witnesses and you should really withdraw that—calling people "weird". I thought you were into tolerance.

Mr DAVID SHOEBRIDGE: That does not make it in order.

The CHAIR: Just because your staff tell you one thing does not mean it is true. You should be here and participate. Mr Wes Fang, do you want to finish your question to the other witnesses.

The Hon. WES FANG: I might ask Ms Field. You spoke earlier about the research that your organisation has done and also that research that the organisation has been privy to and certainly correlated and compiled in order to form the positions that your organisation has around not only the domestic violence field but also on positions such as the bill that is before us today. Given that large body of research your organisation has been able to analyse, are you able to articulate how the competing arguments of needing to raise the age of criminality for certain jurisdictions because of decision-making around children and their mind still being formed, I guess, competes with some of the arguments that were put on record yesterday around children very early on having an awareness of their sexuality that is concrete and non-changing?

Ms FIELD: I can give a brief answer. I agree that it is somewhat outside the terms of reference and certainly not within our key recommendations for the paper. However, I think that age-appropriate teaching is of the essence and we really promote whole-of-school, whole-of-community approaches to preventing domestic and family violence. The key being "age-appropriate". I think you can teach consent to preschoolers, you can teach consent to high schoolers, but you are going to be talking about different things. Obviously you would not talk about consent in relation to sexual matters to a three-year-old but you would talk about it with a 15-year-old. Making sure that what you are teaching is age appropriate is essential, but it is important that there is a life course approach which is research-based, which is best practice that we take into account and that it involves the whole of community.

In terms of increasing the age of criminal responsibility, I think that it is important to note that it does not mean that children would not be facing some sort of consequences or learning through the outcomes of that process; it simply means they are not going into the juvenile justice system. So I think it is important that we continue to be teaching concepts at an age-appropriate level, be it around consent, be it around gender diversity, be it around criminal—good, bad, et cetera. It needs to be done at an age-appropriate level and in a way that betters our whole community, because we know that a lot of the kids who are criminalised are there because of poverty. They are there because of all those sorts of issues.

The CHAIR: Can I just ask on that, what is your age-appropriate level for gender and sexuality? You said not for three-year-olds but where would you draw the line? I know it is a judgement matter but I am curious as to where you would draw the line.

Ms FIELD: I think it is really important to be teaching primary prevention in preschools. We know that most children learn definitions of "girl" or "boy" by four, so ensuring that we are teaching our young children that it is okay for people to be whoever they are as long as they are respected, as long as they are identifying as themselves and as long as there is no discrimination. So I think creating age-appropriate ways of teaching is what the research says for how we should be preventing domestic family violence.

The CHAIR: I was just wondering if Professor Riggs wanted to answer Mr Fang's earlier question?

The Hon. WES FANG: I will ask Professor Riggs.

The CHAIR: Thank you.

The Hon. WES FANG: I just wanted to go back to the answer that you gave, the first part around the bill and the need to have that education in schools. I agree and I think there are certainly issues that we need to discuss there. You talked about it helps break the issues around family and domestic violence. But how does excluding, say, parents from that conversation assist that? I do not see the parallels there and I do not understand how parents being involved in that conversation with the school and the child around those important life lessons is in any way going to affect the family and domestic violence issues and how it cannot benefit society if the whole of the family unit is involved in those conversations.

Ms FIELD: I certainly agree with you that the whole of the community should be involved in these conversations and breaking down gender equality and creating a more equal society. My reading of the bill is that parents would be able to choose to remove their children from certain conversations where they felt those issues were being broken down, where those issues were being discussed. What I see is that parents would be removed

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from that conversation rather than invited in, and I think we should be inviting people in to converse, to discuss, to learn and to grow as a community so that we can end violence.

The Hon. WES FANG: But in order for parents to be—

The Hon. ANTHONY D'ADAM: Point of order: The Chair questioned for 17 minutes and Mr Fang has been questioning for more than 10 minutes now. There needs to be a fair allocation of time.

The CHAIR: You will have to be quick, Wes, and then we have three other members to ask questions.

The Hon. ANTHONY D'ADAM: I got four minutes with Kirralie and I got cut off. That is very inappropriate that—

The Hon. WES FANG: Professor Riggs, would you like to make a brief contribution to my question?

Professor RIGGS: I can give you three answers and I can be quick, if you like. The first one is: I think in a way it is comparing apples and oranges. Talking about understanding your gender, you are focused on yourself—what do I know about myself? We know that children from a very young age can make a whole lot of determinations about their interests, their needs and their cultural affiliations, for example, as compared to things that are other focused. The speaker this morning talked about the age for driving or drinking or voting. They are other-focused activities: We need to be able to be mindful the safety of other people when driving; we need to be able to be mindful of the safety of other people when drinking; and when we are voting we need to be mindful of the nation. So they are quite different things. Understanding your gender is about understanding yourself. Why would we think that a young person does not know themselves?

The second point I would make is we have ample research from psychology from the socio-cognitive perspective on gender development that says very clearly children from around age two and three can categorise their own gender. At around age five they understand that gender is constant and they understand that if someone cut their hair or shaves their beard off, it does not change their gender. So there is decades of research on that. The latest research on that that looked at the specifics in regards to transgender children finds no differences—that those children can do those exact same things at the exact same developmental markers as anyone else. I think that is the big question to me: Why would we expect a child who is transgender or a child who is not transgender to have any different capacity at that age to understand their gender? And I think the research suggests there is no difference.

The third point is that by the very fact of this conversation we are having today, the lives of transgender people are politicised, they are in the media all the time, we are all speaking about transgender people's lives. Children do not live in a bubble; they see things, they see the news, they hear other people talking. So they are very informed about the decisions they are making, knowing that they are living in a context where their lives will be politicised, people will question their decisions. So I think in many ways young transgender people are much more well informed than other people of the same age because they are aware of the public conversations, and they are still saying in the face of that, "This is who I am. Please listen to me."

The CHAIR: Mr Anthony D'Adam?

The Hon. ANTHONY D'ADAM: I might start with a question for Ms Field. We know that amongst gender-diverse kids there are very high levels of homelessness and often that is a direct result of an unsupportive family environment that might actually pose a physical threat. I wonder whether you might be able to speak to the measures that might be able to be taken to try and prevent those situations and perhaps if you could also speak to the elements of the bill that might actually work against those measures.

Ms FIELD: Thank you. Yes, there is considerable evidence around the high rates of violence in gender- and sexuality-diverse communities, unfortunately, particularly children and young people, and that relates strongly to our work in preventing family and domestic violence. There is some recent research by Rainbow Health Victoria, which I noted earlier, called Pride in Prevention, which notes priority areas where we can prevent the violence in these communities, and one of those is certainly schools, but in workplaces, in our homes. There are many different environments for doing this work to prevent violence.

Certainly the inequality and the high levels of discrimination are factors which increase the level of violence, and when people are experiencing levels of discrimination from outside their family it puts additional barriers and stresses on the family, which can lead to increased violence within the family—not always but sometimes. As a community, what we can do is to work towards reducing discrimination. So what we are really concerned about within this bill is that it contradicts the Anti-Discrimination Act and the Sex Discrimination Act, that it would prevent teachers from being able to create a safe and open environment for having conversation and

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discussion and that parents who might have opposing moral views may be able to remove their children from conversations which are aimed at increasing equity in the community.

The Hon. ANTHONY D'ADAM: Thanks. We have had a lot of discussion so far about gender fluidity. I wanted to open this question to the panel: Why is it important that we draw a distinction between biological sex at birth and gender? I think that is at the heart of this discussion. There are conflicting views and I wanted to give the panellists an opportunity to explain why it is important that we actually make that distinction.

Associate Professor ULLMAN: Because they are not the same thing. Firstly, and I think this is at the heart of the bill, for some people their experience and self-identified gender is not aligned with their biological sex. That is, I think at the foundational level, part of what we are talking about here and where that is happening for young people, how schools and adults can best support them. But for all of us, simply because we are assigned a particular biological sex, it does not then create a road map for who we are as people. So foundational understandings of our own gender and the way that we express ourselves, that is something that can change over time. It has changed for human society at different times historically in different cultures and different geographical locations. It is something that is shaped by the other people around us in the way that we learn from them and react to them. So these things are not the same and I am sort of surprised that we are still talking about that.

The CHAIR: Ms Courtney Houssos?

The Hon. COURTNEY HOUSSOS: I just wanted to ask all of you a question that I did ask a number of participants yesterday, but I would also be interested in the Associate Professor's view, given your experience as a former teacher and working in the education sector. A lot of the submissions have said that the existing protections for parental rights are enough, that there is an exclusion—if you want to take your kids out then you can on specific grounds. In your experience, Associate Professor, do you know if that is used very much by parents?

Associate Professor FERFOLJA: I do not think that we have any statistics on how many people actually use—and I am assuming that you are talking about the Controversial Issues document in New South Wales schools, which enables parents to withdraw their child from anything that they perceive as being controversial. Sorry, could you just repeat the question?

The Hon. COURTNEY HOUSSOS: In the Education Act there is a specific provision that allows you to apply to the Secretary to get a certificate if you are a parent and you want to do that.

Associate Professor FERFOLJA: The Controversial Issues document, in my understanding, also enables you to do that and you do not necessarily have to go around about in this incredibly complex way to actually, if you so choose, withdraw your child from something. So there is plenty in that particular document that is very pro parent and very pro what parents want and I do not think there is any need to create any—the information and the opportunity for parents to remove their child is well articulated in that document.

The Hon. COURTNEY HOUSSOS: Thanks very much. Do the other panel members want to add to it?

The CHAIR: Professor Riggs?

Professor RIGGS: I had something to add about the previous question but I do not know if we have moved on from that or not.

Mr DAVID SHOEBRIDGE: I think it is your chance now.

The CHAIR: Yes, jump in.

Professor RIGGS: When we think about sex and gender, I think a really useful way to think about it is that when we teach psychology students basic research methods we teach them the difference between correlation and coordination, and the lovely example we use is—we have a roomful of people and we measure all their shoe sizes and we measure all their IQs and we find that the bigger the shoe size the higher the IQ. Now do we say that having a bigger foot makes your IQ higher? Do we say it causes that? Of course we do not. We say that in that sample there is a relationship, and that is all we can say. And the same thing is true for sex and gender. I do not hear—I have not heard in any of the conversations from the Committee that anyone is claiming that transgender people do not exist. So we accept that trans people exist and so that means we accept that for some people there is no inherent relationship between assigned sex and gender. So by doing that, we come to an understanding that there is a correlation between sex and gender but it is not causative.

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I think that, to me, is a really useful way to think about that, that for a great majority of the population no-one is denying that there is some kind of relationship. People are declared to be male at birth, for example, and they express themselves to be male. So there is a correlation there, and that is true for most people. But by the very fact of trans people's existence, there is not a causative relationship there. And I think that is a really useful thing to keep in mind and how we can then come down to understand that if we are talking about relationships here between different life experiences that is why, as all the other speakers have said so well in this session, we need to make sure that we are creating these spaces where trans people's voices and young people can be included in schools because we know that trans people exist.

The CHAIR: Thank you. I have always wondered why I am an 11 shoe size. That explains it.

Professor RIGGS: I think it is a lovely example. We can pick that—they are the two things that often get used—but you could pick any two things and in some samples you would find a relationship between them, but that does not mean one causes the other.

Mr DAVID SHOEBRIDGE: Nor is it a perfect relationship, as some evidence would show.

The CHAIR: The Hon. Scott Farlow?

The Hon. ANTHONY D'ADAM: I think one of the panellists wanted to say something.

Associate Professor ULLMAN: I just wondered if I could take maybe 30 seconds to add something to that, please?

The CHAIR: Yes.

Associate Professor ULLMAN: I just want to bring it back to some of the findings from our research—which, again, was national; which, again, was nationally representative—in terms of what parents said that they wanted. We did ask questions that were targeted specifically about this because that was at the heart of what we wanted to know. Much of these conversations, and I think even the bill itself is predicated on assumptions about what parents want and to date there has not been any national survey that tells us in Australia what parents want. So what I would like to share with you is I think the closest evidence of what we have.

We asked parents if they felt that young people should learn that there is a difference between biological sex and gender and that this is the reality for gender diverse people. Of our sample, 70 per cent said that it was highly or moderately important. Now, it is important to note as well that nearly 17 per cent of parents felt that it was not important at all, and I am not suggesting that we ignore those parents, but I think we need to have—I think research like this opens the doors to conversations that we can have with parents about this.

As I alluded to before, we also asked parents about whether or not they wanted their children to learn about understanding gender diversity. Within this, 86.1 per cent of parents said that they wanted this taught within either primary or secondary school. Now, again nearly 14 per cent said they never wanted this taught. So we do not ignore those parents; we need to have conversations with those parents. But I just want to bring that back because I feel like the conversations of the panel have been moving in a variety of directions, and I know that is what Associate Professor Ferfolja and I were invited to talk about. So I just want to make sure that that is known.

The Hon. SCOTT FARLOW: It is actually a very good segue because it was part of my question actually to you, so it is a nice segue to go through. In your criticism of the bill, I think it goes very much to that point that this is—effectively, that it assumed that parents do not want this to be taught. Your research says that parents do but, as you can see, there are 14 per cent in those figures who do not. For those 14 per cent or whatever it may be, do you think they have the right to be able to request that their children not be involved in such education?

Associate Professor ULLMAN: I think that that is a really challenging question. Here is part of why I think that is challenging. So within that 14 per cent it is entirely possible that some of those young people may themselves be questioning their gender identity or that they may themselves be gender diverse. So those kids, it is incredibly important that they have access to an advocate, to a supportive adult, because we know the difference that just one adult can make—if a child has access to just one adult, the difference it can make to their life trajectory. I find that question difficult because I do think that it is incredibly important for particularly gender diverse young people to be able to have access to that information.

I would also say that it is important for all kids to have access to that information. Why? Because this is the world in which we live. The bill uses the terminology of ideology quite a lot to talk about gender fluidity as if it is something that we can believe in, but it is not a belief. It is a fact. These people exist. So I think it is important that kids are exposed to information about the realities of the social world in which they live. I know that this gets

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at the heart of this bill, the questions of parental primacy, but I think we are also—if we just focus on that, we are forgetting about the rights of young people and their right to information.

The Hon. SCOTT FARLOW: Just to explore that a little bit further—and it sort of returns back to the theme of Mr Fang earlier on—do you think there is a marker where the parents do have control? On this point, should the parents have the right up until primary school or up until infant school, potentially, to be able to determine what their children think? Is there an age-appropriate level, so to speak, that parents have more control than what they would, for instance, for a senior high school student?

Associate Professor ULLMAN: Again, I think that is a challenging question; that is not me trying to bow out of it. I think we know, particularly now in the information digital age, if young people are not granted access to vetted information by professionals, educators, health professionals that we know to be factually correct—if young people do not have access to that through trusted adults, they are going to turn to online sources for that information, and we are all well aware of the kinds of online sources that they might encounter that may provide misinformation, frightening and—you talk about age appropriate—not at all age-appropriate information. So I think we need to trust our educators and our professionals to be able to provide information that will be age appropriate, that will be online with the developmental stage of young people. I do not think that parents have control over their child's gender expression. If they did and if that were possible, I think in households that were opposed to the idea or who wanted to erase gender diversity or transgender identities, then somehow that would work—and it does not.

The CHAIR: Last question, Mr Shoebridge?

Mr DAVID SHOEBRIDGE: I just wanted to put on the record that I reject the implicit assumption in certain questioning that there is any correlation or comparison between criminality and identifying as gender diverse, but I will not put that question—

The CHAIR: Is that your role? Do you want to ask a question rather than reject other questions?

The Hon. WES FANG: Point of order—

Mr DAVID SHOEBRIDGE: But I do want to put this question to the—

The CHAIR: I do not know why that is necessary to say that. Point of order by Wes Fang.

The Hon. WES FANG: Chair, that assumption that Mr Shoebridge has raised—

Mr DAVID SHOEBRIDGE: Read into your questioning.

The Hon. WES FANG: —and, yes, read into my questioning—let us not beat around the bush who you are referring to—was not what was intended, nor can it be explicit or implied that that was in any way the case. I was talking about two discrete, separate arguments. For Mr Shoebridge to try to verbal me through questioning is highly inappropriate and I would ask him to withdraw those statements.

The CHAIR: You have been asked to withdraw it. Can I just urge you, David, that we could all make reflections on everyone else's questions—I would be here for hours reflecting on yours—but it does not help the orderly, smooth conduct of the hearing. I do not think it is fair to the witnesses who have given up their time. So can you withdraw and then move on, please, to help us.

Mr DAVID SHOEBRIDGE: I cannot accept that you can ask the question putting the two concepts next to each other without having that implicit assumption—

The CHAIR: But it is not your question; it is his question.

Mr DAVID SHOEBRIDGE: I hear what Wes Fang says. I cannot accept the question was ever properly put.

The Hon. WES FANG: Then I am going to raise a second point of order, Chair.

Mr DAVID SHOEBRIDGE: But to assist the orderly moving of the Committee, I will withdraw it and get on to my question.

The CHAIR: Thank you. Ask your question now.

Mr DAVID SHOEBRIDGE: It is to you, Associate Professor Ferfolja, but you may have some input on it too, Associate Professor Ullman. At page 3 of your submission you talk about the research about what the baseline level is in terms of the sense of support, particularly gender and sexually diverse young people not feeling safe, not feeling comfortable, not feeling supported. The research shows that it is some 60 per cent of gender and

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sexually diverse young people at school not feeling safe, not feeling supported. Is that the kind of baseline that we are talking about now? What would be the effect of withdrawing even the rudimentary supports that are in place for that cohort of kids?

Associate Professor FERFOLJA: I think that that is a fairly typical statistic in terms of gender and sexually diverse kids in school. Associate Professor Ullman could probably talk a little bit more to this, but I think even—further removal of supports, I think, will have a devastating effect on the trans and gender diverse students in our schools. As it is, there is very little available to them. Teachers are fairly limited—their training in this is limited, if at all. The stories that we have heard from parents is that sometimes—because teachers do not have the necessary training that they are actually creating more problems in some situations than doing good, I guess.

We really need to be looking at pre-service teacher and in-service teacher training around these issues for the benefit of our young people and for the development of a society that understands diversity in all its forms. So I think that the removal will be extremely, extremely detrimental. This whole bill kind of, to me, smacks of section 28 in the UK. I know someone brought that up yesterday, so I will not go into the detail about it, but basically it was a bill that was brought in. It was in for 15 years and people took GSD people—basically it said that you could not talk about homosexuality in schools as a pretended form of—

Ms FIELD: Family.

Associate Professor FERFOLJA: —family. It basically silenced teachers, and it meant for many young people that—discrimination and harassment that has occurred at schools, teachers do not have the capacity or the ability, not the ability but the—

Ms FIELD: Freedom.

Associate Professor FERFOLJA: —freedom to actually talk about these issues and to raise issues around discrimination. If someone is harassing someone around their gender identity, you cannot just say, "Don't do that," because "don't do that" does not stop it. It does not explain to children why these things are happening. If you want a behaviour to stop or you want somebody to understand, you need to actually be able to express what is going on here. The bill in the UK actually had very detrimental impacts on people. It also had detrimental impacts on teachers. There is a study that actually talked about how—I think it was 15 years after that bill amendment was repealed that teachers in schools still did not know what they could say and were still fearful of actually addressing issues around gender and sexuality diversity. It is kind of interesting because the person who actually pushed that bill 30 years later apologised for the harm that it actually incurred on people in schools. I think it should not be about removing. We should be providing much more education and educating parents as well around these issues, I think. Maybe there is a place for schools to be involved in that and for community and schools to come together to have further discussion and to develop understandings, I guess.

The Hon. WES FANG: Thank you, Associate Professor for your—

Mr DAVID SHOEBRIDGE: But I think Associate Professor Ullman had something to add.

Associate Professor ULLMAN: I will make it quick.

The Hon. WES FANG: Okay.

Associate Professor ULLMAN: The concept of safety is a foundational need, right? We know this. This is basic information. When young people feel unsafe their ability to concentrate and focus, and thus their potential to excel, is cut off. I think this is also at the heart of it, you know. If teachers are prohibited from engaging in conversations that would support these young people, that would enhance their sense of safety, that would actually help to dismantle some of the processes that are at the heart of discrimination and harassment—if teachers cannot do that then they are cut off from creating those safe environments for kids and that has impact on their sense of academic self and their academic outcomes.

Associate Professor FERFOLJA: Can I just possibly read something from a parent around these issues?

Mr DAVID SHOEBRIDGE: Yes, sure.

The Hon. WES FANG: We are actually out of time.

The Hon. ANTHONY D'ADAM: Point of order: As Mr Farlow pointed out, we gave some latitude—

The Hon. WES FANG: And I have. We are now three minutes over.

The Hon. SCOTT FARLOW: Which you criticised earlier.

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The Hon. ANTHONY D'ADAM: Four minutes over last time.

The Hon. WES FANG: We were four minutes over and now we are three minutes over.

Mr DAVID SHOEBRIDGE: Anyhow, I would move an extension. I am moving an extension now.

The Hon. WES FANG: Is it a brief statement?

Associate Professor FERFOLJA: It is just a quote from one of the parents that—

The Hon. WES FANG: Okay, I will allow it, but then we are wrapping up.

Associate Professor FERFOLJA: Fine. Okay. What this speaks to is the importance of schools being able to talk and to deal with these issues openly with parents and children, I guess. This parent was a mother of a gender diverse child and she said:

I think the honest, transparent relationship we have [with the school] has been an incredible support and allows me to trust my child is safe and can reach her full academic and social potential. We agree that we [teachers and parent] both do not understand the diversity as well as we need and that this is a learning journey for both the teacher, myself and my child. We both agree that we will make mistakes along the way but have made a commitment from the start of the transition to be honest, transparent and open in all communication so that we can be "on the same page" at all times.

Thank you.

The Hon. WES FANG: Thank you. That was actually quite valuable I think and it does also show the value of having parents involved in the conversation. We will wrap the session up now. For any questions that you have taken on notice you will have 21 days to return the answers to us.

(The witnesses withdrew.)

(Short adjournment)

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KEVIN DONNELLY, Individual, sworn and examined

DIANNA KENNY, Society for Evidence-based Gender Medicine, affirmed and examined

KATHERINE DEVES, Co-founder and Spokeswoman, Save Women's Sport Australasia, affirmed and examined

Dr DONNELLY: I am a senior research fellow at the Australian Catholic University, but I am appearing on my own behalf today.

The Hon. WES FANG: Thank you very much. Would any or all of you like to start by making a short opening statement? If so, please keep it to no more than a couple of minutes.

Ms DEVES: I am the co-founder and spokeswoman for Save Women's Sport Australasia, a nonpartisan, non-religious, grassroots organisation that is part of an international coalition of women's groups, athletes and supporters of women and girls in sports who assert that male athletes should not compete in the female category. I am a lawyer and mother of three little girls who play seven sports between them. I speak out on this issue because I want to be able to look my daughters in the eye and tell them that I fought for their sex-based rights as hard as I could. I speak on behalf of the women and girls who cannot speak on this issue because they are too afraid to do so. Women who hold views such as mine are often subjected to vicious threats of violence and suffer malicious attacks on their reputations and their livelihoods. The devastating impact of gender identity ideology on the hard-fought and hard-won sex-based rights of women and girls cannot be overstated. It defines a woman as anyone who identifies as one, enabling boys and men who declare a feminine gender identity immediate access to women's spaces and legal protections.

Bulletin 55 expressly privileges the interests and wellbeing of such students. This has profound material implications for girls, who will be forced to accommodate males in their facilities and in their sports. From a young age, males enjoy significant biological advantages that dramatically increase during puberty to result in a vastly superior athletic performance. These advantages are only fractionally mitigated by the artificial reduction of testosterone and create an alarming increased risk of injury to female competitors. Males in girls' sports will end girls' sports because all that will be left are mixed sex and men's categories. Express sex-based legal protections exist for sport in Commonwealth and New South Wales statutes and international obligations under the United Nations Convention on the Elimination of All Forms of Discrimination against Women [CEDAW], as enshrined in our Sex Discrimination Act, and they were designed to eliminate discrimination against women more broadly and create and protect equal opportunities for females in sports.

A direct conflict of rights has arisen with the inclusion of gender identity into sex discrimination legislation, with interpretations favouring gender identity to the profound detriment of women and girls. Entrenching the concept of gender identity into education curriculums and policy places an intolerable burden on girls. It requires them to sacrifice their privacy, dignity and safety in spaces where they are vulnerable. It requires them to ignore the reality of existing in a female-sex body in favour of a male's subjective belief about himself. It requires them to forgo their right to compete on a level playing field in sport because fair competition is destroyed, athletic opportunities are lost and players' safety is completely disregarded. On 1 December last year a senior bureaucrat in the New South Wales sports Minister's office told me that a woman would have to be killed before gender inclusion sports policies would be withdrawn.

Gender identity ideology is a novel and contentious set of beliefs that require us to set aside common sense and biological reality. It has no place in our schools and questions need to be asked about the groups funding this push. For example, ACON receives \$11 million in funding from the New South Wales health Minister's office. Pride in Sport is part of ACON and they are promulgating the sports policies. So we need to know what is going on there because they are a group that is a charity that is publicly funded and they are implementing policies that have broad-reaching effects on our society without parliamentary oversight or media scrutiny. Further to the hearings yesterday afternoon, I want to clarify a point of law. Single-sex educational institutions are not acting unlawfully or contrary to discrimination law if they exclude someone of the opposite sex even if they are transgender or have a gender identity, as per the Sex Discrimination Act, section 31 (3) (a), and the Anti-Discrimination Act, section 31A (3) (b). Save Women's Sport Australasia supports this legislation. Thank you.

The CHAIR: Thank you very much, Ms Deves. Professor Kenny, your opening statement please?

Professor KENNY: There are two key areas of contention in the current bill: firstly, whether gender fluidity ideology should be taught in New South Wales government schools and, secondly, the roles of parents,

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teachers and school systems in determining curricula. If any proposed course of study were verifiably, scientifically flawed, the education department must desist from dissemination of that course of study. I offer this submission in support of the proposed bill. I will focus primarily on object (b), "to prohibit the teaching of the ideology of gender fluidity to children," and object (c), "that teaching in relation to core values is to be strictly non-ideological and should not advocate or promote dogmatic or polemical ideology." I also support the proposed insert of paragraphs [6], [7], [8] and [10] of schedule 1 of the bill. I argue that the content of gender fluidity ideology teaching currently occurring in New South Wales government schools should be closely critiqued with respect to its departures from the established science of human sexuality that demonstrates unequivocally that humans are sexually dimorphic.

Further, claims that children know their gender identity at very young ages contravene evidence from the psychology of human social and cognitive development. Specifically, gender fluidity ideology is based on an erroneous account of human nature that has no scientific foundation. It contains unsubstantiated assertions, generalisations, inconsistencies and internal contradictions and should not be peddled to children and adolescents in schools as a matter of scientific fact. I will briefly outline the errors in gender fluidity ideology and demonstrate *prime facie* that it should not be taught in government schools. Consider this extraordinary definition of gender identity by America's peak body for psychologists:

Gender identity refers to a person's internal sense of being male, female or something else.

There has been no definition of this "something else" anywhere in gender ideology literature, including the teaching materials provided by the New South Wales Department of Education. Gender fluidity ideology does not recognise the binary but fails to define itself in other than the binary as being gender fluid, meaning that your gender typically changes—

The Hon. ANTHONY D'ADAM: Point of order: I believe that you are now just reading from your submission, which is not the purpose of—

Professor KENNY: No, I am not reading from my submission. I am reading from a vastly reduced submission.

The Hon. ANTHONY D'ADAM: That quote is a direct quote from your submission.

Professor KENNY: Yes, that is right.

The CHAIR: Could you just return to your opening statement? We normally have them at about two or three minutes of duration so there is plenty of time for questioning.

Professor KENNY: Yes, alright then. Because of the serious flaws in gender fluidity ideology, we have to seriously consider what is happening in our schools. Basically what is happening is that children are being taught erroneous information and based on erroneous information these children are becoming extremely confused and as through a process of social contagion we are seeing very large increases in the number of children declaring themselves either non-binary, transgender, genderqueer, asexual, pansexual, omni-sexual, demi-boys and demi-girls. There are about 300 or 400 new terms of vocabulary that one must learn if one is to speak to an adolescent who is now steeped in this nonsense ideology that is being peddled on the internet. We have a whole new vocabulary that we need to understand. These are "deadnaming", "misgendering" and so forth. I believe two things. One is that almost none of the other submissions in this hearing have addressed the fundamental flaws in what is being proposed to be taught in Department of Education schools and, secondly, that the education materials available to teachers—that is, the teacher toolkit and Crossroads—should immediately be withdrawn and refashioned to comply with biological and medical science.

The CHAIR: Thank you. Dr Donnelly?

Dr DONNELLY: Thank you very much for the opportunity of being here today. Firstly, my background—I will just briefly mention the fact that I taught for 18 years. I did postgrad work in curriculum and the purpose of education, and I reviewed the national curriculum for the Federal Government recently. So I am talking from an educational point of view, and you will see that in the submission. Secondly, related to that, my view—and it is well argued by many others—education should not be about indoctrination or about ideology. Education in its truest sense should be impartial, objective and balanced. It should not attempt to sway teachers or classrooms and students in terms of a particular ideology. I would argue with this whole area of transgenderism—first came to my mind with the Safe Schools material. That has been there for over I think 10 or 15 years. One of the things I first noted about Safe Schools was that it was designed by people at La Trobe University, where I went, Roz Ward being a chief person there in terms of putting it together.

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As you will see in my submission, Roz Ward clearly states that it is not an anti-bullying program. It is a program designed to impose a neo-Marxist view of gender ideology. So it is quite a radical view and you can see there are many quotes that Roz Ward uses over a couple of years. Thirdly, if you go back to the origins of gender theory, it goes back to the Germany Frankfurt School in the 1920s and the book *The Sexual Revolution* by Wilhelm Reich. That was a period where the neo-Marxists argued that the revolution would never occur in the West, that it would have to be through the long march, which goes back to Rudi Dutschke, the German activist during the 1960s and 1970s, and before him Antonio Gramsci, the Italian Marxist—if you have read the *Prison Notebooks*. So gender ideology is not balanced. It is not impartial. It is not objective. It is a neo-Marxist-inspired view of what I call sexuality reinforced by the research carried out by John Money when at the John Hopkins University.

Before Money did his work, "gender" referred to language. If you did French, Spanish or Latin, "gender" was about the types of pronouns distinguishing between men and women. What Hopkins did, or what John Money did at Hopkins, was to radically turn that expression "gender" upside down to refer to a social construct that goes back to neo-Marxist ideology. So instead of gender—or sexuality I prefer—instead of 99 per cent of babies being born with XX or XY chromosomes, you now assign a gender at birth, which just shows how far we have gone down the rabbit hole.

The CHAIR: Dr Donnelly, in your experience and your research, how much politics and ideology have we got in the classroom today? One of the propositions that sometimes is put is that there is not much at all and that everything is pretty hunky-dory. But we have got news on the front page of *The Daily Telegraph* today that at the Linfield experimental school a poster is hanging, seemingly with the agreement of the classroom teacher, under the banner of Black Lives Matter in which twice students declare, "pigs out of the country", meaning the NSW Police, and just as concerning, "white lives matter too much". This has got to be an all-time low in terms of—

Mr DAVID SHOEBRIDGE: Attacking primary school kids.

The CHAIR: —political content and ideology well and truly out of control.

Mr DAVID SHOEBRIDGE: This has to be an all-time low in terms of attacking primary school kids.

The Hon. WES FANG: Point of order—

Mr DAVID SHOEBRIDGE: On the day that we finally get the conviction of George Floyd, this is the point you want to raise today.

The CHAIR: It is the point I want to raise because we are in New South Wales education—

Mr DAVID SHOEBRIDGE: —and you are attacking primary school kids.

The Hon. WES FANG: Point of order—

The CHAIR: No, I am allowed to ask my question. Dr Donnelly, is it your belief that a lot of this material that Mr Shoebridge and others promote in the name of respect and tolerance in fact is breeding in our young students hatred, disrespect and barbarism of a kind that is just beyond belief, such as what we find on that poster at Linfield today?

Dr DONNELLY: If I had an hour I could tell you in more detail, and if you would like I have written four books about the issue plus a doctorate at La Trobe. Very quickly, it is obvious to anyone who is objective and impartial that the long march, as many call it, occurred during the seventies and eighties. This was a time when Joan Kirner, who was Premier of Victoria and education Minister, argued that education had to be used to overthrow capitalism. It was a time subsequently when the Australian association teachers of English argued English teachers had failed to teach critical literacy because too many young people voted for the Howard Government.

It was a time when the History Teachers' Association called our armed forces "harm workers" and told students they should demonstrate against the war in Iraq. I could go on with 50 examples. Education has long since been absorbed by what I call the cultural left. It is very rare now that you will get an educational experience, either at school or university, which has not been tainted by that neo-Marxist-inspired cultural literacy, is one example, or critical literacy is another. It is a deep concern. I think many people, many parents, are beginning to be concerned about that. That is why so many are now choosing homeschooling.

The CHAIR: On notice, could you provide those 50 examples of ideological and political content in the classroom for our benefit and report? That would be very useful.

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Dr DONNELLY: If you read the latest anthology, I have got a chapter on it.

The CHAIR: We will read that then. Professor Kenny, on notice, could you provide us with these resources? I had not heard of these school resources—teacher toolkit and Crossroads—that you referred to.

Professor KENNY: Yes.

The CHAIR: That would be very beneficial for the Committee. Because so often, as we find out at Linfield today, we have not really known what is going on in the classroom. So to have a look at those resources would be great. Finally, Ms Deves, just to come to your submission—how would you change bulletin 55, particularly with regard to the cut-off age where the male and female biological sport is separated? Because I am not the only parent of a daughter very worried about biological men playing the football codes and cricket at ages 14, 15 and 16, where obviously even the feminist movement acknowledge young girls can be driven out of the sport because of the superior strength and capacity of the biological boys that cause harm to the girls on the football field or with what really is a missile, the cricket ball. Do you think 14 is the cut-off and that we should just separate primary and high school in that respect—not 14, 12?

Ms DEVES: Twelve.

Mr DAVID SHOEBRIDGE: Point of order: There is not a single part of the terms of reference of this inquiry that relates to sport and I cannot see how either the opening submission or this question relates to the terms of reference.

The Hon. SCOTT FARLOW: To the point of order: We have had a lot of discussion about bulletin 55 within this inquiry and I think all members of the Committee have been interested, from both sides of the Committee, so to speak, in how bulletin 55 has been developed. I think it is a fair question for the Chair to be able to ask.

Mr DAVID SHOEBRIDGE: My point of order was not about bulletin 55; it was about sport.

The CHAIR: Yes, but that is part of bulletin 55.

Ms DEVES: Can I answer the question?

The CHAIR: Ms Deves has made a submission and has been called as a witness.

Mr DAVID SHOEBRIDGE: I have made the point of order. Are you going to rule on it, Chair?

The CHAIR: I do not think censorship here is appropriate. The witness can answer the question.

Ms DEVES: The Sex Discrimination Act says that from the age of 12 a person can be excluded from sport on the basis of their sex and gender identity if strength, stamina or physique are relevant. We would argue that they are for every single sport. The 12-year-old cut-off was an arbitrary decision. It was not based in science. We know that children are now experiencing puberty at younger and younger ages. We believe that the female sports category should be for female-born females only. We need to start asking boys and men to be more accommodating of non-gender-conforming boys and accommodate them in their sports instead of expecting the girls and the women, to their own detriment, to accept men into their sports. We are getting stories now of boys competing in girls' sports and winning and taking spots on the podium and taking spots on the team and girls being harmed.

The Hon. COURTNEY HOUSSOS: I did just want to ask you about that differentiation because your submission actually talks about the differentiation between elite level and community level. Could you just explain? I was not quite sure where you got the quotes from. The part of your submission that is in italics—obviously you are quoting from somewhere.

Ms DEVES: I think that would have been from bulletin 55.

The Hon. COURTNEY HOUSSOS: Okay, right. That does make a lot of sense. So if you could just explain that distinction for me.

Ms DEVES: Some sports are now putting boundaries in place at the elite levels. For Australian Football League, they are saying that a male has to have under five nanomoles of testosterone for two years to be able to compete at elite level. Then in relation to community, which is just at this point open to everyone, the policies that are being pushed by Pride in Sport imply that those categories should just be open to everyone. We are of the view that community feeds elite. So we really need to have a policy that captures both.

If girls are being discouraged from competing at the community level or they are self-excluding, then they are not going to get to the elite level. If we have these boys that are blitzing the fields and then getting to elite

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level, what is going to happen to the girls? They are going to be setting records that girls will just simply not be able to compete with because of this male biological advantage, which is measurable on every single metric—strength, speed, stamina, upper and lower body strength—anywhere between 10 to 20 per cent superior athletic performance, all the way through to say punching power, where males punch at 160 per cent of what a woman can punch.

The World Rugby organisation did a review into all the existing evidence of the differences between male and female athletes and they decided that males with trans identity could not compete in the female category for that reason. It is far too dangerous. The risk of injury is 20 to 30 per cent, conservatively estimated. Girls are far more likely to suffer a more severe concussion at lower impacts. All of that is being ignored. Then when we look at bulletin 55, where they are saying that a child with a trans identity can just play in whatever category they want, they are completely disregarding the risks here and issues around liability. It is completely unfair and unsafe for women and girls to have to put up with this.

The Hon. COURTNEY HOUSSOS: Thank you, Ms Deves. At the end of your opening statement you did talk about some testimony that we received yesterday about the way that bulletin 55 applies to the admissions to State schools. Could you just explain that point? I did not quite get it.

Ms DEVES: Certainly. The parents yesterday were saying that if you have a single-sex school, they do need to accommodate a child of the opposite sex who does have a trans or gender identity. That is actually not true. Single-sex institutions are not acting unlawfully or against discrimination law if they exclude someone on the basis of their sex, even if they do have a transgender or gender identity, and that can be found in the Sex Discrimination Act, section 31 3 (a). At the State legislation, it is section 31A again. They can exclude someone on the basis of sex, with the implication being that they can have someone—a male with a gender identity, say—at a girls' school, but it is up to the school's discretion. It is not unlawful and it is not discriminatory to exclude that child.

The Hon. COURTNEY HOUSSOS: Thanks, Ms Deves. Can I just pose a question to the whole panel—but perhaps I might move on to Professor Kenny first—which is: Do you think that parents should be the final arbiters of what their children are being taught at school?

Professor KENNY: Well, parents have never been the final arbiters of what their children are taught at school and some parents are more willing to leave those decisions to the school. But to withdraw parental guidance and authority in the way that the transgender lobby has implemented with children declaring themselves to be transgender is really destroying the fabric of the nuclear family. It is very interesting that almost none of the people who have presented submissions at this hearing have actually worked clinically with transgender children. The panel that I observed this morning—it is all questionnaires and answers and flawed research that they are basing their philosophies on. Most of them would never have even spoken to a transgender child or seen a transgender child in therapy or understood how this transgender issue is tearing families apart.

I have recently been given a case where a school transitioned a child for six months without telling the parents. The parents found out by accident that as soon as the child entered the school gates he was given a skirt and he was called by his selected name, not his birth name. The parents knew nothing about that until they received a school report from their child that had his chosen name and they thought it was a mistake. And then they found out that the school had taken it upon themselves to allow this child to transition without parental oversight or even knowledge.

The Hon. COURTNEY HOUSSOS: Sorry to interrupt, Professor Kenny. What was the age of that child?

Professor KENNY: Unbelievably, 17.

The CHAIR: Was that a government or non-government school?

Professor KENNY: It is a non-government school, but I can tell you a whole lot of issues that have arisen as a result of this erroneous peddling of gender ideology. Children ringing up the police from their parents' home, telling them that they are going to commit suicide, the police turning up, taking the child from the home and putting them into a so-called safe house away from the parents and the parents are not informed where the child is living. These are devastating experiences that parents are having because of the social contagion. The political strength of this movement, or whatever you want to call it, is just breathtaking in its effectiveness in destroying the lives of a generation of adolescents. There will be a massive backlash. Just very recently the High Court in the UK ruled against the Tavistock clinic, who was providing services to so-called gender dysphoric children, claiming that even a child as old as 16 does not have the maturity to make decisions of the kind that is

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being required of them in order to have treatment for their transgenderism, such as puberty blockers, cross-sex hormones and mutilating surgery.

There are a number of States in the United States who are starting to pass legislation against this whole transgender folly that we are seeing, but Australia really needs to act. People who are reprehensible are the commissioners for children and young people, the Children's Guardian, all of these organisations, the Human Rights Commission—they have all fallen in behind and are in the thrall of the transgender lobby, just like the speakers we saw in the first session this morning. Not one of them would have had any understanding of what is going on at the grassroots. The other thing that really needs to be pointed out is that transgender children are in the majority to have mental health issues, autism spectrum disorder, ADHD or attention deficit—

Mr DAVID SHOEBRIDGE: I am going to interrupt. This attack on trans kids by this witness—

Professor KENNY: It is not an attack.

Mr DAVID SHOEBRIDGE: This attack on trans kids by this witness—

Professor KENNY: It is not an attack on trans kids.

Mr DAVID SHOEBRIDGE: —is deeply inappropriate. Allowing this long soliloquy—

The Hon. SCOTT FARLOW: It is her medical opinion, David.

Mr DAVID SHOEBRIDGE: —which is not responsive to the question.

Professor KENNY: It is responsive to the question. It is entirely responsive.

Mr DAVID SHOEBRIDGE: It is not responsive to the question and I take a point of order. It is not responsive to the question.

The CHAIR: You really cannot tolerate views alternative to your own, can you?

Mr DAVID SHOEBRIDGE: It is not responsive to the question.

The CHAIR: The witness is in order and should continue.

Professor KENNY: Thank you. Not one of the surveys that we hear and their trash science, believe me—and thank you for pointing that out—

The CHAIR: Yes, Facebook.

Professor KENNY: —in this morning's session. Other rubbish has come out of La Trobe University, where they did a phone-in. They did not vet the children at all. And yet, when you tried to understand where they got these 859 students claiming to be transgender, the majority of them had not made any steps to even socially transition. They just had a little thought that they might be transgender, but they were included in the survey of so-called 859. It is the same as this research, in inverted commas, coming out of Western Sydney. So we have to look at who are these young people who are transitioning and declaring themselves transgender? There is a new category of young people: It is called "rapid onset gender dysphoria". Across history, males were by far in the majority who wanted to transition. In this socially contagious movement there has been a complete reversal where it is female adolescents who want to transition into males, and there is a huge spike at adolescence. This has never been seen before clinically in the history of transgender presentation.

The CHAIR: Thank you. Mr Farlow?

Dr DONNELLY: Could I just answer that question, Chair, if possible?

The CHAIR: Yes, sure. It was across the panel?

The Hon. COURTNEY HOUSSOS: Yes.

The CHAIR: Yes.

Dr DONNELLY: As I mentioned before, I am from La Trobe University. Maybe I am a bit abnormal in that regard.

The CHAIR: Yes, well, Western Sydney is not going great.

The Hon. ANTHONY D'ADAM: Mr Chair, could I get you to restate the question?

The CHAIR: Well, it is not my question.

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The Hon. COURTNEY HOUSSOS: I am happy to. Should parents be the final arbiters of what they are taught at school?

Dr DONNELLY: I would say, as I do in the submission, parents—especially for faith-based parents of whatever religion, whether it is Hindu or Muslim or Christian—are their children's primary educators and moral guardians. I think that is a very generally agreed comment or description. Certainly Article 5, point 1 (b) of the Convention against Discrimination in Education and the International Covenant on Civil and Political Rights—well, I will not quote it; it is in my submission. They argue very strongly—both those covenants and agreements—that parents must have the right to ensure that the religious and moral education of their children are attuned with the home and with what the parents see as their convictions.

I would suggest, as I mentioned before, if education is now about ideology—and I do not care whether it is Left or Right, conservative or radical—if education is now about pushing a certain ideological point of view, then I think we have lost touch with what really education should be about, which is about helping young people be critically aware, being able to make decisions rationally, being aware of complex debates and controversial issues, and being able to weigh and judge. But to get back to your question, parents are the primary educators of the children.

The Hon. COURTNEY HOUSSOS: Thanks, Dr Donnelly.

The CHAIR: Mr Farlow?

The Hon. SCOTT FARLOW: Thank you very much. I might just pick up on that point, Dr Donnelly, because it is one of the areas that I have been interested in in this inquiry as well. Of course, we are talking about gender in this case, but there are other areas that parents may have concerns about as well in what their children are educated. Are there any other models that you could potentially point us to in terms of parental rights and parents being able to exercise maybe more control over what their children are taught in schools—from other jurisdictions perhaps?

Dr DONNELLY: It is a complex issue in the sense that across what I call the Anglosphere, whether it is Canada, New Zealand, America, Australia, England, United Kingdom, there is a growing sense amongst parents that what is happening in schools is not always attuned to their beliefs—moral or educational. It has not really come to a strong sense of opposition yet, but if you look especially in Queensland and rural/regional New South Wales, for example, there has been a growth in parents homeschooling. Often when I talk to those parents, they are of a view that what kids are being taught in school is too left wing, too ideological, interfering with what they believe education should be about. But I am not aware of any formal organisation as such.

It gets back to—and I will finish with this—that during the eighties and nineties, in particular, there was a great upsurge in non-government school enrolments. If you look at the trends in enrolments over the last 30 or 40 years, there was a period where Catholic and independent school enrolments were growing annually 3 per cent or 4 per cent, government schools falling away. Some of the surveys that were done by associations in New South Wales, Queensland, Victoria surveying parents said one of the reasons was that parents wanted a stronger moral and ethical sense of education and one that was not so ideological. So at the end of the day, parents will often vote with their feet.

The Hon. SCOTT FARLOW: Yes, thank you, Dr Donnelly.

Mr DAVID SHOEBRIDGE: I have a question.

The Hon. SCOTT FARLOW: I have a few more if that is fine, Mr Chair?

The CHAIR: Yes.

The Hon. ANTHONY D'ADAM: Point of order—

Mr DAVID SHOEBRIDGE: So it is 85 per cent.

The Hon. ANTHONY D'ADAM: We have eight minutes.

The Hon. SCOTT FARLOW: I asked one question of Dr Donnelly.

The Hon. ANTHONY D'ADAM: Well, that is the Chair's problem because he has hogged all the time. There are eight minutes left of this session.

The CHAIR: Well, we might run a little bit over to lunchtime.

Mr DAVID SHOEBRIDGE: Well, I don't think we will.

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The CHAIR: Don't have kittens about it, Anthony.

Mr DAVID SHOEBRIDGE: You have not allowed any questioning from people who would challenge this witness.

The CHAIR: We can handle this like adults. Mr Farlow has a few questions and you will have some.

Mr DAVID SHOEBRIDGE: You have not allowed any questioning from members who would challenge these witnesses. You are just allowing more and more—

The Hon. SCOTT FARLOW: I think if we went through—

The CHAIR: Well, I am going from one side of the table to another. I have not hogged anything.

The Hon. ANTHONY D'ADAM: We know exactly what you are doing, Mark.

The CHAIR: You are wasting our time. Mr Farlow?

The Hon. SCOTT FARLOW: Thank you very much.

The Hon. ANTHONY D'ADAM: You are protecting them.

The Hon. SCOTT FARLOW: Professor Kenny, you were talking about the phenomenon, as you were saying, that was unseen in terms of trans sort of clustering, so to speak. As a psychologist, you would be familiar with the concept of clustering when it comes to suicides and the like within communities. Are you seeing some sort of similar patterns or the like?

Professor KENNY: Yes, I have written extensively on this phenomenon called "social contagion", and we have had previous social contagions amongst adolescents in the past. These include suicide, marijuana use, anorexia nervosa and so on.

The CHAIR: Cutting? Remember when cutting was a fad?

Professor KENNY: I beg your pardon?

The CHAIR: Cutting?

Professor KENNY: Yes, that is right. Cutting was another one and, yes, we do see clusters. There is a school in New South Wales that now boasts of having 25 per cent gender-diverse students in their cohort, and children as young as 11 and 12 coming home to their parents saying that they are in fact now transgender. These children have never before in their entire development up to that point indicated any interest in being the opposite sex. So, yes, there is a very, very strong phenomenon of clustering, and we are seeing it across the education sector in both government and non-government schools. I have seen teachers in the inner west of Sydney tell me that they have got five students in one classroom who have now declared themselves cross gender. That is the biggest indicator that a massive social contagion effect is happening.

The other interesting thing to note is that young adolescents are very suggestible, and the social contagion effects on young adolescents are much greater than on older adolescents, and it is not until the mid-twenties that people can be truly individual in developing their own views and beliefs about phenomena. That is why this is such a pernicious situation because it is attacking the most vulnerable and most suggestible age group, and that is why we are seeing this massive surge in young adolescents, which we now call "rapid onset gender dysphoria".

The Hon. SCOTT FARLOW: I will yield.

The CHAIR: Mr D'Adam?

The Hon. ANTHONY D'ADAM: I want to go to the question about the normative assumptions in all the submissions that might have been made by the panellists. It seems to me—and correct me if I am wrong—that each of you adopt the position that to be trans, to be gender diverse is not normal and that it is in some way a bad thing. Maybe that is or is not your assumption, but it strikes me that that is sort of the implicit suggestion from all the contributions you have made: that somehow being trans is not normal and somehow being trans is a bad thing to be avoided, to be discouraged. Can you—

Professor KENNY: We are not making value judgements about whether it is good or not.

Mr DAVID SHOEBRIDGE: You call it a "social contagion".

The Hon. SCOTT FARLOW: Point of order—

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Mr DAVID SHOEBRIDGE: You call it a "social contagion". How can you pretend you are not making a judgement? It is just the hypocrisy of it.

The Hon. SCOTT FARLOW: These witnesses are being treated appallingly by Mr Shoebridge throughout this.

The CHAIR: Yes, they have. He treats people who disagree with him very badly.

Mr DAVID SHOEBRIDGE: The hypocrisy!

The Hon. SCOTT FARLOW: Mr D'Adam put a question to the witnesses.

The CHAIR: He's got some sort of social condition.

The Hon. SCOTT FARLOW: The witnesses got two seconds to respond before Mr Shoebridge jumped down their throat. Please let the witnesses respond.

Mr DAVID SHOEBRIDGE: The hypocrisy! Thank goodness the lightning can't get through.

The CHAIR: Look, David, we are in a political environment where—

The Hon. SCOTT FARLOW: Other witnesses have been treated with respect, David.

The CHAIR: —we sit here silently listening to views with which we strongly disagree. It's called courtesy, it's called respect, it's called tolerance. Now, I know you preach these hypothetically. You need to practise those values in the Committee—

Mr DAVID SHOEBRIDGE: Don't preach to me.

The CHAIR: I am preaching to you—

Mr DAVID SHOEBRIDGE: Don't you preach to me.

The CHAIR: —because I'm running this meeting and your behaviour is disgraceful.

Mr DAVID SHOEBRIDGE: Don't you preach to me about tolerance.

The CHAIR: Your behaviour is disgraceful and disrespectful.

Mr DAVID SHOEBRIDGE: Don't you dare preach to me about tolerance.

The CHAIR: I am preaching to you because you—

Mr DAVID SHOEBRIDGE: Well, you go preach to your own base.

The CHAIR: —are an abomination in the way you behave here—

Mr DAVID SHOEBRIDGE: Go preach to your own base.

The CHAIR: —and you should behave yourself and show a bit of respect instead of just talking about it.

Mr DAVID SHOEBRIDGE: Preach to your own base.

The Hon. WES FANG: Point of order: These witnesses—

The CHAIR: The witness should be able to finish her answer please. It was asked by someone who said he was not getting a fair crack.

Dr DONNELLY: Could I just add to that, Chair? I do not believe transgender or LGBTQI+ people should be vilified or abused or made to feel that they are somehow less than others. So I disagree fundamentally with the assumption you have made, respectfully, that we are somehow being critical.

Professor KENNY: Can I just say something?

Dr DONNELLY: I will just add the point that it is a biological fact that 98 per cent, 99 per cent of babies are born XX or XY. Contrary to what Safe Schools says—that 15 per cent of students are LGBTQI+—the figure is more like 4 per cent or 5 per cent. According to a survey from La Trobe University, 98 per cent of adults identify as male or female, so it is a matter of terminology I suppose. I would be happy to say that heteronormativity is the natural order of events.

Professor KENNY: Could I just—

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Dr DONNELLY: And physiologically you only have to see that a man and a woman, physiologically, are made to join in union to have babies. I think we have not got to a stage where we have replaced that.

The CHAIR: You are getting very old-fashioned now.

Professor KENNY: I would like to answer the question on social contagion. You are saying that I am using the term "social contagion" pejoratively. That is not the case. That is a very strong hypothesis that I have formed about why we have seen a 4,000 per cent increase in young people—

The Hon. ANTHONY D'ADAM: Hang on. You compared it with suicide and self-harm and cutting. How can you possibly—

The CHAIR: Well, they are all fads.

Professor KENNY: They are social contagions. They follow the same—if you do a network analysis of how naturally forming clusters like schools or geographical clusters or other bases for people following each other in their behaviour—peer groups, delinquent groups, gangs and so on—it follows exactly the same pattern of infection, if you want to use that word, influence.

The Hon. ANTHONY D'ADAM: Can you not see that the assumption that you are making is that this is a negative phenomenon?

Professor KENNY: No, it—

The Hon. ANTHONY D'ADAM: It is a negative phenomenon.

Professor KENNY: Social contagion is a negative phenomenon if the behaviour that is being copied is damaging to children.

Mr DAVID SHOEBRIDGE: Well, you have said that you do not have—you at least assert that you do not believe you should be marginalising or discriminating against or being critical of kids who identify as trans, yet you were describing it as a negative phenomenon. How do you square that circle?

Professor KENNY: Very easily.

Mr DAVID SHOEBRIDGE: How do you honestly square that circle?

Professor KENNY: There is a very minute number of people who are what we try to call genuinely trans, and suddenly we have seen a 4,000 per cent increase in the number of young people identifying as trans. Only a tiny fraction of that 4,000 per cent increase are going to be what we call genuinely trans. The rest of them are in the thrall of the trans lobby, and they have serious mental health issues and other things that need to be addressed.

Mr DAVID SHOEBRIDGE: For the record, I find that there are so many offensive elements in that response. But rather than address them individually I will ask you: What is your research data that allows you to state that there is a—did you say minuscule? Was that the word you used?

Professor KENNY: Yes, minuscule.

Mr DAVID SHOEBRIDGE: —minuscule number of trans people in the community? What is your data that says that there is a 4,000 per cent increase? Point to the research data behind your statements.

Professor KENNY: Yes, I have an enormous amount of research data. I do not speak without it.

Mr DAVID SHOEBRIDGE: Tell me it now.

The CHAIR: The last census. Did the last census not show 1,400 people identified as trans in Australia—0.005 per cent?

Professor KENNY: Yes, thank you. That was our data in Australia. But we also have data from America in the *Diagnostic and Statistical Manual* of the American Psychiatric Association 2013 that states that the number of genuinely transgender people—and that is people who from a very young age and right through childhood have identified as the opposite sex—is something like 0.005 per cent of the population, like one in 100,000.

The Hon. ANTHONY D'ADAM: Those who are not in that category—the others—you are saying that there is something wrong with them, that they are sick.

Professor KENNY: It is a manifestation of serious mental health issues, yes. I work clinically with those people. I see them at close quarters. I work intensively with the families and with the young people themselves. The evidence is increasing exponentially that those young people have serious health issues that need

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to be addressed but that are being packaged up as, "There's nothing else wrong with these children other than they've been born in the wrong body and if we magically give them the right body, then all of their other problems will be addressed." None of their other problems are addressed, and the really interesting thing is that giving children puberty blockers does not relieve their gender dysphoria.

Mr DAVID SHOEBRIDGE: Professor Kenny, you are here in your capacity as a psychologist. Is that right?

Professor KENNY: Yes.

Mr DAVID SHOEBRIDGE: Your position is 100 per cent rejected by the submission we have from the peak professional body for psychologists in Australia, the Australian Psychological Society. You are an outlier in the profession, are you not? Your position is rejected by your own peak body, is it not?

Professor KENNY: I reject their position. I think it is a disgrace.

Mr DAVID SHOEBRIDGE: But they are the peak body.

The CHAIR: The witness can answer the question. Please allow the witness to answer.

Professor KENNY: There are lots of peak bodies. I am disgusted with the Human Rights Commission. I am disgusted with the commissioners for children and young people. They have all drunk the Kool Aid of the transgender, politically correct ideology. Please read my submission very carefully, because I detail what is wrong with the ideology. That is where we should be starting. It is not about acceptance; it is not about whether it should be taught in schools. It is about: Let us look at this ideology. Does it have any intellectual merit whatsoever? And it does not.

Dr DONNELLY: Or scientific and medical.

Mr DAVID SHOEBRIDGE: It is a pity the Chair and the Coalition would not agree to have the peak body come and actually represent the collective profession of psychologists, is it not? It is a pity we do not have them to counter your position, you would agree, at least for balance.

The CHAIR: You had four slots to fill.

Mr DAVID SHOEBRIDGE: It is a pity we do not have their position, is it not, presented as a witness?

Professor KENNY: I have already written to the APS and told them that they have taken a disgraceful position at the behest of Damien Riggs, who by his own admission has never spoken to a transgender child. He does not know anything firsthand about what is going on in the lives of children who are declaring themselves transgender, when 30 years ago it would never have even crossed their minds to do so.

The CHAIR: I thank the witnesses for their participation. Can I just clarify one thing? I think in the hurly-burly of debate, when Anthony was rattling off what I thought was the list of fads, you started that with "suicide". I interjected, "They're all fads." I should not have said that. It is wrong. I withdraw and correct the record accordingly, because it seems to me that—

The Hon. ANTHONY D'ADAM: It was not "fads"; it was "contagions".

The CHAIR: "Contagions", okay.

Mr DAVID SHOEBRIDGE: I think the two phrases were "contagions" and "infections".

Professor KENNY: No, you do not need to withdraw it. Withdraw the word "fad", but suicide does occur in clusters and it is due to social contagion.

The CHAIR: No, "fad". Sorry, that is what I am withdrawing because that is not accurate. I just wanted to correct that record and again thank the witnesses for your participation. We are, as you can gather, a Committee with diverse views and sometimes robust analysis and we thank you very much for participating for close to an hour in that environment. Thank you for your submissions as well.

(The witnesses withdrew.)

(Luncheon adjournment)

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DALLAS McINERNEY, Chief Executive Officer, Catholic Schools NSW, sworn and examined

PETER GRACE, Executive Director, Council of Catholic Schools Parents NSW/ACT, sworn and examined

The CHAIR: I will reconvene the Committee hearing. We have a little housekeeping matter to note before we begin. It has been requested that we note the correspondence from the Australian Psychological Society. They wrote to the Committee secretariat to say that they were invited but are unable to attend this hearing and participate. We place that on the record in response to earlier discussions. I thank the witnesses for their attendance today and appreciate their submissions and the time they have given us. It is available to make a short statement for a few minutes in duration and when we go to questions I remind you that if there are questions where you need to consult data or think further about your answer it is available to take those on notice and furnish an answer to the Committee within 21 days.

Mr GRACE: Thank you for this opportunity to appear today. The Council of Catholic Schools Parents [CCSP] NSW/ACT is the official voice of parents and carers of children and young people in New South Wales Catholic schools. We represent the families of more than a quarter of a million students across the State. The Catholic Church teaches that parents are the primary and principal educators of their children. Whose task it is to provide children with a sound and cultural religious formation is of the utmost importance. Indeed, the role of parents in education is of such importance that it is almost impossible to provide an adequate substitute. The right and duty of parents to educate their children is primordial and inalienable.

This primary right finds its most concrete expression in the most grave duty of parents to take responsibility for the well-rounded personal and social education of their children, including their sexual and effective education within the broader framework of an education for love, for mutual self-giving. We support legislation that protects and promotes the role of parents as the first educators of their children. Particularly regarding the development and formation of moral and ethical standards and social and political values, including an understanding of personal identity and questions of gender and sexuality. When people other than parents intervene in these areas of parental primacy and promote ideologies that are not consistent with parents' core values, then they undermine and usurp parents' role as their children's first educators.

The teaching of gender fluidity in schools is one such area that crosses that threshold. By encouraging and facilitating children and young people to question their identity as boys or girls schools, teachers and even providers of professional development risk making parents' role as their children's first educators more difficult. Schools and teachers have a role to play in providing instruction on gender and sexuality in a neutral way, one that is not in conflict with parents' core values and one that is certainly not through the ideological lens of gender fluidity. CCSP is aware of the distressing reality faced by many of the young people who present as gender dysphoric. It is only right that they receive our compassion. Schools must be safe and supporting learning environments for these and all students.

In this context we qualify our support for the bill by noting that the bill should in no way act as a barrier to schools providing appropriate pastoral care for students presenting with gender dysphoria or other gender- and sexuality-related mental health concerns. Schools should be working in close partnership with parents and families to provide the best support for students in their care.

Mr McINERNEY: Thank you, Chair. I am happy for our submission to speak for itself to allow further questions and time for discussion. A little bit on the role of Catholic Schools NSW. We are the approved system authority for the 11 dioceses and school systems here in this State. That is a legislatively designated role in both the Federal and the State acts. In addition to that role, we act as the non-government representative body for other Catholic schools, namely, what we call congregational or religious institute schools that sit outside our system but nonetheless operate under ecumenical authority and approval from the local ordinary bishops. We are happy to support the submission of my colleague, Mr Grace, and commend our submissions for the Committee's consideration.

The CHAIR: If I could just start with questions. You mentioned 11 dioceses. One of them has attracted some publicity in recent days in terms of a differing opinion with the State office. To clarify this, does the State office support Greg Whitby's Thatcher-esque statement that there is no such thing as parental rights?

Mr DAVID SHOEBRIDGE: That is not what he says.

Mr McINERNEY: The best direction and advice that I can give to the Committee is that Catholic Schools NSW is the nominated representative body and voice of Catholic education for the 11 systems and that is probably where your best efforts are directed in examining our positions in our submission.

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The CHAIR: Why would anyone pay money to send their children to Catholic schools if part of the system was to say that you really have not got any rights as parents?

Mr McINERNEY: Noting that Parramatta is not here to speak to their own submission, they do state on page—

The Hon. ANTHONY D'ADAM: We tried to get them here.

Mr DAVID SHOEBRIDGE: The Chair and the Coalition would not allow them to come. They voted on majority to prevent them coming.

Mr McINERNEY: I am not disagreeing with the position.

The CHAIR: Well, there has to be a degree of sanity here.

The Hon. SCOTT FARLOW: We have just heard that this is the nominated spokesperson for the 11 systems.

Mr McINERNEY: The Catholic education diocese of Parramatta do state in their submission that it is committed in the Catholic understanding that parents are the primary educators of their children in matters of faith and education. They are quite explicit in that, notwithstanding some media commentary and other discussion which runs counter to that. I direct you to their own submission and their own words which unambiguously put parents as the primary educators of their children. As you go through their submission, that position falls away a little bit and becomes less consistent, but that is a matter for them. The threshold consideration of that principle of the role of parents is made clear in their submission.

The CHAIR: My understanding is that a number of the Parramatta parents are none too happy about this position and that the Parramatta diocese enrolment share and academic results have collapsed in recent times because of the so-called progressive approach to education. Do you have some data on that that you can furnish to the Committee?

Mr McINERNEY: Just like the State department system who run their evaluation and oversight of performance enrolments through CE, Catholic Schools NSW has that as an in-house capability and reporting requirement back to the bishops. These are all drawn from publicly available data sets. Is the Committee is interested in anything in particular?

The CHAIR: The enrolment share and the academic results measured through NAPLAN and any other systems and tests particular to the Catholic system. Obviously, part of our inquiry is to look at the varying degree to which parental rights are accepted within systems and the way in which parents respond to that. Obviously voting with their feet, who would pay fees if you thought you had no rights, and also academic results as to what the wiping of parental rights might mean in terms of results.

The Hon. ANTHONY D'ADAM: I do not believe the performance of the Parramatta diocese is within the terms of reference of this inquiry.

The CHAIR: Could you take that on notice?

Mr McINERNEY: I can take that on notice and come back to the Committee, Chair.

Mr DAVID SHOEBRIDGE: To understand that we would need to see the data for all of the 11 dioceses.

The CHAIR: Is that a question?

Mr DAVID SHOEBRIDGE: So you are going to provide the data for all 11 dioceses or are you just going to single out Parramatta, which will be of no use to us.

The CHAIR: Why?

Mr McINERNEY: I am in the Committee's hands.

Mr DAVID SHOEBRIDGE: I would ask you if you are going to do it—

The CHAIR: I have asked for the Parramatta data. Do you want to ask a question, Mr Shoebridge, you have got the floor.

Mr DAVID SHOEBRIDGE: —I would ask you to produce all the data so that we have context.

Mr McINERNEY: What is your question, Mr Shoebridge?

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Mr DAVID SHOEBRIDGE: Will you produce all the data so that we have context?

Mr McINERNEY: What data are you after, Mr Shoebridge?

Mr DAVID SHOEBRIDGE: The data that you provide for Parramatta—

Mr McINERNEY: I have not provided any data for Parramatta.

Mr DAVID SHOEBRIDGE: —will you provide it for the other 10 dioceses? The data you have said you will provide for Parramatta, will you provide it for the other 10 dioceses or are you just wanting to single out and attack Parramatta?

The CHAIR: Parramatta is going really bad, I can tell you.

Mr McINERNEY: I am happy to provide across-the-board information for our 11 systems to the extent that the data is able to be shared.

The Hon. ANTHONY D'ADAM: I have questions. I want to ask about the curriculum. You can take this on notice if you need to. Where particularly does the curriculum prescribe their teaching of gender fluidity?

Mr McINERNEY: As I read the bill, Mr D'Adam—

The Hon. ANTHONY D'ADAM: This is a question about the curriculum, not the bill. Where in the curriculum currently is it required the teaching of gender fluidity?

Mr McINERNEY: The bill seeks to be preventative in its stance.

The CHAIR: No, just to clarify, the bill is a response to the way in which a number of so-called progressive teachers and authorities—the Teachers Federation—go outside the curriculum. Decisions like Safe Schools, the Teachers Federation called it the unwritten curriculum. Imagine that—to take it upon themselves to teach gender fluidity in an unauthorised way. That is the purpose of the bill.

The Hon. SCOTT FARLOW: Implied right.

The Hon. ANTHONY D'ADAM: So that goes to my question—

The CHAIR: Implied rights, yes—end up in the High Court.

The Hon. ANTHONY D'ADAM: Where is it in the curriculum that requires the teaching of gender fluidity, from your knowledge?

The CHAIR: It is not. But how is it ever being taught?

Mr McINERNEY: My understanding is that the curriculum does not contain an explicit positive obligation for the teaching of gender fluidity ideology.

The Hon. ANTHONY D'ADAM: I see.

Mr McINERNEY: That is not to say that it does not happen.

The Hon. ANTHONY D'ADAM: So that is my next question. To be supporting this bill, you must recognise that there is a need and clearly there must be instances in the Catholic system where you believe gender fluidity is being taught in order to justify the position you have taken in relation to this bill.

Mr McINERNEY: No, one does not follow the other, Mr D'Adam. The main motivation for Catholic Schools NSW in support of the bill is its focus on parental rights and restoring the role of the parent in the primary position both pedagogically and, in this case, legislatively—to have it affirmed in an amendment to the Act.

The Hon. ANTHONY D'ADAM: So it is not your submission. You are not worried about the gender fluidity component; it is just about the parental primacy? Your primary concern about supporting this bill is achieving parental primacy?

Mr McINERNEY: That is a main motivation.

The Hon. ANTHONY D'ADAM: Why is that not already able to be achieved in the Catholic system? Do you not already have the power administratively to make sure that parental primacy is the way that schools are conducted within your system?

Mr McINERNEY: You will find in our church teaching there is a long history which privileges the position of the parents and recognises its important role as the primary and first and most important educators of children. You will note from our submission that that synchronises quite nicely with international covenants to

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which Australia is a signatory. To have the opportunity to have that affirmed in the New South Wales Education Act more explicitly, we think is one which the Parliament should look at favourably.

The Hon. ANTHONY D'ADAM: But you do not need it, do you? I mean, you do not need an Act of Parliament to require that in the Catholic system; that is something you are able to do now.

Mr McINERNEY: We work inside a regulated framework and anything which will give us more certainty for the operation of our schools would be welcome.

The Hon. ANTHONY D'ADAM: Have you issued a directive around prohibiting gender fluidity in the Catholic school system?

Mr McINERNEY: No.

The Hon. ANTHONY D'ADAM: Why?

Mr McINERNEY: The directive for the teaching of subject matter and curriculum in this State is from the NSW Education Standards Authority [NESA] through the approved curriculum.

The Hon. ANTHONY D'ADAM: Yes, but it is not in the curriculum. So if you are worried about something that is being taught that is not in the curriculum, why have you not explicitly addressed that within your own system if you are so worried about it?

Mr McINERNEY: No, I think what the main motivation for our support of this bill is its response to the role of parents. If that can be made more explicit in the legislation, we obviously support that because it affirms the mission that we have carried on in this country for the past 200 years.

Mr DAVID SHOEBRIDGE: But you do not need it. You are very clear that you do not need it.

The CHAIR: Order!

The Hon. ANTHONY D'ADAM: I have not finished.

The CHAIR: No, we will come back to you because we want to make sure—everyone wants to ask questions.

The Hon. ANTHONY D'ADAM: I would like my 17 minutes, actually.

The CHAIR: You have not got 17 minutes. I did not have 17 minutes. You are just making that up.

The Hon. ANTHONY D'ADAM: You took 17 minutes last time.

The CHAIR: We will come back to you.

The Hon. COURTNEY HOUSSOS: I want to thank you both for your time and for your submissions today. Can I just start by asking: In the Catholic system, what consultation do you have with parents about what you are teaching to them? I am happy if either one of you want to answer.

Mr McINERNEY: Mr Grace might go first.

The Hon. COURTNEY HOUSSOS: Yes, sure.

Mr GRACE: The consultation that takes place stems from a strong partnership between schools and parents at the local level. It is a shared understanding from enrolment onwards. Typically there are no surprises that parents get when they enrol their child in a Catholic school. Parents will choose a Catholic school for their child for a variety of reasons and one of those key reasons is that the values of the school align with their own values. Typically when it comes to matters of parental primacy—and this includes matters of gender and sexuality education—there is consultation between schools and parents so that there is a full and understanding both at school and at home what the respective expectations are. That is the practice.

The Hon. COURTNEY HOUSSOS: Mr Grace, if there is anything that you can provide on notice, physical kinds of things that are provided to parents, that would be very helpful for the Committee.

Mr GRACE: Sure.

The Hon. COURTNEY HOUSSOS: Mr McInerney, did you want to add to that?

Mr McINERNEY: Nothing to add.

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The Hon. COURTNEY HOUSSOS: I note that in your submission, Mr McInerney, you talk about your support of the bill and I understand that you are regulated with a close funding agreement now with the States to teach what is in the State curriculum. That is correct, is it not?

Mr McINERNEY: Correct.

The Hon. COURTNEY HOUSSOS: You said that your support of the bill's provisions that seek to prohibit the teaching of gender fluidity is contingent on the understanding that it would not capture instances of general discussion of a non-ideological nature, for example, that arise in a classroom, nor would it inhibit the provision of pastoral care, support or counselling for students in need. Can I ask you then if a student at a Catholic school does say that they are trans, what is the support that is currently in place for that student?

Mr McINERNEY: Thanks for the question. It is the case; we do have children enrolled in our schools across New South Wales who present with or exhibit characteristics or who are experiencing gender dysphoria. The first response from the Catholic school to that student and his or her family is one of support and pastoral care. The abiding principle is acceptance. Nothing should interrupt the educational journey of any such student in one of our schools. In fact, it is not. There is nothing in the Catholic Church or biblical teaching which would justify discriminatory practices of any nature. That is certainly not the case in our schools. You will not find any discriminatory aspects when it comes to our enrolment policies or upholding those policies with respect to children with gender dysphoria.

There are accommodations that are made. There is counselling, which is extensively available to these children and their families through catholic agencies and non-Catholic agencies and other partners we work with. So there is an enormous support network we put around these schools. They are not pushed out; in fact, they are encouraged to continue their journey through our schools. That is what we think is probably the best option for the child if that is the wish of him or her or their family.

The Hon. COURTNEY HOUSSOS: Mr Grace, I wanted to ask you about your submission. At paragraph 2.6.3 you talk about that NESA, in order to roll out the new curriculum review, has "opted to curtail its previous consultative processes" so that the voice of parents essentially is not going to be given the same weighting as in the past. Can you just explain that?

Mr GRACE: That is a concern that we have and we share that concern with the parent bodies in the other education sectors as well. In the past the syllabus development process led by NESA has drawn on the expertise of a wide group of stakeholders. Following the syllabus reform, as a result of the New South Wales curriculum review, NESA has embarked upon an ambitious rollout of new syllabuses. There is not going to be the same capacity to consult in the way it has in the past with the respective stakeholders.

The Hon. COURTNEY HOUSSOS: Including parents.

Mr GRACE: Including parents, yes. They have said that they will be relying more so on the education peak bodies. Not to be dismissive of the role that Catholic Schools NSW might have in that process, we would like to see parent representation, industry group representation, school principal representation and so on, as has been the case previously. Our concern is that going forward there will not be the same structures in place that allow parents to have the voice that they have had in times gone by.

The Hon. COURTNEY HOUSSOS: That is really helpful feedback, thank you.

The Hon. WES FANG: Thank you very much for appearing today and thank you very much for your detailed submissions. I just wanted to ask a question along the lines that I have been asking previous witnesses. We have heard previously that children are aware of their gender at a much earlier age than we were expecting they might and that they are very certain of this, but we also hear that in other jurisdictions there is a move to, for example, change the—

Mr DAVID SHOEBRIDGE: Here we go again.

The Hon. WES FANG: —age of criminality from, say, 10 to 14. And there is no linkage, thank you, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Then why in the same question?

The Hon. WES FANG: Because the arguments around increasing the age of criminality—

The Hon. COURTNEY HOUSSOS: Do not respond to interjections, Mr Fang.

The Hon. WES FANG: The arguments around increasing the age of criminality is that children are unable to, for example, understand the difference between right and wrong and make proper decisions. Do you,

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in your experience as educators, have a view on how children are able to determine for themselves circumstances in which they make permanent decisions and how that may affect them into the future?

Mr McINERNEY: I will not make any comments on what you reference with respect to criminal justice law reform. But I think if you go to what I understand to be the main point in your question, the children are children and the role of the parents or the guardians or the carers is to guide them and make decisions for children who are in their care and charge on the basic and very defensible assumption, which has been through centuries of humankind, that children do not have the agency to make long-life decisions for and of themselves which are irreversible. In fact, to go down and adopt that path would be a dereliction of the role of a parent, a guardian or a carer. It is a fundamental principle of how we form as a society and families and the nucleus around them. So to vacate the field and to assume a situation where a child would have 100 per cent agency over his or her decisions that affect the rest of their life borders on the irresponsible.

The Hon. WES FANG: Mr Grace, do you have a view?

Mr GRACE: Only that it strikes me as remarkable that some parents would be in favour of surrendering that responsibility. It is a privilege to be a parent.

The Hon. WES FANG: It is agreed.

Mr GRACE: And, in the main, parents take that responsibility very seriously.

The CHAIR: Hear, hear! Mr Farlow?

The Hon. SCOTT FARLOW: Thank you very much. To pick up on that point in terms of parental rights, we have heard evidence prior in this Committee in terms of that relationship between the parent and the school and that there has been an increase in enrolments in both Catholic and independent schools as a result of parents effectively voting with their feet in terms of their role as part of what their children learn and as part of determining that and they have gone to Catholic and independent schools. Is that something that you have seen or your enrolment numbers would substantiate?

Mr McINERNEY: It is. In the last couple of years we have seen an uptick in enrolments in Catholic schools. I understand that has been the case in other faith-based schools across New South Wales in the broader independent sector. Speaking for Catholic schools, there are a number of reasons why we think that is the case. Clearly, in increasing numbers New South Wales parents are attracted to an educational offering for their children which not only has scholarship and academic pursuits but it is also coupled with spiritual guidance, pastoral care and instruction as they grow in their relationship with their creator, and all the ancillary benefits which come with that. So it is pleasing for us that that is increasingly appealing to New South Wales parents and we are very grateful for the acknowledgement and support that both the Federal and the State governments give to our sector to enable us to operate our schools.

The Berejiklian Government and also Ms McKay could not be bigger supporters of Catholic schools. We are very grateful for it, but in turn we deliver a terrific product and partner with the department and the State schools. I think it is in New South Wales' interests—and, in fact, all of Australia's interests—for us to have high-functioning, well-performing schools no matter the sector. There is a national dividend for us all to enjoy from a high-functioning school sector and I think in New South Wales that should never not be the aspiration. We have some challenges around learning outcomes and bringing a focus to some of the academic indices that we are seeing, but I think the Parliament, the NESAs, the Catholic school system are bringing a sharper focus to that of recent years and the memorandum of understanding [MOU] that we have signed with the department requires us to report against that. So we are very comfortable with a focus on it. But to answer your question, there has been an uptick and there are growing numbers coming to our schools.

The Hon. SCOTT FARLOW: And, Mr Grace, you outlined before that parents effectively know what they get when they are signing their children up to a Catholic school and enrolling their children in a Catholic school, and I know you undertook to provide potentially on notice to Ms Houssos some information about some of the communication that may go to parents from Catholic schools so that they have an understanding of what is being taught in the curriculum. I am just wondering if there are any processes that you are familiar with as a parent and representing parents in Catholic schools whereby there might be a grievance procedure or, if parents are unhappy with what is being taught in the school, is there any sort of mechanism that is in place whereby parents can have conferences or some sort of discussion with the school about those in a formalised sense?

Mr GRACE: As a matter of course schools have grievance procedures and complaints policies that parents can follow. Fortunately, my experience of having children in the Catholic education system has been more positive than that and I have not had to exercise any of those channels. But there are procedures in place, yes.

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The Hon. SCOTT FARLOW: Thank you very much. And, Mr McInerney, just returning to your submission as well with respect to the gender fluidity question, I think you have outlined that there is currently an existing precedent for this legislative prohibition in terms of what can be taught in schools, found in section 30 of the Act, when it comes to religious instruction. I think your submission also goes to the point that gender fluidity as a concept, so to speak, from your reading of the bill is not banned, but being taught as an ideology or a dogma is the same as religion would be at the moment in terms of an ideology in schools. I am interested in that point and whether there is anything else that you think perhaps should be captured potentially where parental rights should be primary and maybe there should be similar constraints placed on any other elements that parents could find objectionable or outside of their values.

Mr McINERNEY: You are right, I think there is current in the Act an explicit prohibition on the teaching or advancing of religion in a dogmatic or a polemical sense. So to the extent there was any concern or hesitation that there should be areas inside a classroom or subject matters or topics carved out, if you like, there is already a precedent there. But I think the caution around this is well placed. You want your centres of learning to be areas of open inquiry, scholarship and free expression and you would not want it to unnecessarily limit or curtail the natural schooling or learning journey of any child.

That is why we made a distinction between if, for example, matters of gender or gender dysphoria were to come up in a classroom discussion organically, then this proposed legislation should capture it. That is distinct, however, from advancing ideology through the curriculum or even outside the curriculum, more correctly. That is where we thought, on the balance, it is worth consideration for a further prohibition to be put into the Act along with the religious one, and section 30 is referred to. The back half of your question was: Are there further topics which could be similarly considered to have this sort of consideration? I might take that on notice, Mr Farlow, and come back.

The Hon. SCOTT FARLOW: Just one last one from me, Mr Chair. In recommendation 2 that you make as part of your submission, you outlined the critical need to support students who experience or exhibit gender dysphoria. We have had some criticism of the bill from opponents of the bill who have said that as the bill is currently structured it would stop, from their perspective or their contention, school counsellors from supporting children who were exhibiting gender dysphoria. I am wondering if you have either the same reading of the bill or maybe this is something you would like to take on notice as to how the bill could potentially be improved to maybe address that issue so that people could be supported who are experiencing gender dysphoria, as your submission goes to that.

Mr McINERNEY: I am happy to answer that question today. Our careful consideration or reading of the legislation did not bear out those concerns of other parties, which you have just referred to. We make a clear distinction, and we think the legislation does as well—the better reading of it, the careful reading of it—which distinguishes between what is advanced in the classroom in an ideological sense is quite different from whatever pastoral care is given to students experiencing gender dysphoria. I think to conflate the two, either they have not done enough close reading of the legislation or it is a deliberate conflation for other purposes.

Mr DAVID SHOEBRIDGE: Perhaps you have not read 17A and 17C together. Have you read them?

Mr McINERNEY: I have read the bill.

Mr DAVID SHOEBRIDGE: Do you know what the proposed 17A says?

Mr McINERNEY: What are you going to direct me to, Mr Shoebridge?

Mr DAVID SHOEBRIDGE: The bill.

Mr McINERNEY: Yes.

Mr DAVID SHOEBRIDGE: I am directing you to 17A and 17C of the bill. Have you read them?

Mr McINERNEY: I have.

Mr DAVID SHOEBRIDGE: And you say it only applies to teaching. It does not apply to counselling or pastoral care?

The Hon. SCOTT FARLOW: That was not Mr McInerney's evidence.

Mr DAVID SHOEBRIDGE: Is that through evidence?

The Hon. SCOTT FARLOW: That was not his evidence.

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Mr DAVID SHOEBRIDGE: Correct me if I am wrong, I thought you said it only applies to teaching and it would not apply to pastoral care or counselling.

Mr McINERNEY: Our interpretation—

The Hon. ANTHONY D'ADAM: I think he said it was a careful reading of the bill.

Mr McINERNEY: Our reading of the bill suggests to us that it is clear that there is a demarcation between the two.

Mr DAVID SHOEBRIDGE: What about I read the bill to you and help you. Clause 17A says, "The education in government and non-government schools must not include the teaching of gender fluidity." Does that ring a bell now that 17B says that, Mr McInerney?

The CHAIR: The teaching of gender fluidity.

Mr McINERNEY: I am in your hands, Mr Shoebridge. I do not have the legislation—

Mr DAVID SHOEBRIDGE: I am just asking you does that ring a bell. You said you have read the bill carefully. You have reviewed it carefully.

Mr McINERNEY: I do not have the bill in front of me but go ahead.

Mr DAVID SHOEBRIDGE: Well, that is what it says.

Mr McINERNEY: I will take you on your word.

Mr DAVID SHOEBRIDGE: Then 17C says:

For the avoidance of doubt, sections 17A (prohibiting the teaching of gender fluidity) and 17B (requiring non-ideological teaching in matters of parental primacy) apply to any teaching, instruction, counselling and advice provided to students by:

- (a) non-teaching school executives;
- (b) non-teaching school counsellors,
- (c) non-teaching staff, contractors, advisors and consultants of a school,
- (d) non-school based staff, contractors, advisors and consultants of a school, and
- (e) volunteers at a school

Your position about a careful reading of the bill is plainly wrong, isn't it?

The CHAIR: No.

Mr DAVID SHOEBRIDGE: Because it applies across the board.

The CHAIR: They cannot teach gender fluidity.

Mr DAVID SHOEBRIDGE: I am not asking the Chair, I am asking you, Mr McInerney.

The CHAIR: It is self-evident.

Mr McINERNEY: I think I have little more faith in clinicians and counsellors, Mr Shoebridge—

Mr DAVID SHOEBRIDGE: That they will breach the law?

Mr McINERNEY: —to know what their professional obligations are and what they are not. Are they educators or counsellors?

Mr DAVID SHOEBRIDGE: This prevents counsellors, advisers, consultants from actually addressing the matter.

The CHAIR: No, teaching.

Mr DAVID SHOEBRIDGE: You say you have got a careful reading of the bill, but a reading of the bill—

The CHAIR: Be honest—teaching. Not addressing the matter—teaching.

The Hon. ANTHONY D'ADAM: "Any teaching, instruction, counselling and advice."

The CHAIR: Teaching. Not addressing the matter.

Mr DAVID SHOEBRIDGE: The prohibition on teaching of gender fluidity—

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The Hon. WES FANG: Point of order: Hansard cannot—

The CHAIR: This is dishonest.

The Hon. WES FANG: I am raising a point of order, please. Hansard cannot capture three voices speaking at once.

The CHAIR: No.

Mr DAVID SHOEBRIDGE: Well then let me finish my question.

The Hon. ANTHONY D'ADAM: The Chair should call himself to order.

The CHAIR: Mr Shoebridge, finish your question.

Mr DAVID SHOEBRIDGE: Mr McInerney, your so-called careful reading of the bill has comprehensively failed to understand it. Has it not?

Mr McINERNEY: No, I do not accept that.

Mr DAVID SHOEBRIDGE: Did I understand that you said you adopted the submissions—and I assume that includes the opening submission—of Mr Grace on behalf of Catholic Schools?

Mr McINERNEY: Yes. We are supportive.

Mr DAVID SHOEBRIDGE: Is it true that if a student presents as a transgender student that the label that you apply to the student is "gender dysphoria" or a "gender dysphoric student"? Because they are the only labels I have heard you and Mr Grace use.

Mr McINERNEY: We do not invest or make too much of labels, Mr Shoebridge. We try and meet the student where he or she might be and extend to them the support that they require to continue their educational journey. It is a matter less of labels than of support.

Mr DAVID SHOEBRIDGE: I am asking you about the label though.

Mr McINERNEY: You have my answer on the labels.

Mr DAVID SHOEBRIDGE: Is that the label you apply—"gender dysphoria" or a "gender dysphoric student"?

Mr McINERNEY: That is in the submission.

Mr DAVID SHOEBRIDGE: Yes. It is the label you use for trans students, isn't it?

Mr McINERNEY: It is in the submission.

Mr DAVID SHOEBRIDGE: You understand that that is a negative label, that it talks about some kind of condition—a negative condition. That is your position, isn't it, Mr Grace, that it is a negative condition?

Mr GRACE: It is my understanding that it is a diagnosis and that is what we are addressing in our submission.

Mr DAVID SHOEBRIDGE: Yes. A medical problem is how you see it, isn't it, Mr Grace?

Mr GRACE: It is a medical diagnosis.

Mr DAVID SHOEBRIDGE: Do you believe it is a medical problem—something that you treat with compassion because it is a problem—in your submission?

Mr GRACE: Clearly from the testimony that has been given here over the last day and a half it is a condition that carries with it much confusion and distress and so compassion is an appropriate response.

Mr DAVID SHOEBRIDGE: On behalf of Catholic Schools, Mr McInerney, do you adopt that position of Mr Grace?

Mr McINERNEY: I am not going to accept the premise of your question, Mr Shoebridge. You have my earlier answer.

Mr DAVID SHOEBRIDGE: There is no premise to my question. I am asking if you adopt that position.

Mr McINERNEY: The premise of your question is that the substantive issue hinges on a label. I think that is a disservice to the children.

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Mr DAVID SHOEBRIDGE: No. What I am putting to you is this: The position that you are adopting on behalf of Catholic Schools NSW is to see transgender kids as having a problem, something that needs to be treated with compassion and corrected.

The Hon. SCOTT FARLOW: That is not what Mr Grace expressed, David.

Mr DAVID SHOEBRIDGE: That is what Mr Grace has said—

The Hon. SCOTT FARLOW: It is not.

Mr DAVID SHOEBRIDGE: —and that is what you say you adopt on behalf of Catholic Schools.

The CHAIR: Can you move on please, David. You have asked this question several times.

Mr DAVID SHOEBRIDGE: Do you recognise how dismissive—

The CHAIR: Well, it is a problem if they want to switch back later on, isn't it? Massive.

Mr DAVID SHOEBRIDGE: —and how damaging that is to kids who come forward as transgender.

Mr McINERNEY: I do not. What I do recognise, Mr Shoebridge, is the potential damage your interpretation of the issue is doing to those children. That you are so keen to put on them a label and have the position of other parties characterised as being negative that these kids will walk around with a cloud all around them. I do not think that is a great service for those children and I would urge you to take a different approach.

Mr DAVID SHOEBRIDGE: Do you adopt Mr Grace's statement that he gave in his opening—before you said you supported everything he said—that when a child presents as gender and sexuality diverse that it is treated as a gender and sexuality health concern? You adopted it earlier. Do stand by that?

Mr McINERNEY: Yes.

Mr DAVID SHOEBRIDGE: Can you understand how marginalising that is for kids who come forward as expressing gender and sexuality diversity? Can you understand just how marginalising it is to say that they have a sexuality health concern?

Mr McINERNEY: Many of these children present themselves and that is their own description of their situation. Again, I do not think it behoves the interest of the children and you as an elected representative to negatively characterise the responses to them and publicly do so. I think there is a higher calling here for all of us, Mr Shoebridge, and that is to make sure that these children get the best care and support they can and not be caught in the back and forth of a Committee hearing.

The CHAIR: Hear, hear!

Mr DAVID SHOEBRIDGE: Perhaps we should just end this Committee hearing, pull the bill and actually start talking about supporting these kids. Is that your position? Because I would support that.

Mr McINERNEY: We support these children every day.

Mr DAVID SHOEBRIDGE: I am sure you do.

The Hon. ANTHONY D'ADAM: I would like you to perhaps elaborate on what element of Catholic social teaching suggests that trans and gender diversity is contrary to the doctrines of the church.

Mr McINERNEY: What do you mean by trans and gender diversity?

The Hon. ANTHONY D'ADAM: I am talking about the children that this bill is directed at.

Mr McINERNEY: I will just go back to my earlier comment. There is nothing in Catholic social teaching which justifies or provides a basis for prejudicial or discriminatory treatment of fellow humans. Absolutely not. And you will not find that in our schools. I have spoken earlier about the support that we extend to these children. Mr D'Adam, if you are going to take Mr Shoebridge's approach to unduly, negatively characterise the experience of these children not only in our schools but at all schools, I do not think that is doing the best service for them.

Mr DAVID SHOEBRIDGE: To be clear, it is your response that is negative. The kids are doing the best they can with an appalling negative response from you. It is your response that I was challenging.

The CHAIR: Order! Mr D'Adam has the questioning. He wants his 17 minutes. We cannot eat into it.

The Hon. ANTHONY D'ADAM: Thank you, Chair, for acknowledging that.

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The CHAIR: I cannot win.

The Hon. SCOTT FARLOW: You tried.

The Hon. ANTHONY D'ADAM: Mr Grace, in your submission you talk about the parent organisation acknowledging that schools have a role to play in providing instruction on gender and sexuality, but that this has to be delivered in a neutral way and not conflict with parents' core values. I want to just elaborate on a situation around teaching on consent and a situation where in that instruction there may be some discussion about premarital sex. Do you accept that it is okay for a parent to withdraw their child from that discussion? It clearly would conflict with the values of the church in terms of premarital sex. Do you think it is appropriate that we empower parents to withdraw their children and potentially obstruct their opportunity to learn about appropriate consent in sexual relations?

Mr GRACE: You speak of empowering parents. I believe that that provision already exists in terms of parents withdrawing their children from school on contentious issues.

The Hon. ANTHONY D'ADAM: But this bill will enhance that, won't it? That is part of the reason why you are supporting it. It is enhancing the power of parents in relation to teaching that they are uncomfortable with, particularly in an instance like that where there is clearly an interest for the child to learn about appropriate consent. In that instance, which interest should prevail: the interest of the child or the interest of the parent?

Mr McINERNEY: They are not in tension.

The Hon. ANTHONY D'ADAM: They may be if the parent wants to withdraw their child from that lesson. They are in tension if that occurs.

Mr McINERNEY: It is not to say that they cannot get the right instruction on matters of consent absent the point you raised. They do not need to be related.

The Hon. ANTHONY D'ADAM: Isn't the purpose of having a curriculum that deals with these kinds of issues to enable students to be able to get the information that they require to be able to make informed decisions in the circumstances that might confront them in the world?

Mr McINERNEY: Sure.

The Hon. ANTHONY D'ADAM: So why would we be wanting to support a bill that enables parents to deny a child that opportunity?

Mr McINERNEY: I think this discussion is so far away from the substance of the bill. I am not sure.

The CHAIR: In the bill there is a proposal to give parents the right to withdraw their children from classes that do not accord with their family values.

Mr McINERNEY: Yes, correct.

The CHAIR: But I suppose that would also cover a circumstance where the parents might think, "We've covered this off. Our children understand consent." Stickman and milkshakes at schools—there is no evidence that schools can teach behavioural change. It might be like Scripture—the kids are better off in the library reading Dickens, Shakespeare or doing athletics.

Mr McINERNEY: As Mr Grace mentioned—

The CHAIR: Parents should have that flexibility and right, shouldn't they?

Mr McINERNEY: That exists on a measure today already.

The Hon. ANTHONY D'ADAM: What about teaching around inappropriate behaviour by adults? It is foreseeable that a parent, an abuser, might take the opportunity to withdraw a child from instruction that might relate to inappropriate behaviour in a way to conceal their behaviour. Do you think this bill empowers parents in those circumstances to make those kinds of decisions that might actually be very harmful to a child?

Mr McINERNEY: On that example, Mr D'Adam, you have the abuser as the parent.

The Hon. ANTHONY D'ADAM: Yes, that is right, in that circumstance the parent is the abuser. They are using a power conferred by this bill to take their child away from information that might protect them from that abuse. Do you think that is a problem?

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Mr McINERNEY: There are already existing measures in the framework today which allows for parents to opt out from certain educational settings and subjects. So what this bill relates to does not go to issues of consent. It does not go to issues of respectful relationships. It goes to trans ideology via the curriculum.

The Hon. ANTHONY D'ADAM: It does.

Mr DAVID SHOEBRIDGE: No, no—

The Hon. ANTHONY D'ADAM: You are wrong about that because it clearly does on issues of parental primacy. They are elaborated in some detail in the definitions.

Mr McINERNEY: Yes.

The Hon. ANTHONY D'ADAM: That does capture a whole range of issues that are within the ambit of moral and ethical judgements of a parent.

Mr DAVID SHOEBRIDGE: You say you have read the bill carefully. How do you not know that it covers parental primacy far beyond gender fluidity? You come in here supporting the bill, but you do not know what it does.

Mr McINERNEY: Mr Shoebridge, I have read it.

The Hon. WES FANG: Point of order: This is, I think, the third time now that Mr Shoebridge attempted to verbal the witness about the contents of the bill and the interpretation with which Mr Shoebridge is putting on the bill versus what the witness is providing evidence on. I would ask Mr Shoebridge to ask a question and then seek a response as opposed to providing his own—

The CHAIR: Yes, Mr Shoebridge had his go. Mr D'Adam has one more question, and then we are right on time. Thank you.

The Hon. ANTHONY D'ADAM: One more question. I want to ask Mr Grace—in your submission at point 2.3.13, you say your organisation supports the insertion of proposal at [10]:

CCSP agrees that teaching in government schools should be non-ideological and notes the distinction made between government schools and nongovernment schools regarding the provision of non-ideological instruction in matters of parental primacy.

What business is that of your organisation to tell parents and students and teachers in government schools how they should be instructed? You represent parents in a completely different system. Why do you have an interest in actually telling government schools how they should be run?

Mr GRACE: Increasingly, the parents of children in Catholic schools are parents of children in other schools sectors as well and we represent their interests.

Mr McINERNEY: There are tens of thousands of Catholic families who take the State government school option. So there are tens of thousands of Catholic students today in Department of Education schools. I know this might be an affront to you, but parental rights are not extinguished just because you are outside the non-government sector. They should extend to all sectors.

Mr DAVID SHOEBRIDGE: So would you support the parental right of a parent to remove a child from a consent class?

Mr McINERNEY: It is about—

Mr DAVID SHOEBRIDGE: Given all the history of the Catholic education system with child sexual abuse, would you support parents being able to withdraw a child from a consent class where they learn how to identify and protect themselves?

The CHAIR: Oh no! Stickman and milkshakes. Jeez, they are wasting their time, aren't they?

Mr DAVID SHOEBRIDGE: Would you support that?

Mr McINERNEY: What I support, Mr Shoebridge, is coming to a parliamentary committee and not having members of Parliament trying to wedge issues dressed up as high principle.

Mr DAVID SHOEBRIDGE: Would you support that?

Mr McINERNEY: I do not think that is a great investment of your time.

Mr DAVID SHOEBRIDGE: You are not going to answer the question?

The Hon. WES FANG: Point of order—

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Mr DAVID SHOEBRIDGE: You are not answering the question.

The CHAIR: We have all had a good crack. No, no. We are over time.

Mr DAVID SHOEBRIDGE: You are not answering the question. That is embarrassing for you.

The Hon. WES FANG: You are interrupting the witness, Mr Shoebridge.

The CHAIR: Well, there are lots of reason why you would not do stickman and milkshake classes, but we are out of time. I thank Dallas and Peter for their participation, the way they have answered the questions. A few of the questions have been taken on notice.

The Hon. WES FANG: Thank you.

The CHAIR: We look forward to seeing you at future inquiries. Thanks very much.

Mr McINERNEY: Sure. Thanks very much.

Mr GRACE: Thanks, everyone.

(The witnesses withdrew.)

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MARK NORTHAM, Secretary, Independent Education Union of Australia (NSW/ACT Branch), affirmed and examined

AMBER FLOHM, Senior Vice President, New South Wales Teachers Federation, affirmed and examined

The CHAIR: I welcome you to the hearing, for your time and participation today and also the submissions that have been lodged. Would either or both of you like to make a short opening statement? It is available to you. Indeed, it is something of a convention of the Committee. Just to remind you that when we have the questions, it is available to you to take them on notice if you need more data or consideration of a matter with which you are not fully familiar. So you can take questions on notice and furnish them to the Committee within 21 days at your convenience.

Mr DAVID SHOEBRIDGE: You can sometimes do a bit of each—provide some of the answer here and take some of the details on notice.

The CHAIR: Yes, you can. We just ask for the information either today or in 21 days' time. Any opening statements at all? Thank you.

Ms FLOHM: Thank you to the Committee for the opportunity to contribute to the inquiry today, to appear as a witness and of course for taking the time to read our submission. There is no question on the right of parents as having the primary responsibility for the education of their child. The strong partnerships between teachers and parents which they have, and need to continue to have, need to enhance the child's learning. These rights are already enshrined in legislation through the Education Act. The professional judgement of teachers, their qualifications, their training, their expertise, their skills and their experience ensures that they are able to address these matters as they arise in their classrooms within our professional standards, our curriculum, our policy and the legislative frameworks in which we operate. This is the core. This is the core of our day-to-day work as teachers. We urge this parliamentary Committee to reject this bill on the basis that it is harmful to our students' education and safety, and it is unnecessary and ineffectual. It does nothing to enhance the development and learning of our students. We are proud of our public education system in New South Wales and its inclusive nature to meet the complex and diverse needs of our communities. Thank you.

Mr NORTHAM: I also welcome the opportunity to attend the hearing on behalf of the Independent Education Union. We believe the amendment is not required as schools already, on a daily basis, manage complex situations and do it well, remarkably well. The schools that our union serves are enormously diverse, they are across all the major faith groups. Most have an ethos clause in the industrial agreements which outlines the necessity to be supportive of the particular ethos of that school. Our chief concern as a union is the welfare of students and the significant consequence for a teacher who may lose their accreditation to teach. Further, we also believe that the obligations on NESA are considerable. Preparing and making available resources re parental primacy and reviewing compliance by schools will all add to an additional burden, in a bureaucratic sense, for schools to deal with. But of particular concern is the high likelihood of disciplinary matters emerging when a perception of a transgression exists.

Put simply, the principal will be refereeing and potentially making notifications to NESA. The union can only presume that the test for such a transgression, if it occurred, would be on the balance of probabilities, somewhat similar to child protection matters. Reinterpreting what may have happened inside a classroom at a later date is a notoriously difficult phenomenon. Schools, I think we can all agree, are places of teaching and learning. That is what happens and within schools our members have students who are transitioning or have transitioned with the full support of their parents, medical professionals and the school. Schools are diverse and becoming more so. It is the norm for Catholic systemic schools to have many students from other various faith backgrounds and being hopefully equipped for life outside school as part of that education. Contentious matters are a part of schooling, and education will be constrained should this amendment proceed. Schools manage these matters well. I am not speaking on behalf of the Association of Independent Schools, but this morning I noticed that a press release went out based on 10 years of evidence of school wellbeing and academic outcomes. To quote from that press release, they mention these things:

Student wellbeing is about a sense of belonging and connectedness, and the skills to make positive and healthy choices to support learning and achievement, delivered in a safe and accepting school climate.

That is evidence-based research as recent as this morning. They are my opening thoughts.

Mr DAVID SHOEBRIDGE: Would you mind tabling that document that you just referred to, the press release?

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Mr NORTHAM: No, it would be a pleasure.

The Hon. ANTHONY D'ADAM: Thank you both for your appearance today. I might ask this question to both Mr Northam and Ms Flohm. I want to particularly ask you about the proposed provision 17E, which is consultation on matters of parental primacy and the requirement at the beginning of each school year to provide a summary of the content being taught in relevant courses of study. How would that work practically?

Ms FLOHM: Practically it would not work. What is currently available for parents—and we are familiar with how curriculum is developed through NESAs because we are currently undergoing that process. The syllabuses and curriculum that all children are taught in public schools is available on NESAs website. It has always been available. So parents, apart from engaging in consultation around those syllabuses, are also able to access those syllabuses at any time.

The CHAIR: What about the unwritten school curriculum?

Ms FLOHM: I beg your pardon?

The CHAIR: What about the unwritten school curriculum?

Ms FLOHM: I am sorry, you will have to clarify that. What is the unwritten school curriculum? I am unaware of that.

The CHAIR: Well, I was hoping to ask Mel Smith, because in her webinar on behalf of your federation on 4 August 2020, she made—

The Hon. ANTHONY D'ADAM: Sorry, I think I had the call at the moment, Chair.

The CHAIR: —reference to the "unwritten school curriculum".

The Hon. WES FANG: The Chair is king.

Mr DAVID SHOEBRIDGE: Could I just take a point—

The CHAIR: That is, you can go off and do whatever you like.

Mr DAVID SHOEBRIDGE: I just have a point of order to take.

The CHAIR: Okay. No, well, the witness has not—

Mr DAVID SHOEBRIDGE: This was in the middle of Mr D'Adam's questioning.

The CHAIR: Yes, I am sorry.

Mr DAVID SHOEBRIDGE: Okay, good.

The CHAIR: I thought it might have flowed.

The Hon. ANTHONY D'ADAM: All right. So, Mr Northam, this provision is not going to apply to non-government schools. Is there something akin to this already in place? Is that the reason why you—

Mr NORTHAM: Well, not that I am aware of. We would agree that it is an onerous and burdensome addition to what schools are already doing and would serve little purpose. Because the very nature of teaching—and I taught for 20 years prior to moving into working with the union—is that many questions emerge from students' mouths at a time when you might not be anticipating or even be able to predict same. It just happens and the professional judgement of teachers managed that situation. I taught in Catholic systemic schools. Of course there is a faith framework wrapped around that education process and there was clear understandings as to—there was edges and boundaries as to what you might comment on. But I would see that the documentation required would slow schools down from what they should be doing, which is teaching and learning.

The Hon. ANTHONY D'ADAM: Can I just propose a scenario? Perhaps you might both, as people who have been in the classroom, be able to talk me through how this might work if the bill becomes law. Where you have a trans student in a class and they have been suffering from adverse comments, bullying and harassment, how do you deal with that in a classroom situation if the provisions of this bill are in place? How would that, I suppose, shape the behaviour of the teacher compared to what might apply now when this legislation is not in place?

Ms FLOHM: For our students now—and I think you know we should start there because that is clearly the best practice for all of the systems and our students. Our relationships with parents are very close and we work in partnership with parents on a daily basis. You may not be aware, as Committee members, as non-educators, that we have 830,000 students come into our classrooms every single day. Those students raise a range of issues,

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as you described Mr D'Adam, but also a number of others. Of course, it is that professional judgement, expertise, experience, qualifications and training that teachers have to deal with those matters within the curriculum. And of course, under our duty of care and as mandatory reporters that we currently are, that we would work with parents, as we do now and continue to do, to resolve for the child currently, with the people in their lives who are significant, other adults and their loved ones, of course, we will work through those matters.

As teachers we have a role as educators. That is our role and our role is not to lead a student in a particular path. Our role is to facilitate discussions around complex matters as they arise in the classroom. This bill will not allow teachers to do that. The consequence of that is very, very significant to students' safety and their overwhelming wellbeing. The situation that this bill proposes for teachers will mean—and if I take a broader context, for example, of matters of racism that also arise from time to time, in our complex and diverse classrooms, are raised by students. It is the responsibility of teachers to address those matters where children are exploring the world and community around them, as we would expect them to. I know that the parents and community in general would not want teachers to ignore matters of discrimination based on race, or faith, or sexual identity because we do have a duty of care to those young people, and teachers take that very, very seriously.

Mr NORTHAM: Similar sentiments. I suppose on my experience and the experience of our members, currently a trans student would receive empathy, support and understanding. There would be a school climate, and the schools that I worked in would be absolutely supportive of that student. That does not mean purporting to be a medical expert or anything like it; it just means that you are still a history, English or a maths teacher but your understanding of that student is paramount to their academic success. Our union has also run professional development in this area. That professional development was being sought by our members as a way of understanding and being able to support—not to become experts within it and be offering advice that they have not got the capacity to do, but rather to make education work based on that understanding. We have had several hundred of our members who would have engaged in that training, the personal development that we developed to make schools a better place for students.

The Hon. ANTHONY D'ADAM: I have one more question and then I will hand to Mr David Shoebridge. I want to ask about the controversial issues policy. In many ways this bill seems to point to a failure of this policy. Is the policy working in your assessment, Ms Flohm?

Ms FLOHM: Certainly it is. It is one of the many policies that guide teachers, as do the professional standards and the curriculum and those other legislative frameworks such as the anti-discrimination legislation that guides all of our work. The controversial issues in schools already enables parents to raise these matters, and they do. They raise them with teachers frequently and those matters are resolved and they are not matters of conflict. But just like a student who is being bullied, we cannot ignore if a student is targeted for a particular reason, and I am sure that it is not the intent of the Committee that that actually occur. I am a parent of four children—Isabella, Lily, James and Laura. The vast majority of our members, the tens of thousands of teachers who are our members, are also parents and grandparents.

That cannot be forgotten when we are talking about why we send our children to school because that really is the fundamental question I think. It is because we send our children to school so that they can receive an inclusive, broad and critical education. We do not send our children, students, to school for a curriculum that is developed by politicians. That is not what we do. We note too that the Federation of Parents and Citizens Associations in its submission in New South Wales include over 1,800 associations, member organisations. They do not consider this bill either to be justified or necessary. I think that if we are going to talk about parental primacy and the right of parents, we need to be very clear about which parents, in fact, we are speaking for.

The Hon. WES FANG: Can I seek a point of clarification? Is that all right the Hon. Antony D'Adam?

The Hon. ANTHONY D'ADAM: Yes, of course.

The Hon. WES FANG: Ms Flohm, I was noting in your answer just then that you were talking about how teachers are parents, that you have got tens of thousands of members and that your members do not feel that they need to adopt the positions of members of Parliament and the legislation that we may develop throughout our time in Parliament. I guess, in effect, and I am paraphrasing here, that your members would know better.

Mr DAVID SHOEBRIDGE: That is not Ms Flohm's evidence.

The Hon. ANTHONY D'ADAM: No.

Mr DAVID SHOEBRIDGE: Ms Flohm's evidence was not having curriculum—

The CHAIR: No. Maybe the witnesses can answer. Mr David Shoebridge, you can be a witness too.

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The Hon. WES FANG: No, she can reject my assertion if she likes. However, Ms Flohm, I am a parent. I think the Hon. Mark Latham is a parent.

The CHAIR: Yes, three times.

The Hon. WES FANG: I think everyone around this table is a parent. We are elected representatives of our communities. Why can your members then determine what should and should not be taught in schools over and above elected representatives who are here by the people of New South Wales to represent the views of the communities from which they come?

Ms FLOHM: Certainly I do reject the premise of that paraphrasing. I did not say that teachers have a right to know the curriculum. That is a matter for the National Education Standards Authority [NESA], the statutory authority that sets the curriculum in New South Wales. What I said was that teachers—the tens of thousands of teachers who I proudly represent today—are also parents and grandparents. And so they also have views as parents and grandparents on the child and those views are consistent with what the federation's position has been, which is that it is the right of the parent to be the educator, in its first right, of the child. There is no question about that. And to the matter, if I may, of curriculum and who sets it, the curriculum in New South Wales, the process by which NESA develops such curriculum is a process that parents and the broader community are free to engage in, as you would be aware. Currently we have draft syllabuses and a consultation period before us.

That curriculum that is currently before New South Wales community and stakeholders has been informed by the following groups—and I think it is important to note who they are: the Council of Catholic School Parents NSW/ACT, Aboriginal Education Consultative Group Inc., the Association of Heads of Independent Schools of Australia, the English Teachers Association, the department, the University of Technology Sydney, the maths association, the history association, the Federation of Parents & Citizens Associations of New South Wales, the NSW Business Chamber, parents of ADHD Australia, the Australian Association of Special Education, New South Wales environmental education centres, ADHD Australia, White Ribbon association, Family Advocacy, and NSW Youth Advisory Council. I am sure we are not suggesting that that does not incorporate the very strong views of parents.

The CHAIR: What about the unwritten school curriculum? Who develops that? But anyway, Mr Shoebridge?

The Hon. COURTNEY HOUSSOS: Can I just ask a follow-up to that answer?

The CHAIR: If Mr Shoebridge agrees.

Mr DAVID SHOEBRIDGE: Sure.

The Hon. COURTNEY HOUSSOS: Sorry, I have just got two follow-ups. The first—

Mr DAVID SHOEBRIDGE: Well, you said one. That is what I agreed to, but anyhow we will deal with them in—

The Hon. WES FANG: In two parts.

The Hon. COURTNEY HOUSSOS: I will be really quick, I promise.

Mr DAVID SHOEBRIDGE: Sure.

The Hon. COURTNEY HOUSSOS: Ms Flohm, the previous witnesses that we just had and part of their submission, the Catholic school parents and their organisation—I am not saying their exact name but you know who I am talking about.

Ms FLOHM: Yes.

The Hon. COURTNEY HOUSSOS: They said that because the curriculum had been expedited, parents were being left out this time in the consultation. Is that your understanding?

Ms FLOHM: I think it is probably better for Mr Northam to comment on the Catholic parents.

Mr NORTHAM: Yes, look, I was not in the room but I accept what you are putting forward. Our union has a view that the process is too compressed. Indeed, we have approached the Minister's office in the last couple of weeks and had conversations to that effect that it should be stretched because it has been significantly compressed. So we would not have a dissimilar view to the Catholic parents group.

The Hon. COURTNEY HOUSSOS: My only other question was just off the back of Mr D'Adam's, which was about the Controversial Issues policy. Do you know whether this is formally used to remove children

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from class in many instances, just in your experience? This afternoon I am going to ask the New South Wales Government if they monitor it. I am just interested in your feedback.

Mr DAVID SHOEBRIDGE: That is to Ms Flohm.

The Hon. COURTNEY HOUSSOS: Ms Flohm, sorry.

Ms FLOHM: That is okay. No problem. Look, I could not answer that question. On a statewide basis you would have to ask the Government that.

Mr DAVID SHOEBRIDGE: Thank you both for your attendance today. We had some compelling evidence from Associate Professor Ullman earlier and she is published in the area on gender- and sexuality-diverse students over many years. But her evidence was that the bedrock for a child to do well in school, to thrive in terms of their personal development and academic achievement, is to feel safe and connected. But it starts with feeling safe. Do you accept that as a kind of bedrock?

Mr NORTHAM: Look, from my perspective on working in large Catholic high schools, it is absolutely that. When we were talking to parents, bringing parents into the school communities that I work in, that was the number one parent question—was around safety. Now they meant that in a broad sense, but it was very real and I think it has showed up in that Association of Independent Schools research this morning. I was not in the room to hear that earlier but I believe that to be absolutely accurate. It is a key parental concern.

Mr DAVID SHOEBRIDGE: And it is reflected in the release that you just provided, which talks about delivering a safe and accepting school climate. That is one of the fundamentals.

Mr NORTHAM: Yes. If that is not the case, the school cannot do its work of educating that particular child.

Mr DAVID SHOEBRIDGE: Ms Flohm?

Ms FLOHM: I guess my contribution would be around the relationships of trust that occur between teachers and students and how that goes to the very thing that you describe, Mr Shoebridge—the feeling of safety that a young person has. If a student confides in a teacher—and I note that we are mandatory reporters and therefore any harm or psychological harm must be reported. If a student confides in their teacher—and that happens very frequently in our schools—we must be able to continue to ensure that those students have faith in their teachers to be able to continue those relationships of trust.

We believe that the bill actually undermines those relationships. The thing is that for young people, the consequences of the loss of this trust is too great. It is too great a risk for our young people for them not to be able to feel and see that they can confide in their teachers and trust them. What it means or can mean is that a child may not disclose something. That may then mean that that child will go into a home unfortunately of vile physical abuse. They are the consequences of that broken trust relationship. I would not accept—what we are now asking teachers through these amendments is to abandon that sense of trust that children and young people place in their teachers. It would be to the very detriment of the safety of students and we know that to be true unfortunately.

Mr DAVID SHOEBRIDGE: Mr Northam, Ms Flohm went to where my next question was and I am grateful. In your perspective, what would be the impact of this bill on that sense of safety and wellbeing that gender- and -diverse students have at school?

Mr NORTHAM: I think it would put school principals, teachers, students and parents in a school community, if you like, in its entirety in a precarious position. So you would have teachers retreating from positions. There was a case some while back reported on Sky News about a teacher in the Wollongong area that used an article by Greta Thunberg as the basis of a year 7 English lesson, which as I understand—I never saw the lesson, but I understand it was a properly constructed English lesson suitable for year 7 students with the motivation of reading that particular author. We as a union were then taking calls from other members in that area saying, "Well, we are also teaching, for example, climate change in coming days. Are we in the right spot then?"

The CHAIR: In year 7 English?

Mr NORTHAM: They were not teaching climate change there. It was actually a year 8 geography class where the concern arose.

Mr DAVID SHOEBRIDGE: So there is that chilling effect so that teachers withdraw from and support staff withdraw from providing advice and providing services. That chilling effect is real, do you think, Mr Northam?

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Mr NORTHAM: In my experience in recent times, absolutely. And I can only imagine that that would be reflected across school communities.

Mr DAVID SHOEBRIDGE: Could I take you to something that there has not been much attention on in this inquiry, which is schedule 3 to the bill, which is the amendments of the Teacher Accreditation Act, which basically has a "one strike and you are out" mandatory sacking and disaccreditation, removing your ability to teach anywhere. That is the proposed section 24 (2). What is your view, both of you, about the effect and the impact of schedule 3 if it became law?

Mr NORTHAM: From our perspective, the impact would be considerable and you are putting school principals in the invidious position of trying to establish what might have happened inside a particular classroom at a particular point in time, which is, as I mentioned earlier, far from an easy process. The parallel would be with child protection investigations, which are plentiful in the school sector. So I am guessing that you would have more teachers who would be facing the sanction of losing their NESAs accreditation, which would then apply to every State and Territory in Australia and largely Commonwealth nations, to use an old term. So it would be significant and career ending.

Mr DAVID SHOEBRIDGE: Ms Flohm?

Ms FLOHM: In relation to the accreditation and the loss thereof, clearly we do not accept that that is an operating environment in which teachers can exercise their professional judgement and experience. The reality of the situation for teachers in the public system would be that, if they were forced by an Act in the Parliament to undertake such actions, they would feel—and I am very confident in saying this on behalf of the teachers I represent today—absolutely neglectful, totally neglectful in their responsibilities and duties as teachers to have to ignore and not be able to effectively cater for the diversity of the children and young people that come through our classroom doors every day.

Our school counsellors clearly are also impacted by such accreditation changes. For our school counsellors not to be able to address matters such as these would mean they would not be able to perform their work. That is what they do. You mentioned previously about the impacts and I did go to those—the detriment of the broken trust relationships. But also we do see increased rates of youth suicide. Although it is very sad to have to talk about that, it is the reality. It is a reality for families, it is a reality for teachers and it is a reality for schools and communities. The research is very clear for young trans kids. The impact, the mental health impact, that what is being proposed will have, we cannot accept that.

The CHAIR: The point you made earlier on about the controversial issues policy—how do you reflect then on the news out of Lindfield learning centre today that year 6 students have written onto a poster about the New South Wales police—two students apparently—"pigs out of the country" and furthermore another student has written "white lives matter too much". Isn't this evidence of the necessity of this bill—to remove political, ideological, hateful dogma out of our schools?

Ms FLOHM: It is not the federation's position to provide ongoing commentary on *The Daily Telegraph*, but I am happy to answer the question more broadly.

The Hon. WES FANG: Point of order: Why would the federation stop now?

Ms FLOHM: I beg your pardon?

Mr DAVID SHOEBRIDGE: Is that a point of order?

The CHAIR: It may well be your members that are responsible for this, so I am just seeking a response as to the federation. Obviously you would condemn what has happened here.

The Hon. ANTHONY D'ADAM: I think the students produced—

Mr DAVID SHOEBRIDGE: It was students.

The CHAIR: The students produced the poster under the supervision of teachers who seemingly were so proud of it that they hung the poster from the classroom ceiling and had it on open display to everyone.

The Hon. ANTHONY D'ADAM: Should they have censored the students? Is that what you are saying?

The CHAIR: As much as the students to some extent seem to be running the Lindfield learning centre as a commune, teachers have clearly got a responsibility here.

Mr DAVID SHOEBRIDGE: So you wanted the kids to be censored and then you support the police Minister's call to sack the teacher without any inquiry—

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The CHAIR: Absolutely, and the principal.

Mr DAVID SHOEBRIDGE: You want the principal sacked too without any inquiry or any investigation.

The CHAIR: The fact that there is a New South Wales school that has 11-year-old children—

Mr DAVID SHOEBRIDGE: Yes, that kind of sums up your bill, doesn't it.

The CHAIR: —writing "pigs out of the country" and "white lives matters too much" is sickening and this is hateful, disrespectful and barbaric to have schoolchildren participating in these sorts of activities under teachers' supervision.

Mr DAVID SHOEBRIDGE: Summary termination by the police Minister.

The CHAIR: My question is about the controversial schools issues policy and also you mentioned race—white lives matter too much. What went wrong here?

Ms FLOHM: I am unfamiliar with the details and facts of the matter. You refer to *The Daily Telegraph*—the *Reader's Digest*, I think, of facts.

The CHAIR: I refer to the poster that I gave the Telegraph. So I have seen the poster. I gave pictures of the poster.

Mr DAVID SHOEBRIDGE: So it is Mark Latham and *The Daily Telegraph*—that well-known factual basis upon which to make decisions.

The CHAIR: Yes, impeccable sources. But it is a serious issue. Isn't it sickening that this could happen in a New South Wales government school?

The Hon. COURTNEY HOUSSOS: I think, with fairness, Ms Flohm has not been given the chance to answer the question.

The CHAIR: No, I know, but others are interrupting and I am seeking an answer.

The Hon. COURTNEY HOUSSOS: I think we should just let her—we have got five minutes left.

Ms FLOHM: As the member, Chair, of the Pauline Hanson's One Nation Party here in New South Wales, you would understand as I referred to previously that issues such as racism do arise from time to time in classrooms. Teachers use their professional expertise and judgement to explore and understand those matters and to address things such as discrimination on race, faith or sexual identity, because they are not only unlawful but they are harmful. The federation's position is that such matters would if appropriate be dealt with through the Controversial Issues in Schools policy. That is the policy framework for that. But providing commentary on an article from *The Daily Telegraph* is not something that I understand I am required to give evidence on today. We are giving evidence on behalf of the qualified teachers in public education.

The CHAIR: It is a shame that Mel Smith is not here because I was going to ask questions about her webinar about the unwritten school curriculum on 4 August but through you I can furnish those questions—

Ms FLOHM: Certainly.

The CHAIR: —to Mel Smith and hope that the federation can answer them. But I suppose the most outstanding matter, quoting Mel Smith from that webinar which she said was live only and never to be recorded behind a paywall, that she said—and I am just wondering is this federation policy—for teachers who find out anything about the sexuality and gender of their students that of course it is not okay to call people's parents because it may not be safe for that child if parents know. It could put them in an unsafe situation. It could mean they are kicked out of home. Is that federation policy?

Ms FLOHM: I want to place on record in the first instance our great support for Ms Smith. She is an expert and outstanding educator and we support her totally. We do not resile from our position to grow the teaching profession and assist our teachers through, in the example you give, non-mandatory professional development to assist our teachers to address the complexity and diversity of the very students in their classrooms every day. While it may be the position of the Chair to ignore that this section of our public education community does not exist, that is not the position of the Teachers' Federation or the teachers who teach those children and their families every day.

The Hon. WES FANG: Point of order—

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The CHAIR: This is a reflection on every single parent in New South Wales. I am asking is this federation policy. It is all the parents around the table here, in the gallery and every parent. Apparently it is not okay to tell them information about gender and sexuality because it is not safe at home. They could be kicked out of home.

Mr DAVID SHOEBRIDGE: Point of order: You indicated earlier that you wanted to ask this line of questions to a witness who is not here because you say it was her that gave the—

The CHAIR: I am asking is this federation policy articulated by Mel Smith.

Mr DAVID SHOEBRIDGE: I think you have said you would put those questions on notice. That seems the best way of dealing with it.

The CHAIR: This one I am putting directly to get it on the record. Is this federation policy—that if your members find out anything about the gender and sexuality of a child you do not tell any parent because it might not be safe at home?

Ms FLOHM: As I have said, we do not resile from providing professional development to the teachers who seek to meet the complex and diverse needs of their students.

The Hon. WES FANG: Point of order—

The CHAIR: No, the witness can finish.

Ms FLOHM: That is the position of the Teachers' Federation.

The CHAIR: We will take that as a non-answer.

The Hon. WES FANG: I was going to say—that was my point of order.

The CHAIR: Witnesses can answer as they wish. I have done my best to ask my questions. Thank you for your participation today because we are up against time. There will be some further questions, given that Mel Smith could not join us today. I think maybe a few were taken on notice as well. Thank you for your submission, the time you have given us today and the answers that you have provided to the various questions.

(The witnesses withdrew.)

(Short adjournment)

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KIRK McKENZIE, Member, Human Rights Committee, Law Society of New South Wales, affirmed and examined

JARED WILK, Co-Convenor of the NSWCCCL Human Rights and Civil Liberties Action Group, NSW Council for Civil Liberties, affirmed and examined

LESLEY LYNCH, Convenor of the NSWCCCL Criminal Justice, Police Powers and Mental Health Action Group, NSW Council for Civil Liberties, affirmed and examined

GEORGIA BURKE, Co-chair, LGBTI Subcommittee, Australian Lawyers for Human Rights, affirmed and examined

The CHAIR: I welcome the representatives of the Law Society, the Council for Civil Liberties and the Australian Lawyers for Human Rights to the second-last session of our inquiry into the parental rights bill. Thank you for your submissions and participation today. It is available to each witness to provide a short opening statement of a few minutes—indeed, it is more or less the convention of the Committee—after which we have questions. I indicate if there are any questions where you need to consult data or further information, it is available to you to take them on notice and provide the Committee with an answer within 21 days. Would any of the witnesses like to make an opening statement? You can each make one. It is at your prerogative.

Mr WILK: Good afternoon, Chair, and members of the Committee. The NSW Council for Civil Liberties [NSWCCL] thanks the Committee for the invitation to appear today. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the land on which I appear, and pay my respects to the Elders past and present. All of us considering this legislation should be aware that we live in a society in which, according to 2017 research, approximately 75 per cent of young trans Australians self-report experiencing anxiety or depression, 80 per cent have self-harmed and almost half have attempted suicide. We all carry a heavy responsibility to discuss issues with sensitivity and empathy in this context. NSWCCCL urges this Committee and the New South Wales Parliament to do the right thing and reject this bill in its entirety. The prohibition and attended amendments on a wide range of conduct and persons communicating a belief in gender fluidity is plainly discriminatory and will have a devastating and harmful impact on gender diverse young people.

It is also likely unconstitutional, it represents a direct infringement of fundamental human rights, including freedom of speech, education and employment and it does not cohere with the fabric of laws made by this or the Commonwealth Parliaments. No-one should mistakenly think that the other significant elements of the bill—including the mandating of so-called non-ideological instruction on matters of parental primacy, a right of parental objection, and obligations to summarise and consult with parents on course content—are benign. NSWCCCL agrees that parents have a right to educate their children in accordance with their religious and moral convictions. However, we note that the issue of parental rights in education was extensively canvassed in the drafting of the Education Act 1990 and the proposed changes appear unnecessary, having regard to the existing legislative and policy regime. Moreover, as drafted, these changes would harm our education system because they are unworkable and prone to create severe disruption in the school environment.

The passage of this bill would be a serious blow to the credibility and humanity of the New South Wales Parliament and would render members potentially complicit in human rights abuses affecting the LGBTIQ+ community, teachers and the community in general. Finally, a comment on the inquiry process: We note that the bill was brought to the Parliament by the Chair of this Committee. We are unaware how prevalent this scenario is in Legislative Council committees, but we have some concern that it might lead to a reasonable apprehension of bias in relation to this inquiry. We also noted that initially the Committee website, while inviting all to respond to the survey questions, indicated that people or bodies with relevant expertise would be invited to make submissions, though this was later amended to allow people and organisations to indicate their interest in making a submission, whereupon approval could be extended. Given that this inquiry is focused on the rights of all children and parents, it seems odd to restrict submissions to so-called experts. We offer these observations for consideration by the Committee.

The CHAIR: Thank you. Tell us what you really mean. Are there other opening statements?

Mr McKENZIE: Thank you, Chair. I also acknowledge that we meet on the lands of Gadigal people of the Eora nation and I acknowledge their Elders past, present and emerging. The Law Society of New South Wales thanks the Committee for the opportunity of making a submission to this inquiry and the further opportunity of having a representative speak to the submission today. The Law Society is opposed to this bill for reasons which include our view that the bill, if passed, would not achieve its objectives and, by focusing on one human right, would not give appropriate weight to the human rights standards as a whole. Our objection is not to the attempt

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in the bill to change the laws of the State to expressly introduce the parental rights referred to in Article 18.4 of the International Covenant on Civil and Political Rights [ICCPR]. The Law Society acknowledges and endorses the requirements in that article to respect the liberty of parents to ensure the religious and moral education of their children in conformity with the parents' own convictions.

However, from a human rights perspective, our view is that it is not appropriate to cherry-pick rights from the ICCPR or, for that matter, the Convention on the Rights of the Child. Human rights need to be considered and implemented in whole, and the way to affect appropriate change in this State is to comply with the Parliament's obligation to implement fundamental rights more generally. We say that the best way of doing that is to introduce a comprehensive charter of rights and responsibilities, like that introduced 15 years ago in Victoria, which is similar to the more recent Queensland Human Rights Act. Both of those Acts were based on the British Human Rights Act passed in 1997. The problem with the proposed laws in this bill is that the human rights standards are designed to apply equally and together.

There is reference in the bill to one human right, but there is no mention in the bill of the prime requirement in the Convention on the Rights of the Child to respect the best interests of the child or, for that matter, the right to non-discrimination or freedom of expression, noting that that latter right includes the right to receive information and ideas as well as express them. Those two latter rights are referred to in both of the human rights treaties I have referred to. In relation to the detailed provisions of the bill, the first part of the bill relies on a defined concept of "gender fluidity". The Law Society has problems with that definition not only because it refers to a "disorder", which may be offensive to some people, but because it attempts to define in a sentence a set of complicated ideas and, in turn, to ban the teaching and discussion of those ideas.

We suspect that any attempt to ban ideas will concentrate public attention on them and may be entirely counterproductive if opponents of the ban use social media and the internet to communicate their views to the wider community, probably amid a storm of protest. I might add, if the submissions by opponents of the bill are any guide, I have little doubt that there will be a storm of protest. In relation to the second part of the bill, which arises from a definition of "matters of parental primacy", the Law Society believes this definition is vague, far too broad and incapable of its limits being precisely determined. In our view, its breadth would make it difficult, if not impossible, for the education department and the teaching profession to know what they are entitled to teach.

Finally, the Law Society acknowledges that in a multicultural society like New South Wales there are and will continue to be disparate views on what should be taught to children in our schools. However, by attempting to suppress that debate and impose sanctions on the teaching profession accordingly, we do not think this bill will assist a resolution. Thank you.

The CHAIR: Ms Burke?

Ms BURKE: Thank you. On behalf of Australian Lawyers for Human Rights, or ALHR, I would like to also recognise that we are gathered here today on the lands of the Gadigal people of the Eora Nation. ALHR pays respects to their Elders past, present and emerging. ALHR thanks the Committee for the opportunity to appear and give evidence today. Trans and gender-diverse children exist. They cannot be legislated away and their rights should not be eroded in a misconceived attempt to do so. It is ALHR's strongly held view that the bill should not be passed. ALHR holds serious concerns about the bill and notes its inconsistency with international human rights law instruments to which Australia is a party.

ALHR submits that, if passed, the bill will significantly impact the rights of lesbian, gay, bisexual, transgender and intersex LGBTI young people in New South Wales, but particularly those who are trans and gender diverse. We will use the acronyms LGBTI and LGBTQA+ interchangeably during this opening statement and in the course of answering the Committee's questions. We also acknowledge that the intersex community, though affected by this bill due to the definition of gender fluidity, is a community separate to and distinct from the trans and gender diverse community. We defer to the intersex human rights movement, which in Australia is represented by Intersex Human Rights Australia, to speak to the issues specific to that community.

In our submission to the inquiry, ALHR identified three key areas of concern with respect to the bill. Firstly, the bill ignores current evidence-based law and policies which direct curricula in New South Wales and, in fact, across Australia. The bill ignores the fact that LGBTI young people remain some of our most vulnerable to abuse, harassment and violence. The bill ignores the human rights of LGBTI young people to learn in an inclusive, supportive environment free from discrimination—these rights being enshrined in international human rights instruments to which Australia is a party. No doubt other entities and individuals will address the Committee in more detail on those first two areas of our concern. For example, we are aware from reading the submission of the Law Society of New South Wales that they hold significant concerns in relation to how the bill will operate alongside the Education Act 1990.

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With respect to the vulnerable nature of LGBTQA+ youth, we commend to the Committee the *Writing Themselves In 4* report, published in 2019, noting we refer to the 2010 report in our submission—that this up-to-date data is available. The *Writing Themselves In 4*, which was published by La Trobe University with input from other bodies, including the New South Wales department of health, asked 6,418 LGBTQA+ youth aged 14 to 18 about their experiences with education, homelessness, harassment, assault, mental health, community connections and more. It is the largest ever study on the experiences of those youth. The New South Wales-specific summary report reveals some concerning statistics, including that more than half—57.7 per cent of participants at secondary school—felt unsafe or uncomfortable due to their sexuality or gender identity in the past 12 months. This is also reflected in concerning statistics with respect to school attendance. It is in this context that ALHR asked the Committee to consider the bill and our consequent concerns in relation to the subjugation of human rights which would result from it being enacted into law.

This bill speaks of parental rights, however neglects mention of the responsibility of parents and adults to ensure our educational institutions are safe places for all children. Where do those responsibilities arise? The primary role of ALHR today is to bring the Committee's attention to the key human rights provisions that must guide consideration of this bill. Those provisions are found in the UN Convention on the Rights of the Child, or the CRC. We submit that for the New South Wales Parliament to fail to consider the CRC principles risks Australia's international reputation by flagrantly disregarding the global community's most ratified human rights instrument. Four guiding principles of the CRC that the New South Wales Government should consider are, firstly, the principle of the best interests of the child; secondly, the right to non-discrimination; thirdly, the right to survival and development; fourthly, the right to participation and inclusion. We go into more detail into each of those rights in our submission, and I would invite any questions in relation to the same.

Finally, the right to information: nor does the New South Wales Parliament have a place in limiting information available to our children with respect to their gender or sexuality. As ALHR states in our submission, the UN Special Rapporteur on the right to education has highlighted a child's right to comprehensive sexual education without discrimination on grounds of sexual orientation or gender identity. Further, the Council of Europe has noted, and I provide the direct quote:

There is no evidence that dissemination of information advocating a positive attitude towards LGBTI people would adversely affect children. Rather, it is in the best interests of children to be informed about sexuality and gender diversity.

A global voice for what equally applies to New South Wales children. For these reasons, which I further outlined in our submission, we urge the Committee to recommend that the entirety of the bill ought not pass. We hope that this assists the Committee and would be pleased to take the opportunity to address any questions you may have.

The CHAIR: Thank you very much. If I could start the questions. Mr McKenzie, you made reference generally to the best interests of a child. All other things being equal, what is the opinion of the Law Society as to who is best capable in our society of discharging that responsibility?

Mr McKENZIE: Well, I am not sure that you can deal with every circumstance. Some parents are competent; some are not. My life partner is a lawyer who specialises in child care and protection, and she can report that there are many parents who, unfortunately, do not match up to the standards that we might expect of them.

The CHAIR: What proportion of society do you think that would be?

Mr McKENZIE: It is obviously a small minority.

The CHAIR: Right, and what about the big majority of parents? Are they responsible for the best interests of a four-year-old child?

Mr McKENZIE: Yes, but that has to be objectively considered. Parents are not always right when they make—

The CHAIR: What is the objective consideration you bring to it? Does the Law Society think it should be responsible or teachers? If not responsible parents, who?

Mr DAVID SHOEBRIDGE: Surely it depends upon the issue.

The CHAIR: No, we are talking about the great majority of parents who are doing the right thing.

Mr DAVID SHOEBRIDGE: If you have surgery, you would not want the parents to be doing surgery. If you have teaching, you want teachers.

The CHAIR: Mr McKenzie said he wants to bring an objective analysis to it. I am asking what that objective analysis is.

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The Hon. ANTHONY D'ADAM: It depends on the facts and the circumstances.

Mr McKENZIE: It depends on each particular case. One of the problems with trying to legislate for particular cases is that it is not really the function of the New South Wales Parliament to try to determine what should happen in precise situations. That is one of the difficulties. That is not the fault of the Parliament; it is just the way of things.

The CHAIR: But the Law Society does not acknowledge a social standard that, all other things being equal, parents are responsible for their children?

Mr McKENZIE: Well, of course parents are responsible for their children. No-one would deny that. The judgement of parents is, of course, to be highly respected, and parental rights exist in each of the treaties that I was referring to. They are an important part of the human rights movement and have been for more than 70 years.

The CHAIR: Mr Wilk, does the civil rights group acknowledge that in New South Wales the Safe Schools teaching of gender fluidity is banned?

Mr WILK: Yes, I think it is.

The CHAIR: Do you regard that as unconstitutional?

Mr WILK: No, I do not.

The CHAIR: No. And the *Gayby Baby* movie is banned in New South Wales schools. Do you regard that as unconstitutional?

Mr WILK: I know nothing of that movie.

The CHAIR: You know nothing of that. And the education Minister has repeatedly said gender fluidity is not in the New South Wales curriculum. Do you regard that as unconstitutional?

Mr WILK: The issue is the prohibition. The prohibition specifically—

The CHAIR: Well, that is a prohibition: that she has said gender fluidity is not part of the school curriculum and under her it will not be.

Mr WILK: But it is not in the—

The CHAIR: So is that unconstitutional?

Mr WILK: In the Education Act there is nothing currently prohibiting the teaching of gender fluidity.

The CHAIR: Well, these are government policies that are announced.

Mr WILK: Yes.

The CHAIR: The year 12 biology textbook makes no reference to gender fluidity or social construction. Is that unconstitutional?

Mr WILK: To answer this question, I need to explain why it is unconstitutional. Would you permit me to do that?

The CHAIR: Well, I am just asking you: Do you acknowledge it is constitutional for the New South Wales Government to decide what is taught in schools and how?

Mr DAVID SHOEBRIDGE: Point of order—

The CHAIR: That is my point, which is the purpose of this bill.

Mr DAVID SHOEBRIDGE: It seems to me that you are not allowing the witness to answer the question as the witness sees fit. If the witness is trying to be helpful and is generally relevant, I think you should allow the witness to provide the answer.

The CHAIR: The witness was not answering in those areas but he can answer now.

Mr WILK: I will explain. The reason it is unconstitutional is because section 109 of the Constitution renders laws that are inconsistent between State and Federal laws—it renders the State law unconstitutional and inoperative to the extent of the inconsistency. When you add a provision in the Education Act that plainly, in my view, operates inconsistently with the Federal Sex Discrimination Act, in that it mandates discrimination or that it permits discrimination, you are therefore engaging section 109. Obviously I cannot give legal advice on the fly, but my view is that it likely would be unconstitutional if challenged.

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The CHAIR: The Sex Discrimination Act, if I can put it to you, is about less favourable treatment of a group. Is it less favourable to gender-fluid students in New South Wales schools that Safe Schools gender fluidity teaching is banned?

Mr WILK: But if a policy may be—

The CHAIR: No policy can be unconstitutional. Is that what you are really putting to this Committee as a lawyer?

Mr DAVID SHOEBRIDGE: Point of order—

Mr WILK: Not for inconsistency.

The CHAIR: No policy can be unconstitutional.

Mr DAVID SHOEBRIDGE: If you just let the witness finish without interrupting him, he is trying to help. He is trying to answer your questions. Let him finish.

Mr WILK: Section 109 operates at the level of law, not policy. That is the answer.

The CHAIR: So it is your evidence to this Committee that no government policy can be unconstitutional.

Mr WILK: No, that is definitely not my evidence. I am talking about a particular provision of the Constitution—section 109.

The CHAIR: I know section 109. I know the Sex Discrimination Act. I know those things. I am just trying to get from you why you are arguing this prohibition on gender fluidity teaching in a statute is unconstitutional, but the Safe Schools and the *Gayby Baby* banning as a policy of the New South Wales Government is in your assessment constitutional.

Mr WILK: Yes.

Dr LYNCH: I wonder if I could comment. I was hoping we might be able to keep on target with what we actually said in our submission. The Safe Schools document, which was cast out, I do not think is—I do not have a view on it. I do not think I have ever read it. I presume it was a highly controversial policy framework. Many people I know think it was a very good one. I do not want us to get involved with that. That is not an issue on which Civil Liberties has a position. And no, obviously it is not unconstitutional for a Minister to say something is not going to be taught—unless what it is the Minister is intervening in did have straight discriminatory impacts on people. It would be really nice to be able to stick to the core of what we want to argue.

The CHAIR: The core of your argument is the bill is unconstitutional.

Dr LYNCH: One aspect of the bill is, yes.

The CHAIR: But comparable policies of the New South Wales Government, exactly the same policies enacted right now, apparently are constitutional.

Mr DAVID SHOEBRIDGE: Chair, can I try one question that might clarify this?

The CHAIR: Mr Wilk, are you a constitutional lawyer?

Mr WILK: I am not, but can I just say that is only one part of our argument against the bill.

The CHAIR: I think we can move on.

Mr DAVID SHOEBRIDGE: Sorry, before we leave it in this completely pointlessly muddied water, can I just ask one question, if that is all right?

The CHAIR: Go for your life.

Mr DAVID SHOEBRIDGE: Section 109 of the Constitution deals with Commonwealth laws as against New South Wales laws and does not deal with Commonwealth laws as against New South Wales policies. That is the point, is it not, Mr Wilk?

Mr WILK: Correct.

Dr LYNCH: Yes.

Mr WILK: It is unambiguous, really.

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The CHAIR: Yes, but he is arguing this is a breach of the Sex Discrimination Act, which is actionable in the High Court.

Mr DAVID SHOEBRIDGE: But not unconstitutional. That is the difference.

Mr WILK: Chair, you are misunderstanding.

Dr LYNCH: Civil Liberties has made no comment about that particular policy document and we do not want to because it is not centrally pertinent to the point. Endless curriculum documents and policy documents get written and then get thrown out, either because they are dated or because it turns out they are more controversial than people—

The CHAIR: Right, but if you turn them into a statute, then that is where the problem arises. If the Parliament turns it into a statute, you are saying that makes it unconstitutional.

Mr DAVID SHOEBRIDGE: But that is because the Federal Constitution is law as against law, not law as against policy. Heaven help us!

Mr WILK: That is how it works, yes. What happens is that when you pass this and therefore a teacher is put into the position where they have to discriminate, which in our submission would happen, you render it impossible for the teacher to simultaneously comply with this law and the Commonwealth law and that engages section 109.

The CHAIR: But you are saying the Safe Schools policy—they can comply with both.

Mr DAVID SHOEBRIDGE: He is saying it is not unconstitutional.

Dr LYNCH: No, I think we are saying the Safe Schools policy is not relevant to the constitutional issue. That is what he is clearly saying.

The CHAIR: Obviously the Safe Schools policy is developed and implemented under the Education Act of New South Wales and would be actionable in the High Court. That is obvious, is it not? Government policies are challenged in the High Court all the time. Anyway, Mr Wilk has said he is not a constitutional lawyer, so I think it rests there.

Mr DAVID SHOEBRIDGE: Point of order: The witness has answered you five times that section 109 of the Constitution operates as between a Commonwealth law and a State law, not between a Commonwealth law and a State policy.

The CHAIR: Yes, we know what 109 is.

Mr DAVID SHOEBRIDGE: If you change the law, that is when section 109 may actually be engaged.

Mr WILK: I would also be happy to talk about the other reasons we oppose the bill, of which there are more.

The CHAIR: I know, you have outlined that. But generally do you support international human rights conventions?

Mr WILK: Yes.

The CHAIR: But not 18 (4) of the ICCPR.

Mr WILK: No, we agree with the submissions of the Law Society that we are very happy to support 18 (4). The problem is when you cherry-pick particular rights. So NSWCCCL has been in favour of a well-drafted bill of rights for New South Wales for a long time and so we would like to see all human rights legislated for—the different rights in the ICCPR in accordance with the Vienna principles.

The CHAIR: But your earlier submission was the entirety of the bill should be rejected, including 18 (4).

Dr LYNCH: Yes.

Mr WILK: Yes, for other reasons.

The CHAIR: For other reasons. What are they?

Mr WILK: We are saying that legislating 18 (4) should be rejected because that is legislating one particular part of the ICCPR. That is an argument on principle, and there are other objections to the bill. Would you like me to get to those?

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The CHAIR: Australia is a party to the ICCPR, other than a couple of clauses that go to free speech issues related to our 18C in the Racial Discrimination Act. We are not party to the entire ICCPR. So what is the problem here in doing a partial legislation of 18 (4)?

Dr LYNCH: I do not think it is something on which we really need to have an argument. What we are saying is pretty straightforward and we said it in response to the Commonwealth freedom of religion bill. I do not know anybody who does not support the pre-eminent role of parents in terms of the education of their children, but it is not an absolute right because there are also the rights of the children. We support and we have argued, as Jared has said and as the Law Society says in a number of submissions, that it is a much more sensible and balanced way of approaching human rights issues if you can do so from a full human rights framework. We have stuff in here about the rights of the parent but not the rights of the child. We would love to see New South Wales put together a human rights statement, as other States have done, and maybe one day we might see a national one so that we are not the only Western democratic nation without one. It is not complicated. There is nothing wrong with that, but you really need to put it in a broader perspective of the rights of the child as well.

The Hon. COURTNEY HOUSSOS: Following on from that, Mr Wilk, you said you consider the part of the bill in relation to gender fluidity unconstitutional. Do you consider the part in relation to parental primacy unconstitutional?

Mr WILK: No.

The Hon. COURTNEY HOUSSOS: All right, thanks. I want to ask a question of Mr Kirk McKenzie of the Law Society. We have received a submission from the Institute for Civil Society. I do not expect that you have all read all of the other submissions, but I did just want to ask you a couple of questions about that. They recommend an alternate, narrower definition of matters of parental primacy that says:

- (a) moral and ethical standards;
- (b) matters of personal identity including gender identity and sexual identity; and
- (c) matters of sexuality including sexual activity, sexual orientation and sexual health.

I understand that the Law Society's submission specifically says that you are opposed because the current definition is clear. Do you think this one is a bit clearer?

Mr McKENZIE: I have not had a chance to consider that particular—I have seen that submission and I have skim-read it. I know that it is actually one of the more impressive of the submissions that supports the bill because it does contain some good analysis of the European cases.

Mr DAVID SHOEBRIDGE: This might be one of those opportunities to take it on notice and come back to us, Mr McKenzie.

Mr McKENZIE: I can certainly take that on notice and come back to you on that point.

The Hon. COURTNEY HOUSSOS: This is to the panel as a whole but I will start with you, Mr McKenzie. This submission also talks about the fact that they believe we have not put our international obligations around parental primacy—parental rights in terms of education—into practice. It has not been—I think "operationalised" was the word. They suggest that parents should be allowed to use this section in the Education Act to remove their children if they need to in an easier way, perhaps through an online portal or through an online form or something like that, which would actually allow parents to do it in a more non-confrontational way. I am interested in your thoughts on that.

Mr McKENZIE: I am aware from reading other submissions that section 26 of the Education Act does contain a right of conscientious objection for parents. The Law Society has not had an opportunity to consider that either. Perhaps I can take that on notice as well. My initial impressions on reading section 26 is that it is a fairly narrow right and, for example, the department has a discretion not to grant it even if they were satisfied that there was a conscientious objection available to a parent to object to a particular part of a course. Perhaps a softening of that provision might well be a better fix than the whole of this bill. That is something that I cannot speak on on behalf of the Law Society in saying that at the present time. I could take that on notice.

The Hon. COURTNEY HOUSSOS: Dr Lynch, do you have a comment?

Dr LYNCH: I think the provisions in the Act are specific because it links it to religious belief. There are a myriad policies—the non-government systems have it as well—which give parents the right to object and pull their kids out. I do not want to make a specific yay or nay comment on your particular proposal. I would say anything that facilitates the interaction between parents and schools is something that I would support and I am sure that Civil Liberties would support. My caution about not ticking that one off is I am very sharply aware in

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terms of other aspects of this bill. Having once been director of curriculum for New South Wales with far more resources than the department has now and when schools were better resourced—that is not probably true—I look and I think, God knows how this could function without massive disruption.

If we go on to discuss this Civil Liberties, and me as a parent, we are fully supportive of getting the best, the most effective and the most comprehensive kinds of interactions between parents and the community that is possible. I comment that I am old enough to be sharply aware of the extraordinary improvements that have happened on this front. In the 1960s—and I do not want to think of the unions—principals' bodies and the union bodies believed parents really should not be coming beyond the school fence. That has transformed now. There are places where it still fails but there are so many more contexts now in which the interaction between parents and the communities is pretty spectacular.

Mr DAVID SHOEBRIDGE: I think each of you and your submissions have raised the concerns that the bill elevates the rights of parents without considering the complex series of other rights that are contained in both the UN Convention on the Rights of the Child and the International Covenant on Civil and Political Rights. I might ask you if you could address article 3 of the UN Convention on the Rights of the Child, which states:

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Does this bill respect that right, respect that provision, or does it trespass upon it?

Ms BURKE: Yes. It is ALHR's strong position that the bill does subjugate the rights of children to the rights of parents. We have canvassed as a collective the rights of parents and we have also had mention on more than one occasion the prospect of a future human rights act. We are without the benefit of that guidance to date. Without that ALHR's position, as is the case in international law, is that we must manage competing rights as we have in this circumstance with reference to that international human rights law framework. There are primarily three guiding principles of human rights which are: first, that all rights are equally valuable and that there is no hierarchy of rights as you refer to. That is the principle of indivisibility.

Secondly, that all rights should be protected together and that is the principle of interdependence to which you also refer. And, thirdly, that any interference with a right must have a legitimate aim. Interference or restriction on a right must be proportionate and necessary. That is the principle of proportionality. The question here is whether the bill as it stands is proportionate when we consider the remedy proposed, the harm that it purports to fix. We say that it most certainly is not. The best interests of the children are entirely disregarded with the primacy of parents put to the forefront.

The CHAIR: Jesus, seriously.

Ms BURKE: It is interesting to reflect on the comments of the special rapporteur to which we refer in our submission.

The CHAIR: The best interests of the children are disregarded when the parents are put to the forefront?

Mr DAVID SHOEBRIDGE: Carry on.

The Hon. ANTHONY D'ADAM: Carry on, they are just being rude.

The CHAIR: That is unbelievable.

Ms BURKE: His report of 2010—and I do have a copy with me if it assists the Committee for me to table that report.

The CHAIR: Jesus Christ.

Ms BURKE: It does deal specifically with sexual education and I am loath to diverge too much there because we know that the bill deals with education as a whole and not solely sexual education, although that is of course relevant to this discussion. There are very interesting comments from the special rapporteur at paragraphs 72 and 73 of that report which deal with your question. He says:

72. The Special Rapporteur wishes to stress the important role played by families and communities in forming people's identities. However, he also wishes to point out that States have an unavoidable obligation to guarantee education that is free from prejudices and stereotypes. School, as a forum for socialization, opens up access to different perspectives; thus, States and families have complementary roles that are not mutually exclusive with regard to sexual education.

Although I do submit that we can consider that more broadly here. Further:

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73. Although fathers and mothers are free to choose the type of education that their sons and daughters will have, this authority may never run counter to the rights of children and adolescents, in accordance with the primacy of the principle of the best interests of the child. This implies a need to create forums in which all options and opinions can be discussed within the education process. Particularly in the case of sexual education, people have the right to receive high-quality scientific information that is unprejudiced and age-appropriate, so as to foster full development and prevent possible physical and psychological abuse.

Mr DAVID SHOEBRIDGE: If you table that that would be helpful.

Mr McKENZIE: If I could add; our written submission does refer to article 3 of the Convention on the Rights of the Child and it does indicate that the bill may contravene article 3. That particular article provides that the best interests of the child shall be a primary consideration in all actions concerning children whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies. We are certainly of that view.

Mr WILK: I do not have too much to add. I do not know about you, Dr Lynch. We need to consider the best interests of the child and 18 (4) as part of a matrix of human rights that needs to be balanced against each other.

Dr LYNCH: And therefore the bill is deficient. I think that was the original question.

Mr DAVID SHOEBRIDGE: Yes.

Dr LYNCH: In that it does not have a specific reference. The other thing is that it is so complex. We all agree that the rights of parents are pre-eminent. The fundamental rights of the child can never be overwritten. Sometimes those decisions can be made clearly by schools, by councillors, by others, because it is very sharp and very clear if the safety of a child, for example, is under threat. In other contexts it is a hell of a lot more difficult. But that for me just exacerbates my sadness and exasperation at what the long-term impact of this bill, if it was fully implemented, would do in schools to teaching. I know we keep saying it. Chair, when I first heard of this bill I read the press release that came out with it and could not comprehend, could not put together my reading of the bill with the statements that nothing in this bill—I forget the exact words—will undermine the capacity of schools to care for, support and advise children. I do not think you could have this bill and say that would be true for gender diverse children in our schools. I just do not comprehend it, but I am sure we will talk about it.

The Hon. ANTHONY D'ADAM: We have had some discussion earlier today and yesterday about the Department of Education's legal bulletin No. 55. Earlier today Ms Deves, who was representing Save Women's Sport Australasia, made a statement about the impact of that bulletin and the operation of the Sex Discrimination Act in relation to single-sex schools and the capacity of trans kids to seek enrolment. The suggestion from Ms Deves was that the school could decline an application. I invite you to perhaps on notice review the transcript and provide a view about if that is actually the case. I had a further question about a matter raised in the Law Society's submission around a situation where parents disagree. I wonder whether you could maybe elaborate on your submission in that regard?

Mr McKENZIE: Yes, I will just find that particular section. We make the point that the bill does not appear to envisage a scenario where the child's parents disagree on whether a child should receive instruction on something that is purportedly a matter of parental primacy. I think that is a reasonable criticism. You can envisage that some parents may not agree, particularly if they have different religious affiliations. I also noticed on looking at section 26—the conscientious objection section—that that seems to have the same flaw. I think that is something that if the bill was to pass that is an amendment that should be seriously considered.

Mr DAVID SHOEBRIDGE: How could you resolve it?

Mr McKENZIE: It is not easy, is it?

Mr DAVID SHOEBRIDGE: If parent A says X and parent B says Y, how do you resolve it?

The CHAIR: Split the ashes.

Mr McKENZIE: I think the only resolution would have to be that both parents would have to agree and if they did not agree they could not responsibly come along and say that they jointly object to a particular part of the course. I cannot see any way around that unless, of course, you had some judicial proceeding arising from a human rights Act that allowed both parents to give evidence and the court make a decision. That is not completely unknown, of course. In relation to medical treatment sometimes parents disagree about medical treatment and it goes to a court to resolve.

Mr DAVID SHOEBRIDGE: The other option is teachers are in breach regardless of what they do.

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Mr McKENZIE: That is right.

The Hon. ANTHONY D'ADAM: I had one further question to the NSW Council for Civil Liberties around their submission on the question of coherence of law. Perhaps if you could just elaborate a bit further on that principle and how this proposition offends that.

Mr WILK: All great and civilised legal systems have as one of their core principles that the law is developed coherently. We submit that this bill does not develop the law coherently for a number of reasons. Firstly, the Education Act itself already has as a legislative object of the system encouraging diversity within schools and mitigating educational disadvantage arising from a child's gender. So it is in tension with the objects of the Act. Furthermore, the Anti-Discrimination Act already protects transgender people in this State from discrimination and the definition of transgender in that Act recognises that gender fluidity exists; the same at the Sex Discrimination Act level at the Federal level. The Parliament at both the Federal and New South Wales level has already recognised that not only do such people exist, they are deserving of protection from discrimination. So it would seem plainly, in my view, incoherent having respect to the fabric of the law as it currently stands.

The CHAIR: But the bill is not about the existence of gender fluid people; it is about the teaching of it in schools.

Mr WILK: Yes.

The CHAIR: Do you understand that distinction?

Mr WILK: I do but your—

The CHAIR: Okay.

Mr DAVID SHOEBRIDGE: So you accept that trans people exist but you just cannot talk about it.

The CHAIR: You see, you can say it is one thing but if the bill is not what you are saying then your point is not valid.

Mr WILK: No—

The CHAIR: You see, that is the problem. You are making something up about the bill that is not actually true.

Ms BURKE: I think Mr Shoebridge made my point for me.

The Hon. WES FANG: Oh gee, look at the time.

Mr WILK: Can I query that?

The CHAIR: And on 109 there is no Commonwealth head of power for schools, so it is hard to see a clash as well. You have multiple problems on 109 and on this other point of coherence.

Mr WILK: The relevant Act is the Sex Discrimination Act, which—

The CHAIR: This is not a discrimination bill that we are doing in New South Wales.

Mr DAVID SHOEBRIDGE: But it is a bill that discriminates—is the point.

Mr WILK: That bill is founded on a valid head of power, though.

The CHAIR: Okay. Well, you said you are not a constitutional lawyer. I think we will leave it at that and wrap up the session there.

(The witnesses withdrew.)

(Short adjournment)

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PAUL MARTIN, Chief Executive Officer, NSW Education Standards Authority, affirmed and examined

GEORGINA HARRISSON, Group Deputy Secretary, School Improvement and Education Reform Group, NSW Department of Education, affirmed and examined

JANET SCHORER, NSW Children's Guardian, Office of the Children's Guardian, sworn and examined

ZOE ROBINSON, NSW Advocate for Children and Young People, affirmed and examined

The CHAIR: Welcome. I thank everyone for their participation and those who have made submissions. It is available to any of the witnesses to provide a short opening statement, which tends to be a convention of these hearings. Also note that if there are any questions that come in this hour-and-a-half session where you need extra information or data or deliberation it is available to you to take those questions on notice and furnish a reply to the Committee within 21 days. Would there be any opening statements please?

Ms HARRISSON: Yes, certainly, on behalf of the Department of Education. The NSW Department of Education acknowledges the request for our participation in this hearing and seeks to support the Committee's examination of the Education Legislation Amendment (Parental Rights) Bill 2020. At the outset it is important to acknowledge that the bill traverses important, significant and complex issues. The bill has far-reaching implications from the curriculum to the classroom for the wider community through potential impacts on an individual child. Such implications are evident in the number, breadth and depth of submissions made to this inquiry. It is also for these reasons that the New South Wales Government is yet to formalise a position on the bill. It will do so after careful consideration of all submissions including the evidence from these hearings and the findings and recommendations of this inquiry.

The Department of Education can, however, identify a number of legislative, operational and contextual matters posed by the bill that impact the education system in New South Wales. Careful consideration is required to properly interrogate and understand the intention of the bill and to reconcile this with the kinds of outcomes that might in practice arise from it. It is on this basis that the department seeks to raise these matters for the Committee's consideration.

Whilst the narrative surrounding the bill has been framed around the idea of prescribing the teaching of gender fluidity in New South Wales schools, this is essentially a mandated extension for its broader purpose, which is to enable a specific version of parental primacy in relation to the education of children. This version of primacy is an absolute one: it creates a private right of veto over the New South Wales curriculum on any matter that parents may deem incompatible with their concerns around moral and ethical standards, political and social values and matters of personal wellbeing and identity. Parental primacy extends the existing principle in section 4 of the Education Act 1990, which provides that the education of a child is primarily the responsibility of the child's parent.

It is important to reconcile the proposed extension with the other core principles which underpin education in New South Wales, including the principle that every child has the right to receive an education and that it is the duty of the State to ensure that every child receives an education that is of the highest quality. The department seeks to promote operations that are balanced and responsive to these coexistent principles. In terms of existing arrangements, the rights of parents to guide their children's morals and values remain paramount. These rights are protected by and reflected in the processes of public consultation that have gone into the development of the Australian curriculum and the New South Wales syllabuses. Parents' rights are further safeguarded at the local level by processes of communication, feedback and complaint within school communities.

The department acknowledges instances from time to time of non-compliance. However, these are predominantly isolated and typically inadvertent. Corrective actions and learnings are applied to improve controls and mitigate future risks. More broadly, the department acknowledges the legal risks identified in a range of the submissions received by this Committee including by the Law Society of NSW. The bill's provisions in their current form may create uncertainty against a range of State, national and international legal requirements, frameworks and conventions. For instance, there is a risk that the bill would be inconsistent with the Commonwealth Sex Discrimination Act 1984 and susceptible to legal challenge and invalidation. Anti-Discrimination NSW has also identified several legal and policy concerns in terms of the Anti-Discrimination Act 1977 and the bill's explicit prohibition on the teaching of gender fluidity. Whilst gender fluidity is not and has never been part of any New South Wales syllabus, all New South Wales schools have legal obligations to protect and support their students including those who are same-sex attracted or transgender.

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It will be critical from an educational standpoint to ensure that no child is discriminated against nor disadvantaged in facilitating their education. It is important to reinforce the linkage between student wellbeing and educational attainment. National and international research confirms that supporting students' mental health and wellbeing enhances learning outcomes. All New South Wales public schools are required to have a planned approach to develop whole-school wellbeing processes by providing a safe environment that creates connections and fosters positive relationships. The department notes that the Australian Psychology Society submits that the bill has significant potential mental health ramifications for schoolchildren and may disadvantage already vulnerable children. They highlight that any legislation which has the potential to have a detrimental impact on a child's sense of autonomy, independence and self-worth is likely to have a direct negative impact on their mental health and wellbeing. The department would be concerned to ensure that any legislative design and consequent implementation would avoid such risks.

From an implementation and operational standpoint the department confirms that the bill would require substantive change to existing policies, operations and administration at both the system, school and classroom levels. The department is undertaking a significant body of work to reduce the administrative burden on schools and to deliver a number of improvements for teachers, given they are the greatest in-school determinant of student outcomes. In its current form it is considered likely that the bill would impose additional operational overheads for schools and increase the administrative burden for individual teachers.

Lastly, the department seeks to reinforce with the Committee the New South Wales education sector's current reform context. As the Committee would be well aware, the scope and scale of change is substantial and fundamental. Foremost among these is the new School Success Model, which complements a raft of other school improvement works such as the curriculum review reform. Together these will deliver greater clarity on school improvement and system responsibility as well as better guidance on best practice teaching and learning, to lift student performance across the New South Wales public education system. The priority and additional impacts of any legislative proposal should be considered in light of the significant reform agenda. Additionally, the department considers these reforms to offer an alternative means to legislation by which any attendant risks and policy objectives might be addressed. The relative merits of possible approaches should be considered in terms of their efficacy, risks and benefits. The department appreciates the deliberations of the Committee and looks forward to its report on the bill.

The CHAIR: Thank you. Paul, did you have an opening statement?

Mr MARTIN: Good afternoon, Chair, and Committee members. The NSW Education Standards Authority [NESA] is an independent statutory authority within the Education cluster of the New South Wales Government. It is a portfolio responsibility of the Minister for Education and Early Childhood Learning. NESA is responsible for administering several teaching and school regulatory functions in New South Wales including curriculum development, teacher accreditation and school registration. NESA undertakes these functions in accordance with the requirements set out in the New South Wales education and teaching legislation.

As an independent authority acting across the New South Wales school sectors, NESA provides support to both government and non-government schools as they go about the work of lifting student achievement through teaching and learning programs. We work in partnership with schools and school sectors, teachers, parents, community and expert stakeholders. As the Committee is aware, the NESA board is now overseeing the rewriting of the curriculum to meet high community standards and expectations. NESA is supporting its board to implement this curriculum reform program in line with the New South Wales Government's response to the curriculum review. The board is comprised of the leaders of all New South Wales government and non-government education systems, practising teachers and school leaders, and other experts relevant to NESA's functions.

Syllabuses are reviewed and endorsed by the Curriculum and Credentials Committee and the NESA board for the consideration and approval of the Minister for Education and Early Childhood Learning. This syllabus development process is independent, cross-sectoral, evidence-based and ideologically neutral; it is underpinned by comprehensive stakeholder consultation in which parental voice is an integral part. The New South Wales school curriculum therefore represents a broad community consensus about the knowledge, understanding and skills that students should develop through their years of schooling. NESA's key role is to ensure that the mandatory requirements of the New South Wales curriculum are transparent and clearly communicated to each school, teacher and parent. Schools and teachers are then primarily responsible for the delivery of the curriculum to their students.

The New South Wales education and teaching legislation provides for flexibility in delivery of the curriculum, which enables teachers to teach the curriculum in a way that effectively recognises and responds to the needs of their students and the local school context. In going about this core business of teaching and learning,

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schools are encouraged to work in partnership with parents and to involve them in decisions about their children's education. Thank you for the opportunity to give evidence to the Committee today.

Ms ROBINSON: I would like to start by acknowledging the traditional owners of the land on which we meet today, the Gadigal people of the Eora nation. I would like to pay respects to Elders past, present and emerging. I would like to thank the Committee for reviewing our submission and including us here today. I acknowledge the brave individuals and organisations that have appeared before us yesterday and today, for sharing his/her/their voice. My role, not just today, but every day, is to hold the following principles firm: the safety, welfare and wellbeing of children and young people are the paramount considerations; the views of children and young people are to be given serious consideration and taken into account; a cooperative relationship between children and young people and their families and communities is important for the safety, welfare and wellbeing of children and young people. We work with government, business and community to ensure that children and young people's views are considered. Children and young people should be consulted about matters that impact on their lives. Without further from me, let me tell you what some children and young people said when we asked them about this bill:

I don't think that's a good idea because it makes it feel like they can't be themselves and then if the teachers that help them and support them get in trouble or fired just be like accepting them and all that, then they will probably feel really alone and stuff and it's just not a good place to be at school if you can't feel you can't express yourself and you can't learn about the issue.

... no one really has the exact same opinions and ideas and beliefs as their parents, because we are entirely different generations ...

We may have a combination of knowledge and their beliefs, but we're still our own people, so for having denied access, it's like never knowing what you could have known that could have been beneficial for future generations, or even experiences that you could have had in the current life and I just think it's important to not restrict that.

Put simply, if teachers stop teaching gender fluidity, gender fluid people will not stop existing. It is imperative for us to understand those around us so we do not fall into the trap of othering, therefore teachers need to teach the reality of the human experience, inclusive of sexuality.

Our submission was based on consultations we did with young people. I sat in on one of these consultations and observed the passion and kindness in which these young people shared their views. It is their truth and their voice.

Mr DAVID SHOEBRIDGE: Could we ask for those to be tabled? I think all of them were typed and circulated.

The CHAIR: Yes, sure. They are on the *Hansard* record.

Mr DAVID SHOEBRIDGE: It helps Hansard.

The CHAIR: Janet, do you have an opening statement?

Ms SCHORER: No. I do not wish to make an opening statement.

The CHAIR: If I could start the questioning with Zoe. You just read out a statement there about stopping the teaching of gender fluidity. We heard from Georgina that gender fluidity is not in the New South Wales school curriculum. We know that Safe Schools gender fluidity teaching is banned, *Gayby Baby* the movie is banned, the biology textbook has no reference to gender fluidity or social construction. So what is the gender fluidity teaching that you have identified?

Ms ROBINSON: It is not what I have identified but children and young people themselves on their interpretation of this bill were worried that it might restrict conversations about that or opportunities for people to explore that.

The CHAIR: Sure. But do you acknowledge that the gender fluidity teaching, theoretically, according to the rules of the New South Wales school system at the moment, would not be taking place? It is not in the curriculum. Safe Schools is banned, the movie is banned, it is not in the biology textbook.

Ms ROBINSON: I understand that it is not in the curriculum.

The CHAIR: Have you got evidence of any gender fluidity teaching in the school system?

Mr DAVID SHOEBRIDGE: Because you want to take your shoe off Khrushchev-like and attack those teachers.

The CHAIR: No. I have got my shoes on. I am just asking out of a submission that if they stop teaching gender fluidity—I am asking for the evidence of where the gender fluidity teaching is at the moment.

Ms ROBINSON: The children and young people in this consultation did not give that evidence. I am happy to take it on notice.

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The CHAIR: And to Georgina, the Minister, Sarah Mitchell, made what I thought was a very good policy statement at the end of 2019 along the lines of, "The reality is that instilling value sets and encouraging positions on social and political issues is not the job of schools. It is the job of parents." Is that also the policy of the department?

Ms HARRISSON: It is the policy of the department.

The CHAIR: That is a very good statement of parental primacy, is it not? That is reflected in this bill.

Ms HARRISSON: I think as I mentioned in my opening statement, we take that to be already catered for in the Education Act under section 4.

The CHAIR: How then did we end up with Lindfield learning centre in the news today that very political, ideological, hateful comments were written up by year 6 students on a poster posted by a schoolteacher in one of your schools "pigs out of the country" twice, referring to the NSW Police Force, and "white lives matter too much"? If this is all under control, why do I get almost an endless stream of complaints from parents and other citizens giving me material of this nature, which I have got to say is completely and utterly disgusting? A school like this, notionally for respect and tolerance—haven't we got a problem here in the system of breeding into young people hatred, disrespect and barbarism like that on those posters at Lindfield?

Ms HARRISSON: I think, Chair, I heard a number of questions in there. Let me try and tackle some of the issues that you raised. Firstly, on Lindfield Learning Village I think the Minister has made very clear that she has asked the department to undertake a review of that situation and we will do so. I can also inform the Committee that the principal of that school has both written to her community to offer an apology and has also written to the Commissioner of Police in New South Wales, Mick Fuller, to offer him an apology and to invite him to the school for a further conversation.

I think more broadly on the issues that this raises—and I will not go into the specific case of Lindfield. We have been asked to review it. It is right that we go and review that clearly. We have a controversial issues policy for a reason in schools. In the same way here in this Committee and in this place you debate freely and openly different points of view, we have a controversial issues policy to ensure that we can create an environment in our schools where a respectful dialogue can occur on controversial issues and on issues that are current and in the media. It is not surprising in some of that that our young people might reflect back messages that they have heard and seen in the media and in the community.

The CHAIR: You are blaming the media, not the teacher of the school?

Ms HARRISSON: No. I am not blaming the media or the—

The CHAIR: Not the teacher of the school who oversaw this and thought it was so good they put it on a poster on the roof. Seriously?

Mr DAVID SHOEBRIDGE: I am going to take a point of order because the witness has—

The CHAIR: I am asking a question.

Mr DAVID SHOEBRIDGE: I am taking a point of order.

The CHAIR: I mean, to blame the media. I have heard it all now.

Mr DAVID SHOEBRIDGE: I am going to keep pressing my point of order until it is heard. The witness is doing the best the witness can to address the multiple questions in your initial question, and chopping her off halfway through is not assisting. I would ask you to let the witness finish because the witness is really trying to help.

Ms HARRISSON: Let me be clear, I am not trying to blame the media for this. I am suggesting that in the debate of current affairs issues, topical issues that are being debated in many places including this place at any given time, those external narratives and discussions will inevitably come into the classroom through the broad experience of the young people in that setting. We have the controversial issues policy in place to guide our schools and to set our expectations of the way that is done. It is—in a system of our scale and size with the number of classrooms that we have in operation every day—unfortunate when these events occur that do not align explicitly with that. But I think it is very important that we do not take too early a judgement on that until we have had the investigation the Minister has instructed us to do, which we will do so and do so thoroughly. I think it is important to recognise the steps the principal has taken today to address those concerns that have been raised.

The CHAIR: Finally, given that clearly at this school and many others the controversial issues policy is just basically ignored, would it not assist the department and the Minister's goal in keeping politics out of

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schools to extend the section 30 prohibition on the teaching of religious dogma to political and ideological dogma as well in the Act?

Ms HARRISSON: I am sure for many in the Committee good debate in a school is something you would want to ensure. We are very clear in the provision of education in New South Wales that it is not ideological but it does allow for discussion and debate within the parameters of that policy. We welcome the Committee's views on this, but I do not think we want to create an environment in our schools where we discourage respectful debate and exploration of issues. We do want to make sure that in the way that is done the values and expectations of parents are factored into that debate, that there is an opportunity for parents to give their commentary on those issues and to have their own values played into that conversation, and that debate can occur in a safe and structured way where those young people are supported to explore the issues that are of importance in society and to them in a way that is appropriate, in a way that is respectful and in a way that promotes tolerance.

The Hon. ANTHONY D'ADAM: Thank you all for your appearance today. I wanted to just first place on record that I am very appreciative of the appearance from the Office of the Children's Guardian and the Advocate for Children and Young People. It was a bit of a battle to get you here, I have to concede. I particularly appreciate your submission because in all the submissions I think this is the one that really gives voice to children. This bill is all about children; it affects children. I am very appreciative of that. I might start with you, Ms Robinson. Your organisation is a statutory body. Does it support a formal consultative structure for young people? Is that part of its role?

Ms ROBINSON: Yes, we are a statutory body and I am a statutory officer. What do you mean by "formal"?

The Hon. ANTHONY D'ADAM: Is there a formal group of young people—like a Premier's Council or something—that is effectively a consultative body for government?

Ms ROBINSON: Yes. We have 12 members of a youth advisory council. We go through a selection process every year and they go through various rigorous—and then they are appointed through the Cabinet process as well.

The Hon. ANTHONY D'ADAM: They are appointed by the Government, are they?

Ms ROBINSON: Yes.

The Hon. ANTHONY D'ADAM: Okay. Were they involved in this consultation?

Ms ROBINSON: Yes, they were.

The Hon. ANTHONY D'ADAM: I was interested in one of the comments, and perhaps you might be able to elaborate on the context of this. It is on page 9:

When the group was asked if they felt this was a pervasive issue, they agreed and said it was widespread in their communities. Some offered that they themselves had been in this situation and felt uncomfortable or guilty ... seeking information online. They also noted that the spaces were sometimes occupied by people they recognised as exhibiting predatory behaviour. These students hoped, instead, that they would find the information they needed through classes and through speaking to trusted teachers and school counsellors.

This is in the context of seeking advice about issues that are clearly in the public discourse. Perhaps you might elaborate on that issue around, I suppose, the dangers if we closed down formal, structured delivery of information that is moderated by trusted adults and skilled professionals.

Ms ROBINSON: In the consultations that we did, children and young people did say that they are looking for information and they look for it from a variety of sources. So that includes obviously the trusted adults in their lives and also their peers. So there was concern raised by children and young people for each other and for themselves that if they did not have an opportunity to seek that in schools, which is where they are predominately spending a lot of their times, that people would then turn to alternative measures that might not have the same kind of level of trust. We do know—and I am sure members of the Committee are very familiar—that children and young people will go online to seek further information if they feel like they cannot get it from schools or from parents or from other parts of their community.

The Hon. ANTHONY D'ADAM: Are those potentially dangerous spaces? Perhaps, Ms Schorer, you could comment on that. Does that drive children into risky spaces if they are seeking information from forums that might be problematic?

Ms SCHORER: Thank you. Yes, I think that is correct. I think for children who have questions about themselves or about the world around them and perhaps do not have an adult—not every child has a parent who

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is able to have this sort of conversation with them. If they have got questions about their own sexuality, for example, they might not want to talk to their parent first about that, and that increases vulnerability if they are seeking that information exclusively from online because it is not filtered. Young people maybe do not have the discernment to know what is reliable and what is not. That certainly does expose them to greater vulnerability by using that only as an information source without having another adult that they can seek perspective from.

The Hon. ANTHONY D'ADAM: You might have heard the evidence earlier today. I asked a representative from Catholic Schools NSW about a scenario where a potential abusive parent might seek to withdraw their child from lessons that might be protective. Can you offer some comments about that situation, whether this bill potentially compromises children's safety in that regard?

Ms SCHORER: Thanks for the question. I would echo initially Ms Robinson's comments about the protective factor that other adults, particularly teachers, are for all children but for vulnerable children as well. I think teachers across our system provide such a first point of contact to really see how that sort of vulnerability might play out. The evidence for us as an organisation and overseeing organisations and people working with children is that the absence of that contact last year, for example, during the periods of school lockdown meant that we were not seeing the same number of reports. In our world, no reports is not necessarily a good thing because it means that children are vulnerable.

I think that you would want to be able to understand if there were hopefully a teacher—and I give credit to the teaching profession because they often can pick up on aspects of that vulnerability where that decision might be made through a parent but there are other factors, and hopefully the child has other adults in their life, which is what we strongly support—to have many adults that are involved in a child's life where if they are not feeling safe, they have another avenue for someone to speak to or for them to identify that that child has other risk factors that are being presented in that form.

The Hon. ANTHONY D'ADAM: Teachers are mandatory reporters, aren't they?

Ms SCHORER: Absolutely.

The Hon. ANTHONY D'ADAM: Is it the case that often when teachers are dealing with these issues in the classroom that the conversations might actually lead to a situation where they identify that a child might be at risk?

Ms SCHORER: Other risk factors, yes. That is correct. I think my observation is that teachers are good—within their time pressures—at understanding where those risk factors sometimes present for children and create the conversation about what other vulnerabilities they might have.

The Hon. ANTHONY D'ADAM: So you would not want to close down those spaces or have a situation where teachers were sort of second-guessing about dealing with those kind of issues in the classroom because they thought it might interfere with parental primacy or moral or ethical issues?

Mr DAVID SHOEBRIDGE: Maybe get sacked.

The Hon. ANTHONY D'ADAM: Do you think that is a risk with this bill?

Ms SCHORER: I think we want to make sure that we still enable children to have the permission to have those conversations safely with their teachers. As Ms Robinson said, in her conversations with young people, if they fear that there is going to be an outcome for the teacher that means they do not have a job, they will feel that and not want to get the teacher in trouble but they also will not want to get their parents in trouble. It would be a very complex emotional decision for a child to be put in that position about how they disclose something that they are feeling anxious about already.

The Hon. ANTHONY D'ADAM: Can I then just move to you, Mr Martin. Obviously, under this bill, NESA will be required to cancel the accreditation of teachers who contravene that issue of parental primacy or drift into something that might be interpreted as teaching gender fluidity. Do you think that that is a problematic issue? How does that—well, I will let you answer that initial question.

Mr MARTIN: Anything that became legislated as a reason for a teacher's suspension or revocation would have to be turned into a policy process. Then there would need to be judgements made about whether the teacher had contravened that particular policy. I cannot really talk about it with any great specificity. The only issue would be whether it would be possible to make the appropriate judgement to make the decision.

Mr DAVID SHOEBRIDGE: Would you call all the kids from the classroom as witnesses?

Mr MARTIN: Again, I could not go into specifics of a process that is a supposition.

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The Hon. ANTHONY D'ADAM: Do you think NESAs are resourced for this kind of additional function?

Mr MARTIN: At the moment I would have to say that NESAs would not—depending on the volume of search complaints and such accusations, no.

The Hon. ANTHONY D'ADAM: So if this bill is passed, you are obviously going to need to be substantially—

Mr MARTIN: It would again depend on the operationalising of the process.

The Hon. ANTHONY D'ADAM: I might just—

Mr DAVID SHOEBRIDGE: You would have to open your own Salem division to actually test the teachers.

Mr MARTIN: I do not think I will comment on that.

The Hon. WES FANG: Point of order—

The CHAIR: Well, Salem never had a curriculum.

The Hon. WES FANG: No, again I think we have four very competent, capable witnesses. We have a Committee that is engaged and looking to seek some advice on the bill. I think we keep it professional and we keep it tight and we do not seek to make comments like Mr Shoebridge did.

Mr DAVID SHOEBRIDGE: Is that a point of order?

The CHAIR: That is a point of order and you have been reprimanded, Mr Shoebridge, yet again—the twenty-fifth time in the hearing.

The Hon. ANTHONY D'ADAM: I will ask one more question, then I will yield. We have heard from the Chair and you have reiterated, Ms Harrison, that gender fluidity is not in the curriculum. It is not taught in New South Wales schools; the Minister is very firm on that. Doesn't that render this bill redundant?

Ms HARRISSON: I think that is the question the Committee is deliberating today and probably not mine to comment on. As I said in our opening statement, the Government has not taken a position on the bill at this stage. We do believe that parental rights are provided for in the Education Act and that there are mechanisms in place for where parents are, one, to be engaged around controversial issues ahead of time when they are taught in their schools; and, secondly, if they are unhappy for that, we have complaints—remedy procedures that are in place both at the local level and with escalation through to the department where necessary to provide a remedy should a parent feel that those have not been upheld appropriately.

Mr DAVID SHOEBRIDGE: First to you, Ms Harrison. Have you got a position on or can you give us some assistance on what scope of the proposed 17A, 17B and 17C read together would have and how far into the school environment would that reach?

Ms HARRISSON: At this stage we do not have a formal position on that. I think we are clear that the requirements on teachers and the assurances that having that legislative test would require us to have would be far reaching and potentially quite burdensome. I think what I do see in the intent of this bill is a request and an expectation that schools' openness with community and parents about their practice and what is happening in the school and in classrooms is increased. I think there is a good area of discussion for us to have around that as we think about are our complaints procedures and other things there listed—

Mr DAVID SHOEBRIDGE: Sorry, Ms Harrison, I am not talking about the parental primacy aspect. Specifically, I suppose, I am looking at 17A and 17C read together. The Chair has said that there is a policy position to not teach gender fluidity.

Ms HARRISSON: Yes, that is true.

Mr DAVID SHOEBRIDGE: But of course 17C says, for the avoidance of doubt, that prohibition in 17A about teaching of gender fluidity applies to:

... any teaching, instruction, counselling and advice provided to students by:

- (a) non-teaching school executives;
- (b) non-teaching school counsellors,
- (c) non-teaching staff, contractors, advisors and consultants of a school,
- (d) non-school based staff, contractors, advisors and consultants of a school, and

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(e) volunteers at a school.

The CHAIR: And the gardeners.

The Hon. ANTHONY D'ADAM: They are covered actually.

Mr DAVID SHOEBRIDGE: So it goes well beyond teaching. Have you got an understanding of what that would mean in terms of being able to provide support and counselling, particularly for gender and sexually diverse students?

Ms HARRISSON: Certainly as we look at the principles in the Education Act and the way that they are balanced together and the needs of the student being balanced in there with the needs of the parent, which is one of the distinct differences that we have, we have a requirement and a duty to provide education for every child in a safe environment for them. We have a requirement to ensure that there is not discrimination for those young people. It is also important in the kind of counselling space that there is a confidentiality and a capacity for conversations and support to occur for a young person. I think we have canvassed some of these issues in previous hearings and in estimates hearings. When we have a young person and a family that is dealing with these issues personally, the support that we need to provide and meet the needs of that child are paramount to us. There would be challenges for us, in operational terms and being able to provide for the education of that young person effectively, should those things come together. I am very happy to come back on notice with further advice on those elements.

Mr DAVID SHOEBRIDGE: Yes, that would be useful. I suppose then I wanted to ask Ms Robinson and Ms Schorer this. We had evidence earlier today from Associate Professor Ullman—but there is a large body of evidence that supports it—that for a child to thrive, both in terms of wellbeing and academically at school, the starting point is feeling safe and supported. First of all, do you accept that as a fundamental starting point for a child's success at school?

Ms SCHORER: Yes, absolutely.

Ms ROBINSON: Yes.

Mr DAVID SHOEBRIDGE: Then do you have any views upon if this bill was passed what that would do particularly for trans kids? We will start with trans kids. What do you think this bill would do particularly for trans kids?

Ms ROBINSON: Children and young people themselves say that they require and are seeking a variety of places to get support, be it school in the first instance, from counsellors, from peers, from teachers, from those around them. The concern would be, I think, for children and young people, as we have touched on before, where do you then go for that help and what does that then look like. We start from the premise that school should be a safe place for all children and young people, which it should be, and that there should be opportunity, as Ms Harrison has said, in terms of the support that is provided in a particular circumstance but also more broadly. I think the concern for children and young people is what does that mean for me, myself, if I am a transgender child, but also how do I support someone in my school group who might be going through various experiences in life? Children and young people, as you and members of the Committee are probably well aware, are very thoughtful in how they think about both themselves and their peers, and they want to be able to do both.

Ms SCHORER: We also know that children and young people will ask questions about issues or things in their life as a precursor to test the safety of an adult to disclose more information about things they might be struggling with or their own vulnerabilities. To not be able to have those conversations with a vast array of adults that are in such a primary location for young people to ask those questions and to receive support outside their home, when the problem and the issues might be in their home, will prove a challenge for children and young people I think.

Mr DAVID SHOEBRIDGE: We heard from the two teachers unions earlier today that there would be this chilling impact if this legislation passed that even raising the issue about supporting a transgender student, saying it is okay, being affirmative—that teachers may withdraw from even doing that for fear of being in breach of the law and therefore being sacked. Do you think that chilling effect is a real concern for this kind of legislation?

Ms ROBINSON: My view is that if it restricts us on having a human response to a young person in front of us then that would be of great concern. Because I think the first instincts, I would hope, would be to try and wrap support around that young person. What I would want to say further in terms of what my colleague has said is children and young people themselves will, as I said before, acknowledge that it is counsellors, it is teachers, it is parents, but there are other organisations that are experts in terms of coming into schools and supporting children and young people. So I think if we are starting to limit the kinds of conversations we can have which

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might naturally lead to a conversation around gender fluidity it would make it very difficult for some of those organisations who are providing support in a variety of areas after a variety of incidents in schools.

Mr DAVID SHOEBRIDGE: Could you, on notice, respond then to the reach of the proposed section 17C, which goes well beyond teachers to all of those kinds of support staff? Could you reflect upon if you have any concerns about the scope of 17C in the bill?

Ms ROBINSON: I can take that on notice, yes.

Mr DAVID SHOEBRIDGE: Before I hand over, page 8 of your joint submission on what young people are asking to be taught in school I thought was quite compelling.

The Hon. ANTHONY D'ADAM: Absolutely, that last paragraph.

Mr DAVID SHOEBRIDGE: Your summary is this:

All of the young people consulted about the Bill except for one felt that teachers should be able to speak about gender fluidity in schools, and beyond that, that it should be included in the syllabus as an important part of their education. The one young person who disagreed felt that it was not a priority for schools and that it was a topic that could be dealt with by parents in the home.

There was almost unanimity amongst the kids you consulted, saying that they want the ban lifted. They want teachers to be able to talk about this. Can you maybe then expand on that and say how kids want to be taught?

Ms ROBINSON: I can touch on the fact that we have done consultations with NESA around the curriculum. Children and young people talk about the fact they want life skills to be involved. In recent polling that we have received, 34 per cent of the children and young people we polled talked about the fact that that included healthy and respectful relationships. To that end I think, yes, it is more that children and young people are aware of the surroundings around them. They are aware of the environment they are in and they want the opportunity to be able to ensure that they themselves feel safe but that their peers feel safe as well. Excluding a conversation around this or the fact that, I think, for young people it was a thought that it could happen for them was quite concerning. They want the opportunity for there to be balanced, open conversations about all things that are affecting their generation.

Mr DAVID SHOEBRIDGE: They go beyond that, according to your report. It says here:

Young people felt that rather than banning teaching about gender fluidity, it should be encouraged. They felt any current mentions of same-sex attraction and gender fluidity were not in depth and did not provide them with the information they wanted to know.

Ms ROBINSON: Yes.

Mr DAVID SHOEBRIDGE: Is there a major generational gap opening up here with students really talking with their peers, wanting that supportive environment, wanting to be respectful and engaged and, potentially, older generations not understanding what is happening in kids' lives?

Ms ROBINSON: I think what is overwhelmingly from the submission and what we have heard is that we need to consult with children and young people about what it is that they want to learn. What is powerful about this is that when you engage with children and young people about things that impact on their lives they have a very clear view about what they want to see happen and so we should continue to do that.

The Hon. COURTNEY HOUSSOS: I want to ask about the controversial issues in the schools policy document. Under section 26 of the Education Act parents have the right to remove their children if they object on conscientious grounds, is it, or religious grounds? They have a right to object already. Is the controversial issues designed to put that into practice or is that designed to work separately?

Ms HARRISSON: On controversial issues, is that it?

The Hon. COURTNEY HOUSSOS: Yes, sure.

Ms HARRISSON: In those we provide guidance to schools, and I am very happy to table the policy and procedures.

The Hon. COURTNEY HOUSSOS: It is alright. I have a copy of it.

Ms HARRISSON: Our expectation is that schools will share ahead of time what they are planning to touch on when it is a controversial issue and provide guidance in those procedures to how controversial issues is defined and should be considered. We request that schools seek permission for parents and give them the opportunity to opt out if that is not something they want their child to be part of. And that they are having that consultative engagement with their community around those issues. They are our expectation of that policy and how that should operate in practice. Where parents do not feel that that has been handled appropriately they are

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able to raise a complaint with the school. We have local complaints management procedures that address those complaints.

I think it is important to note that of those complaints that are not satisfactorily resolved locally and escalate into the department, a very small number go to some of the core issues to this bill around LGBTQI issues. Around 10 over a three year period of complaints made escalated to the department level on those issues from 800,000 students and their family. It is an important kind of context around that. That is only the complaints that make it to the department level. We do not have centralised data tracking of local complaints that are managed effectively by schools within the community.

Mr DAVID SHOEBRIDGE: Did you say ten over three years?

Ms HARRISSON: Over three years from 2018 to 2021.

The Hon. COURTNEY HOUSSOS: In terms of the explicit rights that parents have under the Education Act already, which a number of submissions have said to us are adequate, how are they put into practice? Is it through the controversial issues in schools policy?

Ms HARRISSON: Yes, it is.

The Hon. COURTNEY HOUSSOS: Do you have a list of issues that you consider controversial that should be considered or is it solely up to principals to use their discretion?

Ms HARRISSON: As you will have seen in that document, there is some guidance around the nature of those issues. It is quite contextual. What is controversial and considered controversial in one community, is not considered as controversial in another. Those issues also change over time as community expectations shift over time on different issues in one direction or another. So we do not maintain a no-go list of areas for schools to not discuss. The aim of the controversial issues policy, as I said before, is to create an environment where a conversation can take place with the guidance of a trusted adult without judgement or ideology but where a conversation can occur about issues that are relevant to those students or relevant in current affairs and are relevant in the syllabus.

The Hon. COURTNEY HOUSSOS: Do you provide any guidance to schools about what should be in the annual permission note that most schools send out at the start of the year?

Ms HARRISSON: The guidance we provide is, as you have got in front of you, the controversial issues procedures.

The Hon. COURTNEY HOUSSOS: The permission note is different to the controversial issues.

Ms HARRISSON: Yes, so our expectation is that if schools are addressing issues that they consider to be controversial for their community, that they would include that in their permission note.

The Hon. COURTNEY HOUSSOS: Sorry, that is your expectation?

Ms HARRISSON: That would be our expectation.

The Hon. COURTNEY HOUSSOS: Mr Martin, I want to ask you—

The Hon. SCOTT FARLOW: Can I just jump in there?

The Hon. COURTNEY HOUSSOS: Of course, no, that is fine.

The Hon. SCOTT FARLOW: It seems to me that it is fairly subjective in terms of what a school may determine. If a school were to put something which did not require permission, which was very clearly a very controversial issue, what are the ramifications for the school following that? What is the recourse? Who does it fall upon?

Ms HARRISSON: The first thing is where it arises and is an issue for the community, the parent has the right to complain to that school and for that to be resolved. We encourage that dialogue to occur locally. If there is not a satisfactory resolution to that it will be escalated to a director educational leadership. Where it is a line management issue, where there has been an undertaking in a school where we have seen a breach of policy then that would be subject to an investigation by our performance and ethics area. Obviously that requires a notification being made to them in order for them to investigate.

The Hon. COURTNEY HOUSSOS: Was it ever considered, if you are aware, of actually putting in the provision under 26 into that annual permission note?

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Ms HARRISSON: I can come back to you on notice on that. I am not aware of that but that is not to say it has not been considered by others in other roles. So let me get you some advice on that and come back to the Committee.

The Hon. COURTNEY HOUSSOS: I only say that because it was only in the course of this inquiry—and I would say that I consider that I am probably on the more informed edge of the average parent—that I realised that this provision actually exists. I think informing parents of how they can actually interact, I think relying simply on a complaint system, if they get second hand back from their children, this might be a problem. That is the way that you raise it with the school. That might not be the most effective way of telling parents.

Ms HARRISSON: I think as I referred to in a previous answer, some of the issues we see coming out from this bill, raises questions around the engagement and transparency that schools have with community and with parents. I think, as I indicated before, there is a good discussion for us to have around the ways we can improve that to make it meaningful for parents, to make sure they understand what their rights are in relation to that under the existing mechanisms before, potentially, legislation is required.

The Hon. COURTNEY HOUSSOS: I turn to Mr Martin. Earlier today, and also as part of its submission, the Catholic parents representative organisation said that because of the quick roll-out of the new curriculum that normal consultation with parents is not happening as part of that the roll-out. Is that correct? What is the consultation that is happening?

Mr MARTIN: It is not the same consultation as existed previously, it is a different set of consultation. But parents are involved all the way through. We could elongate consultation processes in previous syllabus development processes, including with teachers, the community and other academics et cetera. All of it has been to some degree truncated but we have now got consultation out there for, I think, six to eight weeks on the K-2 syllabuses. So there is public consultation separate from the formal consultations we have with each of the parent groups.

The Hon. COURTNEY HOUSSOS: Are you having formal consultations with the parent groups about the draft curriculum?

Mr MARTIN: Yes, we are.

Mr DAVID SHOEBRIDGE: The list was given by the Teachers Federation about who was consulted? Do you adopt that list or do you want to add anyone to it?

Mr MARTIN: I would have to have a look at that list but I am pretty sure it is the comprehensive list because it has probably come from our website.

Ms ROBINSON: Perhaps it is worth noting as well, to its credit, NESAs is consulting consistently with Children and Young People as well.

The Hon. SCOTT FARLOW: I want to pick up from the questions of the Hon. Courtney Houssos with respect to information for parents and what is provided and how that is found in terms of if the parent does have an objection. What do you say is the publication of that information? How would parents find that?

Ms ROBINSON: If you go into our website and type into the search function, some of these issues come up. I guess that would be the first place. On the department's website this information will be available, I do think certainly around elements of the bill. I think Ms Houssos commented on a kind of annual permission slip. We definitely have different ways that schools operationalise those issues. Some do it as an issue arises, as a lesson is coming up they might alert a parent to what is coming up and expect them to do that. We do not have a uniform way across 2,200 schools of doing that. I think it is worth us looking at the ways we can make sure that as parents join our system they are made aware of the system, they are made aware of their avenues to communicate with schools, of their ways to engage beyond the school gate should they be uncomfortable with what is occurring and that we make sure that dialogue can occur effectively.

Which is why, as I said before, I think there is room for us to look at outside of a legislative solution, opportunities for us to improve that engagement with parents. Because one of the other things we know as we look at improving the learning outcomes for students is parents are the first educators of children and young people. We want children to arrive at schools school-ready. We want to make sure that parents are an absolute partner in their child's education journey all the way through schooling. I think the things that we can do to build their relationship effectively and to keep a positive relationship throughout schooling for both the child and student but also for the parent is an important thing for us to look at.

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The Hon. SCOTT FARLOW: So that figure of 10 over three years that you outlined to the Committee before, my concern is that it is not just that there were 10 instances but 10 people who maybe knew the process or were able to persist with the process to go through with it and then hundreds or thousands of others that may have determined to vote with their feet and choose a Catholic or an independent school when they were not happy with that system as well. I take it that that is something that you probably acknowledge as well—that it was more than 10 instances that may have come through.

Ms HARRISSON: I think, as I indicated, those are 10 cases that made it to the department threshold for complaints. Those figures do not include local matters. I think there is a good question for us to consider about how we gather that data and use it effectively to inform these types of conversations. That is certainly something that we will take away and look at following these conversations.

The Hon. SCOTT FARLOW: I am just interested—

The CHAIR: That's good. I have probably got 40 or 50 that I could lodge with you over the last two years.

Ms HARRISSON: One of the things I think we have always requested is that if members in this place and in others have instances where they feel like we should be aware of and we should be investigating, we are very open to receiving that information and making sure that we can take the appropriate action. We very much welcome further examples if they exist where we can respond accordingly.

The Hon. SCOTT FARLOW: Just to focus on the section 26 exemption that is available, that is on religious grounds that somebody can seek an exemption. Is there any other provision by which somebody can seek an exemption if it is not on religious grounds?

Ms HARRISSON: I think this is where we do rely on the contentious issues policy. Whenever a contentious issue is discussed in school, our expectation is that a parent is provided with the opportunity to opt out and for their child to be opted out of discussion. That is why we provide example templates of permission slips and other things out to schools so that they can utilise those. If the evidence before this Committee is that those procedures are not working or they are not providing the assurances that parents are looking for or that we are not—I have not seen any evidence that those procedures are not working in practice. The examples that you are saying in terms of the contentious issues and whether or not permission was sought from parents or parents were given the opportunity to opt out of those lessons—if that is not occurring in our schools as part of the examples the Committee is raising and the Chair has indicated a number that he is aware of, then that is a conversation we need to make sure we have.

Mr DAVID SHOEBRIDGE: To be clear we have not had that evidence.

Ms HARRISSON: Yes, okay.

Mr DAVID SHOEBRIDGE: That is not the evidence.

Ms HARRISSON: Thank you for clarifying.

The Hon. SCOTT FARLOW: With respect to the contentious issues policy, is there any age guidance that is provided around that as well? I am looking at the contentious issues policy and I have got to say that from the quick reading I cannot really see that. But is there any guidance the department gives with respect to age-appropriate levels when it comes to contentious issues and how those should be taught?

Ms HARRISSON: Let me take on notice the details of that. Obviously teachers who are trained in the syllabus appropriate to the age that they are teaching—we would expect them to have a good understanding and judgement around those things. Obviously there are materials that they might draw on from online or TV shows where there would be a rating that a teacher would take into consideration. But let me take on notice the specifics of that and come back to you with any guidance that we do provide out to schools on that issue.

The CHAIR: Just coming to the Office of the Children's Guardian, the focus group of 35 students—who was that run by and is the report available on the outcome of the focus group?

Ms ROBINSON: So that was run by our office, the office of the Advocate for Children and Young People. We have a participation team who go into schools.

The CHAIR: You ran it?

Ms ROBINSON: Yes, we ran it.

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The CHAIR: Right, so it was not—you know, in politics we do a focus group and you get an independent facilitator. They write up a report that tells you, you know, what the—

Ms ROBINSON: No, it is part of our core function of the office that we do consultations in schools.

The CHAIR: Right, okay. And you picked the 35 students in the focus group?

Ms ROBINSON: We went out to schools and asked them as to who wanted to participate. It was also in terms of the timing of what we could do.

The CHAIR: So they were self-selected—those who wanted to participate?

Ms ROBINSON: Well, we went to a school in a region so that we could represent the region and a school in metro. Because of the timing of the bill, we identified the school that is near us that we went to that we have worked with before and then a school in regional New South Wales to work with.

The CHAIR: And where are you located?

Ms ROBINSON: Strawberry Hills.

The CHAIR: And the students—they were not randomly selected. They volunteered for this purpose.

Ms ROBINSON: The students volunteered, yes.

The CHAIR: So they were self-selected.

Ms ROBINSON: Yes.

Mr DAVID SHOEBRIDGE: Well, you are dealing with kids, so you kind of need that. You cannot just go and pluck them out of schools.

Ms ROBINSON: Yes. I should note that there is a form that is completed that requires for them under the age of 18 that goes home to parents.

The CHAIR: Sure. If they are self-selected in Strawberry Hills, then that tells me everything I need to know.

Ms ROBINSON: And also in regional New South Wales.

The CHAIR: Yes, thank you. Recommendation 4—I will just take you to that. What are the "social constructs" that you would like to see taught in schools?

Ms ROBINSON: As I have said before, it is something that we would work with children and young people to understand what their understanding is of that, but it talks about broadly the "worldviews, social constructs, health and wellbeing". So that would include things around gender and other experiences of children and young people.

The CHAIR: So you are advocating for gender as a social construct to be actively taught in New South Wales schools?

Ms ROBINSON: Not advocating for that. I am saying that children and young people would like to have things that are worldviews, social constructs, health and wellbeing incorporated into their learning.

The CHAIR: Right. So if you move beyond Strawberry Hills high and went out broader—

Mr DAVID SHOEBRIDGE: To the regional school you went to, for example.

The CHAIR: Yes, what is the level of understanding of students about social construction?

Ms ROBINSON: I would say that this was the consultation we did specifically around this. We have done various consultations that talk about socially excluded children and young people, but in terms of specific consultations around that question we have not done that.

The CHAIR: You have not done that, okay. But you have put it in recommendation 4.

Ms ROBINSON: In relation to the consultations that we did for the purpose of this bill, yes.

The CHAIR: Do you think there is an age-inappropriate level where you would be teaching gender as a social construct?

Mr DAVID SHOEBRIDGE: I am going to take a point of order. Recommendation 4 does not say "gender as a social construct". You are verballing this witness.

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The CHAIR: Yes, but Zoe just said it earlier on in her answer.

Mr DAVID SHOEBRIDGE: It says, "social constructs, health and wellbeing in accordance with their age and developing maturity." And it is inappropriate to verbal this witness.

The CHAIR: No, the question is valid. It is a bill about gender in part and there is an advocacy here for the teaching of social constructs. I am asking—as we have asked earlier witnesses—the age-inappropriate level where you would not teach gender as a social construct.

Ms ROBINSON: I think we need to reflect, as we have said all along, what children and young people themselves are asking for. So we need to provide a safe space for children who may not yet be able to articulate in the same fashion that we here as the Committee and members of—who are appearing today. We need to provide a safe space for children and young people to explore and understand themselves.

The CHAIR: But you have got no view on an age-inappropriate level to tell a, say, four-year-old girl that she is only feeling like a girl—if she is—because she was dressed in pink and played with the Barbie doll. You are okay with that?

Ms ROBINSON: I would say that we would speak to children and young people about what they—

The CHAIR: You would talk to the four-year-old and let them decide?

Mr DAVID SHOEBRIDGE: I am going to again take an objection.

The CHAIR: Look, no, David. There is no point in having censorship. I am trying to get to the guts of what this means in recommendation 4.

Mr DAVID SHOEBRIDGE: It is not censorship. The recommendation says, "wellbeing in accordance with their age and developing maturity". They are not putting a lesson plan to a four-year-old.

The CHAIR: I am trying to get the views of the children's advocate.

Mr DAVID SHOEBRIDGE: And as far as I can tell most four-year-olds do not go to school.

The Hon. WES FANG: I am going to raise the same point of order that I did last time, which is Hansard cannot capture—

The CHAIR: Okay, we know, Wes.

The Hon. WES FANG: —when people are talking over each other.

The CHAIR: Okay, but I am just trying to get from the advocate what she is advocating here in recommendation 4. Your position is you would ask a, say, five-year-old in kindergarten if they would like to learn gender as a social construction and if they said yes you would proceed that way?

Ms ROBINSON: The recommendation is that we would teach in accordance with their age and developing maturity.

The CHAIR: That is what I am asking. What is the age level where it is inappropriate to do gender as a social construct? It is very confusing for kids and bewildering and some witnesses earlier on described it as child abuse.

Mr DAVID SHOEBRIDGE: I am going to again take the point of order. The recommendation does not say "gender as a social construct". The recommendation talks about social constructs—

The CHAIR: Of what?

Mr DAVID SHOEBRIDGE: —health and wellbeing. You keep verballing this witness—

The CHAIR: No, I am asking what it means in detail.

Mr DAVID SHOEBRIDGE: —to say that they want to teach gender as a social construct. It is not the recommendation. It is not their evidence and you should stop it.

The CHAIR: No, I am asking for further detail. It is a bill about gender. The submission is about gender.

The Hon. ANTHONY D'ADAM: To the point of order: The witness is already—

The CHAIR: They want to teach social construct. I am trying to get—I do not know why you are afraid of information, David, as to what the advocate is actually advocating.

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The Hon. ANTHONY D'ADAM: No, we are not.

Ms ROBINSON: I am advocating for the views of children and young people to be considered by this Committee and the views of children and young people are what is contained in recommendation 4.

The CHAIR: Okay, well, I might put on notice some more questions to get some more detail in that area because I find that a bit frustrating, but does the advocate and the office support the ban on Safe Schools gender fluidity teaching in New South Wales?

Ms ROBINSON: Again, in relation to this submission, that was not a question that we asked children and young people.

The CHAIR: But you are an advocate. You are not just a funnel for what Strawberry Hills high told you. You are an advocate here. I am asking: Do you as the advocate support the current Government policy to have that ban in place?

Ms ROBINSON: I would say that we have not done a consultation specifically about that ban, so I cannot answer that.

The CHAIR: Seriously?

Ms ROBINSON: We have not done a consultation with children and young people—

The CHAIR: You only advocate on things where you have asked Strawberry Hills High what their view is. Is that how you operate—

Ms ROBINSON: We have spoken to over 32,000 children and young people across New South Wales.

The CHAIR: —using significant amounts of taxpayers funds?

Ms ROBINSON: Sorry, did you want me to answer the variety—

The CHAIR: Yes, I am asking my question. I am trying to get an understanding of how you function. You do not advocate unless you have got a focus group that tells you something and then you put it forward.

Ms ROBINSON: The core part of our office is to bring the voice of children and young people into government. We would consult with children and young people to understand their views on a variety of matters. We have consulted with over 32,000 children and young people about a variety of matters, which includes mental health, it includes their wellbeing, it includes school counsellors and it includes homelessness.

The CHAIR: Can I come to Ms Harrison. Why on Wear It Purple Day last year did the department issue to 70,000 government schoolteachers dozens of Safe Schools gender fluidity and other guides including penis tucking and breast binding. How and why did that happen?

Ms HARRISSON: I am not aware, Chair, of the specific information or request that you are referring to and where it might have come from or gone to. I am very happy to take that information on notice and come back to you.

The CHAIR: But given it did happen, it just shows that parts of the department do not take seriously government policy, do they?

The Hon. ANTHONY D'ADAM: I am not sure it did happen, Mark.

The CHAIR: Am I sure it happened? I raised it Parliament and the Minister said it did happen and the—

The Hon. ANTHONY D'ADAM: I know you raised it in Parliament. That does not necessarily make it true. It might be your understanding—

Mr DAVID SHOEBRIDGE: It might have been in *The Daily Telegraph* too.

The CHAIR: You do not want to sneer at papers that the suburban people read, do you, David? You stick with *The Guardian*.

Mr DAVID SHOEBRIDGE: Just some sort of grounding in fact.

The CHAIR: The Premier said it happened and you, Ms Harrison, are saying you do not know whether it did happen.

Ms HARRISSON: I am saying I would like to confirm the specifics of that and come back to you with the details. I do not have the information on me.

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The CHAIR: Okay, if you could also answer the question about what it says about how seriously the department takes government policy. At the moment, the department is introducing more counsellors into our schools—that is a fact?

Ms HARRISSON: Yes, that is a fact.

The CHAIR: If a counsellor say for instance said in the current environment to a student who came in and presented in a high school and said, "I'm feeling confused, anxious and worried about the world," that maybe there are some things you could read here and have a look at this over the weekend and gave them Safe Schools gender fluidity guides, would that be unacceptable under existing government policy?

Ms HARRISSON: As the Minister has made clear and we have made clear, the New South Wales Department of Education does not expect those materials to be actively used in schools. However, if we have a young person who is experiencing issues and asking for help, we would expect a trained psychologist working in a school to be able to support that young person effectively and that is the role that they are there to play. In that respect, obviously there is some professional judgement applied by that psychologist. We have specific clinical reporting mechanisms for our counsellors in schools to make sure that they adhere with the professional guidelines and expectations of their profession and we would obviously expect that to be managed through that process.

The CHAIR: So if the professional psychologist thought it was beneficial for the student to absorb the Safe Schools guide, then that would happen.

Ms HARRISSON: I think it is important for us to respect the confidentiality of some of those relationships between counsellor—

The CHAIR: No, as a matter of policy and what happens in our schools—

Ms HARRISSON: I think I have been clear that we do not expect Safe Schools materials to be used.

The CHAIR: —everything cannot be confidential. There was a time Lindfield's posters were confidential—not today. You have got to be able to answer a question about departmental practice. Are you expecting your counsellors and these professional psychologists to issue, under any circumstances, material that the Government has banned.

Ms HARRISSON: The Government has been very clear and our expectation is clear. Those materials are not used. I am saying that we would still expect our counsellors to be able to support that young person appropriately.

The CHAIR: So you are not ruling it out.

Ms HARRISSON: If I were to sit here and rule it out, I am sure somebody would be able to find an example where something may have occurred that we would not want to have occurred and we would need to respond to that accordingly. But our expectation is very clear, the Minister has been very clear and the department has been very clear. We do not teach Safe Schools materials in our schools and we would not expect them to be in use.

Mr DAVID SHOEBRIDGE: Sorry, can I be clear. Because the issue here is that there is a teaching ban over here and then there is how counsellors, in accordance with their professional obligations and their need to deal with the best interests of the child, actually interact with children that come seeking help. Are you saying that the teaching ban prohibition on any reference to any material out of Safe Schools applies also to counsellors? Is that your evidence, Ms Harrison?

Ms HARRISSON: I would like to take the specifics on notice of how that ban is currently being implemented and provide that evidence back to the Committee. What I am saying is that we have a professional oversight of our psychologists in schools. Clinical supervision structures are in place to support those and I would want to make sure that we have been clear on that expectation across all our schools. My expectation is that the materials around Safe Schools are not in use in schools. I do not think that precludes elements of advice that may also made be part of the broad Safe Schools materials being used in other forms by counsellors. I just want to make sure I get you very clear advice on that.

Mr DAVID SHOEBRIDGE: It is your expectation that the education Minister can, by direction, limit the materials that counsellors can rely upon in their work with students to try to help students.

Ms HARRISSON: I am saying I want to go away and provide you with—

The CHAIR: You are taking that on notice, thank you.

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Ms HARRISSON: I am take that on notice.

The CHAIR: Thank you. My final question to both the office of the guardian advocate and the department is along the lines of is there any acceptable circumstance when the parents of a child, known to be regular parents with no danger at home—could there ever be an acceptable circumstance where a school would gender transition a student and not tell the parents?

Ms HARRISSON: Can I just make sure we are clear that in a sense a transition is not something the school would do.

The CHAIR: No, the school changes the name of the student or hands out a skirt or pants. The school facilitates a gender transition at the school and in an instance where the parents are not known to be a danger in any shape or form. They are regular parents, loving and caring. Is there any circumstance under departmental policy where it is acceptable for the school not to tell the parents? Because this is an emerging New South Wales and international issue. There was a guy jailed in Canada last week for objections at court level but his problems started when the school transitioned his child and did not tell him.

Mr DAVID SHOEBRIDGE: So he can go to jail for a totally unrelated thing he went to jail for.

The CHAIR: No, it escalated from there into the courts and he spoke out. Okay, but his problems started with that.

Mr DAVID SHOEBRIDGE: We will just conflate them all and reference some incident in Canada and make it an issue in New South Wales. That is the evidence base we have had in this inquiry.

The Hon. WES FANG: Hansard cannot record this.

The CHAIR: David, you really cannot stop talking when others are asking questions.

Mr DAVID SHOEBRIDGE: You cannot possibly put forward your evidence base about someone in Canada who got jailed on an unrelated matter—

The CHAIR: No, it is a related matter. I said his problem started—

Mr DAVID SHOEBRIDGE: —who had a concern about their child and therefore ask the department to respond to it in New South Wales. You cannot do that.

The CHAIR: Okay, I am sorry certain things trigger you. I should have just said it is an emerging New South Wales and international issue, which it is. I would really like an answer without the interruption, please. Don't be triggered.

Ms HARRISSON: I am sorry. Could I ask you just to repeat the specific question?

Mr DAVID SHOEBRIDGE: Something happened in Canada that the Chair wants you to comment on.

The CHAIR: You really cannot stop talking, can you. I did explain it earlier. Is it ever acceptable when the parents are known to be regular parents, no danger in the home, for the school to be party to the gender transitioning of a student, through a counsellor or anyone else in the school, without telling the parents—keeping it a secret?

Ms HARRISSON: The first thing I would say is I have no evidence that that is an issue in our schools as you are describing it.

The CHAIR: I am not asking that. I am asking, for this scenario, what is the departmental stance, please.

Ms HARRISSON: Obviously, if a child is facing and grappling with issues we would expect the parents to be part of the wraparound support for that child. I would not expect a school to be—I am struggling slightly, Chair. I am trying to imagine a situation in which this would occur. If your suggestion is, if a child turned up to school in one uniform would the school support them changing into a different uniform.

The CHAIR: No, that is not the question. I will put it on notice to you. Zoe, have you got an answer to that scenario?

Ms ROBINSON: I would say for us the paramount thing is the welfare and wellbeing of that child and the agency that they have as well.

The CHAIR: So you think there might be circumstances where you do not tell the parents.

Ms ROBINSON: I am not saying that there are circumstances. I would work with my colleague around that in terms of Ms Harrisson, but I am saying that the welfare and wellbeing of that child is the paramount concern

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for us and making sure that they had agency in the matter and the decisions that they are going through. That is important.

Ms SCHORER: I would say, regardless of whether the parents are loving and supportive, there might be a time where a child has an initial conversation in a school that at some point needs to be had with the parents. I am not sure that I would necessarily agree about that entirely happening in a school or in any other setting without the knowledge of the parent, but it may well be that that first conversation is in a school setting or in another setting with a trusted adult. But absolutely a parent, however engaged, loving and supportive they are, should be involved in that process with the child or young person. I guess the challenge is for later teenagers, where you get into bigger issues of consent, which I am sure the Committee has explored. But that certainly does not mean that the person who is the parental figure in a child's life is not involved.

The CHAIR: Sure, and there 18-year-olds at the end of schooling.

Ms SCHORER: Correct.

The CHAIR: Sure. Wes Fang?

The Hon. ANTHONY D'ADAM: How would the school know? Just on that issue, how would the school know whether the relationship between the child and the parent is loving or not?

The CHAIR: Are you serious? That is not a question. Wes Fang?

The Hon. WES FANG: Thank you.

The Hon. ANTHONY D'ADAM: It is a question because obviously—

The CHAIR: How would the school know? Mate, your anti-parent attitude is off the radar.

The Hon. WES FANG: I have the call.

The Hon. ANTHONY D'ADAM: I am not anti-parent, I am just saying—

Mr DAVID SHOEBRIDGE: The vibe.

The Hon. ANTHONY D'ADAM: —there is clearly an issue because schools do not actually have that knowledge. They do not have that knowledge. They do not have access to that information.

The Hon. WES FANG: I am not going to talk because Hansard cannot record us both, but—

The CHAIR: Yes, Wes Fang has got the floor. Please.

The Hon. WES FANG: I now have the call. Thank you. Ms Robinson, I just wanted to touch a little bit on the way in which you conducted your survey and workshop with the students to form the report. Am I correct, in listening to your answers, that there were two schools that provided students? Was it only two schools?

Ms ROBINSON: Two schools, yes.

The Hon. WES FANG: One was regional and one was metro, correct?

Ms ROBINSON: Yes.

The Hon. WES FANG: Were there a spread of ages and sexes? Is that how you broke up the demographics?

Ms ROBINSON: Yes.

The Hon. WES FANG: Okay. Did you look to perhaps go out to other schools to seek views, say, around more ethnic communities within the metro areas, or some of the more diverse views you may have between, say, a regional coastal area and a regional inland area—say, west of the Great Dividing Range? There are quite diverse demographics even within metro, but certainly as a regional member I know regions have quite diverse views.

Ms ROBINSON: Absolutely, and we raised in the submission that we acknowledge that it was a small sample size and obviously it is qualitative. We did ask children and young people to identify as culturally and linguistically diverse and a number did identify that, so I appreciate the point that you are making in terms of diverse views. At the end of this year—and I cannot commit to the timing yet—we are doing a wider consultation around LGBTQI and that will take place across the entirety of New South Wales. But because of the timing that we had, we could not do as extensive a consultation as we usually would do.

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Mr DAVID SHOEBRIDGE: Ms Robinson, I think—sorry, Wes. I think they also included the Youth Advisory Council—

Ms ROBINSON: Yes.

Mr DAVID SHOEBRIDGE: —which are the 12 young people from across New South Wales. That was part of your consultation, as well.

Ms ROBINSON: Yes, so nine members of our Youth Advisory Council provided a response, and that is from Broken Hill all the way through New South Wales.

The Hon. WES FANG: I was going to ask about the—

The CHAIR: And some of them are adults, aren't they?

Ms ROBINSON: Some of them are over the age of 18, yes.

The Hon. WES FANG: I was about to ask about the Regional Youth Taskforce that the regional youth Minister has. Was there engagement with that committee?

Ms ROBINSON: We did not on this specific submission, no. We did not engage with them, not because we did not want to engage with them. It was just because of timing.

The Hon. WES FANG: Okay, because within that group you have quite a diverse, ready-made government group of children and young people that would have been able to provide some more diverse views than students from only two schools.

Ms ROBINSON: We do work very closely with the Regional Youth Taskforce and Minister Taylor.

The Hon. WES FANG: I know. I am aware, yes.

Ms ROBINSON: I accept the fact that they would have been a group—again, due to the timing, we could not really engage with them. But also, I have my own Youth Advisory Council that we consult with. Because they are reflective of the diversity of the children and young people in New South Wales, due to the short timing, we thought it was appropriate to consult with them.

The Hon. WES FANG: And what percentage of the total number of respondents did they make up?

Ms ROBINSON: The Youth Advisory Council?

The Hon. WES FANG: Yes.

Ms ROBINSON: So, nine out of the 12 provided a response.

The Hon. WES FANG: And how many students in total provided a response?

The Hon. SCOTT FARLOW: Forty-four.

The Hon. WES FANG: Forty-four.

Ms ROBINSON: Forty-four, and we acknowledge in our submission that it is a small sample size.

The Hon. WES FANG: Yes, and I guess that is where I am heading to with all of these questions.

The CHAIR: Forty-four out of, what, three million?

The Hon. WES FANG: While Mark does the calculations, I guess the concern that I have got is that you are the Advocate for Children and Young People and when you provide views, particularly to this Committee, you are doing so on behalf of the youth of New South Wales.

The Hon. ANTHONY D'ADAM: Is this a statement or question?

The Hon. WES FANG: I have been sitting very patiently and quietly.

Mr DAVID SHOEBRIDGE: No, you haven't.

The CHAIR: We have all been very harmonious. Let's get through the next—

The Hon. SCOTT FARLOW: Fifteen minutes.

The CHAIR: —fifteen minutes as happy campers.

The Hon. ANTHONY D'ADAM: We're all tired.

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The Hon. WES FANG: While you present the views of the youth of New South Wales, I just fear that such a small sample size from two very discrete locations, predominately, is probably not reflective of the wider views. Had you gone to an area where there was more ethnic makeup—you know, just south-west of Sydney—you may have got a completely different answer.

The Hon. ANTHONY D'ADAM: We have got limited time and this is time for questions, not statements.

The Hon. COURTNEY HOUSSOS: Okay, okay. It's his turn.

The Hon. WES FANG: Do you feel that you can honestly say that what you are presenting as evidence to this Committee is representative of the broad spread of youth around New South Wales?

Mr DAVID SHOEBRIDGE: Well, I am going to take an objection to this. At page five of the submission there is a paragraph on this. It starts with:

As this was a qualitative rather than quantitative consultation, the views of participants should be taken to be reflect the various opinions held by young people in NSW but are not a statistical representation of how widespread those views are (for example, we cannot say 80% of students felt one way and 20% felt another way). Comparisons of how many students held a particular view should be considered indicative only. That said, the sample size and composition is in line with research industry standards to understand how young people feel about this bill. For the sake of clarity and to indicate how prevalent a view was within this study, this submission has used "a few" to refer to approximately two to four young people, "some" to refer to five to ten young people, and "many" to refer to more than ten young people.

It has been answered in the submission. Read the submission.

The Hon. WES FANG: Thank you.

The CHAIR: Okay, David. We got all that.

Mr DAVID SHOEBRIDGE: Read the submission.

The Hon. WES FANG: To the point of order—

The CHAIR: We know what is in the submission, but Wes Fang—

The Hon. WES FANG: Mr Shoebridge, the point—

The CHAIR: No, no. Wes Fang is seeking just some elaboration on what they are—

Mr DAVID SHOEBRIDGE: Read it!

The Hon. WES FANG: The point that I am trying to raise, Mr Shoebridge, is that we have spent now an hour—we have got an hour and a half with this panel of witnesses. We are trying to provide a report on this bill. The Advocate for Children and Young People certainly makes up a very, very strong and credible witness to the evidence that we are hearing today. This is no criticism of you, but I just wanted to know if you feel that the work that was done with 44 students can be at all representative of the views across New South Wales. If not, why put it forward? I do not think that 44 is at all a good sample size to put forward; it perhaps is skewed and skews the evidence that you may be able to present. Can you—

Ms ROBINSON: There is a few things in that.

The Hon. WES FANG: Yes, I appreciate—

Ms ROBINSON: Firstly, if I can come to the fact that myself in the role of the advocate represents the 2.4 million children and young people across New South Wales, I can imagine that we all have a discomfort with the fact that there is one person who represents the diversity of children and young people across New South Wales. I will acknowledge that and I think that is only fair for us to acknowledge that. That is why we spend so much time actually trying to have conversations with children and young people—and of a diverse group of children and young people.

It is why our Youth Advisory Council is made up of 12 children and young people who reflect the diversity of the children and young people across New South Wales. So, yes, we acknowledge in our submission that 44 from the two schools that we went to is not reflective of the entirety. It is also why we want to do further consultation towards the end of this year where we are specifically focused on issues like this. What I would say—and it was acknowledged at the very beginning—is that if we did not put in a submission, the voice of children and young people would be absent from this.

The CHAIR: Yes. No, you got the 44 in. That's good. Next?

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The Hon. ANTHONY D'ADAM: I have got a question. I want to ask Mr Martin about the provisions of the Teacher Accreditation Act. I am looking at section 24, which deals with revocation of accreditation, and 24 (1) is framed in this way:

(1) The Authority may revoke the accreditation of a person on any of the following grounds—

The first one is if they are disqualified within the meaning of the Child Protection (Working with Children) Act. Paragraph (b) is:

the person is found guilty of an offence punishable by imprisonment for 12 months ...

Paragraph (c) is:

found guilty of an offence under this Act ...

You can see, in terms of the types infractions that constitute grounds for revocation under 24 (1), they are pretty serious. You have got to be a paedophile; you have got to be a criminal to have your accreditation revoked, and still the authority is given discretion in that circumstance. But the proposition for the amendment of the arrangements around accreditation in this bill says that if you teach gender fluidity, or if you are in any way in conflict with parental primacy, the authority must revoke your accreditation. Do you think that is disproportionate or out of alignment with the current structure of the Act?

Mr MARTIN: It is a very different set of words. "May" is deliberate in order for us to have the capacity to make judgements about the evidence that is placed in front of us because, even with those serious issues you referenced earlier, there are occasionally—or there are circumstances and we need to make a clear judgement based on the evidence in front of us. So if your question is whether "must revoke" rather than "may revoke" changes the nature of the work of NESAs, yes, it does.

The Hon. ANTHONY D'ADAM: I suppose I am asking you, as the person who will obviously have responsibility for administering this law, whether you think it is proportionate to have someone who teaches gender fluidity lose their accreditation and their capacity to teach at all. They have to lose their accreditation in that circumstance, whereas a paedophile—you have discretion. Surely in your view—

Mr MARTIN: My judgement, as the CEO of NESAs, is that it is not proportionate.

The Hon. ANTHONY D'ADAM: It is not proportionate, thank you. Can I ask about the regulatory powers of the Minister under section 19? The Minister already has the capacity to set professional teaching standards. Is that correct?

Mr MARTIN: Yes, it is.

The Hon. ANTHONY D'ADAM: So the Minister could feasibly have put in a provision around gender fluidity teaching. Have they asked you to do that?

Mr MARTIN: No, that has never been—the way that the teaching standards work, first established in 2004 then later merged to become one with the Australian professional teaching standards—they are more global statements of teacher behaviour and performance, rather than specific to individual either syllabuses or content. So the short answer, Mr D'Adam, is no-one has asked us to put that in.

The Hon. ANTHONY D'ADAM: So the teaching standards are aligned with the Australian teaching standards?

Mr MARTIN: Our teaching standards and the Australian teaching standards are the same standards.

The Hon. ANTHONY D'ADAM: So there will be a difference if this bill is passed?

Mr MARTIN: Were there to be any difference in the New South Wales teaching standards, they would become different to the Australian teaching standards—is correct, yes.

The CHAIR: We are coming up against time. I think a number of Committee members, including myself, have other commitments. Ms Robinson is nodding. It sounds like she has other commitments too.

Ms ROBINSON: It is Youth Week.

The CHAIR: It is Youth Week, of course.

The Hon. SCOTT FARLOW: How could you forget?

The CHAIR: How could we forget?

Ms ROBINSON: My Christmas, yes.

UNCORRECTED

The CHAIR: So our witnesses have commitments. Is it acceptable to the Committee that other questions go on notice? Is that okay? We have a lot on notice already. I am sure our witnesses will be happy to take further questions on notice. Some are veterans of budget estimates so they know the prolific nature of our questions on notice. Is that okay, Mr Shoebridge, Mr D'Adam?

Mr DAVID SHOEBRIDGE: Yes. Can I just propose we have a deadline for it—say, 4.00 p.m. tomorrow?

The CHAIR: At 4.00 p.m. tomorrow? I think the normal deadline is—

The Hon. ANTHONY D'ADAM: Two days after the transcript.

The CHAIR: —48 hours after the transcript, which will probably be Monday.

The Hon. ANTHONY D'ADAM: I think that is fine.

The CHAIR: The normal process will follow. I thank the witnesses for your participation, your submissions, your involvement. It is very much appreciated, and we look forward to the further answers to those questions. Thanks very much.

(The witnesses withdrew.)

The Committee adjourned at 16:38.