



TRANSCRIPT OF PROCEEDINGS  
*Fair Work Act 2009*

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

**C2013/5139 C2013/6333 C2013/6333**

**s.302 - Application for an equal remuneration order**

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

**Sydney**

**1.06 PM, THURSDAY, 20 JUNE 2019**

**Continued from 19/06/2019**

PN2372

VICE PRESIDENT HATCHER: Yes, Mr Taylor.

PN2373

MR TAYLOR: Thank you, your Honour. We have two witnesses today. First, Aleasha Connellan, a primary school teacher from Queensland who's here present will give evidence first. We also have Mr Luke Donnelly available by video link from the ACT. I understand at the time when Ms Connellan starts her evidence the audio link to Mr Donnelly will be cut and then when it's time for Mr Donnelly to give his evidence it'll then resume.

PN2374

VICE PRESIDENT HATCHER: Is he a lip reader?

PN2375

MR TAYLOR: Did I say visual? I thought I said audio.

PN2376

VICE PRESIDENT HATCHER: That's why I said - - -

PN2377

MR TAYLOR: I see. Well, perhaps both will be cut. Mr Donnelly I didn't explore all his skills. He's a leading teacher, perhaps has other skills too. If I could now move then to call our first witness Ms Aleasha Connellan who has one witness statement.

PN2378

MR FAGIR: Can I just deal with an issue before then. I again moments before a witness is being called been provided with documents which I'm told are to be tendered through the witness. I don't know what they are, don't know what the witness is going to say about them, don't know what their significance is for the case and I don't know how I'm expected to deal with them having received them at 12:59:29. This is the latest in what has been, setting aside the larger issue of the six new statements, a constant drip feed of additional evidence, whether it's through questions vive voce or through these sort of documents throughout the proceeding. We object to the tender of these documents, we object to the Commission receiving them and we object to any questions in-chief today from these witnesses or any other witnesses that go beyond the formal questions that are necessary to place their statements into evidence.

PN2379

VICE PRESIDENT HATCHER: So you haven't seen the documents at all? You haven't had the chance to assess whether they contain anything objectionable or controversial?

PN2380

MR FAGIR: Yes.

PN2381

VICE PRESIDENT HATCHER: That is, would it resolve the matter if the witnesses seem identify the documents, they were marked for identification, you can then peruse them and then we can deal with an objection later if there is one?

PN2382

MR FAGIR: We object to that as well because this is just something else that we have to deal with on top of everything else that we need to deal with. I now need to get these documents, read them, get them to someone on my client's part to identify them, tell me what they mean, work out what their significance is, if anything, for this case and it is just an additional burden that we don't need and that we shouldn't be asked to bear, if the Commission please.

PN2383

VICE PRESIDENT HATCHER: Mr Taylor. Why weren't these documents served in accordance with the directions?

PN2384

MR TAYLOR: The two documents in question are individual learning plans de-identified in respect of the students. This witness and a number of witnesses give evidence about special needs students, various witnesses give evidence about individual education plans having to be developed and it struck us that it would be of use for the Bench to have some examples of them and we asked witnesses in recent times whether they were able to produce recent versions of them, and this witness has produced two.

PN2385

They're not wildly dissimilar to ones that have already gone into evidence but part of our evidentiary case is one which suggests that these plans have to be developed. The witnesses have given that evidence, it's not new evidence, it's just a document which shows what it is they are talking about. All I was going to do was ask the witness to identify the nature of the documents. I have a view that once they're looked at they really are not prejudicial.

PN2386

They certainly don't open up whole new areas in this case. They provide material. On one view I accept the criticism that at the time their statements were prepared they could have annexed them at the time. They described them. What's happened a lot, in my respectful submission, in this case is that teachers talk about things which they can talk about it and any other teacher reading it would know exactly what they're talking about, but it's not always clear without seeing the material, if you're not a teacher, what's talking about and this is just one example.

PN2387

So from our part we think the approach that your Honour was suggesting to Mr Fagir, that the witness identify the document, if indeed there's any queries that rises out of it in due course that can be dealt with at the time we actually formally tender it which we could do next week. But I wasn't going to do much more than ask the witness to identify the nature of the documents and what they are at this stage.

PN2388

MR FAGIR: Can I just point out that what's being proposed is part of the problem. We've got a - - -

PN2389

VICE PRESIDENT HATCHER: Something being proposed by me or Mr Taylor?

PN2390

MR FAGIR: I'm sorry, by Mr Taylor, that is that you just get the document and then we sort it out later. You might recall that Mr Foster produced a document the day before he gave evidence and it came in the form of a statement that said this is a so and so and it was annexed. There was no description of how it was generated, who did it, so on and so forth. During cross-examination of Mr Foster it emerged that it wasn't a document that he'd prepared, it was a document prepared by someone else or a series of people over a period of time.

PN2391

Now the absence of that evidence and the fact that the document's being provided contextualised, actually exacerbates the problem as opposed to minimising it. Commission please.

PN2392

VICE PRESIDENT HATCHER: We consider that given the insufficient notice of the potential tender of these documents that they should not be permitted to be tendered or admitted into evidence today. Mr Taylor, if you can get Mr Fagir's consent at some later stage to the admission of the documents you can tender them, but we will not receive them today.

PN2393

MR TAYLOR: If it please. Yes, of course. If we could now call Ms Connellan.

PN2394

THE ASSOCIATE: Please state your full name and address.

PN2395

MS CONNELLAN: Aleasha May Connellan, (address supplied).

**<ALEASHA MAY CONNELLAN, SWORN [1.13 PM]**

**EXAMINATION-IN-CHIEF BY MR TAYLOR [1.13 PM]**

PN2396

MR TAYLOR: Just again for the record, your full name?---Aleasha May Connellan.

PN2397

What's your current work address?---I work at St Francis College, Crestmead.

\*\*\* ALEASHA MAY CONNELLAN

XN MR TAYLOR

PN2398

Now for the purpose of these proceedings you prepared last year, I think in the middle of last year, an undated 10 page statement. Is that right?---That's correct.

PN2399

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

PN2400

Now I understand there are a small number of matters you wish to correct and a few things - two or three things need to be updated as well. Firstly, can I deal with the corrections. Firstly, at paragraph 2(a) I understand that the spelling of the college of teacher education is incorrect. It's not McAuley spelt as there written but rather M-c-A-u-l-e-y?---That's correct.

PN2401

Then in paragraph 5 the second sentence reads:

PN2402

*Increasingly this information needs to be collated and entered into the internal administrative system, so that the principal -*

PN2403

and then there's a word there "and" which should be deleted. Is that right?---That's correct.

PN2404

So it just reads:

PN2405

*so the principal can access school cohort, class and individual student results.*

PN2406

?---Yes. Now going to paragraph 6, in the first sentence of paragraph 6 and also in a number of other paragraphs including the last there is a reference to the Catholic Education, capitalised, it says something - checkers is provided by Catholic Education. Do I understand it wherever that expression arises it should actually be Brisbane Catholic Education?---That's correct.

PN2407

Now in paragraph 13, you there identify that you, in the present tense, are - well you say, "I am mentoring as teacher currently", is that something that I understand you did in 2018 but in your new role that you're not doing?---That's correct.

PN2408

Similarly, the reference in paragraph 15 to children in your school suffering gender dysphoria, that's something that was true of the school you were at last year but not at the school you're currently at?---That's correct as well.

PN2409

Can I just clarify your current position. In paragraph 1 you describe the position you had last year, is that right?---That's correct.

\*\*\* ALEASHA MAY CONNELLAN

XN MR TAYLOR

PN2410

What is your current position?---So currently I'm the assistant principal pastoral P-6 at St Francis College, Crestmead.

PN2411

What does P-6 mean?---St Francis College is Prep to Year 12 school so primary and secondary, and my role whilst it's a P-12 school, my role is in the P-6 area.

PN2412

VICE PRESIDENT HATCHER: Sorry, what was your title again? Assistant Principal what?---Assistant Principal Pastoral, P26.

PN2413

Yes.

PN2414

MR TAYLOR: Where is Crestmead?---Crestmead is in Logan.

PN2415

And pastoral is part of your title. What does that indicate?---Pastoral - the school I'm in there are - it's a fairly big school in terms of our role and pastoral is about engagement, it's about wellbeing, particularly in that bottom part of the school. There's the same role in the seven to 12 area. So I deal a lot with parents, with students, with engagement with behavioural issues, being aware of what's happening in family situations where students might require some extra support at school.

PN2416

They're our questions for this witness. Ms Saunders believes that the link may not have been cut yet.

PN2417

VICE PRESIDENT HATCHER: They don't appear to be too interested. So - - -

PN2418

MR TAYLOR: Right. Perhaps it has been cut then. We can see them. They can't see us. I can't imagine they would have been interested if they could hear it.

PN2419

VICE PRESIDENT HATCHER: All right. The statement of Aleasha Connellan, undated will be marked Exhibit 41.

**EXHIBIT #41 WITNESS STATEMENT OF ALEASHA  
CONNELLAN UNDATED**

\*\*\* ALEASHA MAY CONNELLAN

XN MR TAYLOR

PN2420

MR TAYLOR: I should just formally - have to put this question to you, Ms Connellan, and I overlooked it. Do you say having made those corrections that I took you through and having updated it in the way you have that beyond those

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

PN2421

Thank you. They're our questions.

PN2422

VICE PRESIDENT HATCHER: Mr Fagir?

**CROSS-EXAMINATION BY MR FAGIR**

**[1.19 PM]**

PN2423

MR FAGIR: Ms Connellan, is Cornubia a suburb of Brisbane or is it a separate - - -?---It's also in Logan City.

PN2424

And is Logan a suburb of Brisbane? Or a separate - - -?---No. Logan's - Logan is actually a city. So Logan city but it's in the wider Brisbane area. So it's like Ipswich. The boundary is there. It has a different Council but it's very close.

PN2425

Have you, in your 30 years ever worked in a rural school?---Outside of Brisbane, no.

PN2426

Could I ask you, Ms Connellan, to turn to paragraph 5 of your statement, please? And you see there above the heading Data Collection and Accountability - you say some things?---Yes.

PN2427

In paragraph 5 you say something about in the last sentence about the requirements for prep class foundations class. Do you see that?---Yes.

PN2428

Now is that what we would call kindergarten, that is the class before Year 1?---That's correct.

PN2429

It's known as 'Prep' or perhaps 'Foundations' in Queensland?---Yes. Prep in Queensland.

PN2430

Now am I understanding this correctly that the students in that class there is an assessment of some kind that occurs at the beginning of the year the results of which are required to be uploaded to a particular system within five or six weeks at the beginning of the year?---That's the initial, yes. And then it's ongoing.

\*\*\* ALEASHA MAY CONNELLAN

XXN MR FAGIR

PN2431

There's an initial assessment from the very beginning of prep class and no doubt there are a series of assessments that occur over the years to follow. This is the first or the start of that - - - ?---Yes.

PN2432

- - -process of assessment, is it? And could I ask you next, Ms Connellan, about paragraph 20 on page seven under the heading of Technology. You deal here with a particular complication in relation to NAPLAN online and you explain in this paragraph that this will be challenging as to students and sitting the test will be your current Year 2 students. The students, at this stage, do not have a strong IT background. Do you see that?---Yes.

PN2433

And yet there is an expectation within the online NAPLAN that they can use a mouse and navigate a screen?---Yes.

PN2434

Is the situation, at least, at your school that up to this point students aren't really using computers or online learning as part of their education?---Yes.

PN2435

That is something that is introduced at some point thereafter and perhaps becomes more and more prominent as the years go on?---Yes.

PN2436

You described elsewhere a laptop program for Years 4 and 5 and you explain that, again, at least at your school there's an emphasis on not merely replacing pen and paper but using the laptops to provide opportunities beyond a word processor. Can you just explain to the Commission what you mean by that?---So in that one to one program the idea is that students are creating and being exposed to different ways of using technology. So not just as a traditional word processor where they might replace a pen and paper task with just typing up an assignment. So they need to be able to access a variety of Microsoft Office applications, such as Sway, such as PowerPoint, using Excel - a variety of different ways of interacting with technology, I guess, to show what it is that they can know and do.

PN2437

Would online research be in that same category? Or is that something different?---No, that's part of it. So being able to use a variety of different internet browsers safely and efficiently.

PN2438

The instruction in the use of the things that you've just described falls to the teacher of course?---That's exactly true.

PN2439

Now at paragraph 17 and 18 you deal with parental expectation. In particular at 18 you explain that you're expected to provide your email address at the beginning of the year. Do you see that in the first sentence at paragraph 18?---Yes.

\*\*\* ALEASHA MAY CONNELLAN

XXN MR FAGIR



PN2440

Is that the case for you specifically? Or for all teachers at your school?---For all teachers.

PN2441

Do you know and tell me if you don't. Is that to your understanding a fairly standard practise or something that's unique to your school?---No, that's standard practise through Brisbane Catholic Education.

PN2442

VICE PRESIDENT HATCHER: So that's an expectation of your employer for you to do that?---That's right. So as part of that I would email parents on a regular basis. They would have access to my email address as a result of that, yes.

PN2443

MR FAGIR: Well, what type of matters might you email parents about?---So, in my current school and the school that I have been in before the expectation is that I would email parents at the beginning of each week to notify them about what was happening in the classroom across the week, that if there were specific concerns about particular children that I would make contact either with parents via email or via phone to let them know what was happening with a particular child or to make contact to provide opportunity to have further discussion.

PN2444

When do those emails and phone calls tend to happen? I'm sorry. Let's take it step by step. Firstly, you explain that there is no obligation on you to respond to emails outside of office hours is that right?---There is no obligation to respond at night time.

PN2445

Yes?---But if I am responsible for teaching a class I don't have the opportunity to email during school time.

PN2446

Although the theory is that you're not required to respond outside of your work hours in practise. That's something that tends to happen?---Always.

PN2447

Does the same hold for phone calls, or is that more of an email specific phenomenon?---No. Phone calls would happen during lunch breaks before or after school.

PN2448

Are parent teacher interviews a practise that continues at your school? Or have they been replaced by this type of thing?---No. It's also a requirement. It's a government legislative requirement that we offer two formal interviews a year.

\*\*\* ALEASHA MAY CONNELLAN

XXN MR FAGIR

PN2449

One each term or something like that is it?---Generally there needs to two formal. So depending on the school, depends on when that is and then the opportunity for ad hoc interviews as well. There also needs to be formal report card.

PN2450

When would an ad hoc interview be required?---If your child was experiencing difficulty with learning, if there were behavioural difficulties, social difficulties. It might be that they have made some significant improvement around a specific area. It might be again - behaviour or academic that you would be notified.

PN2451

There are two regular or routine interviews and then if there is something out of the ordinary there might be a need for an email or a phone call or perhaps an interview, depending on the nature of the issue?---Personally, yes.

PN2452

That's your practise or your own experience?---That's my experience across a number of school contexts.

PN2453

There's been some description of - in some schools - I'm not suggesting necessarily yours of an exercise whereby parents can actually come into the classroom and watch their children learning. Do you have a version of that in place at your school?---Celebration of learning, yes.

PN2454

What does that involve?---So that would involve parents coming into classrooms. At our place there's always starts with prayer or liturgy and then children have the opportunity to show their parents what they've been learning across the term. Other iterations of that might be that parents are invited in to a business as usual, so they are actually there during teaching time.

PN2455

Good, thank you, Ms Connellan. They're my questions.

PN2456

VICE PRESIDENT HATCHER: Re-examination, Mr Taylor?

**RE-EXAMINATION BY MR TAYLOR**

**[1.28 PM]**

PN2457

MR TAYLOR: Just one thing. A number of times you were asked questions about matters which, in which you talked about the different approaches you take, the different students, in particular, the ad hoc meetings - behavioural issues, social issues, and the like. Can you give the Commission an understanding of the nature of the student cohort at your school?---So the - - -

PN2458

MR FAGIR: I object. That doesn't arise.

\*\*\* ALEASHA MAY CONNELLAN

RXN MR TAYLOR

PN2459

VICE PRESIDENT HATCHER: What does this arise from?

PN2460

MR TAYLOR: Well, at various times the witness was asked questions about the students in various ways - IT, individual approaches, whether they've ever used a mouse before, about communications with parents and the extent to which - and the behavioural issues, social issues and so that the question really arises from to understand, in my respectful submission, to understand whether - what the witness is talking about in those areas, is an issue which is a confined issue or a broader issue one might need to know something about the nature of the student population in question.

PN2461

VICE PRESIDENT HATCHER: Well, I'll allow the question but, Mr Fagir, if you want to ask something arising out of it you may.

PN2462

MR FAGIR: If the Commission, please.

PN2463

THE WITNESS: Could you repeat the question?

\*\*\* ALEASHA MAY CONNELLAN

RXN MR TAYLOR

PN2464

MR TAYLOR: Yes. Just what is the nature of the student cohort at the school you're currently at?---So in our - in the primary school section of our school we have roughly 600 students so there's about 1100 in the P-12 college itself. Within that school we have 52 different cultures represented, so it's a bit of a melting pot. Our school also feeds from five of the eight poorest - lower socio-economic suburbs in the greater Brisbane area. So that would involve certainly if I was teaching a prep class and I was the first point of contact, when we're trying to engage parents in our school at the moment there is a big push around attendance and engagement, because our attendance is less than what Catholic Education is looking for in terms of best practise - above that 90 per cent which we're certainly not - the expectation would be that I would be contacting parents often. So sometimes those children come to school. They come from families that have come from Nauru, for example, and are in home detention. We have other families who have been exposed to significant levels of domestic violence in their short period of time. We have a number of DVO's against different family members. Often they're large extended families, so when we've got an issue with a child in Year 3 we probably also have the same issue in - with one in Year 1 and Prep. So it's about creating a safe environment for the students and working with parents to provide opportunities for those children to learn. And often that's about learning the social skills and concept - context that they need to - it's about learning appropriate behaviour. It's also about academic learning. So there's a really wide range and the expectation would be that we would contact parents. So if you have a child who is suddenly not at school for two or three days the expectation at my school is that I would ring to check in to see if there was a particular reason why the student wasn't at school. If there was also the good

news story - so your child has suddenly learned the words that we have been focusing on for weeks that I would ring and give you that good news story, that there is that open communication. So that as a parent you feel comfortable to come to me as a teacher when there are things going on in your child's life and because we're working for the best academic and social outcome that we possibly can for the students in our care.

PN2465

Thank you. That's the only question, thank you.

PN2466

VICE PRESIDENT HATCHER: Anything arising, Mr Fagir?

PN2467

MR FAGIR: No.

PN2468

VICE PRESIDENT HATCHER: Thank you for your evidence, Ms Connellan, you're excused and you're free to go?---Thank you very much.

<THE WITNESS WITHDREW

[1.32 PM]

PN2469

VICE PRESIDENT HATCHER: We'll just arrange for the link back Queensland.

PN2470

MR TAYLOR: Mr Donnelly, can you hear us?

PN2471

MR DONNELLY: Yes, I can.

PN2472

MR TAYLOR: Can you see whether you can get closer to whatever microphone there is there? You were quite faint just then.

PN2473

MR DONNELLY: Is that better?

PN2474

MR TAYLOR: Not really.

PN2475

MR DONNELLY: I can't actually see a mic.

PN2476

MR TAYLOR: That's better. That's better. Yes, whatever you just did then.

PN2477

MR DONNELLY: Okay. That's better?

\*\*\* ALEASHA MAY CONNELLAN

RXN MR TAYLOR

PN2478

MR TAYLOR: That is better. You might just need to speak up.

PN2479

MR DONNELLY: That's fine. I've got to speak up.

PN2480

MR TAYLOR: I think it's called the outside voice isn't it? So, Mr Donnelly, I'll now hand you over to the Associate.

PN2481

VICE PRESIDENT HATCHER: Mr Donnelly, the court officer will administer the affirmation to you.

PN2482

THE ASSOCIATE: Mr Donnelly, could you please state your full name and address?

PN2483

MR DONNELLY: Yes. It's Luke Andrew Donnelly and I live at (address supplied).

**<LUKE ANDREW DONNELLY, SWORN [1.34 PM]**

**EXAMINATION-IN-CHIEF BY MR TAYLOR [1.34 PM]**

PN2484

VICE PRESIDENT HATCHER: Mr Taylor?

PN2485

MR TAYLOR: Thank you. So, just again for the record your full name is Luke Donnelly?---Yes.

PN2486

And can you give the Commission your current work address?---Yes. My current work address is St Monica's Primary School in Evatt which is on Moynihan Street in the ACT.

PN2487

Now, I'm going to ask you in a moment to just say something about what your current position is but before I get to that you have prepared for the purpose of these proceedings two statements, is that right?---Yes, that's correct.

PN2488

Firstly, that the in time - the first statement was a 13-page undated statement - titled statement of Luke Donnelly. Do you have that with you?---I do.

PN2489

And was that a statement you prepared in about November 2017?---Yes, that's correct. It was finalised in December.

\*\*\* LUKE ANDREW DONNELLY

XN MR TAYLOR

PN2490

But since that time I just clarify some matters in respect of your CV. So you're someone who graduated with a Bachelor of Early Childhood Education. Is that right?---Yes, correct.

PN2491

And you did spend some time teaching in an early childhood context?---I did before my graduation.

PN2492

MR FAGIR: I object to these questions. The experience over the last few days has been questions that begin as clarifying that move into substantive matters. For the reasons that I outlined earlier - even though this is an issue I intend to enter into myself I object on the grounds I earlier set out. Just like we had from Ms Vane-Tempest yesterday - the material - new evidence that emerged in this exercise. I don't know if that will happen here but we object.

PN2493

MR TAYLOR: There's nothing - - -

PN2494

VICE PRESIDENT HATCHER: Mr Taylor, this is set out in paragraphs three and four of the statement, isn't it?

PN2495

MR TAYLOR: Yes, your Honour is actually right. It's set out in paragraphs three and four, the nature of the work. I wasn't going to ask any further questions other than just to clarify the point in time that these occurred but I think that's - your Honour is right. It's clear from paragraph three and four what has happened in the past so I won't press that question but can I ask you this, Mr Donnelly? In paragraph four you say at the time you prepared the statement you were teaching at St Joseph's O'Connor in the ACT, but earlier you indicated your current work address. What's your current position?---(Indistinct) Assistant Principal and that's at a new school which is St Monica's in Evatt.

PN2496

I just - I might have just missed the beginning of that. Did you say Assistant Principal?---Sorry. Yes, the assistant principal. So second in charge in the school.

PN2497

Do you have teaching face to face time as part of that role?---Yes, so I teach Year 2 two days a week.

\*\*\* LUKE ANDREW DONNELLY

XN MR TAYLOR

PN2498

The other three days of the week, what's your role then?---So I'm allocated two of those days my role as assistant principal which is mainly to coordinate teaching and learning across the school, behaviour management and then support the principal with any other policy, staffing, any other areas that she requires my support and then for one of the other days a fortnight I work in a child advocate

role, which is about child safety and promoting child safety within the school. The last day of the fortnight I have a student voice role which means I spend about an hour with every class in the school each term, so there's 17 classes.

PN2499

VICE PRESIDENT HATCHER: What's the name of the school again, I didn't quite catch that?---St Monica's.

PN2500

Thank you.

PN2501

MR TAYLOR: Now having updated the statement - that first statement with the latest information, do you say that the contents of that first statement are true and correct to the best of your knowledge and belief?---Yes, they are.

PN2502

I tender that statement.

PN2503

VICE PRESIDENT HATCHER: The statement of Luke Donnelly, undated, 37 paragraph will be marked as exhibit 42.

**EXHIBIT #42 WITNESS STATEMENT OF LUKE DONNELLY,  
UNDATED**

PN2504

MR TAYLOR: Then Mr Donnelly, can I now turn to your second statement, a four page statement also undated. Do you have that with you?---I do.

PN2505

Was that a statement prepared in about July of last year?---It was.

PN2506

At paragraph 10 of that statement you give some information as to what was the case in 2018 in respect of students who had personalised learning plans. Do you see that?---Yes.

PN2507

You said that you had 16 students and four of those students have personalised learning plans, about 25 per cent. Can I ask you this question, in respect of your current school, your new school, what's the position there as to the numbers of children who have personalised learning plans?---So my current school has 401 students enrolled and there's around 98 personalised learning plans. So that 25 per cent at my new school as well.

PN2508

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

\*\*\* LUKE ANDREW DONNELLY

XN MR TAYLOR

PN2509

I tender that statement.

PN2510

VICE PRESIDENT HATCHER: The further statement, undated, of Luke Donnelly with 12 paragraphs will be marked exhibit 43.

**EXHIBIT #43 FURTHER WITNESS STATEMENT OF LUKE DONNELLY, UNDATED**

PN2511

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

PN2512

VICE PRESIDENT HATCHER: Just hold on a second, Mr Fagir. Mr Taylor, Mr Fagir, we'll have to adjourn for a short period because the transcript is not picking up the witness' voice. So we'll just see if we can get that rectified.

**<THE WITNESS WITHDREW [1.41 PM]**

**SHORT ADJOURNMENT [1.41 PM]**

**RESUMED [1.46 PM]**

**<LUKE ANDREW DONNELLY, RECALLED [1.46 PM]**

**EXAMINATION-IN-CHIEF BY MR TAYLOR, CONTINUING [1.46 PM]**

PN2513

VICE PRESIDENT HATCHER: Mr Taylor.

PN2514

MR TAYLOR: Yes, your Honour, I was wondering in light of what your Honour said about transcript whether it would be sensible for me to effectively ask those questions again that I've asked this witness so that they can now be recorded on transcript.

PN2515

VICE PRESIDENT HATCHER: Well, we're not sure they weren't recorded but if you want to do that, go ahead.

PN2516

MR TAYLOR: Yes. Mr Donnelly, there will be a level of repetition here. Firstly, your name is Luke Donnelly, is that right?---Yes, that's correct.

PN2517

And you are currently the assistant principal at St Monica's Primary School in Evatt the ACT?---Yes, that's correct.

\*\*\* LUKE ANDREW DONNELLY

XN MR TAYLOR

PN2518



There are - you have prepared two statements in these proceedings is that right?---Yes.

PN2519

The first 13-page statement undated was prepared by you in late 2017?---Correct.

PN2520

And that has been marked by the Commission and numbered as Exhibit 42. Can I now turn to the other statement? You prepared a second statement of four pages in about July of last year is that right?---Correct.

PN2521

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

PN2522

And that has been marked by the Commission as Exhibit 43. Now, just returning to your current position as Assistant Principal, that involves you teaching a Year 2 class two days a week?---Yes.

PN2523

And can you explain to the Commission what your - what you do on the other three days of each week?---So on the other three days of each week two of those days are committed to my Assistant Principal role in terms of leading the teaching and learning and behaviour management of the school and then also assisting the principal in any other matters with policy time-tabling and staffing that I need to support her with. The other two half days in my week - half of the day is devoted to a child safe advocate role which is looking at the protection of children and their wellbeing and the other half day in my week is committed to a role that's entitled "Student Voice" which is where I spend about an hour with every class in the school each term.

PN2524

In your second statement, paragraph 10, you refer to a position in 2018 where you had out of 16 students four of them on personalised learning plans. What is the position in respect of numbers of students on personalised learning plans in your current school?---So my current school has an enrolment of 401 students and we have approximately 98 personalised plans this year. So that's 25 per cent of the students.

PN2525

Now, taking your first statement prepared in November 2017 do you say it's true and correct to the best of your knowledge and belief?---I do.

PN2526

And taking your second statement prepared last year, four pages, in about July 2018, do you say the contents of that statement are true and correct to the best of your knowledge and belief?---I do.

\*\*\* LUKE ANDREW DONNELLY

XN MR TAYLOR

PN2527

Thank you. They're the questions.

PN2528

VICE PRESIDENT HATCHER: Mr Fagir?

**CROSS-EXAMINATION BY MR FAGIR**

**[1.50 PM]**

PN2529

MR FAGIR: Mr Donnelly, I appear for the Australian Childcare Alliance and I have some questions for you about your statements. Could I begin by just confirming your career trajectory. You began working in early childhood before 2007 is that right?---Yes, that's correct.

PN2530

You were originally qualified is it Certificate III in the relevant discipline?---Yes.

PN2531

And then you obtained the diploma?---I had obtained the diploma as a part of my university degree. So it was a joint course between the University of Canberra and the Canberra Institute of Training. So that was part of my degree, yes.

PN2532

What, you obtained the diploma part way through and then at the end you received a Bachelor degree did you?---Correct, yes.

PN2533

You explained that you were a room leader at Peppermint Park Early Learning Centre, Aranda, for a couple of months?---Yes.

PN2534

What qualification did you hold at that time?---In 2006 I would have held - I would have been studying still the diploma. So I would have had a Certificate III.

PN2535

Cert III working towards a diploma when you became a room leader at Peppermint Park?---Correct.

PN2536

You then began working in a school in 2007, is that right?---In a primary school, yes.

PN2537

And you haven't been back into early childhood since then. You have been in primary schools from 2007 onwards?---Since 2007, yes. Sorry, I need to - I need to go back to Peppermint Park. Peppermint Park was in 2005.

PN2538

Yes?---2006 was when I was working in the university pre-school which was a long day care setting.

PN2539

I see. Does that change what you've - - -?---Sorry.

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2540

Does that change what you've said about the qualification you held at that time? Or is that still right?---Not at Peppermint Park. Not for Peppermint Park but for the university pre-school I did hold a diploma at that time.

PN2541

I see. Now, Mr Donnelly, your two statements have been marked Exhibit 42 and Exhibit 43 and if you don't mind I will refer to them in that way. The longer statement is Exhibit 42 and the shorter is Exhibit 43?---Sure.

PN2542

Now at paragraph nine of Exhibit 43 you describe what you say is a trend towards individualised learning. Do you see that?---Yes.

PN2543

Do you see in the final sentence at paragraph nine that this is similar in your experience to the philosophy and pedagogy in early childhood education. Do you see that?---Yes.

PN2544

And when you say, "In your experience you are describing your experience pre-2007 when you worked in the sector."?---Yes. My experience as a teacher, yes. But probably drawing also on my experience as a parent with children in current early childhood settings as well.

PN2545

I see. So experience pre-2007 but perhaps you obtained some further experience since then?---Correct. Yes.

PN2546

And consistently across that period, to your understanding, early childhood education has had a focus on individualised teaching?---Individualised teaching and learning, yes.

PN2547

Paragraph 12 of Exhibit 43 you deal with the question of accessibility of teachers to parents. You deal with the introduction of emailing and online platforms. Do you see that in the first sentence?---I do.

PN2548

Are you required to provide your email address to parents at your school?---Yes, I am.

PN2549

And is that because you're the assistant principal or is that something that's an obligation that applies to teachers as well too? Classroom teachers?---I wouldn't say it was an obligation. It's at a school based level but most schools would publicise teacher email addresses on their websites. Yes.

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2550

A bit earlier in this statement and I don't need you to turn to it. You describe parent/teacher interviews. They're something that happens at your school?---Yes, they are.

PN2551

And you have explained that at least these days after an interview, a parent might approach you asking for evidence of the grade that you gave their child or comments that you made?---Correct.

PN2552

Does that typically happen by email? Or by phone? Or by some other means?---It depends on the circumstances but most parents will contact by an email and most teachers and certainly in my experience would request a face to face meeting as a follow-up.

PN2553

I see. You also describe something called Learning Journeys which - - - ?---Mm'hm.

PN2554

- - -is a program whereby the parents are physically present in the classroom while the children are learning, is that right?---Correct.

PN2555

And one of the - - -?---Yes, that's correct.

PN2556

One of the issues that you identify is that at least some parents request that this happen after 5.00 pm at a time that's convenient to them?---Correct.

PN2557

Now, some of your colleagues have given some evidence about phone calls with parents and some of them have said that phone calls can happen outside of hours in the evenings or at other times. Is your experience consistent with that or do you make and receive phone calls only during working hours?---I make the concerted effort to only receive phone calls within working hours. I don't tend to make phone calls to parents outside of working hours, no.

PN2558

I see. And it's been suggested that the calls might be about behavioural issues or they might be about academic issues. Is your experience consistent with that? That there can be calls about either aspect?---Calls outside of hours or just calls in general?

PN2559

No, the calls whenever they happen they can either deal with behavioural issues, arguments in the school yard, or they can deal with academic questions?---Yes, that's correct. Yes.

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2560

Is the upshot of all of this that today parents have access to teachers, firstly, by email. That's one means?---Yes, that's correct.

PN2561

Perhaps through apps, depending on what the school, the particular school uses whether they use ClassDojo or something like that?---Also correct.

PN2562

They have access at parent/teacher interviews?---Correct.

PN2563

How many of those per term or per year?---Most schools would have one per term. Most parents you would see twice a year.

PN2564

There's also physical presence through the learning journeys, at least at your school?---Yes, not my current school. The learning journeys was at my previous context, they happened once a year.

PN2565

Then there are telephone calls?---Yes, telephone calls on an individual basis.

PN2566

Your experience is that as a general statement parents are more critical or demanding of schools and teachers now than they have been in the past?---Correct.

PN2567

Now bearing all of those matters in mind, you would agree with me that the proposition in your first statement, that parents have much more access to early childhood teachers than primary school teachers is quite wrong?---No, I don't agree because parents in the early childhood setting see the childhood educator twice a day at pickup and drop off, and in my experience in the early childhood setting if you were to add the amount of time that you spent interacting with those parents in those two instances it would potentially be more time spent with the parent each year than in the primary setting.

PN2568

It's the physical interaction at the start and the end of the day that forms the basis for that assertion?---Correct, and if you include also the introduction of the online platforms in the early childhood setting, which mirrors those online platforms in the primary setting, there's another level of communication that comes from the early childhood setting that's the same as primary school as well.

PN2569

To the best of your knowledge there's no practice of individual educators in early childhood providing their email addresses to parents?---No, settings provide email addresses but not individual educators.

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2570

A parent might be able to email the service or email the director of a service but not particular teacher or educator?---No.

PN2571

In your first statement, exhibit 42, is it fair to say that you advance a thesis or a view that the work of an early childhood teacher and the work of a primary school teacher is similar?---Correct.

PN2572

In support of that view you say at least a couple of things. The first is that the parents have more access to ECTs than the primary school teachers so if anything, in your view that's a - the job's more difficult for ECTs than primary teachers?---In terms of interaction with parents?

PN2573

Yes?---Correct.

PN2574

The second broad proposition you put is that the work of the early childhood teacher and the work of the primary school teacher are both captured or comprehended by the Australian Professional Standards for teachers?---Correct. That there's potential for that, yes.

PN2575

You give a couple of examples of what that means. The first is that:

PN2576

*Both early childhood teachers and primary school teachers are required to assess their students.*

PN2577

That's the first illustration you give?---Correct.

PN2578

The second is that:

PN2579

*Both ECTs and primary school teachers are required to know content and how to teach it.*

PN2580

?---Correct.

PN2581

Could I just discuss those matters with you, beginning with assessment. If you don't mind turning to paragraph 12 of your first statement?---Sure.

PN2582

You say there that:

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2583

*What a preschool teacher does in practice can be matched exactly to the Australian Professional Standards for Teachers although it may look different in a primary school setting. You then say where a primary school teacher may have an assessment book where they tick or grade what the child has done along with an observation, an ECT might have a portfolio with daily tracking through anecdotal notes or photos along with their observations.*

PN2584

Do you see that?---Correct.

PN2585

You describe in your two statements the different species of assessments; broadly diagnostic, formative and summative?---Yes.

PN2586

They're the three categories?---That's correct.

PN2587

You'd agree with me if I suggested to you that assessments can take a variety of forms, perhaps at one end of the spectrum is an informal or ad hoc diagnostic/formative assessment, for example, asking a student a question to understand how much they know about a particular issue?---Sorry, can you repeat that?

PN2588

I will, it was a long question. I suggested to you firstly that assessments might take a variety of forms. You agree with that?---I do agree with that.

PN2589

I suggested to you that one - if one thought of it as a spectrum, at one end of the spectrum might be the ad hoc or informal assessment, for example, by asking a student a question about a particular issue?---I wouldn't agree with that, no. I wouldn't see any ad hoc or informal assessment as being part of teaching or learning. I would say that if you're asking a student a question it was to move them in their learning, whether you were in the early childhood setting or the primary setting. So I would actually see that as a form of diagnostic assessment.

PN2590

I see. Now can I suggest to you that the other end of the spectrum might be something like the Higher School Certificate, which is a highly structured formal summative assessment?---Yes.

PN2591

Between the two categories that I've described to you might be a series of assessments that might be more structured or less structured, for example?---More structure or less structured as in the product that they're trying to create or the process?

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2592

No, the process of the assessment itself?---Yes, so again more structure and less structured aren't necessarily - it's not language that I would use in terms of assessment but I would talk about in terms of diagnosing where the student is at, which would be diagnostic assessment. Then conducting assessment that is informing where the student is currently going and where you can take them further. So I would still look at it in those two realms of diagnostic and formative but you're correct in terms of summative being something at the end to make a decision on what's occurred.

PN2593

Can I suggest to you that a primary school teacher among other things is required to design, administer and then deal with formal assessments. For example, NAPLAN type tests?---Correct.

PN2594

And other - shorter than NAPLAN other assessments that are formal in the sense that they involve an exam and results and some sort of mark at the end?---Correct.

PN2595

If those assessment are to be done properly, the exam or the test has to be carefully designed?---Correct, and often they're not designed by the teachers. They're designed by certifying bodies.

PN2596

Yes, so NAPLAN for example isn't designed by the classroom teacher, that's one example?---Correct.

PN2597

There are other cases where the exam or test is set by the classroom teacher?---When you're looking at the diagnostic and summative assessment tasks that you're referring to, often they're standardised across schools. So one of the ones that I talk about I believe in my second statement is the progressing achievement testing, which is testing that's done from a council that a lot of schools in Australia are now taking on board.

PN2598

Is it your evidence that school teachers are not required to set exams?---Not require to set exams in terms of setting down formal testing, no.

PN2599

Is it your evidence that school teachers are not required to draft or create exams?---I'd like - I want to talk about the definition of exam.

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2600

I'm talking about a bit of paper with questions on it or a software program, whatever it might be, that the student has to sit down and respond to?---Yes, so in my current context that's not contemporary education. We use the formal exams that are purchased from other bodies to give us the data to say where the students are at a whole, but in terms of assessing our students, no, we wouldn't be setting exams in our setting.



PN2601

If someone had come along to the Commission and said it's part of my job to prepare exams and I have to do that carefully and I have to make sure that I prepare it in a way that exposes the full range of abilities and differentiates for students of different abilities, you'd say that's not true in your school?---To me that's not an exam because an exam to me is a closed task.

PN2602

What do you call that?---What would I call an exam?

PN2603

No, what I've just described. What's the label for that?---Well, it's summative assessment. It's assessing where the students are at and making sure that your assessment is tailored to all students and that you can assess their knowledge and understanding.

PN2604

When a student in a primary school sits NAPLAN or a PAT or another summative assessment there is data generated. Is that right?---Correct.

PN2605

That data is quantitative, it can produce a mark or some sort of objective statement of the student's achievement in that particular assessment?---Correct.

PN2606

That data, at least today, has to be analysed?---Correct.

PN2607

That is not necessarily a straight forward task?---I believe it depends on the context. In my context it is a straight forward task because we have programs that allow us to do that now.

PN2608

Those results, at least in the cases of NAPLAN and PAT are published in some way within a school or are known?---The NAPLAN results are published to parents.

PN2609

Yes?---The PAT results are published within the school but not necessarily to parents.

PN2610

Those results are then used to inform the future instruction of the particular student?---Correct.

PN2611

Then form an objective measurable record of the student's progress and achievement?---Correct.

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2612

Which incidentally produces an objective measurable record of the teacher's achievement?---Correct.

PN2613

Can I suggest to you that the exercise that I've just described to you is something that occurs in primary schools, does not occur in early childhood?---I would suggest that it occurs in early childhood in terms of the Early Years Framework and looking at students' social skills and their ability to communicate. So I would suggest in early childhood settings there are still teachers who are assessing whether their students are able to communicate effectively gathering data on the level of effective communication in their classroom, and then planning learning for the future to improve their ability to communicate. Similarly with social skills, I would suggest that they would again be doing some sort of assessment of their students in terms of observations, in terms of diagnostic assessment - sorry, in terms of observations and anecdotal records in their ability to socialise with each other, gathering that data together and seeing where to next would be my suggestion for the early learning setting.

PN2614

You're talking about the things that the educators usually refer to as observations?---Sure.

PN2615

You would agree with me if I suggested to you that observations are ad hoc in the sense that the educational framework doesn't require any particular number to be conducted or for them to happen at any particular time?---I couldn't comment on that, that's not in my knowledge.

PN2616

The observations themselves, you would accept, are firstly fair short documents?---No, I wouldn't accept that. I've seen observations that are hundreds of words long.

PN2617

Can I suggest to you that the typical observation includes some photographs, perhaps a video, a description of a task conducted, a short description of the skills to which the activity contributed and an identification of the Early Years Learning Framework outcome that the activity was related to?---In my experience the observation of skills hasn't been short but yes, the rest of that I would agree to.

PN2618

These observations don't produce anything that could be described as quantitative data that can be analysed?---I would disagree with that.

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2619

Can I suggest to you that although it might be said that some early childhood educators carry out assessments and that primary school teachers carry out assessments, that the nature of those assessments is fundamentally different?---I would agree that the process of the assessments and the product of the

assessments is fundamentally different but that they can both be defined as assessments.

PN2620

The other different - - -

PN2621

VICE PRESIDENT HATCHER: Mr Donnelly, you said in answer to the question before this one that you disagreed that the assessments for ECTs don't produce quantitative data. Can you identify any quantitative data that they do produce?---Well, they would produce quantitative data in terms of the level of social skills within the room. So if they were to take all of those observations and look at the level of social skills of the students and put that together, it would be quantitative data. Similarly, if they were looking at the children's ability to communicate and their vocabulary they may collect quantitative data that looks at the level of vocabulary in their development, to then inform where the teacher needs to go.

PN2622

So to your knowledge do ECTs do that as a matter of practice?---I couldn't say that that's to my knowledge. It would be to my knowledge in terms of myself as an early childhood educator, but I couldn't tell you - well no, I could say that to my knowledge it does happen in the setting that I referred to in my first statement at the early learning centre at St Joseph's, yes.

PN2623

Thank you.

PN2624

MR FAGIR: Can I suggest to you, Mr Donnelly, that a second area of wide divergence between primary schools and educations is in relation to the implications of the results of assessments?---That they're different?

PN2625

Yes?---How so?

PN2626

Well there's no such thing as a high stakes assessment in early childhood is there?---But I would suggest that children's social and emotional and communication skills are fairly high stakes, so I would say that yes, it is high stakes for early childhood.

PN2627

I see. You don't suggest that the results of assessment in early childhood have the same implications for teachers and for services and as do the results of NAPLANs, PAT and so on?---I would suggest that they do, yes.

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2628

You're aware of some sort of league table of early childhood services being produced based on the results of observations?---In terms of the centres that are receiving exceeding in their ratings, yes.

PN2629

I'm talking about the product of the assessments that we've just described, observations. Are you aware of someone collating that and producing some league table of services?---No, but I would suggest that centres who are rated exceeding across the board would be centres who are doing that at an exceeding level, which would be a high league centre.

PN2630

I see.

PN2631

VICE PRESIDENT HATCHER: So just explain, how do you get that rating?---That early childhood centres have to go through that rating and they're rated against seven different standards. so for instance a setting that I worked at in 2006 was the first setting in Canberra to be rated with exceeding and then became excellent. So they were advertised on the website for the first centre in Canberra. They then went through a second assessment process and they were actually rated exceeding in all seven areas of the standards.

PN2632

Does that rating process derive any data from observations collected by ECTs?---I couldn't tell you. I haven't had direct involvement with the process.

PN2633

Thank you.

PN2634

MR FAGIR: Mr Donnelly, did you say the centre that you were at was rated as at first exceeding and then excellent was it?---Correct.

PN2635

Is excellent the top of the rankings?---Yes, excellent - exceeding is the top of the rankings, excellent is a supplementary rating that you can receive through an application.

PN2636

That's if you're really - - -?---So I'm referring - - -

PN2637

If you're really exceptional you might get to that bonus tier?---Correct, yes.

PN2638

Now can I discuss with you the differences or similarities between the EYLF and the Australian Curriculum?---Sure.

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2639

Perhaps we won't need to. You would accept, wouldn't you, that again as with assessment although both the EYLF and the Australian Curriculum might be described as a curriculum, they're fundamentally different?---You're suggesting that they are fundamentally different?

PN2640

Yes?---In terms of?

PN2641

Well, what they have in common is that each requires outcomes - specified outcomes - otherwise they're wholly different?---But I would suggest that both the EYLF and the Australian Curriculum have a focus on the whole student in terms of their social skills, their rational skills and their ability to communicate but that the main difference would be the Australian Curriculum stipulates content that children are required to learn.

PN2642

Well, it's not just that it stipulates content but it also stipulates very many outcomes, both broad and specific correct?---Correct.

PN2643

Whereas the early years learning framework sets out a smaller - a lot smaller number of outcomes, very broadly described?---I couldn't agree with that because I haven't had enough experience with the early years framework.

PN2644

Perhaps one way to think about it is the EYLF is a 50-page document whereas the Australian Curriculum could never be reduced to a single document?---I have reduced the Australian Curriculum to one page which is by taking the achievement standards which say what each student has to achieve by the end of their year in school. So it's really seeing how you can use the Australian Curriculum within your context and I guess the purpose that you put on the curriculum or the priorities that you put on a curriculum.

PN2645

Okay. Well, let me just try to explore that a little bit and could I just do this by reference to the science curriculum, given that you referred to the life cycle of a frog in your statement. But let me just put some propositions to you. The Australian Science - - -?---What paragraph was that, sorry?

PN2646

No, just forget about the statement. I just want to ask you some questions now?---Oh, sure.

PN2647

The Australian Science Curriculum is broken down into years - different levels?---Correct.

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2648

And if, for example, one looked at the Year 5 syllabus it provides for an achievement standard and I'll just read it out to you. I'm sure you haven't memorised it but you can tell me whether this sounds right. "By the end of Year 5 students classify substances according to their observable properties and behaviours. They explain every day phenomenon associated with the transfer of light. They described the key features of our solar system, they analyse how the form of living things enables them to function in their environments. Students discuss how scientific developments have affected people's lives, help us solve problems, and how science knowledge develops from many people's contributions. Students follow instructions to pose questions for investigation and predict the effect of changing variables when planning an investigation." And it goes on in similar terms. Now that is a typical year level achievement standard? You would agree with that?---That's correct.

PN2649

Within the category of Year 5 of the Australian Science Curriculum there are three content areas. Science understanding. Science as a Human Endeavour. And Science Enquiry Skills. That sounds like the typical structure?---Correct.

PN2650

And within each of those content areas there are particular outcomes that are to be achieved within that area?---Are you referring to the content descriptions?

PN2651

Let me give you an example. If one went to content area Science Enquiry Skills, one of the required outcomes or expected outcomes would be with guidance students pose clarifying questions and make predictions about scientific investigations. That sounds typical to you?---Yes, but what you're referring to as content descriptions ACARA has States and Territories mandated to the achievement standards. The content descriptions are optional and they are there for teachers to draw on to bring the students to achievement standards that you just read out.

PN2652

I see?---So they wouldn't cover all of those content descriptions.

PN2653

Okay. And under each item - right? I just read out one example. There are elaborations typically?---Yes. So elaborations are an elaboration of the content description. So, again, they are not mandated. They're not something that have to be covered. They are there to guide teachers should they have chosen that content description to focus on.

PN2654

Quite. And there are then any number of lessons or programs under that heading that a teacher might choose to deliver?---Correct. Depending on the setting. Most teachers wouldn't necessarily go to the elaborations and take a program. They would program their work based on the students in their context.

\*\*\* LUKE ANDREW DONNELLY

XXN MR FAGIR

PN2655

Yes. And that's quite right because when they - if they do take content from the curriculum that then - well, firstly that has to be selected from a wide-range of content. That's right, isn't it?---Correct.

PN2656

And it then has to be adapted to the particular class cohort that the teacher is dealing with?---Correct.

PN2657

And ultimately there is an assessment or a series of assessments that will test the students' achievement in a particular area?---Of the achievement standard, yes.

PN2658

And, in fact, there are particular - for example - examples of work that's to be classified as above at or below standard?---Correct.

PN2659

Now if one compared that to the EYLF - that's chalk and cheese, isn't it?---I couldn't comment on that because of my limited knowledge of the EYLF.

PN2660

Perhaps you do know that another difference between the EYLF and the Australian Curriculum is that the EYLF, once introduced, has been unchanged. Whereas, the syllabi of the Australian Curriculum change regularly?---I do know the Australian Curriculum had changed. I didn't know about the EYLF.

PN2661

And you would agree that one of the challenges confronting teachers in schools is that there is a contestation in curriculum?---A contestation? Can you just - - -

PN2662

Yes. That's an issue - - -?---What do you mean?

PN2663

- - - that school teachers confront?---Yes. I would agree with that.

PN2664

And overcrowding in the curriculum?---I would agree that you could be overcrowded by the curriculum but that I would hope that by settings are finding ways to bring the curriculum together and align the curriculum in a more effective way.

PN2665

Another challenge for school teachers is that it is not uncommon for different teaching methods to be urged upon them at fairly frequent intervals?---Correct.

PN2666

From year to year. One year it's alarm. Next year it will be some other method that they're being asked to apply?---Correct.

PN2667

Excuse me for a moment, Mr Donnelly? Thank you, Mr Donnelly. They're my questions if the Commission pleases.

PN2668

VICE PRESIDENT HATCHER: Re-examination?

**RE-EXAMINATION BY MR TAYLOR**

**[2.25 PM]**

PN2669

MR TAYLOR: Yes, thank you. You were asked some questions earlier on about your time at Peppermint Park. At the time you were working there was Peppermint Park providing a teacher-led education program?---A teacher led education program?

PN2670

Yes?---Not to my knowledge.

PN2671

There's a difference, I understand, in the industry between - - -

PN2672

MR FAGIR: I object. I object to the inevitably leading question that was about to come.

PN2673

VICE PRESIDENT HATCHER: Can that take a non-leading turn now?

PN2674

MR TAYLOR: Peppermint Park, I put it this way, in a manner that I accept is somewhat leading but not contentious and my friend can let me finish the question and then decide whether he's going to object. In the early childhood industry there are providers who provide childcare services without educational services and others that provide education services as well. Is that your understanding?---That's not my understanding, no. I didn't realise that.

PN2675

I see.

PN2676

MR FAGIR: I object on a different basis which is that it doesn't arise from the questions.

PN2677

VICE PRESIDENT HATCHER: But is it not contentious?

\*\*\* LUKE ANDREW DONNELLY

RXN MR TAYLOR

PN2678

MR TAYLOR: There's out of home care which is not covered by our claim. So there is forms of early childcare which are not - well, some of them actually are, I think, my friend's members and indeed some of his witnesses provide both. Some



of them provide out of home care which does not have an education aspect and others that do and my questions are really trying to go to what category Peppermint Park was in at that time.

PN2679

So that's where the question arises. Mr Donnelly, you've heard that description. Can you recall what category Peppermint Park was in at the time?---Peppermint Park was putting forward an education plan in terms of programming and my role as the team - the leader of the room I programmed and planned learning experiences for the children.

PN2680

Mr Donnelly you referred at one point to - in answering questions about the amount of parental content in a primary school setting and an early childhood setting you gave answers and in part you identified this. You said something to the effect of if you include online platforms which are mirrored in the primary school setting. What were you referring to when you were referring to online platforms?---Online platforms, such as online learning journals. So there's one that I talk about in my statement which is called 'see-saw' but they're essentially an app that's on parent devices or a computer software program you can log into where you get to see the learning that's happening in the setting and communicate with the teachers in that setting and they exist both in early childhood settings and primary schools but they started in early childhood settings and primary schools are now starting to implement them.

PN2681

You were asked a number of questions about assessment and you were asked questions which are going to different types of assessment and they were categorised as diagnostic, formative and summative. And some of the propositions were put to you, you didn't agree with, and some others that you did. Can we just understand what you understand by those three expressions? Firstly, what is diagnostic assessment when you understand that expression?---Diagnostic assessment is understanding where the student is at, at that point in time. So it's diagnosing where their level of knowledge or level of skill is.

PN2682

And can you give some understanding of how a teacher does diagnostic assessment?---So a teacher would do diagnostic assessments through some of those formal assessments that we talked about. The PAP testing but they might also do diagnostic assessment through observations of the way children engage in the environment. They may do it through work samples that they've completed in their book. They may do it through video or photos of learning occurring and diagnosing what's happening within that.

\*\*\* LUKE ANDREW DONNELLY

RXN MR TAYLOR

PN2683

Now in that - in respect of the two settings you were asked questions about early childhood and primary - what, are there differences in the way diagnostic testing is done in - what you just described? I am going to withdraw that question. What you just described as diagnostic testing there were two aspects. One was formal

setting and one was observation. To what extent is - was your answer referable to one or other of the two settings? Early childhood and primary?---I would say that there is diagnostic assessment both in early childhood and primary settings but that that product or the process in the assessment is different. So where children in a primary setting are able to complete a worksheet task or sit a test, teachers in an early childhood setting need to adapt their diagnostic assessment tool to do the children in that setting and their capabilities. So that would be more through observation, through anecdotal records, through images.

PN2684

Moving then to the second type of assessment - formative assessment. What do you mean by formative assessment and how does that manifest?---So formative assessment really is what's happening all the time. People say that if a teacher is really engaged in the teaching and learning process they are constantly formatively assessing their students. So that's through questioning. That's through finding out whether the student has attained what you focused on, then where to move them next and questioning them to get them to go there next. So formative assessment is informing where the learning is going and it happens continually.

PN2685

And now focusing on the two different settings. So the differences - firstly, the formative assessment occurred, as you understand it, in both early childhood and primary and if it does are there differences between the two?---I would say the formative assessment is probably the form of assessment that's the most similar in both settings in the sense that it's through questioning. It's through gathering small pieces of information and data from the students that then informs me to go to next and I would suggest that both early childhood teachers and primary teachers do it in a similar way.

PN2686

And now summative assessment can you identify what you mean by that expression and how it manifests?---So summative assessment really incurred as a summary at the end. It's saying, "This is what I diagnosed as needing to occur in the learning cycle. I used my formative assessments throughout the learning cycle to move the student through their learning, whatever the outcome was - whether that be a content area, whether it be a social skill, whether it be an emotional - a change in their emotional intelligence. A summative assessment task is really to say, "Have they achieved that and at what level?"

\*\*\* LUKE ANDREW DONNELLY

RXN MR TAYLOR

PN2687

And, again, now looking at the two settings - early childhood and primary - does summative assessment occur in both? And if it does is it the same or is it different?---Summative assessment would certainly occur in both but I would suggest that in the primary setting summative assessment is much more attached to a product which you would see as - reporting that you're reporting and formal reports back to parents. Whereas in the early childhood setting a summative assessment task is often - the product would be some sort of informal port folio or

journal or some sort of entry on one of those - on one platforms that we've talked about.

PN2688

Mr Donnelly, at a later point of the cross-examination you were asked a question about whether something happens in early childhood and there was a hesitation and then you said, "It does happen. I know it happens. It happened at ELC at St Joseph's." So, firstly, what is ELC at St Joseph's? What are you talking about there?---Sorry, that's the Early Learning Centre at my previous setting from last year. So the Early Learning Centre at St Joseph's is a Catholic Pre-school but it's run as a long day care centre they have and they're open from 7.30 till 6.00 o'clock.

PN2689

And do you have some reason to understand or learn how they teach?---I do. I have mentored the teachers at that setting in terms of applying what they do in their education programs to the Australian Professional Standards of Teachers. So I actually mentored one of those teachers through creation of a portfolio against the standards for teachers and she was then certified with the Teacher Quality Institute as a proficient teacher.

PN2690

You were asked some questions, including by the Vice President about early childhood centres being rated. I don't think this is in issue. So I'll lead it. That this is the case, isn't it, that the rating is done by an organisation that's abbreviated to ASECQA?---To my knowledge, yes.

PN2691

You gave some evidence about an early learning centre being rated as exceeding and then excellent. I'm not sure it was clear which centre you were talking about at that point. Which was that?---That was Wiradjuri Preschool which is part of the University of Canberra. There was the setting that I worked on in 2006.

PN2692

Thank you. They're our questions in re-examination.

PN2693

VICE PRESIDENT HATCHER: Thank you for your evidence, Mr Donnelly. You're excused and you can now go?---Thank you.

<THE WITNESS WITHDREW

[2.35 PM]

PN2694

VICE PRESIDENT HATCHER: Mr Taylor, so the timetable for next Monday we have four witnesses, is that right?

\*\*\* LUKE ANDREW DONNELLY

RXN MR TAYLOR

PN2695

MR TAYLOR: We have four witnesses. We have currently scheduled two for the morning and two for the afternoon. I've asked those instructing me to find out to what extent we could have one or other of the afternoon witnesses available in

the morning, and they're endeavouring to do that to avoid the risk that we end up with a hole in the middle of the day if the cross-examination goes more quickly. I'll speak to Mr Fagir about that.

PN2696

If it turns out that he thinks that the two morning witnesses will be done short and we can't move the afternoon witnesses which is our least likely outcome, but if that occurs my intention is to make contact with your Honour's Associate to suggest we start later so we don't end up in a situation where we have a gap in the middle of the day. But what we're hoping to do is have consistent evidence throughout the course of the day and if we end up finishing earlier because the cross-examination doesn't require the whole day then so be it.

PN2697

So our intention is that we would commence at 10.00 am on Monday.

PN2698

VICE PRESIDENT HATCHER: All right. Well, if there's nothing further we will adjourn till Monday the - - -

PN2699

MR TAYLOR: Just there is just one thing.

PN2700

VICE PRESIDENT HATCHER: Yes.

PN2701

MR TAYLOR: I just note - I hope this won't be a matter that's contested but we contacted Mr Fagir's instructors in the last day identifying that there was a notice to produce that I think is some months now overdue, in respect of one of the witnesses that we're going to be cross-examining and we've asked whether the relevant documents could be provided tomorrow. If it becomes a matter of contest we'll raise that on Monday. Thank you.

PN2702

MR FAGIR: I can deal with that to this extent, that order for production was subject of an application it be set aside many moons ago.

PN2703

VICE PRESIDENT HATCHER: What did we do?

PN2704

MR FAGIR: Nothing.

PN2705

MR TAYLOR: No, no, it was determined I understand. We'll speak to Mr Fagir about that. We understand that application was made and determined and the upshot was that your Honour granted the application insofar as it sought a delay in response, and that delay was till about July of last year - sorry, delay to September of last year. So I'll show material to Mr Fagir but we understand the matter has -

there was such an application, he's absolutely right about that but it was determined on the basis that material would need to be produced.

PN2706

VICE PRESIDENT HATCHER: Right. So we'll adjourn until Monday the 24th and it'll be at 10 am unless otherwise advised.

PN2707

MR TAYLOR: Thank you.

**ADJOURNED UNTIL MONDAY, 24 JUNE 2019**

**[2.38 PM]**

**LIST OF WITNESSES, EXHIBITS AND MFIs**

<b>ALEASHA MAY CONNELLAN, SWORN</b> .....	<b>PN2395</b>
<b>EXAMINATION-IN-CHIEF BY MR TAYLOR</b> .....	<b>PN2395</b>
<b>EXHIBIT #41 WITNESS STATEMENT OF ALEASHA CONNELLAN UNDATED</b> .....	<b>PN2419</b>
<b>CROSS-EXAMINATION BY MR FAGIR</b> .....	<b>PN2422</b>
<b>RE-EXAMINATION BY MR TAYLOR</b> .....	<b>PN2456</b>
<b>THE WITNESS WITHDREW</b> .....	<b>PN2468</b>
<b>LUKE ANDREW DONNELLY, SWORN</b> .....	<b>PN2483</b>
<b>EXAMINATION-IN-CHIEF BY MR TAYLOR</b> .....	<b>PN2483</b>
<b>EXHIBIT #42 WITNESS STATEMENT OF LUKE DONNELLY, UNDATED</b> .....	<b>PN2503</b>
<b>EXHIBIT #43 FURTHER WITNESS STATEMENT OF LUKE DONNELLY, UNDATED</b> .....	<b>PN2510</b>
<b>THE WITNESS WITHDREW</b> .....	<b>PN2512</b>
<b>LUKE ANDREW DONNELLY, RECALLED</b> .....	<b>PN2512</b>
<b>EXAMINATION-IN-CHIEF BY MR TAYLOR, CONTINUING</b> .....	<b>PN2512</b>
<b>CROSS-EXAMINATION BY MR FAGIR</b> .....	<b>PN2528</b>
<b>RE-EXAMINATION BY MR TAYLOR</b> .....	<b>PN2668</b>
<b>THE WITNESS WITHDREW</b> .....	<b>PN2693</b>