



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

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

C2013/6333 AM2018/9

s.302 - Application for an equal remuneration order

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

Sydney

EXTRACT OF TRANSCRIPT OF PROCEEDINGS

10.02 AM, TUESDAY, 2 JULY 2019

Continued from 1/07/2019

PN6407

VICE PRESIDENT HATCHER: Yes?

PN6408

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

PN6409

VICE PRESIDENT HATCHER: Yes, Mr Taylor?

PN6410

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

PN6411

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

PN6412

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

PN6413

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

PN6414

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 I mean, firstly, it's very general, and, secondly, it's out of date, isn't it?

PN6415

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

PN6416

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

PN6417

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

PN6418

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

PN6419

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

PN6420

VICE PRESIDENT HATCHER: Go on.

PN6421

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

PN6422

VICE PRESIDENT HATCHER: Yes.

PN6423

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

PN6424

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

PN6425

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

PN6426

MR FAGIR: I'm jumping ahead.

PN6427

VICE PRESIDENT HATCHER: What's next?

PN6428

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

PN6429

VICE PRESIDENT HATCHER: What about percentage figures?

PN6430

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

PN6431

VICE PRESIDENT HATCHER: I see, yes.

PN6432

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

PN6433

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

PN6434

MR TAYLOR: They are, yes.

PN6435

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

PN6436

MR TAYLOR: Yes.

PN6437

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

PN6438

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

PN6439

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

PN6440

DEPUTY PRESIDENT DEAN: What about 63?

PN6441

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

PN6442

VICE PRESIDENT HATCHER: Which paragraphs, sorry?

PN6443

MR TAYLOR: Paragraphs 72 through to 74.

PN6444

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

PN6445

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

PN6446

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

PN6447

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

PN6448

VICE PRESIDENT HATCHER: Yes.

PN6449

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

PN6450

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

PN6451

VICE PRESIDENT HATCHER: Mr Fagir?

PN6452

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

PN6453

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

PN6454

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

PN6455

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

PN6456

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

PN6457

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

PN6458

VICE PRESIDENT HATCHER: Yes.

PN6459

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

PN6460

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

PN6461

MR FAGIR: If the Commission pleases.

PN6462

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

PN6463

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

PN6464

THE ASSOCIATE: Please state your full name and address.

PN6465

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

<GARY GRANT CARROLL, SWORN

[10.18 AM]

EXAMINATION-IN-CHIEF BY MR FAGIR

[10.19 AM]

PN6466

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

PN6467

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

PN6468

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

PN6469

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

PN6470

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

PN6471

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

GARY GRANT CARROLL

XN MR FAGIR

PN6472

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

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

PN6473

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

PN6474

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

PN6475

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

PN6476

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

PN6477

I see. Paragraph 6 should be corrected to read:

PN6478

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

PN6479

?---That's it.

PN6480

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

PN6481

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

PN6482

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

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

PN6483

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

PN6484

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

*** GARY GRANT CARROLL

XN MR FAGIR

PN6485

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

PN6486

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

PN6487

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

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

PN6488

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

PN6489

VICE PRESIDENT HATCHER: Mr Taylor?

CROSS-EXAMINATION BY MR TAYLOR

[10.22 AM]

PN6490

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

PN6491

Thank you?---Yes.

PN6492

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

PN6493

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

PN6494

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

PN6495

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

PN6496

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6497

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

PN6498

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

PN6499

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

PN6500

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

PN6501

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

PN6502

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

PN6503

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

PN6504

I tender that document.

PN6505

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

EXHIBIT #96 G8 EDUCATION ANNUAL REPORT 2018

PN6506

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

PN6507

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

PN6508

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6509

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

PN6510

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

PN6511

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

PN6512

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

PN6513

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

PN6514

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

PN6515

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

PN6516

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

PN6517

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

PN6518

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

PN6519

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6520

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

PN6521

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

PN6522

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

PN6523

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

PN6524

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

PN6525

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

PN6526

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

PN6527

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

PN6528

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6529

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

PN6530

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

PN6531

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

PN6532

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

PN6533

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

PN6534

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

PN6535

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

PN6536

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

PN6537

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

PN6538

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6539

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

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

PN6540

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

PN6541

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

PN6542

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

PN6543

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

PN6544

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

PN6545

Then it says this:

PN6546

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

PN6547

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6548

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

PN6549

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

PN6550

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

PN6551

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

PN6552

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

PN6553

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6554

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

PN6555

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

PN6556

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

PN6557

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

PN6558

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

PN6559

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

PN6560

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

PN6561

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

PN6562

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6563

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

PN6564

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

PN6565

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

PN6566

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

PN6567

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

PN6568

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

PN6569

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6570

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

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

PN6571

- - -as I read it, it says:

PN6572

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

PN6573

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

PN6574

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

PN6575

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

PN6576

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

PN6577

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6578

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

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

PN6579

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

PN6580

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

PN6581

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

PN6582

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

PN6583

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

PN6584

Thank you.

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6585

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

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

PN6586

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

PN6587

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

PN6588

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

PN6589

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

PN6590

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

PN6591

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

PN6592

I tender that document.

PN6593

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

PN6594

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6595

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

PN6596

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

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

PN6597

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

PN6598

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

PN6599

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

PN6600

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

PN6601

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

PN6602

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

PN6603

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6604

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

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

PN6605

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

PN6606

Thank you.

PN6607

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

PN6608

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

PN6609

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

PN6610

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

PN6611

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

PN6612

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6613

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

PN6614

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

PN6615

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

PN6616

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

PN6617

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

PN6618

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

PN6619

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

PN6620

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6621

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

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

PN6622

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

PN6623

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

PN6624

I see.

PN6625

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

PN6626

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

PN6627

Thank you.

PN6628

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6629

- - -regulatory requirements?---Yes.

PN6630

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

PN6631

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

PN6632

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

PN6633

Is that right?---Yes. Yes.

PN6634

Yes. I tender that bundle of material.

PN6635

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

EXHIBIT #98 G8 EDUCATION WEBSITE EXTRACTS

PN6636

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

PN6637

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

PN6638

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6639

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

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

PN6640

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

PN6641

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

PN6642

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

PN6643

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

PN6644

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

PN6645

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

PN6646

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

PN6647

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

PN6648

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6649

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

PN6650

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

PN6651

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

PN6652

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

PN6653

MR TAYLOR: I am.

PN6654

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

PN6655

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

PN6656

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

<THE WITNESS WITHDREW [11.23 AM]

SHORT ADJOURNMENT [11.23 AM]

RESUMED [11.44 AM]

<GARY GRANT CARROLL, RECALLED [11.44 AM]

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

PN6657

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6658

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

PN6659

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

PN6660

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

PN6661

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

PN6662

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

PN6663

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

PN6664

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

PN6665

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

PN6666

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

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6667

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

PN6668

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

PN6669

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

PN6670

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

PN6671

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

PN6672

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

PN6673

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

PN6674

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

PN6675

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

PN6676

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

PN6677

VICE PRESIDENT HATCHER: Mr Fagir?

*** GARY GRANT CARROLL

XXN MR TAYLOR

PN6678

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

PN6679

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

PN6680

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

PN6681

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

PN6682

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

PN6683

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

PN6684

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

PN6685

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

*** GARY GRANT CARROLL

RXN MR FAGIR

PN6686

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

PN6687

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

PN6688

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

PN6689

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

PN6690

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

PN6691

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

PN6692

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

PN6693

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

PN6694

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

*** GARY GRANT CARROLL

RXN MR FAGIR

PN6695

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

PN6696

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

PN6697

Yes?---Yes.

PN6698

Thank you.

PN6699

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

PN6700

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

<THE WITNESS WITHDREW

[11.57 PM]

PN6701

So is Ms Toth the next witness?

PN6702

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

PN6703

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

PN6704

MR TAYLOR: Yes.

PN6705

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

PN6706

MR TAYLOR: Yes.

*** GARY GRANT CARROLL

RXN MR FAGIR

PN6707

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

PN6708

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

PN6709

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

PN6710

MR TAYLOR: Yes.

PN6711

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

PN6712

MR TAYLOR: Yes.

PN6713

VICE PRESIDENT HATCHER: Is there any doubt about that?

PN6714

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

PN6715

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

PN6716

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

PN6717

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

PN6718

MS SAUNDERS: (Indistinct)

PN6719

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

PN6720

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

PN6721

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

PN6722

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

PN6723

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

PN6724

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

PN6725

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

PN6726

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

PN6727

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

PN6728

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

PN6729

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

PN6730

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

PN6731

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

PN6732

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

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

PN6733

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

PN6734

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

PN6735

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

PN6736

VICE PRESIDENT HATCHER: Yes.

PN6737

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

PN6738

VICE PRESIDENT HATCHER: You mean the yearly increments?

PN6739

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

PN6740

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

PN6741

VICE PRESIDENT HATCHER: No.

PN6742

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

PN6743

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

PN6744

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

PN6745

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

PN6746

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

PN6747

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

PN6748

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

PN6749

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

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

PN6750

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

PN6751

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

PN6752

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

PN6753

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

PN6754

VICE PRESIDENT HATCHER: Mr Fagir - - -

PN6755

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

PN6756

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

PN6757

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

PN6758

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

PN6759

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

PN6760

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

PN6761

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

PN6762

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

PN6763

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

PN6764

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

PN6765

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

PN6766

MR FAGIR: Certainly.

PN6767

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

PN6768

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

PN6769

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

PN6770

THE ASSOCIATE: Please state your full name and address.

PN6771

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

<MERRAN EDITH TOTH, AFFIRMED [12.23 PM]

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

PN6772

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6773

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

PN6774

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

PN6775

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

PN6776

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

PN6777

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

PN6778

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

PN6779

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

PN6780

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

PN6781

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

PN6782

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

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

PN6783

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

PN6784

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6785

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

PN6786

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

PN6787

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

PN6788

VICE PRESIDENT HATCHER: Seventeen, 92.

PN6789

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

PN6790

VICE PRESIDENT HATCHER: Agreed to remain confidential.

PN6791

MS SAUNDERS: Yes.

PN6792

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

PN6793

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

PN6794

VICE PRESIDENT HATCHER: So what does that mean?

PN6795

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

PN6796

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6797

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

PN6798

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

PN6799

MS SAUNDERS: 164.

PN6800

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

PN6801

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

PN6802

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

PN6803

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

PN6804

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

PN6805

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

PN6806

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

PN6807

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

PN6808

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

PN6809

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

PN6810

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

PN6811

MS SAUNDERS: Nothing remains in dispute.

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6812

VICE PRESIDENT HATCHER: No, right.

PN6813

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

PN6814

VICE PRESIDENT HATCHER: Thank you.

PN6815

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

PN6816

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

PN6817

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

PN6818

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

PN6819

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

PN6820

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

PN6821

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6822

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

PN6823

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

PN6824

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

PN6825

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

PN6826

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

PN6827

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6828

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

PN6829

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

PN6830

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

PN6831

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

PN6832

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6833

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

PN6834

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

PN6835

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

PN6836

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6837

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

PN6838

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

PN6839

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

PN6840

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

PN6841

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6842

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

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

PN6843

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

PN6844

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6845

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

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

PN6846

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

PN6847

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

PN6848

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

PN6849

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

PN6850

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6851

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

PN6852

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

PN6853

So, Mr Fagir?

PN6854

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

PN6855

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

PN6856

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

PN6857

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

PN6858

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

PN6859

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6860

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

PN6861

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

PN6862

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

PN6863

Yes, all right.

PN6864

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

PN6865

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6866

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

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

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

PN6867

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

PN6868

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

PN6869

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

PN6870

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

PN6871

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

*** MERRAN EDITH TOTH

XN MR FAGIR

PN6872

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

PN6873

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

<THE WITNESS WITHDREW [1.09 PM]

LUNCHEON ADJOURNMENT [1.09 PM]

*** MERRAN EDITH TOTH

XN MR FAGIR

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