

**SUPPLEMENTARY WITNESS STATEMENT OF
RICHARD STRICKLAND**

I, RICHARD STRICKLAND, CEO of the Department of Education Services, in the State of Western Australia, do say as follows:

1. This supplementary statement has been prepared in response to questions posed by counsel assisting the Royal Commission into Institutional Responses to Child Sexual Abuse. It also corrects two inaccuracies in my witness statement dated 14 May 2014 (Witness Statement). It is based on my personal knowledge gleaned from being the CEO of the Department of Education Services (**the Department**) since mid-2005, my review of historic and current documents held by the Department, and briefings provided by senior staff in each of the relevant functional areas of the Department, being school registration and teacher registration.

**RESPONDING TO THE ROYAL COMMISSION'S
QUESTIONS**

Grooming and enhancing children's safety

2. In response to the Royal Commission's question prompted by paragraph 63 of my Witness Statement - *What is meant by the term "inappropriate behaviour" and can it include grooming behaviours, that is, conduct by which a person creates or exploits opportunities that allow him/her to engage in sexual contact with a child, for example, the giving of gifts, non-sexual touching, arranging to spend time alone with the child?* – I provide the following information.
3. While the term 'inappropriate behaviour' is used in my Witness Statement to summarise the intended reach of the critical incident reporting requirement, it is not used in the

2013 or 2014 Registration Standards. The current definition of critical and emergency incidents is given in paragraph 64 of my Witness Statement. It includes (a) “circumstances that pose a critical risk to the health, safety or well-being of one or more students or staff”. The definition does not expressly include sexual abuse or grooming. In my opinion, the definition should be clarified or amended as needed to make it clear that paragraph (a) is intended to include an allegation against a staff member of the sexual abuse of a student. Grooming also poses a risk to the health, safety or well-being of students. The Department will consider how the definition should incorporate the concept of grooming. One approach to be considered is to require a school to report where a staff member has received a formal warning for breaching the school’s code conduct. This would need to be accompanied by a requirement in the Registration Standards for non-government schools to have a code of conduct which includes the prohibition of identified behaviours which could constitute grooming (I refer to this requirement below).

4. If the Department receives reports about behaviours that breach a school's code of conduct because the behaviours may or may not be grooming behaviours, then the Department can share that information with the TRBWA. The TRBWA is in a unique position to recognise any frequency of reports about a teacher, particularly where the teacher is moving from school to school. The TRBWA could formulate a complaint under section 51 of the TR Act and deal with it in accordance with that Act.
5. The 2013 and 2014 Registration Standards were structured to include requirements related to child protection across several of the standards. Case Study 12

has highlighted how difficult it is for teachers and principals to determine how to deal with observations of behaviours that could be innocent or could be grooming. In my opinion, consideration should be given to the development of a standalone child protection standard which, in addition to other requirements, covers grooming directly.

6. A separate standard may, for example:
 - a. draw the child protection related criteria, requirements, evidence and guidance from the 2014 Registration Standards into one place;
 - b. address grooming by requiring all non-government schools to adopt a code of conduct and compliance guidelines benchmarked to those of the Department of Education (“Code of Conduct” and “How to Comply with Our Code of Conduct”, Department of Education, 2011, annexed as RS.1 and RS.2 respectively); and
 - c. require evidence of annual staff professional development training in recognition of grooming behaviours, the school’s reporting procedures and teachers’ mandatory reporting obligations.

DPCFS or WA Police directions to withhold information

7. In response to the Royal Commission’s question prompted by paragraph 66 of my Witness Statement - *Can you give examples of circumstances where a teacher or school has been directed by the DCPFS or WA Police not to report a critical/emergency incident to the Department particularly in respect of allegations of sexual abuse?* – I provide the following information.
8. My comment was based on information provided by DCPFS and WA Police officers in the course of

negotiating recent MOUs. The explanation given was that the safety and the well-being of the child, or the integrity of an investigation undertaken by those departments, may be compromised by actions taken by the Department in response to a report of a critical or emergency incident.

9. I have not been made aware of any examples of where this occurred. The MOUs are intended to ensure that the department will, in future, receive earlier notice of DCPFS and WA Police concerns about individual teachers or non-government schools.

Disclosure by the School

10. In response to the Royal Commission's question prompted by paragraph 94 of my Witness Statement - *Would the Department have expected the School to raise those concerns expressed by teachers in their letters dated 12/12/01 and 27/10/04 during the registration process of 2004 or 2010?* – I provide the following information.
11. The initial registration visit took place in March 2004. At that time the School had issued two warnings (November 1999 and February 2001) to YJ.
12. The January 2004 *Non-government School Registration Standards and Requirements* required schools to have a child protection policy including procedures for dealing with allegations of misconduct and reporting situations of abuse or neglect to relevant outside agencies. However, it was not a requirement that such allegations or situations be reported to the Department. There was no requirement at the time for the school to (1) identify a warning as a critical incident or (2) to report critical incidents to the Minister. At that time, too, there was no mandatory reporting legislation in WA.

13. Further there was, as at March 2004, no requirement for the school to alert WACOT since the WACOT Act did not come into force until September 2004. In any event, neither the WACOT Act nor the replacement TR Act would require a school to notify a warning which did not result in the separation of the teacher from the employment (refer to sections 50 and 42 respectively).
14. By the date of the re-registration visit in August 2010, mandatory reporting had come in (1 January 2009), teachers at the School had received mandatory reporting training from AISWA (in mid-2009), the teacher had been stood down by the School (2 September 2009) and charged with several offences (4 September 2009), the school had dismissed the teacher (10 September 2009).
15. In August 2010 the applicable Registration Standards (dated November 2009) required a school's child protection policies to cover mandatory reporting. However, the advice to report critical and emergency incidents did not come in until January 2012 and this was not made a requirement until January 2013.
16. Although the critical and emergency incident requirement was not in place during the period in question, and allegations of child sexual abuse are not expressly covered by the definition of critical and emergency incidents, I would have expected that, during the August 2010 re-registration visit, the School would have notified the reviewer of the apparent systemic failure of the School's child protection policies, procedures and practices and the action and priority being given to addressing the issue.

Sharing of allegations under the Teacher Registration Act

17. In response to the Royal Commission's question prompted by paragraph 109 of my Witness Statement - *Under the TRA, how would the allegations involving YJ now be shared with the Department?* – I provide the following information.
18. Since December 2012 the new TR Act requires all separations for serious misconduct or serious incompetence to be reported to the TRBWA (section 42; see also regulation 26, *Teacher Registration (General) Regulations 2012*).
19. The Department is establishing a set of internal information-sharing protocols underpinning the MOU which is Attachment RS.9 to my Witness Statement. It is anticipated these protocols will be resolved within the next month. Regular meetings are being scheduled between staff of the Teacher Registration Directorate of the Department and the Education and Training Registration Directorate of the Department (responsible for non-government school registration) to underpin the arrangement and to ensure that the exchange of information is occurring.
20. These changes are designed to ensure that, if either Directorate is advised of a matter raising issues of potential concern to the other, the information would be shared promptly.

'Best practice'

21. In response to the Royal Commission's questions prompted by paragraph 116 of my Witness Statement - *What does the Department mean by the term "best practice"? How does the Department determine what is "best practice"?* – I provide the following information.

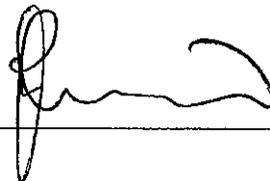
22. The term “best practice” as currently used by the Department means that:
- a. The school has policies and procedures covering all aspects of child protection as required in the *Non-Government School Registration Standards and Requirements* and which are clearly related to and appropriate for the context of the school; and
 - b. The policies and procedures are in accord with:
 - legislative requirements (eg, for mandatory reporting, teacher registration, working with children);
 - educational requirements (eg, a protective behaviours curriculum);
 - governance requirements (eg, codes of conduct, board oversight of complaints); and
 - management requirements (eg, human resources management, communication and information sharing (internal and external), staff and student behaviour management, complaints management).
23. The Department engages principally with DCPFS, WAPOL and the Department of Education to update its understanding of these requirements and meets regularly with its school reviewers to ensure that a consistent understanding of best practice in relation to these requirements is applied when schools are inspected.
24. I consider it appropriate to review the way in which the Registration Standards may be improved to ensure non-government schools meet best practice in the sense used in evidence to the Royal Commission by Professor Smallbone. My intention is to establish a strong evidence

base for a child protection standard by undertaking or commissioning research and seeking expert advice.

CORRECTIONS

25. Two paragraphs in my Witness Statement require correction (in italics):
- a. Paragraph 152 should read: "Under section 57 of the WACOT Act a teacher's membership *could* be cancelled if the teacher did not consent to the undertaking of a criminal record check by the WACOT."
 - b. Paragraph 198 should read: "Another problem which arose with making a Working with Children Check a pre-requisite to registration was that a person cannot apply for a working with children check unless he or she is in child-related work *or has been offered such employment*. The person cannot be in child-related work (i.e. teaching) without registration."
26. The contents of this statement are true and correct to the best of my knowledge and information and belief.

SIGNED:



DATE:

16 June 2014