LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON EDUCATION, TRAINING AND YOUTH AFFAIRS

(Reference: **Needs of students with a disability)**

Members:

MS A BRESNAN (The Chair)
MR J HANSON (The Deputy Chair)
MS M PORTER

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 20 JULY 2010

Secretary to the committee:
Dr S Lilburn (Ph: 6205 0199)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

WITNESSES

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Amended 21 January 2009

The committee met at 2.01 pm.

DURKIN, MS MARY, Disability and Community Services Commissioner, ACT Human Rights Commission
SWAN, MS KELLY, Adviser to the Disability and Community Services Commissioner, ACT Human Rights Commission
WATCHIRS, DR HELEN, Human Rights and Discrimination Commissioner, ACT Human Rights Commission

THE CHAIR: I thank Dr Watchirs, Ms Durkin and Ms Swan for coming to this hearing today of the Standing Committee on Education, Training and Youth Affairs inquiry into the needs of ACT students with a disability. Before we go to questions from the committee, Ms Durkin, I believe you have an opening statement that you want to make, so we will go to you first to do that.

Ms Durkin: Thank you for inviting us to speak with the committee today. I am here in my capacity as Disability and Community Services Commissioner. I am one of three commissioners at the commission. I also wear the hat of Health Services Commissioner. This is an important topic that moves across the responsibility areas of all three commissioners. The Children and Young People Commissioner, Alasdair Roy, is unable to be with us today, but we are happy to take any questions for him on notice. He clearly has an interest in this area in relation to education services for children and young people, whether or not they have a disability. Of course, Helen Watchirs, the Human Rights and Discrimination Commissioner, is here to discuss her role in relation to human rights and discrimination issues.

With respect to my role, I have a statutory oversight role in relation to disability services in the ACT. Under the Human Rights Commission Act, I have authority to investigate and resolve complaints about disability services. The definition of a disability service under the act is very broad, and it is very much inclusive rather than exclusive. The definition provides that any service provided in the ACT specifically for people with a disability and/or their carers is a disability service for the purposes of the act. Therefore, so-called special schools would fall under my purview, as does any transport service specifically for children with disabilities, therapy services and so on. Basically, any service provided in a mainstream school that is specifically for students with a disability would come within my jurisdiction.

I noted in the *Hansard* from your earlier hearings that one of the parents who appeared before the committee was concerned that there appeared to be no mechanism for dealing with complaints about disability services. I think the specific comment was in relation to transport services for a special needs transport scheme. I simply note that the commission was established to deal with complaints in a range of areas. Amongst other things, we can take complaints about services for children and young people, health services, disability services and disability discrimination. It may be that the particular concerns that that parent raised could be appropriately addressed by the commission.

Unfortunately, the volume of disability services complaints that we get does not reflect the breadth and gravity of the issues that exist within many disability services.

I would love to have the opportunity to promote our services more actively within the sector and to provide more detailed submissions to processes such as this one. Unfortunately, we are seriously under-resourced to complete the volume of work we should be undertaking. My disability team is my adviser, who works four days a week, and I am able to contribute about a third of my time to disability services issues. Consequently, we do not have the capacity to be as thoroughly across issues such as the needs of students with a disability within the education system as we would like to be.

I have been made aware, however, of a number of concerns about the education system from parents and others I have spoken to as Disability and Community Services Commissioner. These include the school leaving age, which obviously dovetails with the range and availability of post-school options and supports for students with a disability; the way in which students with disabilities are streamed into secondary school options; and students not being able to access their preferred school choice—for example, Black Mountain school.

Recently, we had a stall at the Post School Options Expo, where I became abundantly aware that there are many families with a child with a disability who still do not know what services and supports exist, who have no idea where to go to find that information and who are at a total loss about how their son or daughter will spend their time once they are no longer at school. Some parents whose son or daughter have more complex support needs have even mentioned the possibility of having to quit work so that they can look after their child once they no longer have the option of attending school. This is, of course, anecdotal evidence, and my office has not investigated complaints in relation to these issues. We have a legislative responsibility in relation to dealing with complaints only when they have been made to us in writing, and none of these matters have been formally put to me in that way.

The discussions I have had, however, certainly speak to me of the need for greater provision of coordinated, comprehensive information for families and individuals, a sentiment that I have heard echoed across the disability sector for some time now. I am aware that Disability ACT is currently undertaking an exercise to develop a one-stop information portal about services that are available, and I welcome this initiative, particularly if it were to extend to all services for people with a disability, not just those funded by Disability ACT.

I believe that if families have access to the information they need they will be better able to make informed choices about what is best for their son or daughter. Of course, a discussion about choice seems to imply that there are sufficient options available to enable families to make choices. Again, I am too frequently hearing that families are either not receiving the level of service they require or they are not receiving services at all. When they do receive a level of service, I am hearing that in many instances there are issues with those services.

A key function of my role is to promote improvements in the provision of disability services. When I am considering a complaint about a disability service, I try to ascertain whether that service has acted in accordance with a prescribed or relevant standard or a generally accepted standard for that type of service. This can include national standards such as the disability standards for education 2005.

I am pleased to note that the Shaddock review provided a thorough overview of the legislative context in which we work and the relationship between international law and the Human Rights Act 2004. Section 31 of the Human Rights Act provides that international law relevant to a human right, such as the UN Convention on the Rights of Persons with Disabilities, may be considered when interpreting human rights. Article 24 of the convention discusses education in some detail, and in my view provides sensible guidance on the important elements necessary for educating people with a disability. It is critical that any analysis of the needs of students with a disability is done with awareness of and compliance with the articles of the Convention on the Rights of Persons with Disabilities.

I would like to hand over to Helen Watchirs, the Human Rights and Discrimination Commissioner, to provide some introductory comments, prior to any questions that you may have.

Dr Watchirs: I have been in this role for six years and my mandate does cover discrimination complaints. The biggest ground is in the area of disability, but education is not one of the biggest areas. I also look at human rights as well as discrimination inquiries, and policy, legal and educational roles.

In my view, educational services, whether they are general or special, should operate within a human rights framework because of not only the Discrimination Act but also the Human Rights Act 2004. Under section 18 of the Discrimination Act, it is unlawful to discriminate on the ground of disability, and that includes direct and indirect discrimination under section 8. There is an exception under section 51; that is, where you have an institution conducted solely for students with a disability. This is like a special measure, and it is okay to have that form of positive discrimination.

The second case involves the admission of someone who requires services or facilities that are not required by persons without a disability, where it would impose an unjustifiable hardship. Under section 47, that means the nature of the benefit or detriment, the nature of the disability of the person and, lastly, the financial circumstance and the amount of expenditure that would be required to have that accommodation to make it accessible for young people with disabilities.

The case law on justifiable hardship is quite variable between jurisdictions. There is one case, a Queensland case, which talks about where it would be unjustifiably hard because of the disruption to other students. But in another case, in Sydney, involving the Hills Grammar school, it was said that it would actually be a huge benefit to the school community by having students with a disability accommodated to a high degree, and that this outweighed economic costs.

It is implicit under ACT discrimination law to have a duty to reasonably accommodate a person with a disability. Unfortunately, it is not explicitly in the act. It is under the federal Disability Discrimination Act that was fairly recently amended. We have requested the attorney to change that to make us harmonise with the federal system. It will just make it a bit clearer for families, children and school authorities. It is not a big change. That is actually what the law is, but it would be good to make that explicit. There is case law in the housing area—the case of Couper in 2004—which found that there was a requirement to positively accommodate people with disabilities. That is why I am saying that I think ACT law has that duty to accommodate. It is just not in the act explicitly, like it is in the federal law.

We have only limited anecdotal cases. One case in our 2005-06 annual report was about the mother of a young woman with a disability who said that a government high school did not monitor her progress adequately or modify its system to accommodate her learning disability. This caused her stress and exacerbated her illness, to the extent that I think she missed quite a bit of school in between high school and college. The case was resolved at conciliation. She was given more future educational opportunities in the college system and also compensation of $20,000 for her humiliation and distress.

Over the last two years we have had eight complaints of discrimination in the education area, but six of these were about tertiary education—so probably that is not the remit that this committee is looking at. There are not a huge amount of complaints in the area of education. There could be one good reason for it, and that would be the former Discrimination Tribunal case of Woodbury in 2007 about two young men, Jack and Kieran. They were in primary school when the complaint was made in 1998. Nine years later, former president Cahill made a decision finding against them. In my view, that nine-year delay was disgraceful. The young man Jack died recently and the coroner is looking at that issue, about his dying in a group home.

In that case they alleged that the government had not kept up to date with developments in the treatment of autism. They looked at what was called applied behavioural analysis therapy. The president found that budget funding was not something he could look at. He thought it was inappropriate to look at it in the discrimination area. If a similar case is brought under the Human Rights Act I think you might have a different result. It would be interesting to see that.

There is the High Court case of Purvis in 2003, which was brought under the commonwealth Disability Discrimination Act. There was a very firm distinction in that case between the disability itself and the associated behaviour. In that case the complainant lost because they said that his behaviour was the problem, not his disability. I think in the ACT we probably get around that because we were the first—I think another jurisdiction has followed—to not require what is called a "comparator". All we require is that somebody is treated less favourably when they are discriminated against; we are not required to look at a person as against a person without a disability. It is a much simpler test. I think the Purvis case may not apply, but we do not have a court decision, or even a tribunal decision, on that issue.

There are also the federal Disability Standards for Education 2005. There are other relevant ones like transport and buildings that would apply in the educational context. It means that if you comply with those standards, that is a defence against a federal discrimination complaint.

The department has an obligation under section 8 of the Human Rights Act to treat its students with equality, without discrimination. That means in substance, not just in law. I think that requires specific measures—and I talked about accommodation—in relation to the Discrimination Act test. That means enabling people to participate and be included so that they get an equal outcome. They have a lower standard of being able to fit into the education system and you need more input in order for persons of varying disabilities to get similar outcomes in terms of having their needs met.

The department is a public authority under section 40B of the Human Rights Act so it must act compatibly with human rights as well as make decisions that have given proper consideration to human rights. I notice in your terms of reference that you are looking at transport and therapy, as mentioned by Mary as well. Providers such as ACTION and Therapy ACT are also public authorities under the Human Rights Act.

In relation to private education, it is unclear whether non-government schools are caught. Section 40A has a test of public function. Section 40A(3) lists public education as an example of a public nature. This has not gone to court so I really cannot give you a firm answer on whether non-government schools will be caught by the Human Rights Act. Of course, they have got the capacity to opt into the Human Rights Act voluntarily, but so far no schools have. It has only been NGOs like Companion House and the Women’s Legal Centre.

As to actual cases of whether rights have been unreasonably limited, there is a test under section 28 of the Human Rights Act called the proportionality test. I think it would depend on the particular circumstances of the young person with a disability. Similar to the Discrimination Act, I cannot give you a one-size-fits-all about how much accommodation is required. You need to do that on a case-by-case basis. We do not have the capacity, as some NGOs have requested, to do three-yearly audits of education services. We cannot even do it for people in detention. There is no capacity to do that.

I would highlight that the department of education in its early annual reports under the Human Rights Act, under its obligation to report measures it had taken, said that it was going to have an audit by the Dusseldorp Skills Forum in Sydney. I think Eric Sidoti was the person responsible for that, but it never eventuated.

It is very important to note that the Attorney-General’s five-year review of the Human Rights Act will consider whether economic, social and cultural rights should be included. In the commission’s view, in our submission to that review, we strongly supported that. That would not just be education but also health and housing.

The Attorney-General also announced publicly at an estimates hearing in this room on 24 May this year that he would refer a general review of the Discrimination Act to the ACT Law Reform Advisory Committee, which is chaired by Simon Rice. I am a member of that committee. In fact, there is even an ANU roundtable this Friday on discrimination law reform. It is a national one—not an ACT one—and it will be very good to inform this local initiative that is being taken.

There is a difference in the definition of “disability” in the Discrimination Act and the DDA. I do not see that as being a problem, mainly because the Human Rights Act can make that definition broader or stronger if necessary. I have not found any substantive difference between the two. If you want me to look at that, I could do that on notice. That is my introductory statement.

THE CHAIR: Thank you very much. My first question is to Ms Durkin. In relation to the transcript of the hearings of this inquiry, it has been mentioned that there was not a body where parents could make complaints. Some of the carers and parents talked about some of the issues they were having with particular services. When we asked, "Have you made a complaint or instigated a process around that?" they said they had not. It is hard to tell why people would or would not make a complaint. Do you think it may be that the information is not being provided, either by the services or by the department, or is it because, as you said, Dr Watchirs, there has been some delay around certain decisions and cases? Perhaps it is a combination of both. I would be interested to get your opinion on that.

Ms Durkin: I think there are a number of reasons why people are not aware that they can make complaints or do not make complaints. One of the problems we face as a commission is getting people aware that we are the body that they can go to and have complaints dealt with. We obviously have a limited budget. We provide information in ways that can come within that budget.

It is very hard to get our message across to a very wide audience. At the moment we are doing some limited radio ads, but our capacity to advertise our services broadly is very limited. Sometimes people have information that they could pass on to parents, carers or whatever, and we try to encourage services to do that. Section 95 of our act provides that, whenever a provider provides a service at a premises, they are required to provide at their premises information about people's rights to complain to that service provider and information about people's rights to complain to the commission under the Human Rights Commission Act.

Clearly, it is easy to target services that are specifically for people with disabilities; we can provide them with posters to put on walls or whatever. But, when you are talking about schools, it is very hard to get that sort of information out there. They are not specifically providing a disability service per se, so it is hard to say that they are required under the act to provide that information or put up a notice.

One of the other problems in relation to complaints is that people are often reluctant to complain because they fear repercussions, specifically in the disability area. People are often dependent on a long-term relationship with others about the provision of services and they fear that if they complain that will impact on that long-term relationship and their ability to be provided with services. Again, our legislation says that it is an offence to try and stop someone complaining. But that does not necessarily mean that people will still feel comfortable about it. So we try to get out as much as possible and inform people that they have a right to complain and they have a right to expect no repercussions. But it is a difficult message to sell.

THE CHAIR: You said that information is provided and that there are posters in some services. Is that non-government as well as government services?

Ms Durkin: Yes, public and private sector.

THE CHAIR: You also mentioned the stall at disability expo day and some of the things parents were saying about access to services—not getting access at all or not getting the types of services they need. Were they the sorts of views that were being expressed to you on that day?

Ms Durkin: Yes, indeed. A number of people just came along to have a chat and often were talking about years of experience in the system, so some of the things they raised might have been dealt with by now but, yes, it was obvious that parents through many years in the system have continual frustrations about getting adequate services and getting information about where to go for services. Do you want to add anything on that, Kelly?

Ms Swan: Basically, I think Mary has pretty much summed it up. That was certainly the flavour of what we received at the Post School Options Expo. But it is not just in that particular environment. It was not isolated to that environment where we hear those sorts of messages about parents, particularly at that time when the student is looking to leave the school environment and enter into more adult life and adult support and services. That is the kind of point at which we are hearing that there is the biggest gap in information provision. I guess it is easier when somebody is in school because that is an obvious thing, an obvious choice. It is a lot trickier, a lot more difficult, to navigate outside of that environment.

Dr Watchirs: The thing about retribution is important. Even in non-education areas with disability, it is whether the relationship is ongoing. Once a relationship is severed, it is much easier to make a complaint. That is why we get lots of employment cases, and they are usually after the person has left. We will get a referral via a union or an NGO. In the disability area, people are coping with supporting not only the person with the disability but their whole family, and really it is a big ask of resources. We do have power to have own-motion complaints, but in practice the resources are non-existent for that.

MR HANSON: Thank you for coming today. In terms of your capacity—obviously you both have capacity issues, and I think we have heard that before from Dr Watchirs when talking about corrections and the ability to conduct reviews—are you able to quantify what additional resources you require? Have you put in budget submissions? What order of magnitude are we talking about in terms of staffing or other resources that you require that you think would then give you the capacity to do the full remit of what you feel that you should be doing?

Ms Durkin: In the corrections area, for example, I have been tracking the number of complaints that I deal with coming from the AMC because I have a complaints jurisdiction in relation to the health services there. We have been trying to quantify the number of additional complaints we have been dealing with that we have not been funded for, for the purposes of preparing for our annual report. I do not have those figures in my head at the moment.

MR HANSON: Sure, but have you been looking at specific areas? Obviously, we are talking about disability. I guess you do not break it down; that it would be difficult to say disability of children in education?

Ms Durkin: Yes.

MR HANSON: You have a broader remit and then you deal with complaints as they come in. It is difficult to quantify but I suppose I am talking about just specifically this area rather than the whole. Is it possible to break it down like that?

Ms Durkin: In the disability area, I would imagine that one more person at this stage would be really useful to try to get that message out there about what we are able to do and that we can take complaints, and as soon as you have the number of complaints increasing, therefore, that obviously will impact further on your resources. In the health area, which is irrelevant to this hearing, I could certainly do with two or three more people. I will quantify that in the annual report too.

Dr Watchirs: Similarly, in the human rights and discrimination area, I would at least need one officer to do own-motion cases as well as any kind of audit of disability in the education area.

MR HANSON: So you flagged that in the annual report. Did you put a budget submission in separately that was knocked back?

Ms Durkin: We put budget submissions in in relation to corrections, in relation to national registration of health professions, in relation to healthcare identifiers, and there was another one, I think.

Dr Watchirs: I have had budget bids every year in the job and I have never had a successful one, I have to say.

MR HANSON: So your staffing has remained static for how long? Has your staffing remained static for a period of time?

Ms Durkin: Yes, indeed. Since the commission was established, the number of staff in the health area has actually reduced while the number of complaints has increased. So the gap between resources and the workload is widening all the time. I have a remit to undertake commission-initiated considerations, like Helen was talking about audits. We do not have the capacity to do that at the moment. All we can deal with in that area is complaints.

MR HANSON: The issue of resourcing was discussed in your submission in that if you are not resourcing disability services—I think you mentioned autism—that might be a contravention of the act. Would it be true then to say that not resourcing the Human Rights Commission to do its job would be a contravention of the act?

Dr Watchirs: We are a public authority under the act. We are not fulfilling our mandate, possibly. But I think the more direct statement you could say is whether the department is fulfilling its obligations as a public authority, rather than us.

Ms Durkin: The other thing I was going to mention in relation to resources was that across the commission we share the services of one community education officer, so that also is an area where we could do with additional resourcing.

MS PORTER: I want to come back to the quantum of the complaints again. I was not sure from both of you what the quantum was as far as complaints were concerned. I know you said that you felt that you were not getting as many as there were out there and that when you have conversations with people there appear to be some things that you would welcome being brought to you. In your mind, what is the difference between what actually turns up and what is out there, if you have any idea of that? I just wanted to be reminded again of how many you receive versus how many you believe might be out there. Is it possible to answer that question?

Ms Durkin: In the disability services area, we have had 17 complaints in the financial year just finished. We had a number of inquiries—double that amount of inquiries—which do not turn into written complaints; so at least there could be double. It also has to be remembered that in a number of our other complaint areas they might pick up issues that could also be clarified as disability complaints. So the Children and Young People Commissioner might deal with an issue about bullying at school, but it might be a bullying at school issue because the child has a disability, so sometimes complaints that are dealt with in one area could just as easily be considered as a complaint in another area. A lot of my health services complaints from people with disability are about access to health services, and I am sure that Helen would have the number of discrimination complaints that are disability related.

Dr Watchirs: As I said, disability is the number one ground of complaint in all jurisdictions across Australia. I have not finished the annual report. I think there were 104 new complaints. I am not sure what the percentage would be. Probably 25 to 30 per cent would be disability. As I said, I have got the figures for the last two years. We had eight in the area of education but six were tertiary. That is because students are—

MS PORTER: Six of those were tertiary ones?

Dr Watchirs: Yes, university students.

MS PORTER: Do you have an idea of how many people have inquired, not necessarily making a complaint about your area, but have not followed through?

Dr Watchirs: I do not have those figures but I can provide them on notice if you would like.

MS PORTER: That would be good. Ms Durkin, in regard to the number of people who do not follow through, is that because sometimes in the conversation they believe their matter has been satisfactorily dealt with or they do not believe they have enough grounds? Why do they not pursue to the next point?

Ms Durkin: As I mentioned earlier, there is often a reluctance to complain because of the fear of repercussions. Sometimes, if we have capacity, we will follow up with people about their inquiries and say did they still want to pursue a complaint and they will say no, they have actually had the issue resolved. Often, in the health area in particular, we encourage people to go back and try to resolve the issue themselves in the first instance and then say, “Come back to us if you have not been able to resolve it.” Sometimes they might have been resolved and we have been unaware of it. Are there other reasons why people might not complain?

Ms Swan: I think this might be something that is particularly relevant within the disability area. The person who is making the complaint is either the person with a disability or they are often caring for a person with a disability. They have this added workload throughout their lives and there is, I guess, an impression from them that at times our process might be just another layer of work in their already very busy lives.

We do what we can, obviously, to alleviate that and to make it as streamlined as possible but that is something that I hear a lot from carers and individuals: “How many things am I going to have to write? How long is this going to take me? How many things do I need to read, analyse and respond to whilst I am living in this really precarious situation or experiencing the reason why I complained?” That is something I hear quite a lot when I talk to Mary. That would be a primary reason.

Ms Durkin: We have recently written to the Attorney-General recommending that the legislation be amended to enable people to put in complaints without requiring that they be in writing. The attorney has been quite positive to date in discussions about that and has asked his department to talk with us further about such amendments to make it easier for people with disabilities who have not got the time and energy to put in complaints.

THE CHAIR: Would it be a verbal complaint?

Ms Durkin: We could take telephone inquiries, clarified in writing by ourselves saying, “Is this exactly what you mean?” That would minimise the processes and complexity for people.

Dr Watchirs: We do have a duty to assist complainants to make a complaint. Often that means we will write out the complaint at the interview, sitting with them. Occasionally we will go to their home if that is the only way they can have access.

The other change we have made—and it started with Indigenous complaints—is that we offer early conciliation. They were so well received that we do that across the board. If both parties to a complaint want to have early conciliation, we can do that without going through the whole process of back and forth, “he says”, “she says”, and getting lawyers. I think that has been quite successful. Our annual report should show a growth in the number of conciliations conducted and their success.

MS PORTER: Do you think that will be more popular as time goes by but you will know more about that when you get good figures? Is that what you are saying?

Dr Watchirs: Yes, although the chicken and the egg is that if we get more complaints our process will get longer and longer and use up our resources.

MS PORTER: When you were talking about letting people know that you exist and how they can make a complaint or talk to you about whether or not they have a valid complaint, just clarifying it for them, how do you let the public know? What avenues have you got?

Dr Watchirs: The performance indicator is 4,000 occasions of service in terms of community engagement. That means we have formal training. We do a huge number per year. Last year we introduced user pays to cover costs. We have got a cost-recovery basis. We do quite a lot of media work. We put out press releases. There are fact sheets on the website. There is quite a lot of outreach work—the Aboriginal Justice Centre, Winnunga, NAIDOC. We had a stall for the Multicultural Festival. Mary has talked about other disability-specific ones. We have a community forum on International Human Rights Day. For a very small agency, we do a lot.

MR HANSON: Is user pays working? I appreciate you have to recover costs and you are working within a very constrained budget but a lot of people want to access information. People do not necessarily want to pay to access information.

Ms Durkin: We do not charge the community sector.

Dr Watchirs: We only charge the government and the private sector.

Ms Durkin: It is fair to say that some groups have found it very difficult to come to terms with paying for something that we used to provide for free but we do make the point that we are very cheap compared to a lot of other organisations in what we charge for training. We are no different from most other organisations. We do charge.

Dr Watchirs: We are actually training more rather than fewer people since we have started charging. In my view, that shows they value it.

MR HANSON: It is a government service that is being provided but we are charging people to understand it.

Dr Watchirs: We were the only jurisdiction who did not charge.

THE CHAIR: You charge the government and the private sector but not communities?

Dr Watchirs: Yes.

MR HANSON: It is not in the disability area specifically but it is an example. I know that when the health records legislation changed, if GPs wanted to find out about the changes in the legislation and how that was going to affect them, they had to come along to an information session and they had to pay. The government has changed the legislation and said basically, “If you want to find out about it, it is going to cost you.” A GP can probably afford it. It is not as though they want to pay but they can pay. In other service areas, is that going to have a similar effect on young people with a disability?

Ms Durkin: In relation to that particular issue, I have had an ongoing discussion with the Division of General Practice, ACT Health and the AMA. I agree. I think GPs can afford it. I have said that, while we are prepared on occasions to waive the fee for people who cannot afford it, this is not an occasion when I would be waiving the fee. I think it would be tax deductible.

The courses that we are going to provide for GPs are about their general obligations under the legislation, not just the changes. It is not just about there being some changes and the GPs have got to pay to find out about it; it is about their obligations under the act, which we have many complaints about. I think it would do GPs well to come along to the sessions and I think they will get their money's worth.

In relation to the disability sector, as I said, we will waive fees in appropriate circumstances. If people can demonstrate they are unable to pay, we will certainly consider that.

Dr Watchirs: I think it is fair to say that the training focuses on people knowing what their obligations are, whereas our general education debate is to engage the general public about what their rights are. It works both ways, obligations and rights, but training is definitely obligation focused.

THE CHAIR: I have a question for Dr Watchirs. You mentioned the definition of disability. You did not see there was a problem around that. Is that in relation to the education or the disability or in relation to the Disability Discrimination Act**?**

Dr Watchirs: It is purely in relation to discrimination under the ACT Discrimination Act or the federal Disability Discrimination Act.

THE CHAIR: One of the issues that have come up consistently across this inquiry is the definition of disability. It is primarily in relation to how it applies to education and what classifies the people to be able to access services in disability. One that has come up is that there are certain areas that do not necessarily fit into the definition. They do not classify. Is that an issue which you have seen or identified or is it one that has been raised with you when you have been in contact with community groups or parents? It is one that has been consistently raised throughout this inquiry as an issue.

Dr Watchirs: I think Professor Shaddock has raised it in our communications with him. Irrespective of the definitions in other legislation, if a person with a disability is not being accommodated properly, they would be caught by the Discrimination Act, no matter what.

THE CHAIR: If they had something that was not classified—

Dr Watchirs: Can I qualify that? Because it is a statutory obligation under section 30 of the Discrimination Act, exemption, that would affect it. If I can qualify my statement, it is important how it is defined in other legislation because that could be an exemption under section 30 of the Discrimination Act.

THE CHAIR: You mentioned the Shaddock review. You said you had discussions with him. Did you have any involvement in the review?

Dr Watchirs: Officers—Kelly Swan, Sean Costello—briefed him extensively and we did a submission to him as well as to this committee.

THE CHAIR: It was interesting that you mentioned that, by applying the Human Rights Act to education, private schools can opt in. Did you say that there have not been any to date who have opted in?

Dr Watchirs: Only NGOs—Companion House and Women's Legal Centre and another ethical research body. No schools.

THE CHAIR: No private schools?

Dr Watchirs: No.

MR HANSON: People falling through the cracks between departments is often an issue, and you are probably in a unique position to have a view on that, because you are looking at disability as an issue rather than, I guess, as an administrative construct. Have you seen that occurring in the complaints that you have received: where it seems that there is a situation of someone falling between the gaps—in this case between education and disability? Have you got a view on that?

Ms Durkin: From my perspective, as I said, we have had 17 complaints in the last year. From complaints, it is really hard to ascertain any trends. But, anecdotally and through inquiries, clearly that is a problem that people face all the time—where they are not sure where to go. That is why I mentioned before that having the information portal would be useful. I am not aware of any specific ones, but Kelly might be able to talk about some that have come up.

Ms Swan: Yes—not so much maybe education specifically, although I guess what we hear about sometimes is where a person has a dual diagnosis. So they may have a mental illness and also an intellectual disability, or two types of very specific and different needs, and the services may be there to cater for one of those needs but not both. So, in those situations, there will be gaps that people can fall through because there is a little bit of buck passing possibly, where one service will see that it is a role of another service to more capably deal with that individual and vice versa, and therefore the individual can be a bit left out of it as well. There would be those sorts of things, I suppose.

MR HANSON: I guess the portal is something that would provide that one-stop shop for people to understand who to go to—rather than at the moment that buck passing.

MS PORTER: So are you recommending that the portal covers more areas than it was planned to cover? Is that one issue?

Ms Durkin: I am not aware at this stage of the extent of coverage, so I was just saying, if it is only intended to cover services funded by Disability ACT, it would be good if it provided greater coverage of all services that are available in the disability area.

MS PORTER: Such as from the not-for-profit sector and the private sector: is that what you are suggesting?

Ms Swan: Federally funded as well as state funded.

MS PORTER: So federally funded programs?

Ms Durkin: So people in the ACT wanting a particular service in relation to a particular disability could just find out all the options available in one space.

THE CHAIR: It may not happen, with federal and state departments speaking separately. That was just a comment.

MS PORTER: That is fine.

THE CHAIR: Dr Watchirs, you mentioned the case in which there had been a nine-year delay in the decision. You said that was possibly having an impact on the complaints that were received about education. Was that complaint specifically—I am aware of the case you are referring to and I should be aware of this—about an education service or about an actual disability service?

Dr Watchirs: It was actually previous to primary school and, when the decision came down, I think he was finishing high school or college. Then he died in a group home at the age of 18—two years ago. There was some media coverage of the shocking delay.

THE CHAIR: Yes, it was just that I was trying to recall whether or not it was about an education or a disability service.

Dr Watchirs: It may have been both, but I am focusing on the education side.

THE CHAIR: This relates to both Dr Watchirs and Ms Durkin. You did raise the matter of post-school options being an issue. This was one of the things which has been very consistent throughout these hearings as well—the issue of those post-school options and students, when they are finishing school, actually going on to something meaningful. You mentioned that primarily in relation to the situation as soon as education is completed and tertiary education, but one of the things that has also been identified is that some of those institutions like CIT are actually playing a greater role as well in the post-school thing. Is that something that comes under, I guess, the post-school options and does the need to be providing those sorts of services also come under the human rights framework?

Dr Watchirs: Certainly, we get far more complaints against tertiary institutions than primary schools or high schools or colleges. In terms of non-educational options, it could possibly be described as a service of government, but I do not have a view of the systemic issues. It is just what anecdotally we have heard from people.

THE CHAIR: Ms Durkin, is that the same with you? Is that an issue that has been raised with you as well? Have you noticed that being a key issue? Is that something anecdotally that you have heard?

Ms Durkin: It has been anecdotally something we have heard. In terms of the commission's role, I would only have a role in terms of Disability and Community Services Commissioner's functions if there were specific services provided for people with disabilities post the school sector. I do not actually have a role unless they ask for specific services. So if there are mainstream services that people with disabilities happen to access, it would not be something that I would hear about. It would be more something that Helen would hear about, if there were a discrimination complaint about accessing those services. So, yes, it is not something that has been on my radar in terms of the complaints that we received.

MR HANSON: We got some people who were saying that there is a real problem with this. Their children with a disability have been required to leave at the age of 18, but there is nowhere for them to go to access the same sorts of services. Does that fall under the act in terms of discrimination? Can you discriminate on age in that regard, if someone has basically been told, “You no longer have access to these services,” basically on the fact that they leave at the age of 18? Is there any fallback on the department to say, “That is in breach of the act,” at all, because you have the school wanting to move people on because they cannot keep them forever?

Ms Swan: Why they are not receiving resources is not usually on an age basis, though. That is my understanding. It is more a lack of availability of services and a lack of funding on the part of the government to be able to provide the packages of funding that are required for individuals to get that level of service. They are getting five days of school from whatever—8.30 until 3.30, or maybe even longer—and then they are looking at a situation where they may only have a small handful of hours spread across two or three days. So it is about how you fill that gap. I do not think it is about services discriminating on the basis of the age of people.

MR HANSON: I am trying to think, because there is the recourse to the carers, and that is usually to say, “We want our child to stay at that school until they are 20,” for example. You could argue whether that is reasonable or not—there is a point at which it would be unreasonable—but whether they have provision under the act to say, “Well, because there aren’t any services elsewhere being provided, they should be able to stay for an additional period of time through intellectual disability,” or whatever the problem is, is a difficult one. It is difficult for those parents who want the kids to stay, but, of course, it is difficult for the schools as well that do not want to be there caring for adults.

Ms Swan: Absolutely.

Dr Watchirs: I do not want to pre-empt an actual case, but this would be a good example of the unjustifiable hardship exemption working. If, by keeping people to 20, that means they cannot take more students, I would have thought that exemption would be made out. But I think it is a very good example of where there is a gap. They are providing a service and, after the age of 19, it appears that there is not another service and you cannot complain against a non-existent service.

MR HANSON: Indeed, and I think that is right. It is just that the parents are looking for a recourse, saying, “What on earth do we do?” It is a difficult situation.

THE CHAIR: Thank you very much for your time. A copy of the transcript of today’s hearing will be sent to you so that you can check it for accuracy.

Meeting adjourned from 2.51 to 4.31 pm.

BARR, MR ANDREW, Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation and Minister for Gaming and Racing
COLLIS, DR MARK, Executive Director—School Improvement, Aboriginal and Torres Strait Islander and Student Support, Department of Education and Training

THE CHAIR: Thank you, minister, for appearing before the committee today for the inquiry into the needs of students with a disability. Obviously, we have heard from departmental officials previously, but we thought it would be a useful opportunity to ask you a couple of questions and clarify a couple of matters that have come up. Before we go to questions, minister, would you like to make a statement?

Mr Barr: No.

THE CHAIR: We will go to questions. The committee sent you a letter flagging a couple of items that we specifically wanted to seek some clarity around. Some clarity was needed in terms of Black Mountain, with the reduction in the school leaving age there. I believe that at the Woden school there has been an increase; is that correct?

Mr Barr: Yes, an extension for year 11 and 12.

THE CHAIR: We wanted to get some clarity around that. We had raised the issue of some parents receiving a short time frame or notification in terms of when students were going to have to finish up at Black Mountain. I think it was raised at estimates, and some clarity was sought about the time frame for parents to be notified about when students would have to leave. Those were the matters, first off, that we wanted to get some clarity around.

Mr Barr: Yes, I can confirm that the Woden school is adding year 11 and 12. That clarifies that issue. In relation to Black Mountain, year 14 is not available beyond 2014.

THE CHAIR: One of the issues was around the notification period that parents are being provided with in terms of the person they care for, their son or daughter, being asked to leave the school.

Mr Barr: I understand that it was first raised in 2007. So effectively we cover the entire cohort of the school, with 2014 being the operative—

THE CHAIR: For example, if someone's child was at Black Mountain and they were in—

Mr Barr: Year 7 in 2007.

THE CHAIR: Yes, so they would be—

Mr Barr: Continuing through until 2014. It is effectively a grandfathering; everyone who was existing within the school could continue under the arrangements that they were in when they entered the school, but new enrolments from—

MS PORTER: That is right, so new enrolments from 2008—

Mr Barr: It is a seven-year phase-in.

MS PORTER: New enrolments from 2008 would not have an expectation—

Mr Barr: Of year 14. Year 13 remains available, as it does for all students in the education system. But that is an educational assessment, not an age-based assessment.

THE CHAIR: When you say an educational assessment, in relation to Black Mountain, how would that assessment then—

Mr Barr: Any student who does not have a great year 12 has the option to undertake effectively a year 13.

THE CHAIR: This is probably going back to some of what parents and carers have been telling us through this inquiry process, and whether or not it is a need that should be considered: "What is going to happen to our child once they leave year 12?"

Mr Barr: I understand that the bigger issue here is post-school options. So the department has been working with other ACT government agencies and non-government service providers in relation to expanding the range of opportunities for post-school destinations for students from Black Mountain, and from other settings as well.

THE CHAIR: Obviously, it is a plan which is being worked on and there is further work occurring around that. For a student who is not in the grandfathering arrangements, in terms of someone who might be leaving Black Mountain and who is not going on to year 13 next year, what arrangements are there now for some students who are leaving? We did receive some information on particular programs that were there. One of the things that we raised previously, when you were here before, was about working with other institutions such as CIT to work out further options. Is that a part of the plan that has been worked on to provide some of those more meaningful opportunities for students?

Mr Barr: Mark might like to comment further.

THE CHAIR: I know you are working on a plan. Just to clarify, this is in relation to questions asked during the estimates process. There is probably still a lack of clarity. I appreciate that we talked about what those post-school options plans will be, and there are programs funded through other organisations. But what is the actual plan, now that we are going to have a situation where there will be students leaving, and probably greater numbers of students leaving?

Dr Collis: The options provided by the Department of Disability, Housing and Community Services work around two potential options; that is, the employment options and then social placement opportunities. In the last two years, if we look at what happens when young people graduate from there now, in 2008—I do not have the precise number—I know that half of those went into supported employment and half went into other community social placement options. As you would appreciate, there is always uncertainty about that. That is one of the challenges of working with the severe and complex needs of young people, and helping their families to make decisions about the outcome.

This was addressed in estimates in regard to the Department of Disability, Housing and Community Services. They have invested quite a significant amount into the process of post-school options. We are now engaging with officers from Disability ACT earlier in the school system, and eventually we hope that we will be engaging with those officers from year 7, walking shoulder to shoulder with the families through that decision-making process, which is not easy. The outcomes for young people vary, depending on the educational process.

In regard to what precise service will be in place in 2014, it is very difficult to say, because of the changing profile of the students concerned. I know that Disability ACT have been working on developing a whole lot of flexible packages that can be changed, having regard to the circumstances of individual families as they come through.

THE CHAIR: Are the increasing numbers being factored into plans?

Dr Collis: Yes.

THE CHAIR: I know that it is very difficult because there will be different needs and different complexities. Has that been worked into what service provision will be required in 2014?

Dr Collis: That is correct. In the last 18 months, a committee has been set up to look at post-school options, not just for Black Mountain but for all young people with disabilities in the ACT. With Black Mountain, of course, a major body of work was engaged there. On that committee is Lois Ford from Disability ACT. We have been working very closely on those options. There are tenders out at the moment regarding work experience and work placements for young people with severe disabilities. That is extra funding we are putting into that area to address that very circumstance. We need to get young people who are better prepared earlier to take advantage of employment options, where employment options are appropriate, or much more prepared for social placement options, where employment options are not necessarily the choice. Disability ACT have also invested quite significantly in those programs for years 11, 12 and 13-14, to prepare the way for this.

THE CHAIR: The Woden school are involved in that committee?

Dr Collis: The Woden school are involved in part, but they will come on board now that next year they will have year 11, so obviously with the students concerned.

THE CHAIR: Existing organisations like Koomarri provide a number of programs which might be relevant to each of those schools. Are they also involved in the process?

Dr Collis: On that committee is a representative from providers across the ACT and there is a network of providers which operate and which information is provided out towards, but also Disability ACT are in contact with all of the providers that are available through their funding processes.

THE CHAIR: I was just interested to know about Koomarri because they provide fairly significant programs that would be relevant post-school options for students. They do not have any direct involvement other than through that one community representative provider?

Dr Collis: Through their representation on that body. No, they are not directly on that.

MR HANSON: Welcome back. It is good to have you here, minister.

Mr Barr: It is always a pleasure.

MR HANSON: I imagine. I have a couple of quick follow-ups from when you were last here. We discussed the response to the options that were provided in the Shaddock review and I was advised that you were preparing basically a strategic response rather than individually—you were going to put them together and have a strategic response—and the time frame, as I understand it, was about midyear that you were going to have that together. Have you got an update on when you might be in a position to present that strategic response?

Mr Barr: Shortly.

MR HANSON: Okay. I am just trying to find out where we are at.

Mr Barr: Not far away.

MR HANSON: You can keep us guessing then; fair enough. The other one was in terms of the concept of the one-stop shop, which Shaddock put forward in view of assessments and it is something in coordination between education and disability and maybe other departments as well. Have you looked at that one specifically and is that going to be included in the strategic response that we will see shortly, or are you able to—

Mr Barr: You are asking me to pre-empt the soon to be released—

MR HANSON: I know you would never do that, minister, but if you were in a position—maybe if you are in a position—

Mr Barr: Even if I was in a position to be making pre-emptive announcements, would I be making them this afternoon? Probably not. However, certainly we are considering a number of elements of the Shaddock review that require further and more detailed longer term consideration. There are some that can be and have been implemented, but as a rough rule of thumb I understand about two-thirds of the 62 options are underway or quite well progressed. There are 13 that have been considered for more—

MR HANSON: Sir Humphrey would be proud of you, minister.

Mr Barr: Indeed, yes. So we are working our way through those issues.

MR HANSON: In due course—

Mr Barr: In the fullness of time, at the appropriate juncture, there will be further announcements, Mr Hanson, yes.

MR HANSON: Excellent. That is very clear then. Thank you very much, minister.

Mr Barr: My pleasure.

MS PORTER: Can I just go back to the decision that is made about a young person going on to year 13 if it is educationally appropriate. What are the benchmarks that you use? I know it is very individual, but obviously these young people with disabilities do have some particular challenges as far as their education is concerned and they are not there for a young person in a mainstream school. I would imagine it would be very difficult to judge at what point you make that decision and how you make that decision.

Dr Collis: It is a very important question because what we would be working around would be the individual learning plan of the young person, which at that stage would be very much focused on what their future life would be about. In making a decision about that, we would be looking at learning goals that we could conceivably achieve in the next 12 months that would benefit the young person in future life. The ILP process, the planning process and the assessment of the ILP are essentially the mechanism. So there would not be a benchmark generally that would be the criterion but they would be benchmarked against the individual young person and particularly in terms of what the agreed outcomes were about what was being achieved. For example, with a very complex and severe needs student, it might be decided that there would be a wider range of social placements available if we could allow the young person to be able to express their choices around food, drink and so forth. So it may be that we would like to spend longer interacting with technology that would allow that person to do that. That would be an example, but it would not be the only example.

The flipside of that would be around: when wouldn't it be an educational outcome? I guess this is from both the experience we have and the research. There comes a point in any schooling where schooling is not the place for the young person to be. In many ways our post-school option, which is not going to start at the end of schooling but at the end of year 7 and that is why we are putting in place work experiences in years 8 and 9, is moving to a position of getting young people into these placements and determining what are the functional skills that we need to teach. So those placements are going to tell us in school what we should be focusing on and so forth. But there does come a point where schooling actually does get in the road, where you have to move on. But those decisions that we would make would be around the individual learning plan.

MS HUNTER: I would like to ask some questions around after-school care and what options were available for children with disabilities. We know that in primary schools there is an after-school program that is available; but, of course, most students, once they get into high school, are 13 or so and they are able to go home and so forth. But for students with disabilities it is a different matter and it has been an issue that has been raised with me by parents, some of whom are having to consider giving up or have had to give up their job because there is no after-school care available for their children in those high school years. What is available and has there been any discussion about this as an issue that needs to be addressed?

Dr Collis: Yes, it is an issue, and it is an issue that particularly Disability ACT are across. In terms of taking responsibility for managing this process right across the ACT schooling system itself, they are not directly involved or have been only in a very small way at Noah's Ark—for the after-school care program there, which is now essentially being funded via Disability ACT, as they look at the need for these services right across the community and at what sort of support there is.

Again, you are quite correct: the access to after-school care for young people in primary school is a different matter from when they get to high school. However, there are significant numbers of young people with disabilities who are getting after-school care via places like the Woden Youth Centre. There are programs there which run. There are significant amounts of capacity across the system in terms of working through the youth centre programs. What is different. I understand—and I am not an expert because this is an area of interest for Disability ACT—is that the funding arrangements change from primary school to secondary school—that is, the commonwealth arrangements—in terms of the support around that. So, at this point, I would be more than happy to take a question on notice in terms of actual precise numbers for after-school care, but we are not actually directly involved in that educational system.

MS HUNTER: I do understand that quite often that would be run by community organisations who are then operating out of, say, a primary school. They have a hall, or whatever. Some are still parent-controlled, but for many they have gone to other community organisations to run them. But it would be good to know what is available out there and whether it is actually meeting the need, because I think it is a growing area that is not going to go away and that has not really been at the top of the agenda to date.

Dr Collis: I appreciate that, and I think the work we have done with Disability ACT around the program at Noah's Ark, for example, is the start of Disability ACT looking at this as a holistic priority. So at this time I would be more than happy to get the data from it for you.

MS HUNTER: Thanks, Dr Collis. I guess it takes me on to the issue of how things are working across departments—because we have education and training, but then, of course, we have Disability ACT over at DHCS and we have Therapy ACT over at DHCS—and how these things work together and where sometimes it may not always work as well as it should. Minister, from the ACT government's point of view, do you see this as an ongoing issue—or how do you grapple with this need to be working across departments? What are you doing?

Mr Barr: There is sometimes overlapping service provision and then there are areas that, while they have not been neglected, are not able to be given the full level of service. We have some fairly recent and high-profile examples of this, where there is a grey area—a crossover—where there is provision by the public sector, there is community sector provision, there is some duplication and, as a result of that duplication, an inability then to provide additional services in other areas that we have identified as priorities.

So, as in the delivery of all government programs, there are trade-offs, in that you cannot fund everything to the full extent that you would like to be able to do across all agencies. One of the exercises that government has engaged in is looking to better align our government service provision and the funding we then provide to non-government organisations so that there is complementary service provision rather than duplication. So the capacity now to provide extended services, as we have discussed, around work experience, for example, goes to address some unmet need, but in order to do that, we have to ensure that we are allocating sufficient resources to that area of priority and looking then at what other services are provided by other agencies.

So a better delineation between departments in terms of responsibility—and, clearly, lines of accountability—is important. Having memorandums of understanding about service delivery—between, for example, the department and Therapy ACT—is clearly important and, going back to our *Yes, Minister* analogies, establishing the dreaded interdepartmental committees that are nonetheless important in addressing where there might be a handover of service responsibilities.

MS HUNTER: I guess also, when you are wanting an integrated system in a way that might go across departments, or collaboration between services, or some continuity, which means communication and ways that you are going to engage, how do you—

Mr Barr: Certainly, you want to avoid a situation where no agency claims responsibility, if you like. That is surely something that—

MS HUNTER: Or that you get the best out of a program because there is that sort of corporate collaboration and the left hand knows what the right hand is doing and how it fits together.

Mr Barr: Sure, but then at times that can involve adjustments and difficult processes, in order to better align that service delivery. And, as I said, we have had some fairly high-profile instances of that in recent times. We certainly own up to the clunkiness of the tender process and it being delayed causing a problem in recent times. But this goes to the heart of the question you have asked around where additional need and unmet need is identified and how we can respond to that while seeking to ensure that we are streamlined in our service delivery in other areas and that, where we are providing funding outside of government, it is for services that are complementary and that, across the range of service provision and the range of government and non-government agencies, we are, with the resources we have got, providing the fullest range of services we can. From the consumers' perspective, though, they do not care who provides the service.

MS HUNTER: No, and it is from the consumers' perspective, I guess, that I am coming. It is not necessarily about a recent high-profile case at all; it is more that, from the consumers' point of view, they want to see seamless delivery rather than too many places to go and seek help.

Mr Barr: And I understand that, and that is clearly a responsibility for government in terms of its own agencies and also the alignment of services that are tendered to the non-government sector. Clearly, we are undergoing a reform process at the moment to try to do this better, to avoid that duplication and to provide additional services in areas of unmet need. That is what we are attempting to do. I am hopeful that, as a result of providing some more transition funding, we will get to a point where, across the range of services that we want to provide, we have the right mix of government and non-government service provision and each of the government agencies that are involved has a far better understanding of their respective roles and a far better understanding of how their roles partner with non-government service providers, and, from the consumers' perspective, we have the range of services that they expect, all the way through from early intervention to post-school options.

It is complex, because it does involve a number of different service providers, but the goal in terms of the reform agenda here is to streamline that process, recognising that, in terms of clients and people who utilise the services, their priority is that the service is there. They are a little bit less interested in which agency delivers it and what the tender arrangements are and what the time frame for service delivery is et cetera.

MS HUNTER: I guess I really wanted to get more to the point of government agencies working together, rather than necessarily the non-government agencies. I will give an example, and that is the interaction between Therapy ACT and schools. Thank you, I went to visit Cranleigh today—and a great school it is too, with some fantastic programs. I am just wondering, if a child goes to get some therapy through Therapy ACT, what is the connection between what happens there and what the classroom teacher knows is going on. Who contacts whom to say, "Right, well, this is the new device that this child is using or this is the new therapy that we are putting in place for these reasons," to tell the classroom teacher so that then it is not only going to happen at home, it is going to be happening in the classroom? Is that the parents' responsibility or is it at the moment that there is some communication line between, say, Therapy ACT and the classroom teacher to get that going?

Mr Barr: I will get Dr Collis to answer in a moment. I just want to say that, as a general statement, in an ideal world, you would want that level of communication to be effectively there between the government agencies, but involving parents too. Clearly, it is critical in the information sharing across all the agencies providing services and the families who are receiving services, that the more information there is, the better, clearly. But in terms of—

MS HUNTER: But just to understand, how should that communication happen?

Dr Collis: Currently, Therapy ACT's model of service provision has the family as the main client. That is how it is referred in. Schools do not actually refer in as such. If the child is of school age then Therapy ACT works with the school around programs. It also visits the school and works in that way.

MS HUNTER: How often does that happen, Dr Collis? Is that a regular thing? Is it on a needs basis?

Dr Collis: Yes, it is on a needs basis and it happens quite regularly, particularly in special schools. Therapy is frequently a part of the curriculum of the young person. It is an essential component of the program. The review of special ed in ACT schools, of course, pointed out that this was probably a bumpy part of our service. Without pre-empting—

MS HUNTER: A certain document that will be released in the goodness of time, yes.

Dr Collis: a certain document that has not been released yet, it is the case that work had commenced even prior to the end of the review between Therapy ACT and the Department of Education and Training to look at the models of service delivery from Therapy ACT to better support classroom teachers. The issue is that under the old model it can sometimes be very difficult for a teacher to integrate all the information. If you are dealing with four or five students who have therapy programs and they have come to them individually, it does not have an easy educational translation. Therapy ACT has been working with us to look at another model whereby it would provide service directly to teachers to help better embed the therapy into the program for the class.

We are considering models at the moment where we are looking at learning support assistance becoming therapy assistance. The actual hands-on therapy might be provided by learning support assistance but the therapist input is more focused on the teachers program and skilling the teacher, leaving the teacher better able to use this new communication assistance so that when the next child comes along they have that ability. Currently, as I said, it is a family-based system. As the children move into schools, the therapists follow the child, if you like, into the school and the supports. We are looking at moving to a model where the therapy is designed to support the teachers program directly up-front.

MS HUNTER: Is there an argument to have therapists based in schools and a therapy team there? As you say, you may have a class of five but there are some very complex needs there and it takes up quite a bit of time to work with all the children. Could that be a model, where you have some therapy teams that are based in schools? They could be across a number of classes and know the children and they could ensure that teachers have someone there who can back them up or give them information or support them in doing what they are doing.

Dr Collis: Therapy provision is fairly consistent in most of our special schools. As to whether they are seen as based in schools or based in Therapy ACT, that is a question about how you divide the cake, I guess. There are a lot of different views around that. Certainly I would say that there is an agreement from Therapy ACT that their involvement in the day-to-day operations of schools needs to be beefed up and worked out. It may not be therapists alone that are the answer to this. It may be how we reorganise the work we do within a school. For example, if we go to Malkara, which has a very heavy communication-based program—it has a lot of needs around speech pathology and communication devices—specialist teachers become very skilled in being trained up to do that. We can reorganise our own capacities within schools in order to make sure that that skill base goes right across the whole school.

In terms of the argument about should therapists be based in the schools or should they be based elsewhere, I do not think that matters. What matters is that we get the actual advice to the right person at the right time. It is clear, in contemporary use of therapy in schools, that the right person is the classroom teacher and the right time is when the classroom teacher is designing a program and a plan for their class.

MS HUNTER: Do you find that there are not enough therapists? We have heard over time about the lack of speech therapists. We have been told by Therapy ACT that there is ongoing recruitment, but I understand from families and teachers that there still seems to be a shortage in that area. From the education department's point of view, minister, are you concerned that there seems to be a bit of an ongoing shortage in this area? We are going to need those specialist skills. There seems to be an ongoing issue about being able to fill those jobs.

Mr Barr: I do not think it would be isolated to therapists. In so many areas of highly skilled professions in the territory we have shortages.

MS HUNTER: Yes, but at the moment we are looking at children. Communication is a pretty important part of being able to gain a lot of skills or to be able to get on in life, I guess. I am wondering whether there has been any concern from you around that lack of being able to fill those jobs and keep hold of those particular skills.

Mr Barr: I am sorry; concern expressed to me or—

MS HUNTER: Concern that you have expressed maybe to Minister Burch around what is happening with recruitment through Therapy ACT.

Mr Barr: I cannot say that that has been something that has been brought to my attention as a critical skill shortage. There are other areas within the territory economy, areas of identified skills shortage, which clearly go across a range of professions. This is certainly not one that has been brought to me as being a critical failure of service delivery. Of course, being able to fill all available and budgeted positions would be desirable, but I think there are so many areas of service provision, including health, provided by both government and non-government service providers, where there is a skills shortage. It is an issue that this community and this country face and it is quite apparent. I would not say that this area is any better or any worse than many other areas where we have a challenge in terms of finding skilled people to fill a range of positions. I have got the same issue in the planning portfolio. I do not have enough skilled town planners to fill all of the available jobs that the planning authority has.

MS HUNTER: Actually there are more planning nerds out there, minister.

Mr Barr: Indeed. This feeds into a bigger challenge for the training portfolio, and indeed for our city and the debate about what is an appropriate population. All of those issues feed into this.

MS HUNTER: Is there also an issue around being able to attract and retain teachers in the particular units that are across the mainstream schools and also the special schools? I am just wondering whether that goes back to university and training and streaming people through. Do we have a bit of an issue there about being able to attract and retain?

Mr Barr: As I understand it, there are three or four areas that we often have difficulty with when filling positions in our first round of teacher recruitment. This is one. Languages, maths and science at a high school level have traditionally been a challenge. By the time the recruitment process is finished, we have generally been able to fill all positions and meet all the need. But that is not to say that does not become a challenging process from time to time. Again, we would not be the only jurisdiction with that difficulty.

I suppose one of the opportunities that come from our work with our higher education providers and in the higher education reform agenda that the commonwealth are driving is to look at what we are going to do to encourage more people into those courses and then, ultimately, to be able to enter those professionals into the workforce in the years ahead, recognising, of course, that there is a period of time that people must devote to the study before they will be able to emerge from the education and training system as qualified to work in those areas. I put that in the category of a medium-term policy solution.

We have seen some practical examples in other areas of identified skill shortage where the commonwealth, in partnership with the state and territory governments, has been able to invest in fee waivers, HECS reductions and a range of incentives to try to attract more people into particular courses of study and then on to particular professional opportunities. It becomes a bit of a challenge when you have to do that across such a wide range of occupations.

The capacity to target specific areas becomes very difficult when there are so many areas of skill shortage. That really goes to the broader national question of how we lift our overall level of skills attainment to ensure we will have people qualified in the areas that we recognise we will need extra people in—aged care, childcare, therapy services. It is a very long list at the moment. That is why it is a mistake for federal governments to cut back on training provision and to cut back on funding for our higher education institutions, as we saw so significantly in the period 1996 to 2007.

MS HUNTER: Thank you for that history lesson.

Mr Barr: It being week one of the federal campaign, I thought it worth putting that on the record.

MS HUNTER: What professional development, what training, is given to a teacher who has a teaching degree and who has been teaching for some time in mainstream schools? What support, what PD, is given so that they can take on this role in a special school or within a unit of a special school? I think you touched on it before, Dr Collis.

Dr Collis: First of all, there is the induction, as you would appreciate, into the site. A specialist school or a learning support unit is unique. There is specific professional learning that would occur at the site.

Currently, we have just developed and are starting to roll out what is called the essential skills for learning support unit teachers, which is a first for the commonwealth in many respects in terms of looking at a training package, particularly for teachers who are working in learning support classes. This would be applicable also to teachers in specialist schools. There is that. It is built into the professional learning experience that a school would have planned for and developed as part of their professional learning plan. Then the essential skills would be system-wide that everyone has access to.

The other key element would be the area of specialised skills. From time to time people need to have skills and professional learning in the use of a particular technology's equipment. That kind of learning usually happens on the basis of identifying the needs of students in a particular cohort—a particular communication device. We will provide a teacher with specialised training around those levels of need.

There are three levels. There is the system-wide training. There is the planning that any school would do to update the skills of their staff. There is also that particular skill-based focus. We have had and will continue to have support for our teachers to do further training, to develop qualifications at a university. We have had and will almost certainly continue to have a relationship with the University of Canberra around formalised training. We have had, not this year as we move forward, to look in more detail at the need that we have developed scholarships for for teachers to do those training courses.

THE CHAIR: I have a question in relation to the submission the government made to this inquiry. We have a copy of the disability criteria for ACT students. You have referred to it. It is used to look at resource allocation and to determine placements in special settings. The copy we have is the 2004 interim criteria. Are they still interim criteria?

Dr Collis: Yes.

THE CHAIR: There are no plans to review these criteria? That may happen?

Dr Collis: I would suggest that in 2004 the fact they were called interim probably meant they were liable to be relooked at over time. Yes, these will need to be looked at. There is an agenda afoot. I am at a meeting on Friday week of the working group to look at standardising the national definition for disability in education. The holy grail in this area of disability education is, in fact, this. It would be premature to move on these. I guess that is why they are still interim.

I probably need to point out that there is often a common misunderstanding about the disability criteria. These criteria relate to the eligibility for targeted resourcing. I notice that was picked up in the question. Frequently that is not. There are young people who would have a disability and sit outside these criteria and who, in fact, are getting education and support in other ways than the targeted funding program. These sit around the criteria for eligibility for the targeted funding program of the department.

THE CHAIR: As you said, you are waiting for that national process to occur before there would be any review of the criteria?

Dr Collis: I think we have to wait to see the outcome of the national perspective on that before I address it. Certainly, I would be advising the minister that we would not want to be jumping into changing these or moving into a process of reviewing these until we found out where the national agenda was going.

THE CHAIR: I hesitate to ask this. Is there a time frame?

Dr Collis: The only time frame I know is that there is a meeting in Melbourne on 30 July and I am attending it all day. I would assume there would be time lines put forward around that and scoping. At the moment, I do not think that whole area has been scoped completely clearly. We do not exactly know the scope of the definitions.

Mr Barr: To close off on the subject of the government submission, there are some parent satisfaction surveys in the government submission that related to the 2008-09 survey. We now have new data for 2009-10, which I can provide to the committee. Pleasingly, the number of surveys that were returned indicate the overall satisfaction rate increased for 2009-10. Last year, 475 surveys came back. This year, 515 came back.

Of the 515 surveys, 472 indicated moderate or very high satisfaction levels; 43 indicated moderate or very high levels of dissatisfaction. The overall satisfaction rate for parents was at 92 per cent. In the previous survey the year before, it was at 89 per cent. So there has been a three percentage point increase in parental satisfaction. I can provide the detail of that to the committee.

THE CHAIR: Are there any further questions?

MR HANSON: No.

MS HUNTER: No, thank you.

THE CHAIR: Thank you, minister and Dr Collis, for coming today. A copy of the transcript of today’s hearing will be provided by the secretary. Thank you once again for appearing today.

The committee adjourned at 5.22 pm.