



Legislative Council Legal and Social Issues Committee

Inquiry: Inquiry into the state education system in Victoria

Hearing Date: 17 April 2024

Question[s] taken on notice

Directed to: Commission for Children and Young People

Received Date: 20 May 2024

1. **Renee HEATH, page 42-43**

Question Asked to Missi Joyce:

I guess the question on notice would be: what supports should we be advocating for so you are not coming in – I would imagine you would have all this stuff in the background going on, so what are the supports we can provide to support you to really do well at school? You can probably take that on notice, meaning you can answer it later if you want.

Missi JOYCE: I might have to think about it. That is a big question, yes.

Response: See below

2. **Renee HEATH, page 42-43**

Question Asked to Jasmine Mallett:

Yes, that is absolutely fine. It is big question. And the same with you, Jasmine.

I guess the question on notice would be: what supports should we be advocating for so you are not coming in – I would imagine you would have all this stuff in the background going on, so what are the supports we can provide to support you to really do well at school? You can probably take that on notice, meaning you can answer it later if you want.

Response:

In considering our response to this question, we decided to discuss supports that are important for all children and young people living in out-of-home care to do well at school. To start with, two important things, especially for teachers, is to show compassion and to understand the care system, including that life outside of school is most likely not great for these students due to system flaws. Taking the time to understand this can make the world of difference.

Other important supports include ensuring that children and young people in care have financial assistance to access the resources and materials they need, including school uniforms, books, technology, and public transport. Also, to do well at school, children and young people in care

need a supportive home, which means a stable placement and a home where they feel happy and cared for. This is not always available, with many children and young people in care experiencing placement instability.

All the recommendations to the Victorian Government in *Let us learn: Systemic inquiry into the educational experiences of children and young people in out-of-home care* aim to drive major improvements in not only Victoria's education's system but also the child protection and out-of-home-care systems, to better support children and young people in care to engage and do well at school.

3. **Moira DEEMING, page 43**

Question Asked to Missi JOYCE:

One of the issues I had as a teacher when I had a kid with a specific issue was being careful around that child's privacy and how to look after that kid without breaching that kid's privacy. I was just wondering about a process about how we can actually let teachers know that they have got a child in care that has got a particular trauma without breaching that privacy. What would be a good system for that? If you have any recommendations.

Response:

The *Children, Youth and Families Act 2005* permits the sharing of information that is relevant to the safety and development of children and young people. The Department of Education has policies, such as the Schools' Privacy Policy, that also allow for effective information sharing to support students, including those living in out-of-home care. Another mechanism is the *Child Information Sharing Scheme (CISS)*, which enables authorised professionals to share information to promote children's wellbeing and safety.

The Victorian Government's *Out-of-Home Care Education Commitment (Partnering Agreement)* and the *Early Childhood Agreement for Children in Out-of-Home Care (Early Childhood Agreement)* specifically outline key responsibilities of early childhood education services, schools, case managers, care managers and carers in sharing relevant and updated information with one another. This might include, where appropriate, sharing information with a child's teacher about their care arrangements. Also, under the Partnering Agreement, a key requirement of schools is to assign a teaching staff member as the 'Designated Teacher' who would have access to relevant information about all children and young people in care enrolled at their school. The Designated Teacher has a key role in advocating for and supporting these children and young people's engagement in education and to meet their learning goals.

4. **Moira DEEMING, page 43**

Question Asked to Missi JOYCE:

The second one is: I was really moved to hear that when you learned about yourself and your trauma and what was going on for you that was so helpful. I was thinking about maybe if you have any recommendations for how we can get trauma-informed training for teachers and for the traumatised children so that when they come into that education environment they are actually working as a team – they are able to have some tools to recognise their own triggers or what is going on for them so that they can work together as a team, so it is not so disjointed. You can take it on notice, but I would love to hear your input on that.

Missi JOYCE: Yes. I have to think about it.

Response:

Throughout consultations for the *Let us learn* report, both children and young people and stakeholders commonly raised the role of trauma, and the education system's failure to understand it, in contributing to educational disengagement. The Commission also heard that inappropriate responses from principals and teachers often led to either an escalation in challenging behaviours or students pulling away from activities and ultimately from school.

Many of the children and young people in care spoke directly about the impact of their experiences of trauma on their schooling, including the difficulties to focus on learning when they were worried about so many other things in their life. Some children and young people gave examples of teachers not understanding or recognising the impact of their experiences of trauma. Importantly, they raised that they want trauma-informed approaches in schools to help them to feel secure, to stay engaged, and achieve positive outcomes at school.

Key recommendations in the *Let us learn* report that aim to strengthen teachers and classroom support for children and young people in care include:

- requiring school leadership teams to participate in training to improve their understanding of the out-of-home care system and the experiences of children and young people in care
- trauma-informed teaching practices to be incorporated into teacher training
- government schools adopting 'whole school' approaches to trauma that require trauma-informed practices to be embedded throughout school environments
- supporting Aboriginal children and young people to report racism, and schools responding appropriately when they do
- strengthening educational supports to Aboriginal students in care.

Additional Questions on Notice from Melina BATH

5. Question Asked:

Do you think CCYP is influential in your outcomes pertaining to Report Recommendations to State Government?

Response:

For all systemic inquiries completed by the Commission since 2018, we receive regular reports from relevant departments about their implementation of our inquiries' recommendations and we assess progress of actions. Departmental updates and our assessments are published annually to ensure transparency (see <https://ccyp.vic.gov.au/about-us/annual-reports/>).

Over the years, we have welcomed action by the Victorian Government on many of our recommendations. Recent examples of this are outlined in 2022-23 Annual Report, some of which include:

- Child Protection updating practice advice and embedding the 'voice of the child' more explicitly into its new risk assessment framework, SAFER, requiring children's voice, views and wishes to be considered across all child protection phases.
- \$548.4 million investment in the 2023–24 State Budget to provide therapeutic supports for all children in residential care and an increase in the availability of two and three-bedroom residential care placements.
- \$32.5 million investment in the 2023–24 State Budget and an additional \$7 million for a Housing First response that supports young people leaving residential care through guaranteed access to housing and personalised case work support.
- government funding of \$13.4 million to support Child Protection to strengthen its efforts to tackle sexual exploitation of children in care.

The Commission believes significant action and investment is needed to transform the experience and treatment of children in the child protection and out of home care systems. While we have welcomed a raft of actions to implement some recommendations, we of course want to see further action on our recommendations to improve treatment and care for this most vulnerable group of children.

6. Question Asked:

Can you provide an update to this Committee in relation to recommendations pertaining to education where government has (i) adopted and enacted actions (ii) not adopted and the rationale why?

Response:

The Victorian Government is scheduled to respond to the recommendations in the *Let us learn* report at the end of May 2024. The response will be published in the Commission's 2023-24 annual report, and future updates and our assessment of actions will be published annually.

7. Question Asked:

Do you think CCYP should have the power to subpoena individuals and documentation for investigation?

Response:

Section 39 of the *Commission for Children and Young People Act 2012* authorises the Commission to conduct systemic inquiries into services provided to children and young people in several sectors, some of which include health, schools, child protection and youth justice. As a result, we have conducted 12 systemic inquiries since 2015, with *Let us learn* being the most recent systemic inquiry.

Section 42 of the Act enables the Commission to access information, documents, or records relevant to a service subject to an inquiry that is held by the Department of Education (DE); Department of Families, Fairness and Housing (DFFH); and the Department of Justice and Community Safety. For *Let us learn*, this resulted in findings and recommendations being informed by a quantitative analysis of DE and DFFH whole-of-population out-of-home care data and DE school files of children and young people in care, in addition to evidence drawn from consultations with children and young people in care and other stakeholders.

While an additional power to require individuals to participate in interviews may be helpful for any unusual situations arising in the future, in practice we have found that individuals involved in the various systems we oversight cooperate voluntarily with our inquiries.

The Commission's powers relating to the Child Safe Standards are detailed below.

8. Question Asked:

Do you think CCYP should have the power to undertake direct remedial actions in alleged breaches of child safe standards such sexual assault cases?

Response:

Under the *Child Wellbeing and Safety Act 2005*, the Commission regulates the implementation of the Child Safe Standards (CSS) in organisations. The CSS is a compulsory framework that supports organisations to promote the safety of children by requiring them to implement policies to prevent, respond to and report allegations of child abuse and harm. The Commission is one of six regulators of the Standards, and we work collaboratively with co-regulators to promote the safety of children and compliance with the Standards.

With allegations of sexual assault, Victoria Police is responsible for undertaking the criminal investigation. Whereas our role is to investigate whether the organisation where the alleged incident took place failed to implement the appropriate systems, policies and practices to prevent or appropriately respond to the abuse.

Under the Act, we have powers to monitor organisations' compliance with the Standards and investigate when advised of concerns about non-compliance. When advised of concerns, we can employ a range of actions to monitor, investigate and enforce compliance with the Standards, which may include:

- make further inquiries and gather evidence about an organisation's compliance with the Standards
- provide additional education and advice to the organisation to improve its compliance with the Standards
- collaborate and share information with co-regulators of the organisation
- begin enforcement action which may include issuing a notice to produce or notice to comply
- issue an infringement or prosecute for failures to comply with a notice
- request the court to issue an injunction where an organisation fails to comply with a notice or when we believe they are likely to harm children.

Some of the evidence gathering powers authorise the Commission to:

- request information or documents from any person or organisation to determine compliance with the Standards
- conduct inspections of premises with or without a warrant or the consent of the organisation
- issue a written 'notice to produce' requiring organisations to produce any document or information that we reasonably require.

When the Commission applies to court for injunctions, the Court can issue a broad range of injunctions, including to restrain a person, body or relevant entity from engaging in specified conduct that is likely to harm a child, or to restrain a person, body or relevant entity from providing specified services or facilities to children.

9. Question Asked:

What additional powers would you like to CCYP to have?

Response:

There are a number of improvements that could be made to the *Commission for Children and Young People Act 2012*, including amendments to enshrine the role of Commissioner for Aboriginal Children and Young People and to include references to children's rights. Further, in our public submission to the Review of the Reportable Conduct Scheme, we sought additional

investigation, compliance and enforcement powers in respect of the Reportable Conduct Scheme under the *Child Wellbeing and Safety Act 2005*.

However, when compared with similar bodies in other parts of Australia, the CCYP in Victoria has a relatively broad range of functions and a good suite of powers to draw on in promoting the safety and wellbeing of children and young people.

10. Question Asked:

Do you think CCYP is sufficiently resourced and if not what lines of enquiry would additional funds enable you to investigate, provide an example?

Response:

The CCYP is experiencing resourcing and demand pressures in a number of areas. For example, as referenced in our 2022-23 Annual Report, we face acute demand pressures in relation to the Reportable Conduct Scheme. Notifications of reportable conduct received by the CCYP, and that the CCYP must manage, increased by 81% between 2017-18 and 2022-23. The CCYP has been given no additional resources to administer the Scheme. In 2023-24 notifications have again increased.

In another area, legislation will take effect on 1 July 2024 that will give the CCYP a new function to assist and provide advocacy for individual children in the out of home care and child protection systems. The new function was introduced as part of *The Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-Determination and Other Matters) Bill 2023* and implements recommendations by the Victorian Ombudsman and the CCYP. The CCYP strongly welcomed the new and vital function but has been provided with no new resources to deliver it.

More broadly, with additional funding, the Commission could conduct more systemic inquiries to provide evidence-based recommendations for improvement in areas where we know the safety and well-being of children and young people are particularly compromised. Topics could include the health needs of children in out of home care, the adequacy of responses to child victims of family violence, and responses to children with disability in the child protection system.