



COMMISSION FOR CHILDREN AND YOUNG PEOPLE

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Ms Deborah Glass
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Dear Ms Glass

Thank you for the invitation to make a submission to your current investigation into expulsions of students from Victorian public schools.

The Commission for Children and Young People (the Commission) has a strong interest in this investigation. Children's access to and engagement with education is a key determinant of positive outcomes later in life and it is well established that certain groups of children are excluded or disengaged from education at disproportionately high rates.

Through our work, particularly our monitoring of services for vulnerable children, we see many examples of children and young people in the out-of-home care and youth justice systems who have disengaged from education after formal expulsion or informal exclusion. These children and young people have often experienced multiple forms of disadvantage and/or trauma in their short lives; disengagement from education too often cements a negative trajectory. We consider that the premise of Article 28 of the Convention on the Rights of the Child (CRC), that young people should be encouraged and supported to reach the highest level of education of which they are capable, is especially critical for children who are vulnerable and have experienced disadvantage.

We understand the Department of Education and Training (DET) has been reviewing expulsion policy and practice. The Commissioners were briefed on options under consideration in September 2016. In that context we have expressed strong support for reform requiring: more stringent approval processes; more extensive and demonstrated efforts to address issues within the school context; and measures to prevent a child being expelled without a clear arrangement in place to transition that child to another school. We also advocated for measures to prevent the expulsion of primary school children. In making these recommendations we appreciate that schools may require additional resources and supports to ensure they can effectively work with and address certain behaviours, and we encourage the Victorian Government to ensure these supports and resources are available.

Commission functions

As set out in section 6 of the *Commission for Children and Young People Act 2012*, the objective of the Commission is to promote continuous improvement and innovation in policies and practices relating to the safety and wellbeing of children generally, and in particular those who are vulnerable. Vulnerable children may include those children who have been or are a child protection or youth justice client, receiving services from a registered community service, or a young person under the age of 21 years who is leaving, or has left, guardianship of the Secretary to live independently.



Scoping

The Commission wishes to emphasise the importance of examining data and circumstances in relation to student suspensions as well as expulsions, given the role these processes play preceding expulsion, and in some cases acting as an informal expulsion process.

We are concerned this occurs despite such a process being outside DET guidelines and anecdotal information suggests informal exclusion occurs more frequently than formal exclusion.

Children and young people in out of home care

Educational outcomes for children and young people in out-of-home care are poorer compared to their non-care peers (Mendes, Mitchell and Wilson, 2014). The Commission's 2014 inquiry '*...As a good parent would*' identified that many children in residential care do not attend school or any other structured program. Direct care staff reported to the Commission that dropping out of school is the first step in the downward spiral for children placed in residential care. For many reasons including their trauma histories, poor peer relationships and lack of educational achievement, many children in residential care are thought to require educational options outside mainstream schools. The inquiry found that joint initiatives between DET and the Department of Health and Human Services (DHHS) are required to ensure that children in residential care are not excluded from education.

In March 2016, the Commission established an inquiry into the educational status of all children in residential care. The Commission reviewed a small sample of the material provided by the department and identified that very few of the young people sampled were enrolled, and none were attending mainstream or full-time education. During 2016, DET provided a series of briefings to the Principal Commissioner and the Commissioner for Aboriginal Children and Young People on the department's Navigator and Lookout programs. The inquiry remains ongoing and the Commission will shortly be asking DHHS for further data to assess the impact of Navigator and Lookout programs on children in residential care.

Aboriginal Children and Young People

Schools

Garrin Garrin - A Strategy to Improve Learning and Development Outcomes for Aboriginal Victorians indicates that the retention rate for Koori students from Year 10 to 12 increased from 49 per cent in 2009 to 58 per cent in 2010 (p.10). This comparatively low rate highlights the educational disadvantage that Aboriginal children and young people continue to experience.

Disrupted education was a causal factor identified in Taskforce 1000, with survey data indicating 166 out of the 837 children enrolled in education had not attained 12 months learning in the previous year. This was found to be a result of trauma, placement changes and a lack of targeted Aboriginal education supports. The review revealed children had experienced disengagement and dislocation from education, with a high rate of suspensions and expulsions. For example, 48 of the 157 (30.5 per cent) of secondary school and 50 of the 435 (11.4 per cent) primary school, students had been suspended, and one child had even been suspended from kindergarten. In all, a total of 18 children had experienced expulsion from the schooling system.

The report found the Managing Challenging Behaviours Program provided by DET had inadequate reach, was not compulsory and required a greater focus on the needs of the growing cohort of children who had experienced abuse and neglect and required alternative placement (*Always was, always will be Koori children*, p.88 – 89).

The *Out-of-Home Care Education Commitment: A Partnering Agreement* acknowledges that school exclusion, either via suspension or expulsion, can significantly impact upon a child's educational outcome and future life chances, thus making it very difficult for already marginalised children to be reintegrated back into the education system. Aboriginal children and young people are greatly over-

represented in out-of-home care, with a finding of 1,308 young Aboriginal people in an out-of-home care population of 7,710 at 30 June 2014 according to the Australian Institute of Health and Welfare (AIHW), which is 12 times the rate for non-Aboriginal children and young people.

Koori Educational Support Officers

DET offers practice guidelines for schools on the suspension and expulsion of Aboriginal children, including that a Koori Educational Support Officer (KESO) be engaged to support the school, family and child to find the best outcome and mobilise resources to provide assistance. However, the Commission also became aware during Taskforce 1000 of a number of apparent systemic flaws inherent in the KESO program, including insufficient resourcing of KESOs for the number of Aboriginal children within the education system, and long-term KESO positions that have not been filled. There were also issues of poor communication and information exchange by schools with KESOs about the identity of Aboriginal children enrolled in schools, and a failure by schools to notify the local KESO when an Aboriginal child in out-of-home care was newly enrolled in the school, denying the child their right to access the Aboriginal support and cultural connection.

These issues were compounded by poor communication by DHHS with schools and early years programs regarding the enrolment of Aboriginal children residing in out-of-home care and inconsistent school enrolment practices leading to poor identification of Aboriginal children within the school system. The Commission recommended that DET review the KESO program and report the outcome of the review to the Aboriginal Children's Forum (ACF) and the Marrung Central Governance Committee. The Commission also recommended that DHHS and DET report on a quarterly basis to the ACF and the Marrung Central Governance Committee, the number of Aboriginal children in out-of-home care who have been suspended, expelled or disengaged from school by year level attained. In addition to ensuring greater accountability and transparency, this process was expected to contribute to solutions to keeping vulnerable Aboriginal children engaged and achieving in school (*Always was, always will be Koori children*, p.89).

Culturally and Linguistically Diverse (CALD) Background Children and Young People

The Commission has been made aware on many occasions of the perennial issue of children, and particularly young people, from culturally and linguistically diverse (CALD) backgrounds arriving in Victoria with an absence of formal education or interrupted schooling. They may have low literacy in their community language and in English, as may their parents. In general, younger children are seen to be more adaptive to this new environment and settle into their new educational setting with less difficulty. In contrast, young people in middle adolescence can experience greater difficulties as they are challenged to adapt to an unfamiliar educational setting, develop proficiency in English, and successfully manage the developmental changes associated with adolescence, including developing independence.

Transitions

English Language Schools

The factors raised above increase the risk that the child or young person will become disengaged from education, with transition points being a time of particular vulnerability according to the Victorian Auditor-General's Office (VAGO) Report on Education Transitions (2012). The Commission has been made aware of a specific issue in relation to the transition process for children and young people from ELS (English Language Schools) to mainstream schools and the high drop-out rate. There are allocated transition officers, but it was suggested that young people still seem to be falling through the gaps. This issue is covered in the VAGO Report (2015) which suggests that good practice is the result of schools making the extra effort, and not as a consequence of DET guidance, which VAGO recommended should be strengthened (p.35).

Middle Years

The VAGO report also highlighted that although early years transitions from early childhood settings to primary school had improved markedly, the middle years transition from primary to secondary schooling was poorly supported in general, and was lacking guidance provided by a strategic framework. The report found student engagement levels were decreased upon commencement of secondary school, which is quite concerning given this characteristic is a strong predictor of student retention in later years. Furthermore, it was found that there were gender differences, with a sharp rise in suspensions of boys in secondary school, indicating that gender-specific support strategies were required. The VAGO report cited international research which indicated that children who fell behind at this point, would find it increasingly difficult to catch up the lost ground. Given that children identified as vulnerable would be those most likely to be in this category, the need for gender-specific comprehensive, middle years transition support strategies cannot be over-emphasised, a position supported by the findings of a recent literature and policy review (McGuire, 2016).

Part-time schooling

The Commission has concerns about examples of students attending school on a part-time basis for a prolonged period. Understanding that some students may need to gradually transition to full time schooling through attending on a part-time basis, the Commission has become aware of students that attend schooling part-time with no apparent plan to work towards full-time schooling. This leaves these students unable to attain the educational level of their peers, placing them at high risk of disengagement from education, which may be manifested through non-attendance, or challenging behaviour which results in suspensions and gradual informal expulsion. These student groups include those children and young people with challenging behaviour, including students diagnosed as having Autism Spectrum Disorder (ASD) and dyslexia, children with problem sexual behaviours or adolescents demonstrating sexually abusive behaviour, Aboriginal children and young people and those in out-of-home care. There are a number of students that would fall into more than one of these categories.

The Commission's *Always was, always will be Koori children* inquiry highlighted a case study of an Aboriginal child who attended the majority of his schooling on reduced hours in an alternate program as a consequence of the education system's inability to respond effectively to his trauma based behaviours (p.90). This student's capacity to attain educational achievement and wellbeing equivalent to his peers has been severely compromised and his likelihood of behavioural difficulties resulting in educational disengagement through suspension and expulsion is greatly increased. This case is an example of a broader problem highlighted through the inquiry.

Autism Spectrum Disorder (ASD) and dyslexia

The Commission has been broadly supportive of the necessity for a Special Needs Plan for schools and the range of initiatives that have been proposed, noting that some are already underway, as described in the report, *Inclusive education for all students with disabilities and additional needs: The Government's Response to the Review of the Program for Students with Disabilities* (2016). However, although recognition was given that additional resourcing was needed by schools to better meet the educational needs of students with autism, dyslexia and learning disabilities who were ineligible for the Program for Students with Disabilities (PSD), the approach focussed on expansion of language support. When students are only eligible for limited educational support in the form of an education integration aide for a few hours a week, the school may indicate that the student should only attend for these hours, limiting the student's potential educational achievement and capacity to form social relationships with peers, jeopardising their future potential educational, training and employment opportunities.

Problem Sexual Behaviour and Sexually Abusive Behaviour

The Commission has been advised by practitioners working with children exhibiting problem sexual behaviour, being those aged under ten years, and young people demonstrating sexually abusive behaviour, many of whom may also have ASD, social skills deficits or an intellectual disability, have reduced access to school due to their behaviour. This is concerning given that these students most


commonly have a history of exposure to trauma or difficulties with social situations and attachments. This in turn means they require the maximum opportunity to improve socialisation and connectedness in a structured and supportive environment with peers at a similar developmental stage. In addition, restriction of access to education will have the effect of limiting the educational potential of these students, who are already likely to lack self-confidence and be at risk of offending behaviour.

Recommendations

1. That DET collect data on the number and proportion of students who are subject to suspension and expulsion. This data should include demographic information about the children involved, including whether the child is Aboriginal, and should include whether the child is in out of home care.
2. Data referred to above should be published at regular intervals in a way that maximises transparency while ensuring individual children cannot be identified.
3. That DET develop mechanisms to capture information about informal suspensions and school exclusions.
4. That the Victorian Government revise current policy and practice relating to expulsions to:
 - a. ensure that every alternative to removing a child from a school has been considered and attempted and that these efforts, including the provision of educational and development opportunities and the input of external services where appropriate, are documented prior to any expulsion proceeding
 - b. ensure that expulsion does not occur unless or until the child's alternate school has been identified and transition to that school has been agreed and arranged
 - c. reflect a presumption that children of primary school age cannot be expelled from school
 - d. ensure that DHHS is notified and involved when expulsion of a student in the care of the Department is being considered, and that the Lookout Centre is involved.
5. Amendment to policy and practice in relation to expulsions should also review schools' access to resources and tools they need to assist in working with children with diverse needs, issues and behaviours.
6. That DET redevelop the appeals processes to ensure that vulnerable students and families are not being disproportionately impacted.

We would welcome the opportunity to discuss any of the issues raised in further detail, if your office felt this was required, and contact can be made with the Commission's CEO, Ms Brenda Boland, on 8601 5255.

Yours sincerely



Liana Buchanan
Principal Commissioner



Andrew Jackomos PSM
**Commissioner for Aboriginal Children and
Young People**

References

Commission for Children and Young People (2016). *Always was, always will be Koori children; Systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria*.

Department of Education and Training (2014). *Garrin Garrin: A Strategy to Improve Learning and development Outcomes for Aboriginal Victorians*, Melbourne.

Department of Education and Training (2016). *Inclusive education for all students with disabilities and additional needs: The Government's response to the review of the Program for Students with Disabilities*, April 2016.

Mendes, P, Mitchell, D and Wilson, J. (2014) 'Young People Transitioning from Out-of-home Care and Access to Higher Education: A Critical Review of the Literature', *Children Australia*, Volume 39, Issue 4.

Hulls, R (2016). *Measuring up for the next generation*. Youth Justice Conference, 24 November 2016.

McGuire, M (2016). *One Foot in Each World: Challenges and Opportunities for children and Young People in the Middle Years*, Good Shepherd Australia and New Zealand, April 2016.

Victorian Auditor-General's Office (2015). *Education Transitions*.

Youth Affairs Council of Victoria (2016). *Out of sight, out of mind? Exclusion and inclusion of students in Victorian schools*. Research Paper.