



## SAASSO Submission to The Legislative Council

### Education and Children's Services Bill 2017

House of Assembly - No 231

As laid on the table and read for the first time, 9 August 2017



## Parent Fines

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The implication that lazy parents are the only reason children miss school is an insult to the tens of thousands of South Australian children who have suffered bullying or lack of adequate resources and support (or even places) for special needs.

The recent parliamentary inquiry and tragic stories in the media show the lamentable record South Australia has in supporting vulnerable students. To claim that simply fining parents will fix absenteeism is offensive to those children and families who continue to suffer.

It is a short-sighted, out of date and ill-considered idea that serves only to appear tough on truancy. What is needed is a sophisticated, mature and responsible exploration of the causes of absenteeism - to assess the causes; some of which are patently obvious.

A recent survey of over 1000 SA public school parents and educators condemned the idea. 92.86% of respondents do not believe increasing fines will have any impact on student absenteeism, but will instead hurt families already struggling. This is a view shared by the Australian Education Union. 100% of the principals in the survey opposed the idea, saying it will further damage relationships between schools and the families of at-risk students.

When asked what causes absenteeism, respondents listed the top five causes as (in order):

- dissatisfaction with school
- poor relationship with teachers
- bullying
- disadvantage
- special needs

Fining parents will address none of these problems.

4 out of 5 parents and educators stated more counsellors in school is a better idea than fines.

## On The Spot Fines - Expiation Notices

However, for that portion of families that have become completely disengaged from the education system, court proceedings used as a last resort, could compel some families to re-engage in the mediation process to get their children back into school - which must be the ultimate aim.

But, aside from raising some revenue, it's difficult to imagine what outcome will be achieved by on-the-spot fines for truancy. These fines could actually encourage the wrong behaviour and trivialise school absenteeism. We shouldn't be treating children missing out on an education, the same way we treat parking in a loading zone.

Any time a family actually pays a truancy fine, it means the process to keep the child in school has failed.



## School Governing Councils

### *Overall Comment*

It is disappointing that in a 9-page section on governing councils, on 8 of them the minister details how she may appoint, overrule, suspend, sack, gag, order, fine and limit the power of parents and volunteers. She also now enables DECD to much the same.

The purpose of local governing bodies or school boards is to ensure that every school can be tailored to the needs of the local community and the current population of students - rather than be dictated to by a central bureaucracy, seeking to impose a one-size-fits-all model for public schools.

A government bureaucracy can have other objectives, of a financial or political nature - while local parent communities are only concerned about their children's education. Also, as we have seen too often in South Australia, these bureaucracies can suffer poor cultures.

Having the local governing body independent from orders from the department, makes them independent and their decisions transparent. This act ends this independence.

After the Debelle Royal Commission, ministers, the premier, the CE of DECD and Justice Debelle condemned DECD and its treatment of the governing council. South Australia was told that the Wetherill Government would change the way it deals with parents.

Justice Debelle concluded that the parents on the council felt bullied and intimidated. This new act will only further this sense of being under the authority and autonomy of DECD.

This act does absolutely nothing to protect the rights of governing councils or to encourage or develop the parents and community members who volunteer on them. It is, rather, little more than a list of all the ways the rights of the council and the volunteers are subject to the department and can be suspended and removed ... as can the volunteers.

This Minister claims this is the biggest development in education in 40 years. This document sets parental involvement, community engagement, local control, transparency and accountability back 40 years.



## School Governing Councils

### *Administrative Instructions*

#### **9 (5)**

DECD can now issue administrative instructions for any reason, making all decision-making scope of the governing council conditional - effectively nullifying local decision-making.

### *Composition of governing councils of schools*

#### **38 (1)**

The minister has reserved for herself the right to appoint any people, in any number, to any governing council.

#### **38 (2)**

The minister has done away with the word 'parent'. They seem to have been replaced with 'persons who are responsible for students enrolled'.

'Parents' are no longer the majority of a school governing council - if in the minister's opinion there are not enough 'parents' the minister thinks are fit to be on the council. So, the minister can deny parents places on the council if they don't meet the minister's expectations or share the minister's perspective and instead be replaced, we assume, by more DECD representatives.

Further, the requirement for 'parents' to be the majority does not apply if the school is one 'declared' by the minister to be exempt.

Democracy on these governing bodies only exists if the minister gives their permission.

#### **38 (3)**

If an election does not fill the maximum spaces allowed on a school's governing council - rather than having the council make casual vacancy appointments - now the minister will decide who they 'think is fit' to fill the spaces ... and the minister is free to ignore having parents be the majority in this case. Once again, we assume DECD representatives will take the majority.



## School Governing Councils

### *Conflict of Interest*

#### **40 (1)**

A volunteer who fails to declare a conflict of interest can be fined \$20,000. This is a fourfold increase on the current act. One is left to question the government's priorities when such an offence comes with a \$20,000 fine, while exactly the same offence for any club, charity, not-for-profit or incorporated association under another South Australian State Government Act, carries only a \$5,000 fine.

Meanwhile:

- A person who fails to declare a serious issue affecting a teacher's competency to teach can only be fined \$10,000.
- A person who makes a false statement to the Teachers Registration Board is only fined \$10,000.
- A person who commits fraud in relation to registration is only fined \$10,000.

### *Functions and powers of governing councils and affiliated committees*

#### **44 (1)**

DECD is now authorised to set functions and powers of a governing council - putting an end to any local decision-making DECD does not agree with.

### *Limitations on powers of governing councils and affiliated committees*

#### **45 (5)**

Complaints received by the Governing Council, from the parent or local school community - even if it is in relation to Governing Council business - may not be addressed, responded to or even spoken about by the Governing Council.

Were the Governing Council - a body corporate elected by the parents (unless the minister decides they aren't good enough) - to learn of a serious, dangerous, illegal, immoral act by a school staff member, they are forbidden to even speak of it. They are gagged.

As we saw with the Debelle Royal Commission, DECD cannot be relied upon to disclose information to the community which ought to be disclosed, and yet the governing body, elected to govern on behalf of the local community is gagged.



## School Governing Councils

### *Minister may direct governing council or affiliated committee*

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Under the new act, the minister may tell the governing council what to do. If the council has failed to comply with a function - which under this act can be anything DECD says - the minister can order them to change their decision.

**48 (3)**

The minister has also given this power to essentially any employee of DECD.

**48 (4)**

Any person hindering the minister, or any other person is subject to a \$7,500 fine. If the school administration refuses to comply with a decision of the governing council there is no longer anything the council can do about it. If the council were to do the same, they would be fined \$7,500.

### *Minister may suspend governing council*

**50 (1)**

It should be noted that this section applies only to governing councils - apparently there is no scenario under which an affiliated committee would warrant such treatment as to be suspended.

This new section gives the minister an all-encompassing list of justifications to suspend a governing council.

Imagine the school at the centre of the Debelle Royal Commission - they were told by DECD that they were not allowed to talk, but they had the law on their side and so spoke out. Under this act, DECD would indeed have the power to gag any member of the governing council.

If this act had been in place at the time, the governing council could have been ordered to remain silent, could have had powers stripped, could have been suspended or sacked ... and nobody would ever have learned about what happened.

**50 (2)**

If the minister suspends the governing council, she can then put the principal, or anyone from DECD in charge and they will have full authority to make decisions for the governing council.

Apparently, any time a minister suspends a governing council, the assumption is that it will all be the fault of the parents and volunteers.



## School Governing Councils

*Minister may dissolve governing council and establish new governing council*

**51 (1)**

If the governing council did not comply with an instruction given by DECD, such as in the case of the Debelle Royal Commission, the minister can simply sack the entire council and replace it.

**51 (2)**

After sacking the council, the minister can write up a new constitution specifically for that school and simply appoint who she wants to the new governing council, without election. Apparently not only should the council be sacked, but so too should the local parent's right to elect their own new council.



## Deletions From Existing Act

### *Chairperson*

Under the current constitution, there is a stipulation that the presiding member must be a parent who does not work for DECD. This appears to have been removed, allowing for staff to run governing councils.

### *Disputes*

Under the current act, councils and the presiding member can declare a dispute with the principal and a process is then required to resolve the issue. This appears to have been removed.

Rather than supporting school communities and parents, in another attack on transparency, the minister has taken away their right to complain - further gagging parents. Governing Councils no longer have a right to declare a dispute with the school administration; and as such, DECD is no longer obligated to conduct any form of investigation into complaints - parents can literally be ignored.

Governing Councils are legislated, incorporated governing bodies - but they no longer have the right to complain if their decisions are flouted.

Australia is already in a minority of countries where there is no formal process for parents to complain about education. There is no ombudsman to serve as an independent watchdog and now the governing body for schools is prohibited from declaring a dispute.

And with the Weatherill Government failing to implement the Governing Council legal fund, as recommended by the Debelle Royal Commission, councils literally have nowhere to turn.

### *Code of Practice*

Under the current act, councils are required to comply with a code of practice. This appears to have been removed.



## Missing

### *Training For Governing Councils*

The Weatherill Government has made significant commitments to developing its administrators, educators and school leaders - but there is no mention of any development for the volunteers who serve on South Australia's school Governing Councils.

The Debelle Report labelled advise from DECD as 'uninformative and misleading'.

The person at the centre of the Debelle Royal Commission stated; "*Mandated training of parent volunteers on the Governing Council, by SAASSO, independent from the department is a must if we are going to ensure these rights don't continue to be abused in the future*".

### *Legal Fund*

The legal fund recommended by Justice Debelle and committed to by the Weatherill Government still does not exist.

At present, to access any legal opinion, a Governing Council has to apply through the Education Department for permission to fight it.



## Summary

Thank you for considering SAASSO's concerns about the new draft Education Act.

When assessing the suitability and appropriateness of the new act, we would ask you to consider; what would have happened if these laws and rules had been in place during the Debelle Royal Commission crisis?

Would the people of South Australia have ever known about the child rape which occurred at this school....

***"There is an especially sad irony in a large number of the documents tendered in this case. Almost every one of these many emails has the following message: Children and young people are at the centre of everything we do. All too sadly, both the letter and the spirit of that message were ignored in this case."***

Justice Bruce Debelle

***"A sobering chronicle of failures at every level within the department."***

DECD Chief Executive Keith Bartley

***"Complete incompetence."***

Premier Jay Weatherill

***"It was curious that Ms. Kibble decided that the letter should not be sent 'unless the story was released in the media'"***

Justice Bruce Debelle

***"It is relevant to note also that not even the inquiry by the Ombudsman caused the department to pause and consider whether it was acting correctly in not informing parents...."***

Justice Bruce Debelle

***"I must conclude that while it is not possible to state that the minute contained threats, it could readily be understood as a threat. Ms Soester understood it as a threat, it was intended to bear on Ms. Soester and other members of the Governing Council."***

Justice Bruce Debelle