

## Inquiry into the Government's response to the Covid-19 pandemic



### YOUR SUBMISSION

#### **Submission:**

On April 7, 2020, Premier Daniel Andrews and Victorian Education Minister James Merlino announced that Victorian primary and secondary school students would be home schooled for the duration of Term Two. "Most Victorian students will be educated from home when Term 2 starts next week to ensure the physical distancing will help slow the spread of coronavirus, with free internet access and laptops to those students who need it most. Premier Daniel Andrews joined Minister for the Coordination of Education and Training - COVID-19, James Merlino to announce the following advice from the Chief Health Officer all Victorian government primary, secondary and special education schools will move to remove and flexible learning and teaching" - Media release April 7, 2020.

The only exceptions were at risk children and the children of essential workers, which the Victorian government defined as the children of first responders and medical care workers rather than the federal government's definition of "anyone who has a job". As a result 97 + percent of children in Victoria were forced to be home schooled.

This decision to close schools until mid-July when Term Three resumed was taken days before the results of Victoria's lockdown were seen - which usually happens at least 14 days after the lockdown began- which in Victoria's case would have been around April 10. Indeed from April 12, there was a steep decline in coronavirus community transmissions with just 3 people found positive on April 12. That decline in community transmissions has continued despite testing being doubled from late April.

The decision to keep children at home was ostensibly a directive of the Victorian Chief Health Officer who under the Public Health and Wellbeing Act 2008 Sections 200 (1b) (1d) has the power to make such orders if in the interests of public health. However, it is not clear that Professor Brett Sutton ordered Victorian government schools be shut for the DURATION of Term 2, as opposed to the more likely possibility he ordered a temporary shutdown, given that while this order was being made and schools were closed down for 97 + percent of students in his name, Professor Brett Sutton was a member of the AHPPC which was consistently finding in its meetings and consensus based declarations that schools were safe to reopen.

Over the course of the month of April and then May, it became increasingly clear that the decision to prevent almost a million Victorian children from going to school was not a public health decision but a political decision.

It is for this reason that I make this submission to the Victorian parliamentary committee investigating the

state government's response to coronavirus with the request that an independent commission be set up to investigate all aspects of the Victorian government's decisions with regard to schools. This would include the health impact of the prolonged school closure, the education impact on students and whether the decision created inequalities between students in government schools and those in private schools as well as students in higher socioeconomic homes versus those in lower socioeconomic homes.

It would especially need to look at whether the Chief Health Officer made the decision to close schools for the DURATION of Term Two independently and on the basis of public health as per the requirements of the Act, or whether the decision was a political decision forced on the CHO by the Premier and the Education and Health ministers or other cabinet ministers. Specifically, it should look at whether the Chief Health Officer actually agreed with the decision to close schools for the DURATION of Term Two on public health grounds, or whether he was pushed into agreeing to such a decision by the Premier or other members of his cabinet due to pressure from external influences and interest groups such as unions. Or indeed whether the CHO never agreed to a school closure for the DURATION of Term Two but rather agreed to a temporary closure, and the Daniel Andrews government took his advice a step further and ordered schools be closed to more than 97 percent of students for the duration of Term Two.

Indeed, despite Education Minister James Merlino saying in media interviews that it was a decision by the CHO, the CHO himself said in several news conferences in May that he gives his advice to the government on schools and it makes a decision. This raises questions as to whether The Public Health and Wellbeing Act 2008 Section 200 (the Act and Section cited in Victoria's state of emergency declaration) was being adhered to or contravened by the state government since such closures should be based on the CHO's advice only and there is no provision under the Act for the CHO to give his advice to the government and for the government to make its own decisions.

It should be noted that the decision to close schools went against the prevailing advice of the country's top infectious disease experts and the unanimous advice of the AHPPC, of which Professor Sutton is a member. It also went against the advice of epidemiologists advising the federal government. Epidemiological modeling for the national cabinet showed that the spread of coronavirus would be either curtailed or remain the same if schools were open which suggests that closing schools at best would have had no effect on the spread of the virus and at worse might have increased the spread of the virus.

On April 14th and then again on April 24th, the AHPPC approved two statements in which it determined that schools were safe to open and on April 24th it determined that children did not need to maintain social distancing at schools. The reasons that schools could open as cited by Australia's Chief Medical Officer Brendan Murphy were that there is mounting data that children rarely get coronavirus seriously and they are rarely transmitters. Brendan Murphy subsequently said at news conferences that those AHPPC statements were supported by all committee members which means that Victoria's CHO Brett Sutton voted in favor of those decisions.

In mid-April when home schooling began for over 97 percent of students in the state and in the weeks that followed, parents who requested that their children be allowed to return to school were required to sign forms declaring their child was either at risk or they had to work outside the home and could not supervise their child's education. In many cases they were told by school principals that their children could not come to school because they did not fit the criteria of critical care workers and at risk children. Furthermore, many state school principals indicated that they were only allowed to take a small number of children such as ten children per year and that they were following orders from the Department of Education to aggressively push back on parents requesting their children attend school.

On several occasions in April and early May, Professor Sutton said that he was not worried about schools resuming from a public health perspective, but rather he was worried about one million school children moving through the community to get to and from school. This reason made little sense since some 90 percent of students at state primary schools either walk, ride bikes or are dropped off at school by their

parents and do not commute or take public transport and therefore "do not move through the community" to go to or from school? In addition, at least 60 percent of students who go to state secondary schools walk, ride bikes or are dropped off at school. It is private school students who move through the community by commuting or taking private buses to schools.

On April 28, it was announced that the Victorian government would conduct 100,000 coronavirus tests in two weeks to determine the level of community transmission so that a decision could be made about easing the lockdown. During that period, the number of tests were exceeded and Victoria went from 109,000 tests on April 28 to 245,000 tests on May 11 which is 139,000 tests. During that time Victoria went from 139 cases of community transmission to 161 cases which is 21 cases. Victoria's CHO said at a news conference on May 10 that there were very few transmissions in Victoria and that he was hoping to see an easing of the lockdown. On May 12 at 11 a.m., Premier Daniel Andrews announced a couple of minor lockdown easing measures but he did not make an announcement on schools. He said that there was more work to be done on it. By 8 a.m. the following day (20 hours later), he announced that schools would reopen first with Year 11 and 12 and Prep to Grade 2 on May 26 and then other grades on June 9.

The Premier decided to reopen schools with a 2 to 4 week delay for the bulk of students in order "to help schools prepare" and "because parents requested time to prepare". This too raises concern as to why schools were not already prepared. Surely, once schools closed and particularly once the AHPPC issued guidelines on how schools should reopen, the Department of Education and schools should have begun preparations to reopen even if they were planning to reopen them in July. Furthermore, with home schooling underway, the principals and administrative staff of schools plus some of the faculty would have had plenty of time to arrange the reopening of schools. Finally, once the 100,000 tests were started on April 28 after an extended period of low community transmission cases, steps could have been taken to prepare schools to reopen as soon as a decision was made on May 11 when the state of emergency expired, particularly since the results every day showed a low community spread.

Finally, there were many problems with the delivery of home schooling in the public system. It was for the large part vastly inferior to the delivery of schooling in private schools many of which used special platforms to deliver a full class schedule. Public schools were told to curtail the delivery of classes and keep them to a minimum other than for students of Year 11 and 12. There were also promises of computers, dongles and other assistance but in many cases the equipment was not available for parents, and/or took days/weeks to be available impeding the learning of thousands of students. Also there were serious differences in the standard of online schooling not just between private and public schools but between public schools and even within some schools between classes.

There are many questions that need to be answered with regard to the Victorian government's decision on schools which I request that this committee investigating the government's coronavirus response find and publish answers to the questions below. Any future committees, inquiries or Royal Commissions should also examine the questions below.

1. Given that the decision to close schools was ostensibly made based on the advice of the Chief Health Officer under The Public Health and Wellbeing Act 2008 Sections 200 (1b) (1d), there is a real question as to whether the CHO advised that schools should be closed for the duration of Term Two or temporarily. If the CHO did not advise that schools be closed for the duration of Term Two at the time the order was given on April 7 then this raises the possibility that the closure of schools in Victoria for the duration of Term Two did not comply with The Public Health and Well Being Act 2008. There is also a question as to whether any pressure was exerted on the CHO to make such decisions which contradicted the best medical and scientific evidence available at the time as determined the the AHPPC, a panel on which Professor Sutton was a member. Australia's Chief Medical Officer Brendan Murphy said many times the AHPPC decisions/declarations/advice were consensus based which means that Professor Brett Sutton agreed to them as well. Victorians deserve to know whether the decision to close schools for the duration of Term Two complied with the Act. They deserve to know whether CHO Professor Brett Sutton advised the government

to close schools for the duration of Term Two or for a temporary period. They deserve to know whether the closure of schools until June 9 was in the interests of public health or contrary to the interests of public health given the enormous costs of closing schools on public health, including mental health.

2. Why and on what basis was the decision to close schools for all of Term Two taken given that it was taken days before the results of the lockdown were seen? Was the decision in the interests of public health given that it contradicted the advice of the top experts advising the national cabinet? What was Victorian CHO Brett Sutton's advice throughout the weeks that schools were closed given that he'd voted with the AHPPC that schools were safe to reopen?

3. If Victorian CHO Brett Sutton believed that schools were safe and thus supported the AHPPC statements on schools on April 14 and 24 then did he convey this information to the Premier and Education Minister James Merlino? If he did convey the information then why did they not reverse the decision to keep schools closed until mid-July until May 12, making Victoria the last state in Australia to reopen schools despite a very low rate of community infection relative to all other Australian states (0.5 percent on May 16)? Indeed what was Professor Sutton's advice to the government, the Premier and the department of education and its minister in writing and in closed door meetings throughout the period right up to the government announcing that schools would reopen?

4. What did the Department of Education advice school principals with regard to which students were eligible to study at schools? Did the Department of Education tell principals to refuse parents who did not fit specific criteria - or otherwise instruct principals to deny requests from parents requesting their children be at school - and did it set any numbers or maximum limits for the number of students a school could accept?

5. On what basis was Professor Sutton worried about school students on public transport or moving through the community when the vast majority of public school students live locally and do very little "moving through the community" to get to or from school. It's private school students who "move through the community" to get to their schools.

6. Why did the Premier not make the announcement on schools on May 11? It caused enormous distress to Victorian parents to be kept in the dark when clearly the decision had already been made as it's unlikely the Department of Education worked through the night to finish the plans so it could be announced at 8 a.m. on May 12?

7. The Premier and Education Minister advised that two weeks were needed until the May 26 re-opening for some students and then another two weeks for the rest of the students. Why was such a long period of time needed to prepare for the reopening of schools? Why was the Department of Education not ready to reopen schools immediately? After all the curriculum's were all in place and the AHPPC issued its guidelines for schools reopening on April 14. Why was the Department of Education caught unprepared? And why was it necessary to have a student free day on May 26th when principals, administration staff and many other staff at schools are working less than their regular capacity and could have used their existing working hours to plan the reopening of schools?

8. The Premier claimed that parents had asked for plenty of notice before schools were reopened and this was one of the reasons for the long delays. How did the Premier know this? What evidence did he have? Were surveys taken and if so to whom, how and when and what was the methodology?

9. Was the Department of Education or James Merlino or his staff aware that Year 11 and 12 students go into exam period from late May during which time they are on study leave at home and the same for Year 9 and 10 students. Were they aware that by opening schools for Year 11 and 12 students on May 26, these students would within days be home on study leave to prepare for exams? Are they aware of the detrimental effects on many VCE students who will be examined on content for which they were never taught in classrooms? 10. The Department of Education advised schools when the home schooling began to give

students a minimum number of classes - around 4 x 45 minute classes plus PE (not including Year 11 and 12 students). Was the department aware that teaching students a skeletal curriculum would create huge disparities between private and public schools? There were not common computer platform for schools and there were huge disparities in the ways that Year 11 and 12 students at public schools were being taught compared to Year 11 and 12 students in private schools which received their full school curriculum and proper online classes rather than a range of other options offered to public schools ranging from work being sent to students, to quick zoom calls with teachers.

11. Was CHO Brett Sutton aware of the health effects of keeping schools closed in terms of potential risk of transmission to grandparents having to child mind for their working adult children as well as the mental health effects on children and their parents, risks of domestic abuse and other health risks (lack of exercise, sunshine, long-term effects on prospects of public school students and students from disadvantaged homes) and so on. On what basis were all these risks ignored in the quest to keep schools closed until mid-July?

12. Was Minister James Merlino, Premier Daniel Andrews and other ministers contacted by the AEU or other teachers/principals unions to urge them to keep schools closed? When were they contacted, on what dates, and what was the content of the discussions. How much did the pressure applied by teachers and principals unions impact on the decision to keep schools closed?

13. What was Victoria's Chief Health Officer Brett Sutton's specific advice - in writing and in closed door meetings and other forums - to the Premier, Education Minister James Merlino and the Victorian government? Was Professor Sutton pressured by the Premier or Minister James Merlino or other cabinet ministers to decide against re-opening schools even though all the prevailing health advice indicated that it was in the interests of public health for schools to be opened for Term Two and/or six to eight weeks before schools subsequently open. (Or are due to be reopened as of the writing of this submission)

In conclusion, the decision by the Daniel Andrews government to close schools for the duration of Term Two and which was ultimately reversed to bring the majority of students back three weeks before the end of Term Two needs to be closely scrutinized. Victorians deserve full transparency over the decision making process, the lessons learned and whether The Public Health and Wellbeing Act 2008 was complied with throughout the process. There should potentially be amendments to the Act to ensure that state of emergency decisions and particularly those affecting schools are not affected by outside influences and are made based on the best available medical and scientific evidence at the time the decisions are made.

**Do you have any additional comments or suggestions?:**

