

CHAPTER 2

Employment portfolio

2.1 This chapter summarises certain key areas of interest raised during the committee's consideration of the budget estimates for the 2015–16 financial year for the Employment portfolio. It follows the order of proceedings and is an indicative, not exhaustive, account of issues examined.

2.2 On 1 and 2 June 2015, the committee heard evidence from Senator the Honourable Marise Payne, Minister for Human Services, representing the Minister for Employment, along with officers from the Department of Employment (the Department) and the following agencies responsible for administering Employment policy:

- Fair Work Commission;
- Office of the Fair Work Ombudsman;
- Safe Work Australia;
- Asbestos Safety and Eradication Agency;
- Workplace Gender Equality Agency; and
- Fair Work Building and Construction.

2.3 Officers from Comcare attended the hearing on 2 June 2015 but were not called to give evidence before the hearing adjourned.

Cross-portfolio matters

2.4 The committee heard evidence for approximately two hours and 45 minutes.

Enterprise bargaining agreement (EBA)

2.5 The Secretary of the Department, Ms Renée Leon, advised the committee that negotiation continued following the unsuccessful EBA ballot in December 2014, but another formal offer had not yet been put to staff.¹

2.6 The committee heard evidence in relation to the Australian Government Public Sector Workplace Bargaining Policy and the requirement to offset remuneration increases with genuine productivity gains.² The committee discussed examples of the ways in which these gains might be achieved, such as requiring employees to work an additional six minutes per day.

Shared Services centre

2.7 Ms Leon provided an update on the performance and staffing of the shared services centre, which has expanded its provision of services to other departments and

1 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 1 June 2015, p. 5.

2 Ms Renée Leon, Secretary, Department of Employment *Estimates Hansard*, 1 June 2015, p. 12.

agencies including the Australian Electoral Commission, the Australian Taxation Office and the Department of the Prime Minister and Cabinet.³

Outcome 1

2.8 The committee heard evidence for approximately five hours and 27 minutes.

jobactive

2.9 The committee examined the transition from Job Services Australia to jobactive, which will operate under a revised fee structure with greater emphasis on employment outcomes rather than job seeker activities and administrative payments.⁴ The committee also discussed the tender process for individual employment service providers.

National Work Experience Programme

2.10 The Group Manager, Labour Market Strategy Group, Ms Margaret Kidd, told the committee that the National Work Experience Program 'provides an opportunity for job seekers to volunteer to do four weeks work experience for up to 25 hours per week in businesses'.⁵ Job seekers receive \$20.80 per fortnight to cover their expenses. There is no cost to the employer, and wage subsidies may be available if the placement leads to ongoing work.⁶

Outcome 2

2.11 The committee heard evidence for approximately two hours and 53 minutes.

Wage growth

2.12 The committee heard that wage growth is at its slowest point since the wage price index began in 1997, having risen 2.3 per cent in the year ending March 2015, 3.1 per cent per annum over the past five years and 3.5 per cent per annum over the past 10 years.⁷ Wages are expected to increase at approximately the same rate as inflation over the next three financial years.⁸

3 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 1 June 2015, p. 35.

4 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 1 June 2015, p. 39; Mr Martin Hehir, Deputy Secretary, Department of Employment, *Estimates Hansard*, 1 June 2015, pp 39–40.

5 Ms Margaret Kidd, Group Manager, Labour Market Strategy Group, Department of Employment *Estimates Hansard*, 1 June 2015, p. 52.

6 Ms Margaret Kidd, Group Manager, Labour Market Strategy Group, Department of Employment, *Estimates Hansard*, 1 June 2015, p. 52.

7 Dr Alison Morehead, Group Manager, Workplace Relations Policy Group, Department of Employment, *Estimates Hansard*, 1 June 2015, p.114.

8 Dr Alison Morehead, Group Manager, Workplace Relations Policy Group, Department of Employment, Department of Employment, *Estimates Hansard*, 1 June 2015, p. 115.

Commonwealth cleaning guidelines

2.13 The committee sought information about effect of the abolition of the Commonwealth cleaning guidelines. Ms Leon told the committee that 'the pay that is being offered to the cleaners is a result of the contracts that are being entered in to'.⁹ Ms Leon advised that departments entering into new cleaning contracts would abide by the Commonwealth procurement guidelines, including the principle of value for money.

Office of the Fair Work Ombudsman

2.14 The committee heard evidence for approximately four hours and 11 minutes.

EBA

2.15 The Fair Work Ombudsman (FWO), Ms Natalie James, advised the committee that while no formal EBA offer had been made to employees, negotiations continued and a draft offer was being revised in response to feedback from bargaining representatives. The feedback was in relation to a range of issues including grandfathering of the remote localities allowance and the level of wage rises.¹⁰

Apprentice workers

2.16 The committee heard that the Office of the FWO is in the process of auditing 700 businesses that employ apprentices. A campaign focusing on the automotive, electrical services, manufacturing, meat, retail trade and personal services industries seeks to address problems such as apprentices being underpaid, not receiving overtime and not being given payslips.¹¹ The Executive Director, Proactive Compliance and Education, Ms Lynda McAlary-Smith, told the committee:

One of the things we are doing as part of the apprenticeship campaign is focusing specifically on the businesses who have apprentices in their first year of apprenticeship, so that we can get in with an early start and make sure they get off on the right foot.¹²

2.17 There is a separate national campaign targeting construction industry workers, including apprentices.¹³

9 Ms Renée Leon, Secretary, Department of Employment *Estimates Hansard*, 1 June 2015, p. 120.

10 Ms Natalie James, Fair Work Ombudsman, *Estimates Hansard*, 2 June 2015, p. 10.

11 Ms Lynda McAlary-Smith, Executive Director, Proactive Compliance and Education, Department of Employment, *Estimates Hansard*, 2 June 2015, pp 13–14.

12 Ms Lynda McAlary-Smith, Executive Director, Proactive Compliance and Education, Department of Employment, *Estimates Hansard*, 2 June 2015, p. 14.

13 Ms Lynda McAlary-Smith, Executive Director, Proactive Compliance and Education, Department of Employment, *Estimates Hansard*, 2 June 2015, p. 13.

Chia Tung Development

2.18 The committee discussed Chia Tung Development, which was found to have underpaid 43 foreign workers. Asked why the FWO did not prosecute the company, Ms James explained:

This was a case where the employer engaged immediately with us, was prepared to make admissions and paid back the money reasonably promptly. So we agreed with them to enter into an enforceable undertaking in order to put that \$873,000 back into the hands of the workers reasonably quickly, within two months. A litigation would have taken much longer, maybe 12 months. So in this case, we decided that it was not one that we would put through the litigation route.¹⁴

Temporary work visas

2.19 Asked about monitoring of 457 visas, Ms James advised the committee that between 1 July 2014 and 31 March 2015, the Office of the FWO had investigated a total of 1 496 visa holders employed by 636 entities. Preliminary investigations suggested that in 302 cases, or 20 per cent, either the nominated position or the nominated salary was not in accordance with the visa.¹⁵ These cases are referred to the Department of Immigration and Border Protection (DIBP) for investigation.

Fair Work Building and Construction

2.20 The committee heard evidence for approximately four hours and 50 minutes.

Proceedings and compulsory powers

2.21 The Director of Fair Work Building and Construction (FWBC), Mr Nigel Hadgkiss, advised the committee that as of 30 April 2015, FWBC had 48 proceedings before the courts: 19 in relation to right of entry permits, 17 in relation to coercion, 8 in relation to unlawful industrial action and 2 in relation to wages and entitlements.¹⁶ Mr Hadgkiss also outlined the procedure for utilising his compulsory powers and advised that he had exercised these powers, which he described as a 'last resort', on 14 occasions since 1 July 2014.¹⁷

Chia Tung Development

2.22 The committee sought information about FWBC's investigation of a breach of right of entry at the Chia Tung Development site in New South Wales. The investigation was discontinued following referrals by FWBC to the FWO and the DIBP. Mr Hadgkiss explained: 'when I became aware of the seriousness of the

14 Ms Natalie James, Fair Work Ombudsman, *Estimates Hansard*, 2 June 2015, p. 25.

15 Ms Natalie James, Fair Work Ombudsman, *Estimates Hansard*, 2 June 2015, p. 46.

16 Mr Nigel Hadgkiss, Director, Fair Work Building and Construction, *Estimates Hansard*, 2 June 2015, p. 73.

17 Mr Nigel Hadgkiss, Director, Fair Work Building and Construction, *Estimates Hansard*, 2 June 2015, p. 72, 112 and 119–21.

situation at that location, I deemed it was in the public interest that we should cease the investigation'.¹⁸

Activity based costing

2.23 Asked about the cost of investigations and court cases, Mr Hadgkiss responded that he would only be able to provide external legal costs. He advised the committee that he was endeavouring to introduce an 'activity based' costing methodology taking into account the work of FWBC inspectors and lawyers.¹⁹

Intimidation of FWBC staff

2.24 The committee also heard evidence in relation to alleged intimidation and harassment of FWBC staff. Specifically, Mr Hadgkiss provided evidence that a female investigator was subjected to numerous harassing and sexually derogatory telephone calls by two male CFMEU officials, and that on one occasion, the same individuals attempted to stop her car by striking her car with a tree branch.²⁰

Safe Work Australia

2.25 The committee heard evidence for approximately 16 minutes.

Chemical labelling

2.26 The committee discussed labelling requirements for hazardous chemicals such as agricultural and veterinary medicine. The Branch Manager, Work Health and Safety Network, Ms Julia Collins, explained that there is a five year transition period from Australian Pesticides and Veterinary Medicines Authority (APVMA) labelling to the Globally Harmonised System (GHS) of classification. Ms Collins acknowledged objections to this change, but stated that it was Safe Work Australia's view that the APVMA labels were 'inadequate for workplace health and safety risk assessment'.²¹ From 1 January 2017 all Australian labels must meet GHS requirements and penalties will be imposed for noncompliance.²²

Workplace Gender Equality Agency

2.27 The committee heard evidence for approximately 20 minutes.

18 Mr Nigel Hadgkiss, Director, Fair Work Building and Construction, *Estimates Hansard*, 2 June 2015, p. 75.

19 Mr Nigel Hadgkiss, Director, Fair Work Building and Construction, *Estimates Hansard*, 2 June 2015, p. 109.

20 Mr Nigel Hadgkiss, Director, Fair Work Building and Construction, *Estimates Hansard*, 2 June 2015, pp 81-82.

21 Ms Julia Collins, Branch Manager, Work Health and Safety Network, Safe Work Australia, *Estimates Hansard*, 2 June 2015, p. 127.

22 Ms Julia Collins, Branch Manager, Work Health and Safety Network, Safe Work Australia, *Estimates Hansard*, 2 June 2015, pp 127-8.

Methodology review

2.28 Ms Jo Wood, Group Manager, Economic Strategy Group, advised the committee that the Department had engaged a consultant to assist the working group reviewing the Workplace Gender Equality Agency's (WGEA) collection, classification and analysis of data. The consultant's report will be completed by July 2015, with the working group expected to make recommendations to government in the second half of 2015.²³

Equilibrium man challenge

2.29 The Acting Director, Ms Louise McSorley, described the WGEA's latest campaign, designed to increase flexible work practices for men:

We have got a series of microdocumentaries following five men as they negotiate flexible work. There are a whole lot of tools for employers and employees that came off that platform, and they are to assist them implement and manage flexible work.²⁴

2.30 The program will last for six to eight months and is formally supported by 28 organisations including Telstra, Mirvac, Corrs Chambers Westgarth and Cisco.²⁵

Asbestos Safety and Eradication Agency

2.31 The committee heard evidence for approximately 18 minutes.

National strategic plan for asbestos awareness and management

2.32 The Chief Executive Officer, Mr Peter Tighe, confirmed that the national strategic plan for asbestos awareness and management had been signed off by all Australian states and territories.²⁶ Mr Tighe explained that the Agency would now concentrate on implementing the plan:

Now that it has been signed off, it is our job to reach those outcomes and continue to report those to the minister. A lot of those outcomes are about lifting the levels of awareness, best practice, looking at illegal dumping, looking at the number of disposal sites around—basically gathering all the information to assist in addressing the problem with asbestos and asbestos related diseases.²⁷

23 Ms Jo Wood, Group Manager, Economic Strategy Group, Department of Employment, *Estimates Hansard*, 2 June 2015, p. 130.

24 Ms Louise McSorley, Acting Director, Workplace Gender Equality Agency, *Estimates Hansard*, 2 June 2015, p. 133.

25 Ms Louise McSorley, Acting Director, Workplace Gender Equality Agency, *Estimates Hansard*, 2 June 2015, pp. 132–3.

26 Mr Peter Tighe, Chief Executive Officer, Asbestos Safety and Eradication Agency, *Estimates Hansard*, 2 June 2015, p. 135.

27 Mr Peter Tighe, Chief Executive Officer, Asbestos Safety and Eradication Agency, *Estimates Hansard*, 2 June 2015, p. 136.

Fair Work Commission

2.33 The committee heard evidence for approximately 33 minutes.

Right of entry permits

2.34 The committee heard evidence in relation to the granting, suspension and revocation of right of entry permits. The Director of Regulatory Compliance, Mr Chris Enright, outlined the matters that the Fair Work Commission (FWC) takes into account when considering an application for a permit, including whether a person has a criminal history of violent offences.²⁸

28 Mr Chris Enright, Director, Regulatory Compliance, Fair Work Commission, *Estimates Hansard*, 2 June 2015, p. 138.