

The Senate

Standing Committee on
Education, Employment
and Workplace Relations

Additional estimates 2008–09

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Membership of the Committee

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Chapter 1

Overview

1.1 The Standing Committee on Education, Employment and Workplace Relations presents its report to the Senate.

1.2 On 4 December 2008¹ the Senate referred the following documents to the committee for examination and report in relation to the Education, Employment and Workplace Relations portfolio:

- Particulars of proposed additional expenditure in respect of the year ending on 30 June 2009 [Appropriation Bill (no. 3) 2008–2009];
- Particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2009 [Appropriation Bill (no. 4) 2008–2009];
- Final budget outcome 2007–08, —Report by the Treasurer (Mr Swan) and the Minister for Finance and Deregulation (Mr Tanner), September 2008; and
- Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2008

1.3 Standing committees are required to report to the Senate on 17 March 2009.

Portfolio coverage

1.4 The committee has responsibility for examining the expenditure and outcomes of the Education, Employment and Workplace Relations portfolio. Appendix 1 lists the department and agencies under this portfolio.

Portfolio Additional Estimates Statements (PAES) 2008–09

1.5 The Portfolio Budget Statements (PBS) and the Portfolio Additional Estimates Statements (PAES) inform senators of the proposed allocation of funding to Government outcomes by agencies within the portfolio. However, unlike the PBS the PAES summarise only the *changes* in funding by outcome since the Budget. For the first time, the PAES include an Agency Resource Statement, as well as the information on new measures and the Appropriation Bills.

1 *Journals of the Senate* No. 52, 4 December 2008, p. 1446.

Portfolio Supplementary Additional Estimates Statements 2008–09

Appropriation (Nation Building and Jobs) Bill (Nos. 1 & 2) 2008–09

1.6 Under the above appropriation package, supplementary estimates have been allocated to programs within the department that relate to the Government's National Building and Jobs Plan announced on 3 February 2009. These Portfolio Supplementary Additional Estimates Statements were tabled in the Senate 10 February 2009.² Appropriations from the National Building and Jobs bill were assigned to the 'Building the Education Revolution' program, with the aim of improving the quality of facilities in schools around the country. Moreover, the Department has brought forward funding of \$110 million for the 'Trade Training Centres in Schools' program from 2010–11 to 2009–10 to 'fast track measures to improve the skills base of the workforce and improve productivity for the future'.³

Hearings

1.7 The committee conducted two days of hearings, examining Education outcomes on 25 February 2009 and Employment and Workplace Relations outcomes and related agencies on 26 February 2009. In total the committee met for 16 hours and 50 minutes, excluding breaks.

1.8 The following agencies were not required at the hearings :

- Comcare;
- Australian Fair Pay Commission Secretariat; and
- Australian Industrial Registry.

1.9 The following Outcome was released without questioning:

- Outcome 5- Transitions and Youth

1.10 Appendix 2 of this report lists the table of contents of the Hansard transcripts. These transcripts are available on the committee's homepage under estimates and on the Hansard website: <http://www.aph.gov.au/hansard/senate/commtee/comsen.asp>

Questions on notice

1.11 The committee has drawn the attention of the department and its agencies to the agreed deadline of Thursday 9 April 2009 for the receipt of answers to questions taken on notice from this round, in accordance with Standing Order 26.

2 *Journals of the Senate* No. 57, 10 February 2009, p. 1579.

3 Explanation of Supplementary Additional Estimates Statements 2008–09, Education, Employment and Workplace Relations Portfolio, p. 3.

1.12 For this round, written questions on notice were received from Senators Abetz, Bernardi, Cash, Fierravanti-Wells, Hanson-Young, Humphries, Macdonald, Mason, Ronaldson and Siewert.

Chapter 2

Education, Employment and Workplace Relations portfolio

Introduction

2.1 This chapter summarises areas of interest and concern raised during the committee's consideration of the Additional Budget Estimates for the 2008–09 financial year. This section of the report follows the order of proceedings of hearings and is indicative, but not exhaustive in its listing of issues considered.

2.2 The committee heard evidence on 25 February from Senator the Hon. Kim Carr, as the minister representing the Minister for Education, Employment and Workplace Relations and from officers of the department. On 26 February the committee heard evidence from Senator the Hon. Joe Ludwig, as the minister representing the Minister for Education, Employment and Workplace Relations along with officers of the department and related agencies. At different times during the hearings, Senators Evans, McLucas and Wong also briefly represented the Minister for the portfolio.

2.3 Senators present over the two days of hearings were Senator Marshall (Chair), Senator Humphries (Deputy Chair), Senators Abetz, Bernardi, Brandis, Cameron, Cash, Colbeck, Collins, Crossin, Fielding, Fisher, Hanson-Young, Hutchins, Mason, Milne, Parry, Payne, Ronaldson and Sterle.

Department of Education, Employment and Workplace Relations

Outcome 1- Early Childhood Education and Child Care

2.4 The vast majority of questions asked during Outcome 1- *Early Childhood Education and Child Care*- reflected the committee's interest in the state of childcare in the country, with particular focus on the ABC Learning Centres. Senator Payne began by asking questions regarding the role of the department, the court appointed receiver and the group known as ABC2, the cluster of 241 ABC child care centres receiving government support to remain operational. Officers from the department were able to clarify for the committee the relationship between the receivers and the department, stating:

...we are in no sense seeking to direct the court appointed receiver, but we are, for obvious reasons, intimately interested in how that process is tracking. So we are keeping in touch with them to ensure it is on track. The court appointed receiver also is to have regard to the Commonwealth's views in undertaking their task. We have provided to the court appointed receiver suggested selection criteria to help guide their work. We are

engaging with them on how they are tracking and how they are going about the task.¹

2.5 Further questions regarding the selection criteria for successful bidders were asked by Senator Payne. Drawing upon a newspaper article in which Minister Gillard appeared to emphasise the need for a diversity of child care providers, Senator Payne inquired into the effect these comments had on the selection process. Mr Manthorpe responded by saying the department had indicated to the receivers that it would be a 'desirable outcome if some economic scale of not-for-profit entity could gain some part of the outcome'². Following on from Senator Payne, Senator Hanson-Young also demonstrated interest in the ABC centres. Central to the line of questioning was the issue of information available to prospective bidders. Senator Hanson-Young voiced concern over the apparent lack of available income and expenditure history of the centres, as well as raising questions about the implications of unknown lease requirements on applications.

Outcome 2- School Education

2.6 A number of questions asked in Outcome 2- *School Education*, indicated strong interest in issues like bullying and school attendance, matters of constituency concern. However, these areas are remote from direct Commonwealth involvement, although DEEWR administers programs which cover such matters at a COAG level. The Department explained its remoteness from the practical supervision of programs aimed at addressing social problems in schools. Such questions, however, may indicate a continuing and increasingly expectation that the Commonwealth should become more involved in developing policies which have a direct effect in the classroom. DEEWR officials spoke of the strong degree of co-operation offered by the states in responding to these Commonwealth initiatives, and future estimates hearings will doubtless provide an insight into the continuing relationship between the states and the Commonwealth over their shared responsibilities in school education.

Outcome 6- International Influence (international students)

2.7 Senator Cash commenced examination of Outcome 6 with a series of questions relating to the number international enrolments in universities across the country. Despite the economic downturn, the department claimed the number of foreign students coming to Australia has not fallen, stating:

People do not decide on the spur of the moment to come here. What you are seeing at the moment is the result of decisions that would have been taken quite some time ago. People often save for years to fund their children's

1 Mr Michael Manthorpe, Group Manager, Child Care Industry Taskforce, DEEWR, *Committee Hansard*, 25 February 2009, p. 31.

2 Mr Michael Manthorpe, Group Manager, Child Care Industry Taskforce, DEEWR, *Committee Hansard*, 25 February 2009, p. 32.

education here, so we would not necessarily expect a downturn. I know there are difficult global financial circumstances. We would not expect to see a downturn immediately, and we are not.³

2.8 Senator Cash then referred to an article in *The Australian* which argued that while the number of foreign students enrolling in Australian universities may remain stable, there has been a significant increase in the number of deferrals of courses made by these enrolled students. Departmental officer explained they had looked into this issue, but were unable to find any supporting evidence to substantiate this claim.

Outcome 3- Higher Education

2.9 The examination of Outcome 3 began with questions from Senator Mason relating to the Education Investment Fund. Questions covered various aspects of the fund, from eligibility requirements to the results of the first round of funding, and details of the upcoming second round of grants. The first round of funding allocated \$580.5 million to universities. Officers explained that all higher education institutions were able to apply for the second round of funding, which closed on 2 March 2009. The Department informed the committee that the government has not yet determined how much money it will make available for this round.

2.10 Some questions were asked about university deferment rates in regional areas by Senator Colbeck. Citing information from January which pointed to university deferment rates of regional students being three times higher than their city counterparts, Senator Colbeck asked the department if anything was being done to address this issue. The question was taken on notice.

Outcome 7 & 8- Labour Market Assistance AND Workforce Participation

2.11 Senator Cash led the questioning of Outcomes 7 and 8, commencing with examination of the Job Network. Questions were asked regarding the current caseload and the operations of this program. From December 2008 to 13 February 2009, officers told the committee the Job Network program saw an additional 81 412 searching for work. The Green Corps program was also discussed, with Senator Cash inquiring as to what areas the projects of the Corps have been involved in. The committee was told that under the new contract, the Green Corps program has expanded beyond being a specific youth development program; officers confirmed that the age limit has been removed.

2.12 The Personal Support Program was also scrutinised, with the department providing information on the new model being developed. Ms Lisa Paul, Secretary of the department elaborated upon the different philosophies of the current and new models, with a crucial difference being the removal of sequential assistance associated

3 Mr Colin Walters, Group Manager, International Group, International Group, DEEWR, *Committee Hansard*, 25 February 2009, p. 84.

with the current model. Accordingly, the new model is demand driven, a factor the department hopes will assist in reducing long waiting lists.⁴

Outcome 9- More Productive and Safer Workplaces

2.13 The examination of Outcome 9 commenced with questions regarding the Special Employee Entitlements Scheme for Ansett Group employees (SEESA). The operations of the scheme have recently been at the centre of public debate. Former Ansett employees wrote to the Department and to the Minister of Education, Employment and Workplace Relations suggesting the Government is still receiving dividends from the scheme while there are outstanding entitlements. Due to this continued interest in SEESA, the secretariat requested a briefing from the Department on the matter. A briefing note was subsequently circulated to the committee, and formed the basis of questions asked by Senator Fisher about speculation on the possibility of the government waving its right of the priority creditor to enable more funding to former employees. The Department told the committee that this speculation had been raised by a former employee, but that it is not aware of any consideration by government to follow this path.

2.14 A number of questions were asked about the Fair Work Bill in this Outcome. Senator Fisher inquired into the election policy of government in regards to this issue, but questions on the bill itself were disallowed as the bill was under consideration by the committee in a separate inquiry.

2.15 The Fair Work Australia Establishment Taskforce was discussed as part of a wider line of questions dealing with the transitional arrangements that would follow the passing of the Fair Work Bill. The role and responsibility of the taskforce was explained by Ms Sandra Parker, who told the committee the taskforce was established to examine the logistical and service delivery issues involved in the establishment of Fair Work Australia. Ms Parker told the committee that the taskforce has had five meetings to date.⁵

2.16 The Department was unable to provide the committee with specific details regarding the timeframe the taskforce is working from. However, Mr John Kovacic sought to reassure the committee by stating that the taskforce is working with already established practices and processes from different agencies, and therefore is not starting from scratch. Mr Kovacic went on to comment that the main a critical role of the taskforce is to standardise these processes by 1 July 2009.⁶

4 Ms Lisa Paul, Secretary, DEEWR, *Committee Hansard*, 26 February 2009, pp 48–49.

5 Ms Sandra Parker, Group Manager, Workplace Relations Policy Group, DEEWR, *Committee Hansard*, 26 February 2009, p. 75.

6 Mr John Kovacic, Deputy Secretary, DEEWR, *Committee Hansard*, 26 February 2009, p. 77.

Workplace Ombudsman

2.17 Many of the committee's questions were concerned with how the work of the Workplace Ombudsman will be affected by the Fair Work Bill, assuming its passage through Parliament. Mr Wilson, the Workplace Ombudsman, explained to the committee that a new office of the Fair Work Ombudsman will be created. The Fair Work Ombudsman will continue the work of the Workplace Ombudsman and other agencies as stipulated in the final legislation.⁷

2.18 Questions were asked regarding the findings of a recent compliance audit conducted by the Workplace Ombudsman. The Workplace Ombudsman told the committee:

We conduct targeted compliance campaigns nationally on a rolling basis—our states and territories undertake this activity basically on a changeable basis each month. They target things quite differently according to the information that is coming up. Between March 2006 and the end of last year we conducted a very large number of audits recovering a very large amount of money. What we are consistently finding is that there is a figure of around about 41 per cent for non-compliance. That is right across the spectrum from not only failure to keep time and wages records or things considered fairly minor breaches right through to systematic non-compliance in wages.⁸ area

2.19 Given these findings, the committee was interested in any follow-up procedures and campaigns initiated by the office after such an audit. The Ombudsman explained that campaigns are often conducted in particular industry sectors to ascertain what improvements have been made following an audit. While the office conducts audits and campaigns across varying sized business and industries, the Ombudsman explained that a number of issues arise from audits of smaller businesses. This does not limit the scope of investigations occurring, as the Workplace Ombudsman explained:

We receive about 26,000 complaints a year from people who claim they have been underpaid. We traditionally find that they are from people who work in small or medium business, particularly in the casualised industries, the retail and service industries, and that, of course, is not a particular surprise. We then use that to make decisions about where we put our auditing and that means that, all things considered, we probably will not be getting a lot of complaints from people, say, in the ASX 200. But, as we develop our programs, we are of the view that we need to start looking at larger companies as well as small.⁹

7 Mr Nicholas Wilson, Workplace Ombudsman, Workplace Ombudsman, *Committee Hansard*, 26 February 2009, p. 4.

8 Mr Nicholas Wilson, Workplace Ombudsman, Workplace Ombudsman, *Committee Hansard*, 26 February 2009, p. 7.

9 Mr Nicholas Wilson, Workplace Ombudsman, Workplace Ombudsman, *Committee Hansard*, 26 February 2009, p. 9.

Workplace Authority

2.20 Many questions asked of the Workplace Authority were also related to the Fair Work Bill. When asked what transitional arrangements the Workplace Authority had in place, the Director, Ms Barbara Bennett, told the committee that her office is working with the executive director of the taskforce to ensure staff are adequately prepared for the passage of the legislation and the establishment of the Fair Work Australia agencies.¹⁰

2.21 Senator Fisher asked questions regarding processing times of agreements with the Authority, and subsequent complaints received. Ms Bennett, in responding to concerns about the lack of an 'external umpire' in the complaint handling process, assured the committee that the Workplace Authority has established effective review arrangements as well as a quality assurance program to deal with this matter.¹¹

2.22 The Workplace Authority took on notice a question on the number of complaints received during 2008. Ms Bennett suggested that in comparison with the number of agreements lodged, the complaint ratio is less than one per cent with regards to decision making and timeliness. Ms Bennett also agreed to provide the committee with the corresponding figure for 2007 on notice.

Australian Building and Construction Commission

2.23 The questions directed to the Australian Building and Construction Commission (ABCC) indicated the views of senators in regard to the role and performance of the ABCC. Senator Fisher asked if the ABCC held industry forums, which the Commissioner confirmed. The Commissioner explained to the committee that the purpose of these forums is to 'inform the main parties in the industry, those that engage with the ABCC, about our activities, what we are doing, what we have got planned and matters like that'.¹² The Commissioner went on to explain that out of the 6 forums held, unions chose not to attend 3 of these hearings. Following this line of questioning, Senator Cameron argued that the absence of unions at these forums should be highlighted in their annual report. The Commissioner undertook to respond to this matter on notice.

2.24 Continuing a line of questioning from the supplementary round of estimates in 2008, Senator Cameron asked about the Econtech report which was supplied in response to a question on notice. Suggesting the report was flawed, Senator Cameron asked if the ABCC could prepare analysis on the mistakes made in the report to

10 Ms Barbara Bennett, Director, Workplace Authority, *Committee Hansard*, 26 February 2009, p. 13.

11 Ms Barbara Bennett, Director, Workplace Authority, *Committee Hansard*, 26 February 2009, p. 19.

12 The Hon John Lloyd, Commissioner, Australian Building and Construction Commission, *Committee Hansard*, 26 February 2009, p. 28.

provide to the Senate, to which the Commissioner responded he would not. The Commissioner commented that this error is noted in the report, and was covered at the previous hearings.

2.25 The Chair asked the ABCC how often they subpoena journalists to obtain notes on reporting of ABCC investigations. The ABCC said they were unaware of any subpoenas. The Chair asked about a subpoena on News Limited, to which the ABCC professed no knowledge. The Chair then suggested that perhaps this action was done without the knowledge of the ABCC executive committee. The question was taken on notice.¹³

Acknowledgements

2.26 The committee thanks the ministers, the Secretary of the Department of Education, Employment and Workplace Relations, Ms Lisa Paul, as well as officers of the various agencies, for their assistance and cooperation throughout the hearings.

Senator Gavin Marshall

Chair

13 The Hon John Lloyd, Commissioner, Australian Building and Construction Commission, *Committee Hansard*, 26 February 2009, p. 41.

Appendix 1

Departments and agencies for which the committee has oversight

Education, Employment and Workplace Relations portfolio

- Department of Education, Employment and Workplace Relations;
- Australian Fair Pay Commission Secretariat;
- Australian Industrial Relations Commission and Australian Industrial Registry;
- Teaching Australia– Australian Institute for Teaching and School Leadership Ltd;
- Australian National University;
- Australian Learning and Teaching Council;
- Comcare, the Safety, Rehabilitation and Compensation Commission and the Seafarers’ Safety, Rehabilitation and Compensation Authority (Seacare Authority);
- Office of the Australian Building and Construction Commissioner;
- The Workplace Authority; and
- The Workplace Ombudsman.

Appendix 2

Index to Hansard transcripts

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