

Chapter 2

Employment & Workplace Relations Portfolio

Introduction

2.1 This chapter summarises areas of interest and concern raised during the committee's consideration of the Budget Estimates of the Employment and Workplace Relations portfolio for the 2007-2008 financial year. This section of the report follows the order of proceedings and is an indicative, but not exhaustive, list of issues that received consideration during the hearings.

2.2 Evidence was heard from Senator the Hon. Eric Abetz as the Minister representing the Minister for Employment and Workplace Relations and from officers of the Department of Employment and Workplace Relations (DEWR) and related agencies, including:

- Australian Fair Pay Commission (AFPC);
- Australian Industrial Relations Commission/Australian Industrial Registry (AIRC/AIR);
- Equal Opportunity for Women in the Workplace Agency (EOWA);
- Indigenous Business Australia (IBA);
- Workplace Authority (formerly Office of the Employment Advocate); and
- Workplace Ombudsman (formerly Office of Workplace Services).

2.3 Senators present at the hearing were Senator Troeth (Chairman), Senator Marshall (Deputy Chair) and Senators Barnett, Birmingham, G. Campbell, Crossin, Eggleston, Fifield, Joyce, Lightfoot, McEwen, Sterle, Siewert and Wong.

Workplace Authority (Formerly Office of the Employment Advocate)

2.4 Senator Marshall began by questioning the Workplace Authority on the source of recent Australian Workplace Agreements (AWAs) data published by the *Sydney Morning Herald*. Mr McIlwain, the Employment Advocate, confirmed the data appears to have been leaked by an officer of the Workplace Authority, and action which is now under investigation by the Australian Federal Police. The confirmation that the Workplace Authority did in fact hold such data, allegedly in contrast to evidence the committee had been given at previous estimates hearings, generated a lengthy discussion. Senator Wong proceeded to outline a detailed timeline of the actual data collection and sampling. Questions about whether this data could be released to the committee were taken on notice.

2.5 A lengthy discussion followed on requests made to the Workplace Authority by academics to access its data for research purposes. Questioning centred on what constituted an official request, what was required to make a formal application and how many applications the Workplace Authority had received and accepted. Questions to this effect were also taken on notice.

2.6 Additional questioning by Senator Barnett concerned the percentage of the workforce on AWAs. These questions were in response to two conflicting figures being used and reported in the press. The Workplace Authority advised the committee that both figures could be considered correct depending on which Australian Bureau of Statistics survey was used to calculate the Australian workforce. This matter was later taken up by Senator Wong who confirmed that both figures are accurate statistical estimates with the difference lying in the methodology used.

2.7 Other issues discussed included:

- staffing requirements for the implementation of the Fairness Test and associated changes;
- Independent Contractors and AWAs;
- Community Partners Program;
- transfer of outputs from DEWR;
- remuneration of the Employment Advocate;
- advertising campaigns and market research;

Department of Employment and Workplace Relations

Cross Portfolio

2.8 DEWR was again questioned about the late submission of answers to questions on notice from both the November Supplementary and February Additional rounds. Senator Wong identified that over 95 per cent of answers were received after the deadline set by the committee. Furthermore during the week leading up to the Budget estimates over 350 of the answers were received from both rounds. The Minister representing the Minister for Employment and Workplace Relations explained that due to the large number of questions, some 1 151, and a recent change in Minister, a considerable workload placed on the department.

2.9 Further questioning by Senator Wong concerned the 'A Stronger Safety Net' non-campaign advertising. Senator Wong was particularly interested in when the department was advised of the campaign and what it would include. Subsequently, Senator Wong continued with questions on all current DEWR advertising campaigns, including the 'Welfare to Work', 'Support the System that Supports You' and the 'Workplace Relations System' campaign.

Outcome 2 — Higher productivity, higher pay workplaces

2.10 There were numerous questions directed to Outcome 2 officers concerning the proposed changes to the Workplace Relations Act and the introduction of the 'Fairness Test.' The Chairman acknowledged that the bill was currently before the parliament, and while urging caution about trespassing on matters which were the subject of the legislative inquiry, allowed cursory questioning to proceed. Senators Marshall and Wong pursued further details on the drafting timeline of the bill, the key concepts of the bill and the new role of the Workplace Authority.

2.11 Senator Marshall also questioned the department on the telephone hotlines and websites used in the provision of workplace relations information. The questions focussed on confirming that the workplace infoline was now the main source of public information, replacing both the previous Work Choices infoline and the Work Choices Hotline. This line of questioning was later taken up by Senator Wong in reference to the current branding of campaign and promotional materials.

2.12 Other issues discussed in Outcome 2 included:

- Workplace Relations Act and pattern bargaining;
- status of the review of the Commonwealth Occupational Health and Safety (Commonwealth Employment) Act and the Occupational Health and Safety Act;
- Employer Advisor Program and Employee Assistance Program;
- AWA samples from the Workplace Authority and the report on agreement making; and
- allowances and entitlements in AWAs and collective agreements.

Workplace Ombudsman (Formerly Office of Workplace Services)

2.13 Questioning began on the proposed changes to the name and functions of the Workplace Ombudsman. Senator Marshall raised the issue of market research into the re-branding of the agency and asked questions on the appropriations that the office had received for this purpose.

2.14 Senator Birmingham followed on with questions concerning the Workplace Ombudsman's investigations into WorkDirections Australia and more the general issues of employers' responsibilities and obligations under the Workplace Relations Act.

2.15 Other matters discussed included:

- number and type of prosecutions underway;
- number of complaints and investigations;
- updates on the Feltex and Tristar investigations;
- follow-up on the ACT auditing campaign;

- breaches and funding in relation to 457 visas;
- additional funding for compliance activities associated with the Independent Contractors Act;
- appropriations for compliance and activities in regional areas; and
- AWAs referred to the Workplace Ombudsman by the Workplace Authority.

Australian Industrial Relations Commission (AIRC)

2.16 Senator Campbell began by asking questions about funding for the AIRC in 2007-08 and staffing levels and locations. There were also questions about the AIRC's dispute resolution powers and the number of claims for unlawful dismissal lodged since the WorkChoices legislation began on 27 March 2006.

Australian Fair Pay Commission (AFPC)

2.17 Senator Marshall asked questions on junior, trainee and apprentice wages and the timetable for their review. The committee was advised that a report on the economic and social circumstances of Australian young people aged 15 to 20 had been commissioned and was due to be finalised by the end of June 2007.

2.18 The Commission was again questioned on the process and timing for the next decision on the minimum wage, confirming to the committee that the announcement should be made sometime in July.

Equal Opportunity for Women in the Workplace Agency (EOWA)

2.19 The committee gave more attention to this agency than previously. Senator McEwen began by questioning the agency about their budget spending for 2006-07 and 2007-08. EOWA confirmed there was a budget underspend due to uncommitted IT expenditure and some vacancies not being filled. Senator McEwen also asked questions on the number of employees on AWAs and the working arrangements for employees within the agency, specifically maternity leave entitlements.

2.20 Further questions focussed on the topic of the current yearly survey undertaken by the agency which this year will look at paid maternity leave and part-time work. The committee was informed that this survey will inform a report which is in addition to the agency's official reporting requirements under the *Equal Opportunity for Women in the Workplace Act 1999*. There was additional discussion on the provision and duration of maternity leave provided by various employers. Senator Wong focussed questions on the trends and obligations in the public sector while Senator Barnett focussed on small and micro businesses.

2.21 There were also discussions on the newly announced changes to the criteria for the EOWA Employer of Choice for Women accreditation. The committee was advised that the new requirements, including the provision of at least six weeks paid

maternity leave and the ability for women to work part-time, will probably lead to a reduction in the number of organisations that qualify for accreditation by EOWA.

2.22 Final questions were from Senators McEwen and Wong on the Banks Review on 'Reducing the Regulatory Burden on Business.' EOWA advised the committee that it was opposed to the recommendations of the Banks Review which was in favour of voluntary reporting by private businesses under the Equal Opportunity for Women in the Workplace Act. The Banks Review did not seek the views of EOWA and received only two submissions.

Department of Employment and Workplace Relations (cont.)

Outcome 1 — Efficient and effective labour market assistance

Outcome 3 — Increased workforce participation

2.23 The initial questioning of officers from Outcomes 1 & 3 was confined to questions on the various indigenous programs. Senator Crossin asked various questions on the following:

- Remote Area Exemption funding and changes;
- changes to Community Development Employment Projects and top-up;
- Job Network providers servicing remote communities;
- current remote service tender processes;
- Northern Territory Employment Services Areas;
- Indigenous job placement outcomes at 13 and 26 weeks;
- allocation of funds to indigenous job seekers;
- Strengthening Indigenous Communities budget measure
- STEP program; and
- review of the Indigenous Cadetship program.

2.24 Senator Barnett asked questions on the guidelines and payments to Job Network providers. Senator Barnett was specifically interested in instances of fraudulent behaviour, investigations and payment recovery. The committee heard that for 2005-06 2.3 per cent of Job Network expenditure was recovered as a result of inaccurate or fraudulent claims by providers. Senator Barnett pursued this line of questioning further to publicly confirm that a specific Job Network provider, WorkDirections Australia, had been investigated by the department and ordered to repay monies claimed in error, and questions were taken on notice for further details. This discussion generated articles in the press relating to the investigation of the company.

Indigenous Business Australia (IBA)

2.25 IBA was questioned more extensively than in the past, and provided a useful and interesting discussion on trends in expenditure on indigenous housing and the capacity of indigenous communities to provide opportunities for homeownership.

2.26 Questioning commenced with Senator Crossin inquiring about the Indigenous Home Ownership and Home Ownership on Indigenous Land programs. This was followed by a detailed discussion on IBA's contract with the Department of Families, Community Services and Indigenous Affairs (FaCSIA) to build houses for indigenous people. Senator Crossin particularly wanted to establish which agency or department was accountable when problems with the houses were identified. Questions were taken on notice and would be directed to the relevant area either within IBA or FaCSIA.

Department of Employment and Workplace Relations (cont.)

Outcome 1 — Efficient and effective labour market assistance

Outcome 3 — Increased workforce participation

2.27 The officers of Outcomes 1 & 3 returned to answer questions from Senator Wong on the various payment support programs under the auspices of the department including: the Disability Support Pension (DSP), Newstart Allowance, Mobility Allowance, Sickness Allowance, Pensioner Education Supplement and Parenting Payment Single.

2.28 Senator Siewert followed with questions on principal carers, an issue which she has pursued at previous estimates hearings as well as in the Senate. The committee was advised that this issue was under review by the department. Senator Siewert also asked questions about the fortnightly reporting requirements of single parents. Senator Wong followed up the issue with reference to a *Weekend Australian* article which alleged that single parents were required to report fortnightly to Centrelink, contrary to the department's stated policy directive. This question initiated a lengthy exchange between Senator Wong and the secretary of the department, Dr Peter Boxall over the department's policy directive and accuracy of the newspaper article.

2.29 Other matters raised were:

- updates to previous answers to questions on notice
- activity tests for recipients of the parenting payment;
- job seekers who achieved only a 13 week outcome;
- Workplace Modification Scheme;
- Personal Support Program;
- Disability Employment programs in the Public Service;
- Disability Employment Network capped and uncapped referrals and commencements; and

- probity advisors and the allocation of business in the Job Network.

2.30 Final questions were from Senator Marshall on the Textiles, Clothing and Footwear (TCF) structural adjustment package.

