

# Chapter 2

## Jobs and Small Business

2.1 This chapter summarises certain key areas of interest raised during the committee's consideration of budget estimates for the 2018-19 financial year for Jobs and Small Business.

2.2 On 29 May 2018, the committee heard evidence from Senator the Hon. Michaelia Cash, Minister for Jobs and Innovation, and Senator the Hon. Zed Seselja, Assistant Minister for Science, Jobs and Innovation, along with officers from the Department of Jobs and Small Business (the department). On 30 May 2018, the committee heard evidence from Senator Seselja, along with agencies responsible for administering jobs and small business policy, including:

- Asbestos Safety and Eradication Agency
- Australian Building and Construction Commission;
- Australian Small Business and Family Enterprise Ombudsman;
- Comcare and the Safety, Rehabilitation and Compensation Authority;
- Fair Work Commission;
- Office of the Fair Work Ombudsman;
- The Registered Organisations Commission;
- Safe Work Australia; and
- Seafarers Safety, Rehabilitation and Compensation Authority.

### **Department of Jobs and Small Business**

#### ***Cross Portfolio***

2.3 Enquiries were made into recent voluntary redundancies undertaken by the department. Ms Moya Drayton, Group Manager of the People and Communication Group, noted that 'for 2015-16, there were 39 voluntary redundancies; for 2016-17, there were 25; and for the financial year 2017-18 up until 31 March, there's been five.'<sup>1</sup>

2.4 Committee members further enquired into the use of contractors by the department. Dr Jill Charker, Deputy Secretary of Corporate, stated that 'at March this year we had in the department 321 contractors in total which is about 15 per cent of our total headcount in the organisation'.<sup>2</sup> When asked about the breakdown of these contractors, Dr Charker noted that '163 are...classified as ICT contractors, 41 are in

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1 *Committee Hansard*, 29 May 2018, p. 6.

2 *Committee Hansard*, 29 May 2018, p. 8.

our call centres, 19 are in legal and accounting areas, 17 are in economic and evaluation, three are in data analytics, 46 are in short-term general admin and support, and the remaining 32 are in a general category'.<sup>3</sup> Dr Charker further stated that expenditure on contractors in 2017-18, up to 31 March 2018, is \$30.4 million. In 2016-17 the comparable figure was \$22.8 million and in 2015-16 it was \$25.6 million.<sup>4</sup>

2.5 Committee members also enquired into the death of a worker on a Work for the Dole site. Mr Martin Hehir, Deputy Secretary, Employment, noted that the department was waiting for a decision on the matter by the Toowoomba Magistrates Court before it would release the report into the worker's death.<sup>5</sup>

### ***Outcome 1***

2.6 Committee members enquired into staffing as well as the timeframe of the Future of Work Taskforce.<sup>6</sup> The department noted that they have 10 staff (Average Staffing Level) assigned to the project.<sup>7</sup> Mr Hehir further noted that the department was extending the Taskforce for a further 12 months as 'there's still further work to do'.<sup>8</sup>

2.7 There were further questions regarding the role of the Taskforce. Ms Angela Hope, Acting Branch Manager within the Youth and Programs Group, stated that:

In general terms, the team is a cross disciplinary team, so we do have people with experience in a broad range of skills. That includes data analytics, economic analysis, policy development and project management. Part of the work of the task force has been...to actually improve the data that we are collecting in relation to jobs and skills so we have more of an understanding of what is actually happening at a granular level both in respect of occupations in terms of how they are growing and declining and in respect of what is actually happening to jobs in particular regions at a more specific level than what we've had before.

The team is also looking at big data techniques to try and get more real-time information to assist in determining what's happening with the job market and what skills are in demand. We've been doing qualitative analysis of what is happening across the 19 industry groups and the uptake of technology within those particular industry groups. And, obviously, part of the work of the branch is to consider policy options in relation to the future of work and how we can best support people to make the transitions that they will need to make into the future.<sup>9</sup>

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3 *Committee Hansard*, 29 May 2018, p. 9.

4 *Committee Hansard*, 29 May 2018, pp. 10–11.

5 *Committee Hansard*, 29 May 2018, p. 13.

6 *Committee Hansard*, 29 May 2018, p. 28.

7 *Committee Hansard*, 29 May 2018, p. 29.

8 *Committee Hansard*, 29 May 2018, p. 30.

9 *Committee Hansard*, 29 May 2018, p. 44.

2.8 Further questions were asked regarding the rising prevalence of 'gig economy' workers in Australia. Ms Sandra Parker, Deputy Secretary for Workplaces and Small Business, noted that there are gaps in the data regarding the number of gig economy workers making it difficult to calculate total numbers accurately. However, Ms Parker stated the 'we got some new figures in March [2018] from the Association of Superannuation Funds of Australia which said about 150,000 people, or 1.2 per cent of the workforce, use digital platforms' for employment.<sup>10</sup>

2.9 The 'More Choices for a Longer Life—jobs and skills for mature age Australians' measure was also discussed. The department noted that there was a \$9.3 million saving in the project for 2017-18 due to an underspend in the Labour Market Support Stream. When further questioned regarding the reasons behind this underspend the department agreed with the assertion that 'it's a demand-driven program and the demand hasn't been there'.<sup>11</sup> Ms Kerri Hartland, Secretary of the Department of Jobs and Small Business, noted that the \$9.3 million had 'been utilised for other purposes'.<sup>12</sup>

2.10 There were further enquiries into the Work for the Dole program. Questions were posed around the efficacy of the program and its ability to help long-term unemployed find a job. Ms Janine Pitt, Group Manager of Activation and Work for the Dole Group, stated that the department had undertaken surveys into the willingness of Work for the Dole members to find employment after six weeks on the program. The data showed that '74.1 per cent of participants reported an increased desire to find a job...69.6 per cent of participants reported an increase in self-confidence and 67.3 per cent of participants reported improved work related skills'.<sup>13</sup>

2.11 Discussions regarding the rollout of the Regional Employment Trials Program also occurred. Ms Hartland noted that the program would cost \$18.4 million and would be 'commencing 1 October 2018 and running until June 2020'.<sup>14</sup> When questioned on which regions the project would be rolled out in, departmental representatives stated that the '10 regions are expected to be announced mid this year'.<sup>15</sup>

2.12 Enquiries were made into Youth Jobs PaTH. Questioned about the cost to run the project over the forward estimates, Mr Hehir stated that 'approximately \$26 million [is] budgeted for this financial year, and then in the order of \$49 million to \$50 million over each of the next four years'.<sup>16</sup>

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10 *Committee Hansard*, 29 May 2018, p. 44.

11 *Committee Hansard*, 29 May 2018, p. 38–39.

12 *Committee Hansard*, 29 May 2018, p. 39.

13 *Committee Hansard*, 29 May 2018, p. 48.

14 *Committee Hansard*, 29 May 2018, p. 62.

15 *Committee Hansard*, 29 May 2018, p. 62.

16 *Committee Hansard*, 29 May 2018, p. 67.

2.13 Questions were further asked about the number of individuals who participated in the PaTH program who succeeded in finding employment. Mr Greg Manning, Group Manager of the Youth and Program Group, noted that '62 per cent of the individuals who have participated in one or more elements of PaTH have achieved a job placement'.<sup>17</sup>

2.14 Committee members also enquired into the number of complaints received by the department in regards to the PaTH program. Mr Manning replied that 'as at 20 May of this year, the department's national customer service line had received 28 complaints from jobseekers relating to PaTH internships...I think it's 0.01 per cent of commenced internships'.<sup>18</sup>

2.15 The Career Transition Assistance Program was also discussed. The department noted that the program would cost \$303.8 million from 2018-19 over the four years to 2021-22.<sup>19</sup> When questioned about where the trials would be carried out, Mr Ty Emerson, Branch Manager in the Activation and Work for the Dole Group, stated 'it will be rolled out in Perth North, Western Australia; Central West, New South Wales; Ballarat, Victoria; Somerset; and Adelaide South, South Australia'.<sup>20</sup>

## ***Outcome 2***

2.16 The committee discussed the amount of money returned to workers under the Fair Entitlements Guarantee (FEG) Recovery Program. Ms Debbie Mitchell, Group Manager of the Workplace Relations Programs Group, noted that the FEG had recovered \$58 million since the recovery program was launched.<sup>21</sup>

2.17 Ms Mitchell noted that the ongoing government funding for this program was \$10 million per year.<sup>22</sup> However, she further noted that 'in a particular year when we have particularly complex or expensive litigation, we're [the department] able to source additional funding'.<sup>23</sup> The ongoing court case against Queensland Nickel, where the department has spent between \$8 and \$9 million, was later used as an example of a situation where such additional funding was required.<sup>24</sup>

2.18 The Murray Review into security of payments was also discussed. When questioned about whether the department had 'any communication with any employer associations or industry bodies...about the Murray Report since it was released' Ms Justine Ross, Acting Group Manager, Work, Health and Safety Group, replied that

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17 *Committee Hansard*, 29 May 2018, p. 68.

18 *Committee Hansard*, 29 May 2018, p. 73.

19 *Committee Hansard*, 29 May 2018, p. 76.

20 *Committee Hansard*, 29 May 2018, p. 76.

21 *Committee Hansard*, 29 May 2018, p. 87.

22 *Committee Hansard*, 29 May 2018, p. 102.

23 *Committee Hansard*, 29 May 2018, p. 102.

24 *Committee Hansard*, 29 May 2018, pp. 102–103.

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neither she nor any employee of the department had made contact with these groups.<sup>25</sup> When further asked about whether the department would look at implementing any of the recommendations from the Review, the department replied that that would be a matter for the Building Ministers' Forum in combination with the Department of Industry, Innovation and Science.<sup>26</sup>

2.19 Carrying on from discussions at the previous estimates round in February, there were further enquiries into the Federal Court decision that All Trades, a large Queensland employer of apprentices, had underpaid workers.<sup>27</sup> In particular, an update was sought on whether apprentices employed by All Trades were going to be reimbursed for their underpayment. Ms Parker noted that the situation is ongoing and that discussions were being undertaken with the Queensland Government.<sup>28</sup>

2.20 The alleged underpayment and mistreatment of individuals under the Seasonal Workers Program was also discussed in great detail. The department noted that they are currently investigating the case in question and have conducted interviews with the workers.<sup>29</sup> The department also noted that all allegations of underpayment were referred to the Fair Work Ombudsman.<sup>30</sup>

2.21 Enquiries were made into changes to the Australian Small Business Advisory Services program. Mr Peter Cully, Group Manager of the Small Business and Economic Strategy Group noted that the program moved from the Department of the Treasury under the December 2017 machinery-of-government changes.<sup>31</sup> Mr Cully noted the changes were as follows:

Coming out of that were a couple of key changes to the program. The previous program had had 33 providers around the country, each receiving approximately \$200,000 per year. The new model that is scheduled to commence in July this year has divided the country into three regions: New South Wales and ACT; Victoria, South Australia and Tasmania; and Queensland, Northern Territory and Western Australia. There'll just be a single provider in each of those regions and they will each receive in the order of approximately \$2 million per year for the program. The program will be focused on digital rather than more broad small business skills.<sup>32</sup>

2.22 The committee concluded proceedings on Tuesday, 29 May by discussing employment figures. Ms Alison Durbin, Acting Group Manager of the Workplace Relations Policy Group, noted the latest employment data is from August 2016 and it

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25 *Committee Hansard*, 29 May 2018, pp. 93–94.

26 *Committee Hansard*, 29 May 2018, pp. 94–95.

27 *Committee Hansard*, 29 May 2018, p. 97.

28 *Committee Hansard*, 29 May 2018, p. 98.

29 *Committee Hansard*, 29 May 2018, p. 104.

30 *Committee Hansard*, 29 May 2018, p. 108.

31 *Committee Hansard*, 29 May 2018, p. 122.

32 *Committee Hansard*, 29 May 2018, p. 122.

stated 'that there were about 10.1 million employees, of whom about 3.3—that's just over 32 per cent—were part time, and around 6.8 million, basically two-thirds, 67.6 per cent, were full time'.<sup>33</sup> The department also noted that in August 2017, 25.1 per cent of the workforce was in casual employment, a 1.6 percentage point increase on 2012.<sup>34</sup>

### **Australian Building and Construction Commission**

2.23 The committee questioned senior executive staff regarding their knowledge of incorrect information published on the ABCC website.<sup>35</sup> When asked about the steps the executive staff took to ensure that correct information was distributed, Mr Peter Darlaston, Regional Manager Eastern, responded that he 'instructed [his] officers to ensure that they were aware of the changes in the legislation and to ensure that they accurately gave information and advice to industry participants'.<sup>36</sup>

2.24 Information was sought regarding ongoing legal matters currently in the courts between the ABCC and Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU).<sup>37</sup> Mr Stephen McBurney, the ABCC Commissioner, noted that 'the CFMMEU is a respondent in 41 matters currently before the court, and they are 41 of the 44 matters the agency currently has before the court'.<sup>38</sup>

### **Office of the Fair Work Ombudsman**

2.25 Information was sought about the involvement of Fair Work Ombudsman staff in the ongoing AFP investigations into the alleged unauthorised disclosure of information concerning the execution of search warrants obtained by the Registered Organisations Commission. Ms Natalie James, the Fair Work Ombudsman, noted that 'the situation remains as it was last time we spoke at estimates [28 February 2018], which is that the AFP continues to investigate the matter. The public interest immunity set out by the Attorney-General continues to apply and I am not in a position to traverse that area'.<sup>39</sup>

2.26 When questioned about whether any employee or former employee of the FWO has been subpoenaed to give evidence in the Federal Court in the case between the Australian Workers' Union and the Registered Organisations Commission, Ms James stated that 'both the Fair Work Ombudsman and the former media director of the Fair Work Ombudsman were subpoenaed to provide documents in relation to that matter'.<sup>40</sup>

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33 *Committee Hansard*, 29 May 2018, p. 133.

34 *Committee Hansard*, 29 May 2018, p. 135.

35 *Committee Hansard*, 30 May 2018, pp. 5–6.

36 *Committee Hansard*, 30 May 2018, p. 9.

37 *Committee Hansard*, 30 May 2018, p. 11.

38 *Committee Hansard*, 30 May 2018, p. 11.

39 *Committee Hansard*, 30 May 2018, p. 44.

40 *Committee Hansard*, 30 May 2018, p. 44.

2.27 The committee also discussed the FWO's inquiry into the underpayment and exploitation of Tasmanian supermarket workers. In particular, questions were asked regarding the steps the FWO took to recover the underpayments for the effected workers. Mr Michael Campbell, the Deputy Fair Work Ombudsman responsible for Operations, noted that the FWO has 'identified \$64,000 in underpayments for a number of employees of subcontractors of cleaners within those sites'.<sup>41</sup> When further questioned about the total amount that workers were underpaid, Ms James responded:

...when we assess any underpayment, we do so based on the information and the evidence that we have before us. It is possible that we don't always have the full information and evidence, so all I am able to give you is what they were back paid. That back pay amount would have been calculated based on the information we had to hand about the hours that they worked, what they had been paid and what the shortfall was, as far as we could ascertain it. When there are cases such as these ones where there are record keeping failings—no records, false records or records that are highly inadequate—we can't actually be certain, we can't verify, what the exact amount is. We do our best based on the information we have.<sup>42</sup>

2.28 Ms James further noted that 'it's estimated that the total underpayment quantum would be far greater [than \$64,000] because Fair Work inspectors were impeded in quantifying entitlements because of poor record keeping; incomplete, inaccurate and/or false records; and a lack of cooperation from workers'.<sup>43</sup>

### **Fair Work Commission**

2.29 The Fair Work Commission was questioned regarding the process whereby Mr Bruce Billson was commissioned to write a report in consultation with small business. Mr Murray Furlong, Executive Director for Tribunal Services, noted that 'the direct approach [made to Mr Billson] is permitted under the Commonwealth Procurement Rules under the PGPA Act. Direct approaches can be made when value for money can be established based on a particular supplier's relevant experience'.<sup>44</sup>

### **Registered Organisations Commission**

2.30 The committee discussed the legal costs incurred by the Registered Organisations Commission (ROC) in regards to the ongoing investigation against the AWU. Mr Mark Bielecki, Commissioner, noted that 'the ROC has spent \$434,646, including GST'.<sup>45</sup> Of this, \$249,525 has been paid to Ashurst, a commercial law firm, \$82,642 has been paid to Mr Frank Parry QC, senior counsel, and a further \$100,489 has been paid to Matthew Follett, junior counsel.<sup>46</sup>

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41 *Committee Hansard*, 30 May 2018, p. 52.

42 *Committee Hansard*, 30 May 2018, p. 52.

43 *Committee Hansard*, 30 May 2018, p. 54–55.

44 *Committee Hansard*, 30 May 2018, p. 66.

45 *Committee Hansard*, 30 May 2018, p. 73.

46 *Committee Hansard*, 30 May 2018, p. 74.

2.31 The committee further enquired into the organisational structure of the ROC. Mr Bielecki noted that the commission consists of three streams. The first stream is in education, guidance and assistance. This includes information sessions and providing materials to assist whistleblowers.<sup>47</sup> The second stream is in relation to financial analysis. As part of this stream the ROC receives 'the financial returns and annual returns of registered organisations and the reporting units' of approximately 400 organisations and assesses them.<sup>48</sup> The third stream is in relation to compliance. The compliance stream is responsible to investigating whistleblower disclosures and undertakes investigations and inquiries.<sup>49</sup>

### **Safe Work Australia**

2.32 The committee asked Safe Work Australia to provide an overview of health and safety in the building and construction sector. When asked how many traumatic injuries have occurred in the building and construction sector, Ms Amanda Grey, the Deputy Chief Executive Officer responded:

In building and construction, the preliminary number of fatalities for this year is 10 and the preliminary number at this time last year was 17. I can get you the full number. In 2016 in construction there were 27 deaths, and so far this year there have been 33 fatalities.<sup>50</sup>

2.33 When questioned about what agencies do to make construction sites safer for workers, Ms Parker replied:

The Federal Safety Commissioner has quite an extensive role. Part of its role is, again, to oversight building companies that wish to tender for Commonwealth funded work or substantially Commonwealth funded work, some of which might be state government funded. And they work with regulators as well but they provide an overarching framework of accreditation that is a higher standard than the state and regulatory requirements. In order to be an accredited company that can tender for Commonwealth work, companies have to meet that standard, and it is enforced through the Federal Safety Commissioner, which is an independent statutory agent that sits within the department but has powers under the act.<sup>51</sup>

2.34 The committee also discussed jurisdictional issues surrounding workplace investigations which cross state and territory boundaries. Safe Work Australia noted that they were aware that New South Wales had recently amended their health and safety laws to address the issue but that the issue has not been raised at any Safe Work Australia member meetings.<sup>52</sup>

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47 *Committee Hansard*, 30 May 2018, pp. 84–85.

48 *Committee Hansard*, 30 May 2018, p. 85.

49 *Committee Hansard*, 30 May 2018, p. 85.

50 *Committee Hansard*, 30 May 2018, p. 89.

51 *Committee Hansard*, 30 May 2018, p. 91.

52 *Committee Hansard*, 30 May 2018, p. 92.



## **Australian Small Business and Family Enterprise Ombudsman**

2.35 The committee enquired into the funding and staffing allocations for the Australian Small Business and Family Enterprise Ombudsman (ASBFEO). Ms Kate Carnell, Ombudsman, noted that \$6 million is allocated to ASBFEO each year and that the staffing cap is approximately 17.<sup>53</sup> Dr Craig Latham, Deputy Ombudsman, also noted that ASBFEO currently has eight contracted workers.<sup>54</sup>

2.36 Comments by Ms Carnell regarding several government policies were also raised. Ms Carnell in response to these questions noted that 'my job, really clearly, as it says in the [ASBFEO] legislation...is to advocate on behalf of small business'.<sup>55</sup> She further noted 'if we [the ASBFEO] believe legislation or regulation is not small business friendly, then we'll make it clear what we think'.<sup>56</sup>

## **Asbestos Safety and Eradication Agency**

2.37 The committee discussed the number of asbestos detections by the Australian Border Force over the past two years and questioned whether there was any validity to the claim that 'more asbestos products are entering the country'.<sup>57</sup> Mr Peter Tighe, Chief Executive Officer, noted that these 'suppositions are probably true' and that there is also a 'much more focused process at the border than there has been in the past'.<sup>58</sup>

2.38 The National Strategic Plan for Asbestos Management and Awareness was also discussed. Mr Tighe noted that the first iteration of the national strategic plan, which commenced in 2014, will expire in 2018.<sup>59</sup> The next iteration of the strategic plan will have greater focus on 'being proactive in relation to the identification and targeted removal of asbestos to lower the incidences of asbestos-related diseases'.<sup>60</sup>

2.39 The committee also noted that this was Mr Tighe's last estimates and thanked him for his services and contribution to the Public Service.<sup>61</sup>

## **Seafarers Safety, Rehabilitation and Compensation Authority, Comcare and the Safety, Rehabilitation and Compensation Commission**

2.40 The committee sought information on third-party claims administrators and the in-house claims processing. Ms Jennifer Taylor, Chief Executive Officer, noted that two departments, Defence Housing Australia and the Australian Taxation Office,

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53 *Committee Hansard*, 30 May 2018, p. 94.

54 *Committee Hansard*, 30 May 2018, p. 95.

55 *Committee Hansard*, 30 May 2018, p. 98.

56 *Committee Hansard*, 30 May 2018, p. 99.

57 *Committee Hansard*, 30 May 2018, p. 107.

58 *Committee Hansard*, 30 May 2018, p. 107.

59 *Committee Hansard*, 30 May 2018, p. 108.

60 *Committee Hansard*, 30 May 2018, p. 108.

61 *Committee Hansard*, 30 May 2018, p. 110.

were part of the 2016 trial allowing departments to assess their workers' compensation claims in-house and that there are no third-party claims administrators at the moment.<sup>62</sup>

2.41 The committee further noted that over the last few financial years there has been a decrease in the number of claims received. When questioned about whether this was due to issues with the claims process, Ms Taylor responded:

I wouldn't have attributed it to the difficulty of the claims process. In fact, we have instituted a number of measures—an online claim form, for example—to try and speed up that claim process and the time it takes to get that to us. We've also increased our performance measures around determination of claims and the time frames for reconsideration et cetera. I haven't had feedback that the claims process itself has been an issue.<sup>63</sup>

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62 *Committee Hansard*, 30 May 2018, p. 111.

63 *Committee Hansard*, 30 May 2018, p. 112.