

The Senate

Education and Employment
Legislation Committee

Budget estimates 2017-18

June 2017

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TABLE OF CONTENTS

MEMBERSHIP OF THE COMMITTEE	iii
Chapter 1	1
Overview	1
Portfolio coverage	1
Portfolio Budget Statements 2017-18	1
Hearings.....	3
Public interest immunity claims	4
Questions on notice	4
Hansard transcripts	5
Chapter 2	7
Employment portfolio	7
Department of Employment	7
Fair Work Commission	13
Registered Organisations Commission	13
Fair Work Ombudsman	14
Workplace Gender Equality Agency.....	15
Australian Building and Construction Commission.....	15
Asbestos Safety and Eradication Agency.....	16
Comcare, the Safety, Rehabilitation and Compensation Authority and Seafarers Safety, Rehabilitation and Compensation Authority.....	16
Safe Work Australia	16
Chapter 3	19
Education and Training portfolio	19
Australian Research Council	19
Tertiary Education Quality and Standards Agency	19
Australian Skills and Quality Authority	20
Australian Institute for Teaching and School Leadership	21
Department of Education.....	21

Appendix 1	27
Committee oversight of departments and agencies	27
Appendix 2	29
Index to Proof Committee Hansard Transcripts.....	29

Chapter 1

Overview

1.1 On 9 May 2017 the Senate referred the following documents to the Education and Employment Legislation Committee (the committee) for examination and report:

- particulars of proposed expenditure in respect of the year ending on 30 June 2018;
- particulars of certain proposed expenditure in respect of the year ending on 30 June 2018; and
- estimates of proposed expenditure for 2017-18—portfolio budget statements.¹

Portfolio coverage

1.2 In accordance with a resolution of the Senate on 31 August 2016 the committee is responsible for the examination of the expenditure and outcomes of the following portfolios:

- Education and Training; and
- Employment.²

1.3 A full list of agencies is available at Appendix 1.

Portfolio Budget Statements 2017-18

1.4 Portfolio Budget Statements (PBS) inform senators of the proposed allocation of funding to outcomes and agencies within the portfolio.

Employment portfolio

1.5 The 2017-18 PBS for the Employment portfolio provides information on the proposed expenditure for the portfolio and highlights the Australian Government's employment priorities including:

- expanding ParentsNext nationally;
- a new targeted compliance framework for people on income support;
- implementing a range of initiatives to assist mature age job seekers, including the Career Transition Assistance Package, the expansion of the National Work Experience Programme and Pathway to Work pilots;
- supporting young people to improve employability skills and gain work experience through Youth Jobs PaTH;

1 *Journals of the Senate*, No. 39, 9 May 2017, pp. 1311–1312.

2 *Journals of the Senate*, No. 2, 31 August 2016, p. 76.

- encouraging job seekers in employment services to undertake eligible seasonal horticultural work through the Seasonal Work Incentives for Job Seekers Trial;
- administering payments and recovery activity under the Fair Entitlements Guarantee; and
- promoting safer workplaces in the building and construction industry through the Australian Government Building and Construction WHS Accreditation Scheme.³

1.6 The Department of Employment has two outcomes as follows:

- Outcome One: foster a productive and competitive labour market through employment policies and programs that assist job seekers into work, meet employer needs and increase Australia's workforce participation; and
- Outcome Two: facilitate jobs growth through policies that promote fair, productive and safe workplaces.⁴

Education and Training portfolio

1.7 The 2017-18 PBS for the Education and Training portfolio provides information on the proposed expenditure for the portfolio and highlights the Australian Government's education and training priorities including:

- progressing the implementation of the Jobs for Families Child Care Package;
- working collaboratively with states and territories to improve educational outcomes in Australian schools and preschools;
- the implementation of the new Higher Education Reform package;
- supporting apprenticeships and traineeships through the Skilling Australians Fund and the Industry Specialist Mentoring for Australian Apprentices program;
- establishing the Rural and Regional Enterprise Scholarships scheme; and
- changes to the Child Care Regulatory framework.⁵

1.8 The Department of Education and Training has two outcomes as follows:

- Outcome One: improved early learning, schooling, student educational outcomes and transitions to and from school through access to quality child care, support, parent engagement, quality teaching and learning environments; and

3 *Portfolio Budget Statements 2017-18: Employment Portfolio*, pp. 13–14.

4 *Portfolio Budget Statements 2017-18: Employment Portfolio*, p. 4.

5 *Portfolio Budget Statements 2017-18: Education and Training Portfolio*, pp. 12–14.

-
- Outcome Two: promote growth in economic productivity and social wellbeing through access to quality higher education, international education, and international quality research, skills and training.⁶

Hearings

1.9 On 8 November 2016 the Senate resolved that Budget Estimates hearings for the committee would occur 29 May to 1 June 2017.⁷ Accordingly the committee considered particulars of expenditure of portfolios as follows:

- Employment portfolio—29 and 30 May 2017; and
- Education and Training portfolio—31 May and 1 June 2017.

1.10 The committee heard evidence from the following Ministers:

- Senator the Hon. Michaelia Cash, Minister for Employment; and
- Senator the Hon. Simon Birmingham, Minister for Education and Training.

1.11 Evidence was also provided by the following departmental secretaries who were accompanied by officers of the portfolio departments and agencies:

- Ms Renee Leon PSM, Secretary, Department of Employment; and
- Dr Michele Bruniges AM, Secretary, Department of Education and Training.

1.12 The committee extends its appreciation to the Ministers and officers of the departments and agencies who assisted the committee in conducting the 2017–18 Budget Estimates hearings.

1.13 The committee met for a total of 47 hours and nine minutes, excluding breaks. An index of proceedings is available at Appendix 2.

1.14 Over the two days that the committee spent examining the Employment portfolio, the approximate distribution of time by party was as follows:

- Government Senators, 20 per cent;
- Opposition Senators, 61 per cent;
- Australian Greens Senators, 10 per cent; and
- Other parties and independent Senators, 8 per cent.⁸

1.15 Over the two days that the committee spent examining the Education and Training portfolio, the approximate distribution of time by party was as follows:

- Government Senators, 7 per cent;
- Opposition Senators, 73 per cent;

6 *Portfolio Budget Statements 2017-18: Education and Training Portfolio*, p. 4.

7 *Journals of the Senate*, No. 13, 8 November 2016, pp. 411–412.

8 These percentages are rounded to the nearest percentage point and therefore do not equal 100 per cent.

- Australian Greens Senators, 18 per cent; and
- Other parties and independent Senators, 2 per cent.

Public interest immunity claims

1.16 In its *Additional Estimates 2016-17* report, the committee noted the attempted public interest immunity claim made during the March 2017 hearings by Mr O'Sullivan, Chief Legal Counsel, Department of Employment. The committee concluded that the claim was not justified and reported accordingly to the Senate. In its report the committee explored Mr O'Sullivan's prior attempts to make such a claim and noted that Mr O'Sullivan's attempted claim was in conflict with the Senate's rules governing the Estimates process, and the *Government Guidelines for Official Witnesses Before Parliamentary Committees and Related Matters*.⁹

1.17 During Budget Estimates 2017-18 hearings, this issue was revisited with Ms Leon. The committee asked Ms Leon for the Department's response to the committee's report.

1.18 Ms Leon conceded that the potential basis for the claim, that is legal professional privilege, is not an acceptable ground to refuse to answer questions:

In the Senate report the committee says that legal professional privilege is not an acceptable ground for a public interest immunity claim, and I agree with that.¹⁰

1.19 But, nevertheless, Ms Leon relied on the contention that the question should have been posed to the recipient of the advice rather than the officer who had provided it.¹¹

1.20 The committee is disappointed at the departmental officials' response, and again reminds the Department of the Senate's resolution regarding the duties of public officials, including that 'the statutory values which Australian Public Service agency heads and employees are required to uphold include a requirement to be open and accountable to the Australian community under the law and within the framework of ministerial responsibility'.¹²

Questions on notice

1.21 In accordance with Standing Order 26(9)(a), the committee agreed that the date for the return of answers in response to questions placed on notice from the Budget Estimates 2017–18 hearings on 29 May to 1 June would be 13 July 2017.

9 Senate Education and Employment Legislation Committee, *Additional estimates 2016-17*, April 2017, pp. 3–10.

10 Ms Renée Leon, Secretary, Department of Employment, *Committee Hansard*, 29 May 2017, p. 44.

11 Ms Renée Leon, Secretary, Department of Employment, *Committee Hansard*, 29 May 2017, p. 44.

12 Procedural order of continuing effect 52A, Standing orders and other orders of the Senate, August 2015, pp. 150–151.

1.22 Answers to questions on notice are published as they become available on the committee's website:

www.aph.gov.au/Parliamentary_Business/Senate_Estimates/eetctte/estimates/bud1718/index.

Hansard transcripts

1.23 Committee Hansard transcripts are accessible on the committee's website: www.aph.gov.au/Parliamentary_Business/Senate_Estimates/eetctte/estimates/bud1718/index.

1.24 In this report, references to the most recent Committee Hansard are to the proof transcripts. Page numbers may vary between the transcripts of the Proof Hansard and the Official Hansard.

Chapter 2

Employment portfolio

2.1 This chapter summarises certain key areas of interest raised during the committee's consideration of budget estimates for the 2017-18 financial year for the Employment portfolio.

2.2 On 29 and 30 May 2017, the committee heard evidence from Senator the Hon. Michaelia Cash, Minister for Employment, along with officers from the Department of Employment (the Department) and agencies responsible for administering employment and workplace policy, including:

- Fair Work Commission (FWC);
- Registered Organisations Commission (ROC);
- Office of the Fair Work Ombudsman (FWO);
- Workplace Gender Equality Agency (WGEA);
- Australian Building and Construction Commission (ABCC);
- Asbestos Safety and Eradication Agency (ASEA);
- Comcare, the Safety, Rehabilitation and Compensation Commission and Seafarers Safety, Rehabilitation and Compensation Commission; and
- Safe Work Australia.

Department of Employment

Cross-Portfolio

2.3 The Department opened proceedings by advising the committee that there had been a minor change in its organisational structure. Ms Leon, Secretary, advised that two legal branches had been merged.¹

2.4 Committee members inquired about the Department's use of labour hire agreements.² Ms Leon informed the committee that the Department engages 226 contract workers on labour hire agreements, the majority of which specialise in information technology. The Department's total expenditure on labour hire agreements was \$17.9 million in the 2016-17 financial year to April 2017.³

2.5 Ms Leon provided an overview of the Department's procedures undertaken in relation to labour hire agreements:

1 *Committee Hansard*, 29 May 2017, p. 5.
2 *Committee Hansard*, 29 May 2017, p. 6.
3 *Committee Hansard*, 29 May 2017, p. 12.

When we engage a labour hire firm to provide staff to us, we then enter into a contract with them for the provision of staff. The responsibility of the labour hire firm is to fulfil the terms of the contract to the department by providing staff with the skills that they say they are going to provide to us. We do not have an employment relationship with those members of staff. Their relationship is with the labour hire firm. The staff are managed by the labour hire firm, and the labour hire firm has legal responsibilities to pay them and to pay them according to law and according to the terms of the contract they have with the person... In relation to the contractors, of course we have the normal work health and safety obligations that we have towards any person in the workplace... But, in relation to their pay and the payment of tax on superannuation and so on, it is the labour hire firm that has that legal responsibility.⁴

2.6 Committee members enquired further regarding whether the Department was aware of any labour hire agreement involving Plutus Payroll. The Department advised that investigations were ongoing to assess the impact on departmental contractors. Mr Clout, Acting Deputy Secretary, Executive, informed the committee that the Department's investigations had so far received 26 responses from contractors, eight of which had 'some degree of connection with Plutus', and all of which had been paid by the company.⁵

2.7 The committee made enquiries regarding alleged taxation fraud by Plutus in relation to the Department's labour hire agreements. Mr Clout noted that the matter was subject to an ongoing Australian Taxation Office and Australian Federal Police investigation. However, he stated that while it was likely that there would be taxation implications, they would be unlikely to be identified until the end of the current financial year and that it was unlikely that contractors under Plutus agreements would be aware of any taxation fraud if it were to exist.⁶

2.8 The committee investigated matters relating the 'shared services program'. Ms Leon clarified that, despite media reports claiming that the program would be shut down, the shared services program had received additional funding under the recent budget to expand the six hubs providing shared transactional corporate services across the Australian Public Service.⁷

2.9 Ms Leon explained that the shared services centre was formed as a result of machinery-of-government changes which split the former Department of Education, Employment and Workplace Relationships into two separate departments. Ms Leon stated that the two departments agreed to share corporate services in order to provide a budget saving of between \$5 million and \$10 million by avoiding duplicating IT and

4 *Committee Hansard*, 29 May 2017, p. 14.

5 *Committee Hansard*, 29 May 2017, p. 7.

6 *Committee Hansard*, 29 May 2017, pp. 7–8.

7 *Committee Hansard*, 29 May 2017, p. 19.

other corporate systems. Ms Leon further noted that this model has been adopted by other agencies and departments in order to 'achieve corporate efficiencies'.⁸

Outcome One

2.10 The new jobseeker compliance measures announced in the Federal Budget were discussed at length. Committee members enquired into the new 'demerit and three-strike phase' system. Ms Leon noted that the purpose of the new compliance system is 'not only to target the persistently non-compliant but also to ease up the current financial penalties that apply to [the] majority of people who are on income support but who do the right thing'.⁹

2.11 Ms Leon and Mr Martin Hehir, Deputy Secretary, explained the operation of the new compliance measures:

Ms Leon: The new system will be that...where a person fails to attend an appointment or another activity that they are required to do—and if they do not have an reasonable excuse for doing so, they will not incur a financial penalty; instead, they will get one demerit point.

Mr Hehir: In addition to the demerit, their payment is suspended until they attend.

Ms Leon: But a suspension—unlike a penalty...means that, when the person attends, then the period for which their income support was suspended will then be paid back to them. If the person incurs three demerit points—that is three instances where they have failed to attend—then their jobactive provider will conduct an interview with them where they assess whether there is some problem with their requirements that means they are not able to meet them. For example, their job plan may not be appropriate for them given the circumstances of their life at the moment and so the provider is required to assess whether there needs to be some change to their job plan and the requirements they have to fulfil.¹⁰

2.12 Officials advised that if the job plan determined by the jobactive provider was deemed to be appropriate, the person would incur a fourth demerit point. This would trigger a further assessment by the Department of Human Services to check whether the plan was appropriate or whether there were other circumstances preventing compliance. If no such impediment was identified, then the person would be moved into the 'intensive compliance phase' where financial penalties for failure to comply would accrue.¹¹

2.13 Mr Hehir further noted that this system would be subject to a 'rolling six-month basis', in which demerit points would extinguish after a six-month period.¹²

8 *Committee Hansard*, 29 May 2017, p. 20.

9 *Committee Hansard*, 29 May 2017, p. 28.

10 *Committee Hansard*, 29 May 2017, p. 21.

11 *Committee Hansard*, 29 May 2017, p. 21.

12 *Committee Hansard*, 29 May 2017, p. 21.

2.14 The Department was asked whether stakeholders had been consulted during the development of the 'demerit' system. Ms Leon told the committee:

The demerits system was developed as a budget measure, so the specific measure was not the subject of consultation, because it was developed during the budget-in-confidence process. But the way the compliance system operates has been the subject of consultation and input from the stakeholders we usually talk to, including ACOSS...and community organisations that deal with our compliance system have regularly made the point to us that it is very complex and difficult for people to navigate and that people think that the system of imposing financial penalties, even for one missed appointment, is unduly harsh. So it was listening to that kind of feedback that informed our development of the model... They have given us the feedback that the previous eight-week payment penalty was not very effective in getting action from the persistently noncompliant. So we have taken account of the feedback that we got through our regular consultations in developing the new compliance system.¹³

2.15 Ms Leon advised that the new compliance measures would result in a saving of \$204 million over five years.¹⁴ This measure forms part of a \$632 million saving by the Department, which also incorporates \$148 million saved in refocussing the Work for the Dole program.¹⁵

2.16 Committee members asked whether the Department had calculated how many income support recipients would access measures contained in the budget for drug treatment and what the drug treatment would comprise of. Mr Hehir informed the committee that the Department has calculated that around 2500 to 3000 jobseekers are expected to use the Employment Fund for drug and alcohol treatment.¹⁶

2.17 The committee enquired into the operation of the Employment Fund. Ms Leon provided an overview regarding how the Employment Fund will support individual jobseekers:

The way that the employment fund works is that, for each jobseeker who goes on to a jobactive provider's case load, an amount is credited to the employment fund that notionally goes with the number of jobseekers. Then the jobactive provider has access to that aggregated pool of funds in order to make an assessment for each individual as to: is there some particular thing that they need that would help them get a job? For some it might be the cost of transport to get to the job. For some it might be a uniform or steel capped boots or something that they need by way of equipment. For some of them it might be training. There is a broad range of expenditure

13 *Committee Hansard*, 29 May 2017, p. 47.

14 *Committee Hansard*, 29 May 2017, p. 21.

15 *Committee Hansard*, 29 May 2017, p. 21.

16 *Committee Hansard*, 29 May 2017, p. 25.

that the provider can approve out of the fund. We have pretty extensive guidelines about what can be approved and what cannot.¹⁷

2.18 Committee members enquired into comments made by Ms Leon regarding jobactive providers' underutilisation of the Employment Fund. Ms Leon informed the committee that the Department had observed lower than average expenditure in jobactive provider contracts for the first year of engagement. She noted that consultation with providers had assisted the Department in identifying where expenditure was useful and where 'unintended barriers' exist.¹⁸

2.19 The Department provided the committee with an overview of new measures designed to assist mature-age jobseekers. Ms Benedikte Jensen, Group Manager, Labour Market Strategy, informed the committee that the Pathway to Work pilot would work with employers to provide programs such as pre-employment training and work experience. Ms Jensen noted that these programs will focus on mature-age jobseekers and have up to ten pilots running at once.¹⁹

2.20 The committee enquired into departmental measures to assist jobseekers with mental health issues. Ms Leon said that the Department was working on a policy to assist with mental health. However, she also noted that this was a complex issue which required further development.²⁰

2.21 There was examination of the ParentsNext program, particularly in relation to the sites selected for intensive support. Ms Leon stated that these sites were selected due to having a high proportion of Indigenous parenting payment recipients.²¹

2.22 The review of the National Work Experience Program expansion was discussed. Ms Robyn Shannon, Branch Manager, Economic Strategy, advised that the review was being finalised and will be made public.²²

2.23 Questions were asked about the removal of coordinators from the Work for the Dole program. The Department advised that this proposal was based on feedback from providers and hosts who suggested that coordinators added unnecessary complexity to the process.²³

2.24 The committee discussed a Work for the Dole incident involving asbestos, which was noted in the *Additional Estimates 2016-17* report.²⁴ Officials were asked what action had been taken in light of the removal of signs indicating that a site had

17 *Committee Hansard*, 29 May 2017, p. 26.

18 *Committee Hansard*, 29 May 2017, p. 45.

19 *Committee Hansard*, 29 May 2017, p. 49.

20 *Committee Hansard*, 29 May 2017, p. 60.

21 *Committee Hansard*, 29 May 2017, pp. 64–66.

22 *Committee Hansard*, 29 May 2017, p. 66.

23 *Committee Hansard*, 29 May 2017, pp. 72–74.

24 Senate Education and Employment Legislation Committee, *Additional estimates 2016-17*, p. 26.

been contaminated. Ms Leon stated that the asbestos found onsite was not the asbestos listed on the register, which had been previously removed. Mr Hehir also noted that an audit had been conducted of the building and, having found no evidence of asbestos on the property, the signage was removed.²⁵

2.25 The committee returned to another topic discussed at Additional Estimates 2016-17 relating to the death of a Work for the Dole participant.²⁶ Ms Leon advised that the Minister for Employment had received correspondence from the Queensland Minister for Employment and Industrial Relations on 19 May 2017 to the effect that the investigation, while ongoing due to its serious and complex nature, was being finalised. Further, the Department had written to Workplace Health and Safety Queensland (WHSQ) requesting advice regarding whether the documents sought under the Senate order could harm the public interest or prejudice the investigation or any subsequent legal proceeding.²⁷ WHSQ subsequently informed the Department that a review of the documents was taking place and would be finalised by late June.²⁸

Outcome Two

2.26 The committee sought an update from the Department in relation to proceedings against Queensland Nickel and its implications for the Fair Entitlement Guarantee. The Department advised that \$66.78 million had been paid out under the program to 764 affected workers.²⁹

2.27 The committee enquired whether any modelling had been performed by the Department in regards to the penalty rates decision by the Fair Work Commission. Dr Alison Morehead, Group Manager, Workplace Relations Policy, stated that it had conducted a number of studies to determine a number of people who would be affected by the decision, and explained how the studies were designed.³⁰ Dr Morehead noted that precise estimates regarding the total dollar loss to workers were difficult to obtain due to the nature of casual Sunday employment.³¹ Additionally, Dr Morehead advised that the number of affected workers was likely to be between 300 000 and 450 000 rather than other estimates of 700 000 or up to one million.³²

2.28 Questions were asked in relation to the recent changes made to the temporary 457 visa programme's Short-term Skilled Occupation List, particularly in relation to the arts sector. The Department advised that the decision to remove a number of occupations from the list was a result of analysis of labour market factors and how

25 *Committee Hansard*, 29 May 2017, p. 76.

26 Senate Education and Employment Legislation Committee, *Additional estimates 2016-17*, p. 27.

27 *Journals of the Senate*, No. 33, 22 March 2017, p. 1127.

28 *Committee Hansard*, 29 May 2017, p. 79.

29 *Committee Hansard*, 29 May 2017, p. 90.

30 *Committee Hansard*, 29 May 2017, pp. 98–99.

31 *Committee Hansard*, 29 May 2017, p. 100.

32 *Committee Hansard*, 29 May 2017, p. 100.

many visa holders were in the sector.³³ The Department further advised that one third of 650 occupations on the list had been removed.³⁴

2.29 The death of a participant under the Seasonal Worker Program was discussed. The Department stated that the worker held a visa that enabled him to participate in the program, and that no cause of death has yet been issued. Ms Alison Durbin, Branch Manager, Workplace Relations Policy, advised that the Department was awaiting information from the coroner before taking further action.³⁵

Fair Work Commission

2.30 The committee inquired into the reduction in funding for the Fair Work Commission (the FWC) between 2016-17 and 2017-18. The FWC advised the committee that this was in part due to the transfer of functions from the FWC to the ROC, in addition to funding being attributed to the ROC for the purposes of the Royal Commission into Trade Union Governance and Corruption.³⁶

2.31 Committee members sought information regarding enterprise agreements with a number of retail outlets and in particular whether the FWC investigated employers who declared that agreements passed the Better Off Overall Test. Mr Murray Furlong, Director, Tribunal Services, advised that assessors check every agreement to ensure compliance with pre-lodgement provisions.³⁷

2.32 The Department was asked about the Pay Equity Unit's (PEU) current organisational structure. Mr Furlong advised that the PEU is no longer a discrete unit, and has been subsumed as part of a broader unit.³⁸ Ms Bernadette O'Neill, General Manager, informed the committee that the decision to merge the PEU into the larger group was due to a lack of activity in the PEU and the assessment that its resources could be better utilised elsewhere.³⁹

Registered Organisations Commission

2.33 Mr Mark Bielecki, the new Registered Organisations Commissioner, was welcomed by the committee to his first appearance at estimates hearings. He opened proceedings with a statement regarding his recent appointment to the Registered Organisations Commission (ROC).⁴⁰

33 *Committee Hansard*, 29 May 2017, pp. 113–115.

34 *Committee Hansard*, 29 May 2017, p. 116.

35 *Committee Hansard*, 29 May 2017, pp. 124–125.

36 *Committee Hansard*, 30 May 2017, p. 4.

37 *Committee Hansard*, 30 May 2017, p. 9.

38 *Committee Hansard*, 30 May 2017, p. 16.

39 *Committee Hansard*, 30 May 2017, p. 17.

40 *Committee Hansard*, 30 May 2017, p. 4.

2.34 Committee members sought information regarding policies and procedures in place to govern the operational relationship between the ROC and the FWO, which Mr Bielecki said he would provide on notice.⁴¹

2.35 Senators further enquired about the ROC's funding falling from \$6.5 million in 2017-18 to \$3.6 million in the forward estimates. Mr Bielecki stated that the additional funding in 2017-18 relates to the Royal Commission into Trade Union Governance and Corruption, and that it was expected that less funding would be required in the forward estimates for that purpose.⁴²

Fair Work Ombudsman

2.36 Committee members sought information regarding the focus on education and advice by the Fair Work Ombudsman (the FWO). The FWO advised that it had a number of initiatives being pursued, including the release of the Record My Hours app, enhancing the FWO's online presence, and research in connection with the Migrant Workers' Taskforce.⁴³

2.37 The committee enquired into allegations of underpayment of employees by Dominos, which were raised during Additional Estimates 2016-17 hearings.⁴⁴ Mr Michael Campbell, Deputy Fair Work Ombudsman, Operations, informed the committee that the FWO currently has 26 active investigations into Dominos outlets and had attached 'significant quality resources' to the investigation.⁴⁵

2.38 The investigation of an alleged breach of the Fair Work Act by crew members of the *Tandara Spirit* was discussed. Senators asked why a prosecution regarding that case was discontinued. Ms Natalie James, Fair Work Ombudsman, informed the committee that due to a High Court case the common law had changed, prompting the discontinuation.⁴⁶

2.39 Enquiries were also made into allegations of underpayment by foreign seafarers. Mr Campbell confirmed that the FWO had investigated these instances and is currently prosecuting a case in which sixty-one workers were underpaid.⁴⁷

2.40 Audits looking into apprentices and trainees' pay were also discussed. The FWO advised that there were reports of underpayment of apprentices.⁴⁸ The Minister of Employment further noted that the Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017 was designed to address such concerns, including measures such

41 *Committee Hansard*, 30 May 2017, p. 35.

42 *Committee Hansard*, 30 May 2017, p. 35.

43 *Committee Hansard*, 30 May 2017, p. 37.

44 Senate Education and Employment Legislation Committee, *Additional estimates 2016-17*, p. 22.

45 *Committee Hansard*, 30 May 2017, p. 40.

46 *Committee Hansard*, 30 May 2017, pp. 43–44.

47 *Committee Hansard*, 30 May 2017, pp. 44–46.

48 *Committee Hansard*, 30 May 2017, p. 57.

as increasing penalties to breaches of the Act and strengthening investigatory powers.⁴⁹

Workplace Gender Equality Agency

2.41 The discussion with the Workplace Gender Equality Agency (the WGEA) opened with a question regarding when the gender pay gap would close based on current trends. Ms Libby Lyons, Director, advised that OECD estimates suggest that pay equality would be achieved 'in excess of 100 years'.⁵⁰

2.42 The committee enquired into the gap in gender participation in the workforce. Ms Lyons noted that, according to the OECD, the male participation rate in Australia was at 82.2 per cent and the female participation rate was at 70.5 per cent in 2014.⁵¹ Upon further questioning, Ms Lyons acknowledged that current figures were not available as only ABS statistics were available. It was noted that the lack of consistency in statistical sources presented problems in accurately tracking participation rates.⁵²

2.43 There was an examination into primary carer's leave. Ms Lyons informed the committee that the WGEA is aware of employers who provide primary carer's leave, in addition to other incentives to return to work such as emergency nanny services and bonuses for returning to work.⁵³

Australian Building and Construction Commission

2.44 The Commissioner, Mr Nigel Hadgkiss, made an opening statement in which he noted the agency's workload, including assessment of over 300 agreements per month.⁵⁴

2.45 The committee made enquiries regarding whether an external organisation had been engaged by the Australian Building and Construction Commission (the ABCC) to assess building code compliance. Mr Hadgkiss advised that a computing company assists with the ABCC's case management system and has been requested to assess agreements.⁵⁵ There was further discussion about the possibility of a future tendering process for these functions.⁵⁶

2.46 There was also discussion about recent court cases in which the ABCC was involved. Senators enquired into a case involving a trade union fined for breaching provisions of the Fair Work Act. Mr Hadgkiss informed the committee that the ABCC

49 *Committee Hansard*, 30 May 2017, p. 73.

50 *Committee Hansard*, 30 May 2017, p. 74.

51 *Committee Hansard*, 30 May 2017, p. 75.

52 *Committee Hansard*, 30 May 2017, p. 76.

53 *Committee Hansard*, 30 May 2017, p. 78.

54 *Committee Hansard*, 30 May 2017, p. 79–80.

55 *Committee Hansard*, 30 May 2017, p. 86.

56 *Committee Hansard*, 30 May 2017, p. 86–87.

had pursued the case at a cost of \$50 000.⁵⁷ Mr Hadgkiss additionally provided details on a Federal Court case relating to a union official having a meeting onsite.⁵⁸

2.47 Enquiries were made in relation to the ABCC's communication with state, territory and Commonwealth occupational health and safety regulators in relation to information-sharing arrangements. Mr Hadgkiss noted that he had sent letters to the heads of the regulators in these jurisdictions, and that regional managers would be responsible for further interactions with those agencies.⁵⁹

2.48 Senators questioned the Minister in regards to the outcome of the Royal Commission into Trade Union Governance and Corruption. Minister Cash advised that the Federal Government had committed to adopting the recommendations set out in the Royal Commission's findings, which would be partially addressed through the bill to protect vulnerable workers and the bill in relation to corrupting benefits.⁶⁰

Asbestos Safety and Eradication Agency

2.49 Mr Peter Tighe, Chief Executive Officer, provided an overview of the implementation of the National Strategic Plan for Asbestos Management and Awareness and its national awareness raising campaign.⁶¹

2.50 Committee members asked ASEA for an update on the Rotterdam Convention. Mr Tighe stated that the Australian contingent had attended the Convention in April and early May, where a major concern discussed during proceedings was chrysotile asbestos listed on annexure III. The issue was further discussed in the context of trade agreements with China and the United States.⁶²

Comcare, the Safety, Rehabilitation and Compensation Authority and Seafarers Safety, Rehabilitation and Compensation Authority

2.51 Comcare and the Seafarers Safety, Rehabilitation and Compensation Authority were called by a senator who did not attend the hearing to ask questions. No other senator attending had questions for the agency.⁶³ The committee apologised to the witnesses for their inconvenience and dismissed the agencies without question.

Safe Work Australia

2.52 Committee members questioned whether a review by Safe Work of the building and construction industry had been considered. Ms Michelle Baxter, Chief Executive Officer, told the committee that the Minister had written to the chair of Safe Work requesting that a review be conducted of work health and safety laws in the

57 *Committee Hansard*, 30 May 2017, p. 88–89.

58 *Committee Hansard*, 30 May 2017, p. 89.

59 *Committee Hansard*, 30 May 2017, p. 112.

60 *Committee Hansard*, 30 May 2017, p. 113.

61 *Committee Hansard*, 30 May 2017, p. 125.

62 *Committee Hansard*, 30 May 2017, p. 126–127.

63 *Committee Hansard*, 30 May 2017, p. 129.

building and construction sector. The request was considered by Safe Work members and was ultimately not agreed to in the form requested. Members instead asked the chair to seek the Minister's agreement to have Safe Work conduct the review from her workplace health and safety ministerial colleagues in the states and territories.⁶⁴ The Minister further noted that one state had responded stating that they felt a review was not necessary.⁶⁵

64 *Committee Hansard*, 30 May 2017, p. 129.

65 *Committee Hansard*, 30 May 2017, p. 131.

Chapter 3

Education and Training portfolio

3.1 This chapter summarises certain key areas of interest raised during the committee's consideration of budget estimates for the 2017-18 financial year for the Education and Training portfolio.

3.2 On 31 May and 1 June 2017, the committee heard evidence from Senator the Hon. Simon Birmingham, Minister for Education and Training, along with officers from the Department of Education and Training (the Department) and agencies responsible for administering education and training policy, including:

- Australian Research Council (ARC)
- Australian Skills Quality Authority (ASQA);
- Tertiary Education Quality and Standards Agency (TEQSA); and
- Australian Institute for Teaching and School Leadership (AITSL).

Australian Research Council

3.3 Ms Leanne Harvey, Acting Executive General Officer, advised the committee that a new CEO is due to start in July. The committee congratulated Ms Harvey's performance in her temporary role.¹

3.4 Committee members enquired about the status of the *Australian Code for the Responsible Conduct of Research*. Ms Harvey confirmed that there was a review of the code underway.² There was discussion of the removal of the definition of research misconduct from the code and the reasoning behind this decision.³

3.5 The number of new matters of actual or potential research integrity breaches or misconduct was sought by the committee. Ms Harvey informed the committee that eleven new matters were notified in 2016.⁴ Ms Kylie Emery, Acting General Manager, noted that these matters mostly related to authorship disputes, peer assessment processes and plagiarism.⁵

Tertiary Education Quality and Standards Agency

3.6 Committee members questioned Professor Nicholas Saunders, Chief Commissioner, about the operational challenges facing the agency. Professor

1 *Committee Hansard*, 31 May 2017, p. 4.

2 *Committee Hansard*, 31 May 2017, p. 4.

3 *Committee Hansard*, 31 May 2017, p. 4.

4 *Committee Hansard*, 31 May 2017, p. 8.

5 *Committee Hansard*, 31 May 2017, p. 8.

Saunders advised that the Tertiary Education Quality and Standards Agency (TEQSA) had faced two major challenges over the past five years: the major review which resulted in a reduction of funding; and an increase in prospective providers in the VET industry.⁶

3.7 TESQA was asked about its staffing arrangements, particularly in relation to temporary staffing contracts. Mr Elmer Wiegold, Director, advised that the agency spent approximately \$1.3 million on contract staff and external experts in the 2015-16 financial year. He further noted that the agency has had a significant reduction in APS staff, dropping from 100 in 2014-15 to 48 currently.⁷

Australian Skills and Quality Authority

3.8 Mr Mark Paterson, Chief Commissioner, was asked whether RTO compliance rates stated in the Australian Skills and Quality Authority (ASQA) 2015-16 annual report remained current. He confirmed that this was the case, stating that RTOs being audited had low rates of compliance during the initial auditing phase, and noted that rates of non-compliance had increased due to ASQA's shift towards a 'risk-based system of regulation'.⁸

3.9 The committee enquired about the collapse of training provider the Sage Institute. Mr Paterson informed the committee that, due to Sage's lack of electronic filing practices, it had provided ASQA with 2500 boxes of hard copy student notes, equivalent to about 3½ semi-trailer loads of paper records, which was causing significant delays in assessment.⁹ The committee asked why Sage had not been identified as at risk of collapse during earlier audits:

Mr Paterson: Our assessment and our audit processes do not—and we do not have a remit to enable us to—examine with precision the financial standing of an organisation at the point in time like that.

Senator CAMERON: So who does? Would that be ASIC?

Mr Paterson: I do not think anybody other than the shareholders have a very clear idea. There are reporting obligations that exist for corporations. Not all of these RTOs are corporations; some of them are partnerships; the smaller ones can be sole traders. They are not all proprietary limited companies. They can be owned by offshore entities. They can be owned by onshore entities. We do not have an opportunity to examine in that detail to be able to assess imminent collapse.¹⁰

3.10 Information was also sought in relation to the number of high-risk providers which had been identified for audit. Professor Michael Lavarch, Commissioner, advised that 'something like 1300 audits are currently scheduled, currently being

6 *Committee Hansard*, 31 May 2017, p. 20.

7 *Committee Hansard*, 31 May 2017, p. 18.

8 *Committee Hansard*, 31 May 2017, p. 27.

9 *Committee Hansard*, 31 May 2017, p. 32.

10 *Committee Hansard*, 31 May 2017, p. 33.

undertaken or are in the process of being finalised'.¹¹ These audits were noted to be a combination of those 'triggered by applications, those which are triggered by risk factors and those which are follow-up audits as a result of evidence reviews, AAT proceedings and the like'.¹²

Australian Institute for Teaching and School Leadership

3.11 The committee enquired into the implementation of the Australian Professional Standards for Principals. Ms Lisa Rodgers, Chief Executive Officer, expanded on information that had been previously provided in a question on notice from the March 2017 hearings. Ms Rodgers noted that the AITSL runs a stakeholder survey in which they analyse principals' awareness of the standards, and also operate the School Leader Self-Assessment Tool to measure principals' compliance with the standards.¹³ She further advised that AITSL would monitor the standards from 2018, in addition to reviewing them as needed.¹⁴

3.12 Information was sought regarding the newly released My Induction app. Ms Rodgers advised that the app was designed to 'provide induction and support for beginning teachers...'¹⁵ In addition to in-app resources and tools, the app also connected beginning teachers with highly accomplished and leading teachers.¹⁶

Department of Education

Cross-portfolio

3.13 The committee enquired into the funding of the Healthy Harold program run by Life Education Australia. The Minister advised that a budget submission for the Healthy Harold program had been submitted to the Department of Health, not the Department of Education and Training. Life Education had been contacted shortly after the Minister became aware of the situation, and were meeting with department officials within the next week to confirm ongoing funding arrangements.¹⁷

Outcome One

3.14 There was an exchange between the committee and the Department in relation to the online school funding estimate calculator. Of particular interest was the way that data was represented in the calculator, namely the calculator's 2017 'starting point'. Mr Tony Cook PSM, Associate Secretary, Schools and Youth, noted that the

11 *Committee Hansard*, 31 May 2017, p. 37.

12 *Committee Hansard*, 31 May 2017, p. 37.

13 *Committee Hansard*, 1 June 2017, p. 5.

14 *Committee Hansard*, 1 June 2017, p. 6.

15 *Committee Hansard*, 1 June 2017, p. 7.

16 *Committee Hansard*, 1 June 2017, p. 7.

17 *Committee Hansard*, 1 June 2017, pp. 9–10.

calculations represented in these figures were based on amendments to the Act that are currently before the Parliament.¹⁸

3.15 The committee also enquired into the 'common share' approach adopted in the new school funding model. The Minister advised the committee:

Over a 10-year transition period we are transitioning to more balanced funding rates, in fact balanced funding rates that will treat each of the states equally and each of the non-government sectors equally. In terms of assuming a greater role in relation to government schools, we are transitioning from an average 17 per cent contribution to the Schooling Resource Standard up to 20 per cent contribution of the Schooling Resource Standard... You do not have to go back too far to when the Australian government's contribution to state government schools was in the single digit territory. It is come up to 17 per cent, and we are proposing to take it, with a greater role, to 20 per cent balanced equally across the states and territories.¹⁹

3.16 The Minister further noted that the legislation proposed by the Government would provide 'certainty and stability' in relation to school funding for the program's ten-year life.²⁰

3.17 Information was sought regarding bullying in schools. Dr Michele Bruniges, Secretary, noted that state and territory governments are ultimately responsible for their schooling systems and thus the Commonwealth had limited capacity to address the issues. However, she also advised that broad frameworks exist in relation to child protection, which are then enforced on a state level. State-based mandatory reporting schemes were also noted as a method of addressing bullying issues.²¹

Outcome Two

3.18 The committee asked for an update regarding the Ford Transition Project. Dr Subho Banerjee, Deputy Secretary, Skills and Training, advised that the Federal Government had worked with Ford and other stakeholders to 'support the transition to new employment opportunities for up to 1500 workers from Ford and the component manufacturing supply chain'.²² Dr Banerjee further noted that after Ford's closure in October 2016, the project focussed on providing support services through outreach centres in Geelong and Broadmeadows, which was concluded in April 2017.²³

3.19 The committee examined the funding arrangements to the university sector announced in the 2017-18 Budget. The Minister advised that the measures outlined in the budget would result in \$1.8 billion saved over the forward estimates in fiscal

¹⁸ *Committee Hansard*, 1 June 2017, p. 17.

¹⁹ *Committee Hansard*, 1 June 2017, pp. 32–33.

²⁰ *Committee Hansard*, 1 June 2017, p. 33.

²¹ *Committee Hansard*, 1 June 2017, p. 41.

²² *Committee Hansard*, 31 May 2017, p. 41.

²³ *Committee Hansard*, 31 May 2017, p. 41.

balance terms.²⁴ Minister Birmingham also advised the committee that a recent Parliamentary Budget Office (PBO) report had indicated that:

...the very steady level of higher education grants, that even with the government's reforms, will continue to flow into the education sector. In fact, [the PBO] seem to indicate a level of grants higher than that which had previously been forecast under previous budget statements, showing that there is good strong funding available for universities into the future.²⁵

3.20 The committee enquired into the efficiency dividend proposed to be applied to universities, asking what kinds of analysis the Department had taken, whether it had modelled the impact on individual universities.²⁶ Mr David Learmonth, Deputy Secretary, Higher Education, Research and International, stated that universities would respond individually to the application of the efficiency dividend. He also gave several specific examples where universities had achieved significant efficiencies, in the order of \$40–50 million per annum, through the introduction of an integrated professional services delivery model or improved internal efficiencies in corporate IT finance systems.²⁷ He also pointed out that in 2015 the university sector spent more than a quarter of a billion dollars on advertising and marketing, suggesting this as another area for efficiency gains.²⁸

3.21 There was also discussion about the policy to lower the HECS/HELP repayment income threshold. Mr Learmonth advised that the lowering of the threshold would affect 180 000 people with HECS/HELP debts, noting that this figure includes 'people who would not otherwise have paid but for the reduction in threshold, and people who would have paid but would have paid less'.²⁹

3.22 The committee asked the Department why \$42 000 was settled upon as the threshold for repayments. The Minister explained how this figure was determined:

We have looked at the growing rate of debt expected to not be repaid, we have looked at the scale of growth overall of the HELP loan scheme, we have looked at international comparisons of repayments around student loans, we went through a long process that was very open and in a discussion paper that we released ahead of last year's budget and submissions were being received, and during the election campaign last year we openly canvassed options for lowering of the repayment threshold for the HELP scheme. We also openly canvassed the setting of new or different repayment rates. In the end the judgement was made that setting a new level at \$42,000, some 20 per cent or thereabouts above the minimum wage and well above international comparisons such as repayment rates in

24 *Committee Hansard*, 31 May 2017, pp. 41–42.

25 *Committee Hansard*, 31 May 2017, pp. 88–89.

26 *Committee Hansard*, 31 May 2017, p. 90.

27 *Committee Hansard*, 31 May 2017, p. 90.

28 *Committee Hansard*, 31 May 2017, p. 121.

29 *Committee Hansard*, 31 May 2017, p. 42.

New Zealand or the United Kingdom, was a way to deal with the problem of debt not being repaid, to ensure the long-term sustainability of the HELP scheme that underpins access to university education without Australians facing any up-front fees, and to do all that in a way that was carefully calibrated with more even steps in the application of those HELP repayment levels that had historically been the case for a new lower repayment rate, which as we have said equates to about \$8 per week of repayments compared to the much higher starting level under the current arrangements, and at the other end of the spectrum some increased levels of repayment rates for graduates earning higher incomes to ensure that they too are being asked to make a contribution to repay debts a little faster.³⁰

3.23 The Department was also asked whether it had specifically considered the impact on female graduates. Mr Learmonth noted that the proportion of female graduates comprises of sixty per cent of the total number of completing students, and advised that overall the measure 'will impact on any individual according to their earnings'.³¹

3.24 There was discussion about whether the proposed threshold would affect high education enrolments. Mr Learmonth noted that domestic and international evidence indicates that a lowered repayment threshold has no effect on demand for higher education enrolments.³² The Minister further noted:

Evidence in Australia and overseas shows that where there is access to a student loan program of this nature, particularly an income-contingent student loan program but even frankly others that do not have the income-contingent generosity of HELP, there is not a real barrier to entry created at all. In fact, people become, if anything, less sensitive to the price of their studies and simply assess the benefit or otherwise of undertaking that degree. On the anecdotal example you gave before, we do not want people to be deterred from studying because of the way in which loan schemes occur, but we are confident the evidence is there that shows they will not be deterred from studying due to the structure of the loan scheme.³³

3.25 The Minister further noted that the Federal Government recommended that students consider a range of pathways to make an informed choice about their career options.³⁴

3.26 The committee enquired into the Skilling Australians Fund, asking the Department whether employers with turnover of less than \$10 million per annum will be required to contribute to the fund each year that the visa is valid. Dr Banerjee stated that temporary visas will attract the payment yearly, and permanent visas will have a

30 *Committee Hansard*, 31 May 2017, p. 43.

31 *Committee Hansard*, 31 May 2017, p. 45.

32 *Committee Hansard*, 31 May 2017, p. 48.

33 *Committee Hansard*, 31 May 2017, p. 48.

34 *Committee Hansard*, 31 May 2017, p. 48.

higher flat rate applied.³⁵ Mr Bryan Palmer, Group Manager, Skills Market, further noted that the fund would supply \$88.8 million in 2017-18, increasing to almost \$400 million in the forward estimates.³⁶ The Minister stated that the modelling of these funding estimates had been prepared with the Department of Immigration and Border Protection and the Department of the Treasury, and that the Government 'has confidence in the revenue forecasts'.³⁷

3.27 An update was also sought by the committee on the Adult Migrant English Program (AMEP). Mr Brendan Morling, Group Manager, Skills Programs, advised that AMEP's estimated funding for 2016-17 is \$279 million and around \$300 million over the forward estimates. He further noted that the number of students in AMEP in 2016-17 is expected to amount to 63 733.³⁸

Senator Bridget McKenzie
Chair

35 *Committee Hansard*, 31 May 2017, p. 69.

36 *Committee Hansard*, 31 May 2017, p. 70.

37 *Committee Hansard*, 31 May 2017, p. 70.

38 *Committee Hansard*, 31 May 2017, p. 97.

Appendix 1

Committee oversight of departments and agencies

Employment portfolio

Departments and Agencies examined

- Department of Employment
- Fair Work Commission
- Registered Organisations Commission
- Office of the Fair Work Ombudsman
- Workplace Gender Equality Agency
- Australian Building and Construction Commission
- Asbestos Safety and Eradication Agency
- Comcare, the Safety, Rehabilitation and Compensation Commission, and the Seafarers Safety, Rehabilitation and Compensation Commission
- Safe Work Australia

Agencies not examined

- Coal Mining Industry (Long Service Leave) Funding Corporation

Education and Training portfolio

Departments and Agencies examined

- Department of Education and Training
- Australian Research Council
- Tertiary Education Quality and Standards Agency
- Australian Skills Quality Authority
- Australian Institute for Teaching and School Leadership

Agencies not examined

- Australian Curriculum Assessment and Reporting Authority
- Australian Institute of Aboriginal and Torres Strait Islander Studies
- Australian National University

Appendix 2

Index to Proof Committee Hansard Transcripts

<i>Monday 29 May 2017</i>	<i>Hansard page</i>
Department of Employment Cross-Portfolio	4
Outcome 1	20
Outcome 2	90
<i>Tuesday 30 May 2017</i>	
Fair Work Commission	4
Registered Organisations Commission	32
Fair Work Ombudsman	36
Workplace Gender Equality Agency	74
Australian Building and Construction Commission	79
Asbestos Safety and Eradication Agency	125
Comcare, the Safety Rehabilitation and Compensation Commission and the Seafarers Safety, Rehabilitation and Compensation Authority	129
Safe Work Australia	130
<i>Wednesday 31 May 2017</i>	
Australian Research Council	3
Tertiary Education Quality and Standards Agency	17
Australian Skills Quality Authority	26
Department of Education – Outcome 2	39

<i>Thursday 1 June 2017</i>	
Fair Work Commission	3
Department of Employment	
Cross-Portfolio	9
Outcome 1	13