

The Senate

Education and Employment
Legislation Committee

Additional Estimates 2013–14

March 2014

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Membership of the committee

Members

Senator Chris Back, **Chair**, LP, WA

Senator Sue Lines, **Deputy Chair**, ALP, WA

Senator Helen Kroger, LP, Vic.

Senator Bridget McKenzie, Nat, Vic.

Senator Lee Rhiannon, AG, NSW

Senator Mehmet Tillem, ALP, Vic.

Participating Senators

Senator the Hon. Kim Carr, ALP, Vic.

Senator the Hon. Doug Cameron, ALP, NSW

Senator the Hon. Jacinta Collins, ALP, Vic.

Senator the Hon. Joe Ludwig, ALP, QLD

Senator Claire Moore, ALP, QLD

Senator Deborah O'Neill, ALP, NSW

Senator the Barry O'Sullivan, Nat., QLD

Senator Stephen Parry, LP, Tas.

Senator Peter Whish-Wilson, AG, Tas.

Senator John Williams, Nat., NSW

Senator Penny Wright, AG, SA

Senator Nick Xenophon, Ind., SA

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Chapter 1

Overview

1.1 On 13 February 2014¹ the Senate referred the following documents to the committee for examination and report in relation to the Education and Employment portfolio:

- Particulars of proposed additional expenditure in respect of the year ending on 30 June 2014 [Appropriation Bill (No. 3) 2013–14];
- Particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2014 [Appropriation Bill (No. 4) 2014–14];
- Final budget outcome 2012–13 Report by the Treasurer (Mr Hockey) and the Minister for Finance (Senator Cormann), November 2013; and
- Issues from the advances under the annual Appropriation Acts—Report for 2012-13.

1.2 Standing legislation committees are required to report to the Senate on 18 March 2014.

Portfolio coverage

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

Portfolio Additional Estimates Statements (PAES) 2013–14

1.4 The Portfolio Budget Statements (PBS) and the Portfolio Additional Estimates Statements (PAES) inform senators of the proposed allocation of funding to government outcomes by agencies within the portfolio. However, unlike the PBS, the PAES summarise only the changes in funding by outcome since the Budget. The PAES provides information on new measures and their impact on the financial and/or non-financial planned performance of programs supporting those outcomes.

1.5 The PAES 2013–14 notes that as a result of the September 2013 Administrative Arrangements Order, responsibility for outcomes managed by the former Department of Education, Employment and Workplace Relations has been transferred to the Department of Education, the Department of Employment, the Department of the Prime Minister and Cabinet and the Department of Social Services.²

1 *Journals of the Senate No.14*, 13 February 2014, p. 484.

2 Department of Education, *Portfolio Additional Estimates Statements 2013–14: Education Portfolio*, p. 3.

1.6 The responsibility for higher education, research and international education has transferred to the Department of Education.³ The responsibility for employment, employment services, workplace relations and work health and safety has transferred to the Department of Employment.⁴

Hearings

1.7 The committee conducted two days of hearings, examining Education outcomes and agencies on 26 February 2014 and Employment outcomes and agencies on 27 February 2014. In total the committee met for 20 hours and 27 minutes, excluding breaks.

1.8 The following outcomes and agencies appeared before the committee for the Education Portfolio:

- Australian Curriculum, Assessment and Reporting Authority;
- Australian Institute of Teaching and School Leadership;
- Australian Research Council;
- Tertiary Education Quality and Standards Agency; and
- Outcomes 1, 2 and 3.

1.9 The following outcomes and agencies appeared before the committee for the Employment Portfolio:

- Fair Work Commission;
- Fair Work Ombudsman;
- Safe Work Australia;
- Comcare;
- Office of the Fair Work Building Industry Inspectorate;
- Asbestos Safety and Eradication Agency;
- Workplace Gender Equality Agency; and
- Outcomes 1 and 2.

Public interest immunity claims

1.10 On 13 May 2009, the Senate passed an order relating to public interest immunity claims.⁵ The order sets out the processes to be followed if a witness

3 Department of Education, *Portfolio Additional Estimates Statements 2013–14: Education Portfolio*, p. 3.

4 Administrative Arrangements Order, 12 December 2013, p. 14.

5 *Journals of the Senate*, No. 68, 13 May 2009, p. 1941. The order was moved by Senator Cormann.

declines to answer a question. The full text of this order has previously been provided to departments and agencies and was incorporated in the Chair's opening statement on each day of the additional estimates hearing.

Questions on notice

1.11 The committee has drawn the attention of the department and its agencies to the agreed deadline of Thursday 24 April 2014 for the receipt of answers to questions taken on notice from this round, in accordance with Standing Order 26.

1.12 For this round, written questions on notice were received from Senators Cameron, Carr, Lines, Ludwig, Rhiannon, Siewert, Wright and Xenophon.

Note on Hansard page referencing

1.13 Hansard references throughout this report relate to proof Hansard page numbers. Please note page numbering may differ between the proof and final Hansard.

Chapter 2

Education, Employment and Workplace Relations portfolio

2.1 This chapter summarises key areas of interest raised during the committee's consideration of additional budget estimates for the 2013–14 financial year. This chapter of the report follows the order of proceedings and is an indicative, but not exhaustive, account of issues examined.

2.2 The committee heard evidence on 26 February 2014 from Senator the Hon. Marise Payne, as the Minister representing the Minister for Education, along with officers from areas of the Department of Education, and agencies responsible for education, including:

- Australian Curriculum and Reporting Authority;
- Australian Institute of Teaching and School Leadership;
- Australian Research Council; and
- Tertiary Education Quality and Standards Agency.

2.3 On 27 February 2014 the committee heard evidence from Senator the Hon. Eric Abetz, Minister for Employment, along with officers from areas of the Department of Employment and agencies responsible for administering Employment policy, and agencies responsible for employment, including:

- Fair Work Commission;
- Fair Work Ombudsman;
- Safe Work Australia;
- Comcare;
- Office of the Fair Work Building Industry Inspectorate; and
- Asbestos Safety and Eradication Agency.

2.4 Senators present over the two days of hearings include Senator Back (Chair), Senator Lines (Deputy Chair), Senators Cameron, Carr, Collins, Kroger, Ludwig, McKenzie, Moore, O'Neill, O'Sullivan, Parry, Rhiannon, Tillem, Whish-Wilson, Williams, Wright and Xenophon.

Australian Institute for Teaching and School Leadership

The Australian Professional Standards for Teachers

2.5 Representatives from the Australian Institute for Teaching and School Leadership (AITSL) responded to questions on the Australian Professional Standards for Teachers. Ms Evans, Chief Executive Officer, explained that the standards provide levels of examination for different aspects of quality teaching, including graduate,

proficient, highly accomplished and lead. The standards also provide an amount of terminology while providing clear expectations for teachers and the communities.¹

2.6 Ms Evans further elaborated that during 2013 all registering authorities agreed to use the standards as the basis for registration, while providers of initial teacher education agreed to use the standards as the basis for accreditation. In addition, the standards are being used as the basis for professional performance and developments.²

2.7 The committee queried the level to which the States were adopting the standards. Ms Evans stated that:

[T]he ACT have been very enthusiastic and very public. In all their policy and documents within the legislation associated with their regulatory authority, the standards are very explicit. South Australia has similarly been embracing the standards. There would be...some teachers in some of our schools who do not know very much about the standards and do not pay very much attention to the standards.³

2.8 The committee continued by asking whether the standards also applied to school principals. AITSL explained that there are two separate sets of standards for teachers and principals. The principals' standard originated as a content standard but was developed into more of a performance standard. Different levels of the principals' standards exist, making it more coherent regardless of whether a principal is new or highly experienced.⁴

Australian Research Council

Research Staffing at Universities

2.9 The Australian Research Council (ARC) responded to questions regarding the research workforce in Australia and the high level of movement between institutions both domestically and internationally. The committee specifically questioned whether the Excellence in Research for Australia (ERA) program could be a cause for the high levels of workforce movement. Professor Aidan Byrne, Chief Executive Officer replied:

One of the things about the research evaluation exercise ERA has done is that it has provided a focus for universities on the quality of the research

1 Ms Margery Evans, Chief Executive Officer, AITSL, *Estimates Hansard*, 26 February 2014, p. 22.

2 Ms Margery Evans, Chief Executive Officer, AITSL, *Estimates Hansard*, 26 February 2014, p. 22.

3 Ms Margery Evans, Chief Executive Officer, AITSL, *Estimates Hansard*, 26 February 2014, p. 23.

4 Ms Margery Evans, Chief Executive Officer, AITSL, *Estimates Hansard*, 26 February 2014, p. 23.

that they do. I think overall this has been a tremendously beneficial asset to the sector...if an institution decides, on the one hand, to strengthen a particular research area or, on the other hand, to let go of a particular research area, that is probably a positive and beneficial aspect of the research evaluation exercise.⁵

2.10 Professor Byrne continued by stating that the only problem that could occur with research staff movement is that the ARC runs evaluations exercises at specific times, while announcing time windows and specific dates. Due to this, universities will probably be aware of this when recruiting staff from other institutions.⁶

Streamlining of grants process

2.11 The committee began its examination of the ARC grants process by querying whether any attempts had been made to simplify the process. The ARC responded by stating that it had undergone a review of its funding rules and attempted to provide a consistency in those rules. This was achieved through researchers being able to respond to one consistent funding rule for grants rather than having to respond differently to various schemes. Professor Byrne further explained that the ARC had been updating its ICT systems to facilitate the application process for researchers.⁷

2.12 The ARC informed the committee that it had also changed the Discovery program to allow up to a five year grant and that only a small number of applicants had so far requested grants for longer than three years.⁸

The Future Fellowships program

2.13 The committee requested an update of the Future Fellowships program. The ARC began by explaining that the program is aimed at mid-career researchers, with 200 fellowships being awarded every year. Professor Byrne stated that the program was extremely successful:

I am of the view... that this has been a very successful program in that it gives support to researchers at a very critical time in their research careers. It gives them funding for four years to pursue their research topics. They are at a point where they are, in many ways, at their most creative.⁹

5 Professor Aidan Byrne, Chief Executive Officer, ARC, *Estimates Hansard*, 26 February 2014, p. 30.

6 Professor Aidan Byrne, Chief Executive Officer, ARC, *Estimates Hansard*, 26 February 2014, p. 30.

7 Professor Aidan Byrne, Chief Executive Officer, ARC, *Estimates Hansard*, 26 February 2014, p. 40.

8 Professor Aidan Byrne, Chief Executive Officer, ARC, *Estimates Hansard*, 26 February 2014, p. 40.

9 Professor Aidan Byrne, Chief Executive Officer, ARC, *Estimates Hansard*, 26 February 2014, p. 44.

2.14 The ARC stated the Future Fellowships program supported researchers that have the highest rates of international participation and consequently become part of the research agenda around the world. In addition, the program allows targeted researchers to make important connections with industry, while enabling the transition from short term postdoctoral positions to ongoing academic careers.¹⁰

Department of Education Outcome 1

Support for the Child Care System

2.15 The committee asked the department to explain the particulars of the Early Years Quality Fund, as well as to summarise the PricewaterhouseCoopers evaluation of the program. The department explained that the fund to provide wage increases for childcare workers was only made available to employees of providers that had enterprise bargaining agreements in place, which was approximately 30 per cent of workers in the sector. On the day the applications opened, the department had over 453 applications where a conditional offer was made and 619 that were registered and assessed for a total of 16 funding agreements.¹¹

2.16 Ms Wilson, Deputy Secretary of Early Childhood Education and Care, told the committee that the PricewaterhouseCoopers evaluation of the program concluded that \$300 million was not sufficient to support higher wages to attract and retain childcare staff in the sector. This was due to the reality that only 30 per cent of workers in long day care and 16 per cent of workers in the sector as a whole would have benefited from the fund. A number of providers that received conditional offers had already met the national quality framework and met the qualification requirements. Finally, the requirement for an enterprise agreement disadvantaged small providers and allowed larger providers who already had an enterprise agreement to promptly submit an application.¹²

Department of Education Outcome 2

Broadband Enabled Education

2.17 The committee sought an explanation of the functions of the Broadband Enabled Education program. Ms Bloor, Branch Manager, disclosed that the program provided funding for 13 projects across schools, vocational education and training, and higher education sectors. The program targets the use of services that use high-speed broadband technologies. Each of the 13 projects is subject to a local evaluation

10 Professor Aidan Byrne, Chief Executive Officer, ARC, *Estimates Hansard*, 26 February 2014, p. 44.

11 Mr David De Silva, Group Manager, Department of Education, *Estimates Hansard*, 26 February 2014, p. 61.

12 Ms Jackie Wilson, Deputy Secretary, Department of Education, *Estimates Hansard*, 26 February 2014, p. 61.

and the department is considering an overarching evaluation. The program has so far received \$24.6 million in funding.¹³

Smarter Schools

2.18 The department responded to concerns the committee raised regarding the aim of the Smarter Schools program to improve teacher quality due to a lack of reporting by some States. Mr Cook, Associate Secretary, responded by noting that all states in receipt of Commonwealth funding are required to improve the quality of teaching through registration processes, professional standards and through accredited education courses. Mr Cook continued by stating:

States and territories themselves are implementing the teacher standards based on their own activity initiatives. The states and territories have some very comprehensive work on teacher quality. Victoria and New South Wales have released very explicit plans about what they intend to do about teacher quality.¹⁴

2.19 The committee asked the department what the government was specifically doing to improve teacher quality. Mr Cook stated that the government made a number of election commitments to improving teacher quality, including continuing the Australian Institute for Teaching and School Leadership, that examines initial accreditation of teacher education courses in universities, and the development of a literacy and numeracy test. The creation of the teacher education ministerial advisory group will help to improve teacher quality by creating a forum in which the government can consult with experts.¹⁵

Department of Education Outcome 3

Visa processing for education providers

2.20 Senators asked if the Department could comment on the benefits to the Australian education industry from the streamlining of the assessment level framework for visas and visa processing for certain non-university education providers. Mr Griew, Associate Secretary, commented that they expected to see a rise in student numbers:

There have been a series of changes that have taken quite some time to come through the system. The latest is the extension of the streamlined visa arrangements to those 19 non-university providers... there are a number of

13 Ms Rhyon Bloor, Branch Manager, Department of Education, *Estimates Hansard*, 26 February 2014, p. 105.

14 Mr Tony Cook, Associate Secretary, Department of Education, *Estimates Hansard*, 26 February 2014, p. 107.

15 Mr Tony Cook, Associate Secretary, Department of Education, *Estimates Hansard*, 26 February 2014, p. 108.

factors that are causing an uplift and we would expect to see a continuing increase.¹⁶

Investment in Higher Education Research

Joint Research Engagement Program

2.21 The committee requested a brief description of the Joint Research Engagement Program. The department explained that the program's general purpose is to provide grants while also having a subcomponent that creates support for engineering cadetships. It is one of six grants that supports infrastructure other than buildings. The program supports collaborative research activities between universities, and also between industry. The support for engineering cadetships includes a subsidy for research training costs for engineering and science degrees for institutions that are involved in the scheme.¹⁷

Fair Work Ombudsman

Small Business Helpline

2.22 The committee discussed with representatives from the Fair Work Ombudsman (FWO) the creation of the Small Business Helpline. FWO stated that since December the helpline had received over 30 000 calls. FWO uses the helpline to provide advice for small business through accurate and credible information to callers. This is done in a timely fashion as small business are generally short of time. Employers are using the helpline to ensure they are following the correct guidelines. In the occurrence of FWO giving the wrong advice and an employer follows that advice, FWO does not seek any penalties.

2.23 Ms James, the Fair Work Ombudsman, explained the importance of the priority line:

By providing the option, when people ring, to actually select this priority queue, we are now getting a really good idea of precisely how many people who classify themselves as small businesses are calling us—and it is quite a proportion of our total calls.¹⁸

2.24 The FWO continued by stating that 32 per cent of all calls that are received come through the Small Business helpline. The committee queried whether there was a dedicated call centre for these calls and what the wait time consisted of for the priority queue. Ms James stated that the helpline advisers are not segregated from the

16 Mr Robert Griew, Associate Secretary, Department of Education, *Estimates Hansard*, 26 February 2014, p. 137.

17 Ms Virginia Hart, Branch Manager, Department of Education, *Estimates Hansard*, 26 February 2014, p. 140.

18 Ms Natalie James, Fair Work Ombudsman, *Estimates Hansard*, 27 February 2014, p. 26.

FWO and that the average wait time on the priority line was 59 seconds, compared to an average wait time of 14 minutes for other callers. The FWO explained that most of the calls received usually relate to wages, followed by specifically apprentice and training wages.¹⁹

Comcare

Compensation entitlements

2.25 The committee asked Comcare about the benefits a worker would receive if they moved onto the Comcare scheme. Mr O'Connor, Chief Executive Officer, explained that the main advantages were a consequence of Comcare being a national system, and that all workers under the scheme around the country have the same entitlements. The scheme also includes lifetime care and support arrangement that may not be available in some states for other providers.²⁰

2.26 In addition, Comcare monitors other organisations and their processes to better improve the practices of Comcare. The national coordination is performed under Safe Work Australia, while Comcare manages strong relationships with other accident compensation regulators at an administrative level. Ms Parker, Deputy Secretary of the Department of Employment, stated that the Department reviewed the negative impact of workers moving from State to Commonwealth schemes, and that the assessment was that the impact would be minimal. The Department continued by stating that:

...that there were benefits operating under a single workers compensation scheme, including the issue of employers having to currently deal with multiple jurisdictions. So, this will reduce compliance costs, enable more efficient operation under one regime and greater consistency in coverage and benefits for employees.²¹

Asbestos Safety and Eradication Agency

Establishment

2.27 The committee requested a brief overview of the establishment of the Asbestos Safety and Eradication Agency (the Agency) considering its recent creation. The committee heard that the Agency was established in July 2013, with initial operations being conducted by the Office of Asbestos Safety; an internal section of the former Department of Education, Employment and Workplace Relations. The Agency currently consists of five staff, with the aim of increasing staff numbers to 14. The

19 Ms Natalie James, Fair Work Ombudsman, *Estimates Hansard*, 27 February 2014, pp 27–28.

20 Mr Paul O'Connor, Chief Executive Officer, Comcare, *Estimates Hansard*, 27 February 2014, p. 39.

21 Ms Sandra Parker, Deputy Secretary, Department of Employment, *Estimates Hansard*, 27 February 2014, p. 39.

Asbestos Safety and Eradication Council (the Council) had met on four occasions and is progressing toward some adjustments to the national strategic plan.²²

2.28 The committee also queried whether the Council had access to make suggestions to the minister rather than having to go through the Chief Executive Officer. Mr Tighe, Chief Executive Officer, stated that:

The chair of the council has a direct right to communicate to the minister. The council has responsibilities advising the minister on the national strategic plan that the agency is tasked with putting in place...There are certain things they cannot give me guidance on, in relation to financial management and provisions under public service regulation, et cetera.²³

Workplace Gender Equality Agency

Data collection

2.29 The committee asked the Workplace Gender Equality Agency (WGEA) if its new IT system for data collection was ready for launch. WGEA informed the committee that the reporting portal was launched on 14 February 2014. As at 24 February 2014 WGEA has received 320 inquiries regarding the portal, relating to questions about reporting matters access and other matters of that genre, and these were resolved appropriately. The portal engages users in a major educational campaign that includes videos, animations, written material and face-to-face workshops.²⁴

Career progression and wages

2.30 The committee raised the issue of career progression for women as well as wage disparity. Ms Conway, Director, replied that the disparity between wages usually occurred through the lack of access to overtime, bonus payments and other allowances, even though the base wage may be the same. In order to raise awareness of the lack of promotion processes and recruitment to effective positions WGEA is currently reporting on representation of men and women being interviewed for manager and non-manager levels.²⁵

22 Mr Peter Tighe, Chief Executive Officer, Asbestos Safety and Eradication Agency, *Estimates Hansard*, 27 February 2014, p. 66.

23 Mr Paul O'Connor, Chief Executive Officer, Comcare, *Estimates Hansard*, 27 February 2014, p. 68.

24 Ms Helen Conway, Director, Workplace Gender Equality Agency, *Estimates Hansard*, 27 February 2014, p. 69.

25 Ms Helen Conway, Director, Workplace Gender Equality Agency, *Estimates Hansard*, 27 February 2014, p. 73.

Department of Employment Outcome 1

Tasmanian Jobs Program

2.31 The committee asked representatives of the department about the take-up rates of the new Tasmanian Jobs Program. The Department confirmed for the committee that the program launched on 1 January 2014 and that at 1 February 2014, five people had employers who were on track to receive the subsidy with a first possible payment on 1 July 2014 equal to thirteen weeks of Newstart Allowance. This was in comparison to the Wage Connect program that had employed 305 people in Tasmania to receive a \$6 000 payment.²⁶

Department of Employment Outcome 2

Employee Assistance

2.32 The committee discussed with witnesses the protections available in the Fair Work Act to prevent an employer from forcing an employee to sign an individual flexibility arrangement (IFA). Dr Alison Morehead, Group Manager, explained that:

The existing protections in the Fair Work Act include that the flexibility term in an award agreement must provide that any individual arrangement agreement is genuinely agreed to...Then there is a set of general protection provisions. These provide, for an example, that adverse action cannot be taken against an employee to make them into an individual flexibility agreement or against them because they have refused to enter into one.²⁷

2.33 The Department also stated that an individual flexibility arrangement cannot be made a condition of employment and that if a protection provision in the act is breached then the employer can face penalties. The *Fair Work Amendment Bill 2014* proposes to increase the protection for employees by requiring the employee to make a statement as to the reason why they would benefit from entering into an individual flexibility arrangement. If an employer were to force an employee to sign an IFA, it could consist of coercion and result in a penalty of \$10 200 for an individual or \$51 000 for a corporation.²⁸

Senator Chris Back Chair

26 Ms Jennifer Taylor, Deputy Secretary, Department of Employment, *Estimates Hansard*, 27 February 2014, pp 80–81.

27 Dr Alison Morehead, Group Manager, Department of Employment, *Estimates Hansard*, 27 February 2014, p. 113.

28 Dr Alison Morehead, Group Manager, Department of Employment, *Estimates Hansard*, 27 February 2014, p. 113.

Appendix 1

Committee oversight of departments and agencies

Education Portfolio

- Department of Education
- Australian Curriculum, Assessment and Reporting Authority
- Australian Institute for Teaching and School Leadership
- Australian Learning and Teaching Council Limited
- Australian National University
- Australian Research Council
- Tertiary Education Quality and Standards Agency

Employment portfolio

- Department of Employment
- Asbestos Safety and Eradication Agency
- Office of the Fair Work Building Industry Inspectorate
- Coal Mining Industry (Long Service Leave Funding) Corporation
- ComCare
- Fair Work Commission
- Fair Work Ombudsman
- Road Safety Remuneration Tribunal
- The Safety, Rehabilitation and Compensation Commission
- Safe Work Australia
- The Seafarers' Safety, Rehabilitation and Compensation Authority (Seacare)
- Workplace Gender Equality Agency

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