

The Senate

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Education and Employment  
Legislation Committee

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Additional estimates 2014–15

April 2015

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# MEMBERSHIP OF THE COMMITTEE

## Members

Senator Bridget McKenzie, Chair	NATS, VIC
Senator Sue Lines, Deputy Chair	ALP, WA
Senator Deborah O'Neill	ALP, NSW
Senator Lee Rhiannon	AG, NSW
Senator Barry O'Sullivan (until 3 March 2015)	LP, QLD
Senator Anne Ruston (until 3 March 2015)	LP, SA
Senator Brett Mason (from 3 March 2015)	LP, QLD
Senator the Hon Arthur Sinodinos (from 3 March 2015)	LP, NSW

## Substitute members:

Senator the Hon Doug Cameron, ALP, NSW, for Senator Sue Lines on 10 April 2015

Senator Katy Gallagher, ALP, ACT, for Senator Deborah O'Neill on 10 April 2015

## Senators in attendance:

Senators McKenzie (Chair), Lines (Deputy Chair), Abetz, Bernardi, Birmingham, Carr, Cameron, Leyonhjelm, Gallagher, Marshall, Mason, Moore, O'Neill, O'Sullivan, Rhiannon, Ruston, Ryan, Siewert, Sinodinos, Waters, Wright, Xenophon

## Secretariat

Ms Julia Agostino, Secretary

Mr Patrick Hodder, Principal Research Officer (from 20 April 2015)

Ms Jessica Strout, Acting Senior Research Officer (until 20 April 2015)

Ms Chiara Edwards, Research Officer

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# Chapter 1

## Overview

1.1 On 12 February 2015 the Senate referred the following documents to the committee for examination and report in relation to its portfolios:

- Particulars of proposed additional expenditure in respect of the year ending on 30 June 2015 [Appropriation Bill (No. 3) 2014-2015]; and
- Particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2015 [Appropriation Bill (No. 4) 2014-2015].<sup>1</sup>

1.2 A reporting date of 17 March 2015 was set for additional estimates.<sup>2</sup> This was subsequently amended by resolution of the Senate, in respect of this committee only, to 21 April 2015.<sup>3</sup>

### Portfolio coverage

1.3 The committee has responsibility for examining the expenditure and outcomes of the Education and Training and Employment portfolios.<sup>4</sup> Appendix 1 lists the departments, agencies and other bodies under these portfolios.

1.4 The following outcomes were considered and agencies appeared before the committee for the Education and Training portfolio:

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

The Australian National University and the Australian Institute of Aboriginal and Torres Strait Studies were not called.

1.5 The following outcomes and agencies appeared before the committee for the Employment portfolio:

- Cross-portfolio matters and Outcomes 1 and 2;
- Fair Work Commission;
- Office of the Fair Work Ombudsman;

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1 *Journals of the Senate*, No. 78, 12 February 2015, p. 2178.

2 *Journals of the Senate*, No. 76, 10 February 2015, pp 2116–2117.

3 *Journals of the Senate*, No. 82, 5 March 2015, p. 2259.

4 *Journals of the Senate*, No. 1, 12 November 2013, p. 16.

- Safe Work Australia;
- Comcare (including the Safety, Rehabilitation and Compensation Commission, and the Seafarers Safety, Rehabilitation and Compensation Authority);
- Asbestos Safety and Eradication Agency;
- Workplace Gender Equality Agency; and
- Office of the Fair Work Building Industry Inspectorate (Fair Work Building and Construction).

The Coal Mining Industry (Long Service Leave Funding) Corporation was not called.

### **Portfolio Additional Estimates Statements (PAES) 2014–15**

1.6 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.

1.7 Pursuant to the Administrative Arrangements Order of 23 December 2014, responsibility for skills and training, including the Australian Skills Quality Authority, has transferred to the Education and Training portfolio. Responsibility for child care and early childhood development has transferred to the Department of Social Services.<sup>5</sup>

### **Hearings**

1.8 The committee held hearings on 25 and 26 February 2015 to hear from both Departments in relation to all Outcomes and also from relevant portfolio agencies. As a result of the operation of Senate Standing Order 26(4),<sup>6</sup> the committee did not conclude its consideration of expenditure across the two departments on these days.

1.9 With respect to the Department of Education and Training, the committee dealt with cross-portfolio matters, all agencies (Australian Curriculum, Assessment and Reporting Authority, Australian Institute of Teaching and School Leadership, Australian Research Council, Tertiary Education Quality and Standards Agency, Australian Skills Quality Authority) and Outcome 3. The committee did not put questions to the Department about Outcomes 1 and 2 on 25 February 2015 before the hearing concluded.

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5 Portfolio Additional Estimates Statements 2014–15, *Education and Training portfolio*, p. 3.

6 'If a senator has further explanations to seek, items of expenditure shall not be closed for examination unless the senator has agreed to submit written questions or the committee has agreed to schedule additional hearings for that purpose': The Senate, *Standing Orders and other orders of the Senate*, July 2014, SO 26.

1.10 With respect to the Department of Employment on 26 February, the committee dealt with Cross Portfolio matters and agencies (Fair Work Commission, Office of the Fair Work Ombudsman, Safe Work Australia, Comcare (including the Safety, Rehabilitation and Compensation Commission, and the Seafarers Safety, Rehabilitation and Compensation Authority), Asbestos Safety and Eradication Agency, Workplace Gender Equality Agency, Office of the Fair Work Building Industry Inspectorate (Fair Work Building and Construction)), but did not get to Outcomes 1 and 2 before the hearing concluded.

1.11 In line with the Senate Order of continuing effect in relation to additional estimates hearings, three committee members wrote to the chair requesting additional hearings for each portfolio. A hearing was held on 5 March 2015 to hear from the Department of Education and Training in relation to Outcomes 1 and 2, which were not dealt with on 25 February 2015. A hearing was also held on 10 April 2015 to hear from the Department of Employment in relation to Outcomes 1 and 2, which were not dealt with on 26 February 2015.

### **Public interest immunity claims**

1.12 On 13 May 2009, the Senate passed an order relating to public interest immunity claims.<sup>7</sup> The order sets out the processes to be followed if a witness 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 at the commencement of each hearing.

### **Questions on notice**

1.13 The committee has drawn the attention of the department and its agencies to the agreed deadline of Friday, 29 May 2015 for the receipt of answers to questions taken on notice from this round, in accordance with Standing Order 26.

1.14 Responses to questions on notice and additional information provided to the committee are tabled in the Senate and uploaded to the committee's web page. Links to the *Hansard* transcripts of these public hearings and to answers and additional information will be posted on the committee's website.<sup>8</sup>

### **Note on Hansard page referencing**

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

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

8 Information will be published at the following website address:  
[http://www.aph.gov.au/Parliamentary\\_Business/Senate\\_Estimates/eetctte/estimates/add1415/index](http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/eetctte/estimates/add1415/index)





## Chapter 2

### Education and Training portfolio

2.1 This chapter summarises certain key areas of interest raised during the committee's consideration of additional estimates for the 2014–15 financial year for the Education and Training portfolio. This chapter of the report follows the order of proceedings and is an indicative, not exhaustive, account of issues examined.

2.2 On 25 February and 5 March 2015, the committee heard evidence from Senator the Hon Simon Birmingham, Assistant Minister for Education and Training, and Senator the Hon Scott Ryan, Parliamentary Secretary to the 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:

- Tertiary Employment Quality and Standards Agency;
- Australian Curriculum Assessment and Reporting Authority;
- Australian Institute for Teaching and School Leadership;
- Australian Research Council; and
- Australian Skills and Quality Authority.

#### **Cross-portfolio matters**

##### ***Machinery of government changes***

2.3 In light of machinery of government changes since the consideration of supplementary estimates in late 2014, the committee began by seeking clarification as to which early childhood services remained the responsibility of the Department, and which had become the responsibility of the Department of Social Services. The Secretary, Ms Lisa Paul, advised that childcare responsibilities had moved to the Social Services portfolio, while preschool, research and early languages would remain within Education and Training. Ms Paul suggested 'the way that you could frame it is that anyone under four is with [the Department of Social Services] and preschool remains our responsibility'.<sup>1</sup>

2.4 The committee subsequently discussed the impetus for the machinery of government changes. The Assistant Minister for Education and Training, Senator the Hon Simon Birmingham, while noting that questions about overall government and departmental structure would be best directed to the Department of Prime Minister and Cabinet, advised that the changes reflected the most appropriate way to manage certain functions and programs.<sup>2</sup> In particular, the Minister drew the committee's

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1 Ms Lisa Paul, Secretary, Department of Education and Training, *Estimates Hansard*, 25 February 2015, p. 4.

2 Senator the Hon Simon Birmingham, Assistant Minister for Education and Training, *Estimates Hansard*, 5 February 2015, p. 30.

attention to the distinction between educational aspects of early childhood services and those to do with childcare and family assistance.<sup>3</sup> Ms Paul noted that the Department maintains close connections with other departments on education matters, and will continue to do so in relation to early childhood.<sup>4</sup>

### ***Higher education advertising campaign***

2.5 The committee discussed a government advertising campaign about higher education fees and the HECS-HELP scheme. The committee heard that the campaign sought to address misconceptions about the future of the HECS-HELP scheme, raise awareness of higher education support mechanisms and reassure prospective students and their families about potential reforms to the higher education system.<sup>5</sup>

2.6 In response to questions about whether an advertising campaign may be carried out if the related legislation has not been passed by the Parliament, Ms Paul advised the committee that current and past guidelines allow it and she had certified similar campaigns in the past.<sup>6</sup>

2.7 The committee also heard evidence about research, evaluation and monitoring undertaken in conjunction with the campaign. Jacqueline Gleeson, Acting Branch Manager, People, Communication and Legal, described the preliminary results of the first two weeks of the campaign:

They seemed to suggest some decreases in the prevalence of myths and misconceptions about the higher education system and also some slight increases in awareness of the reforms. Further, campaign activity shows to be positively correlated to a correction in audiences misconceptions of the reforms. There was an increased awareness of government support for higher education and the mechanisms that will remain in place into the future and some increases in perceptions that the reforms will be beneficial to Australia.<sup>7</sup>

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3 Senator the Hon Simon Birmingham, Assistant Minister for Education and Training, *Estimates Hansard*, 5 February 2015, p. 30.

4 Ms Lisa Paul, Secretary, Department of Education and Training, *Estimates Hansard*, 25 February 2015, p. 31.

5 Ms Lisa Paul, Secretary, Department of Education and Training, *Estimates Hansard*, 25 February 2015, pp 13 and 47; Ms Jacqueline Gleeson, Acting Branch Manager, People, Communication and Legal, Department of Education and Training, *Estimates Hansard*, 25 February 2015, p. 13; Senator the Hon Simon Birmingham, Assistant Minister for Education and Training, *Estimates Hansard*, 5 February 2015, p. 13.

6 Ms Lisa Paul, Secretary, Department of Education and Training, *Estimates Hansard*, 25 February 2015, pp 14 and 20.

7 Ms Jacqueline Gleeson, Acting Branch Manager, People, Communication and Legal, Department of Education and Training, *Estimates Hansard*, 25 February 2015, p. 12.

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## Australian Curriculum Assessment and Reporting Authority (ACARA)

### *National Trade Cadetship*

2.8 The committee heard evidence that the National Trade Cadetship (NTC) curriculum, which covers both literacy and numeracy with a particular focus on work readiness, has been delivered for years 9 and 10 and ACARA is working to support its take-up by states and territories.<sup>8</sup> The committee queried the development of a curriculum for years 11 and 12 and was advised by the Department that work had not commenced on the curriculum and it would not be proceeding.<sup>9</sup>

### *National Assessment Program – Literacy and Numeracy (NAPLAN) testing*

2.9 The committee discussed preparations for online NAPLAN testing. Robert Randall, Chief Executive Officer of ACARA, advised that the work is underway with a transition to online testing scheduled to begin in 2017.<sup>10</sup> Stanley Rabinowitz, General Manager, outlined the two key foci of preparing for online testing:

... making sure that items themselves are computer ready; and that the device, the platform that gets built, can work with our items, is fair to all students and can handle different types of devices.<sup>11</sup>

2.10 The committee also sought information about withdrawals from NAPLAN testing, which have increased from less than two per cent to slightly over two per cent.<sup>12</sup> Asked what the increase in withdrawals could be attributed to, Mr Randall suggested that there had been increased publicity about NAPLAN participation and greater public awareness of the ability to withdraw students from testing.<sup>13</sup> The Parliamentary Secretary to the Minister for Education and Training, Senator the Hon Scott Ryan, indicated that the success of the NAPLAN program should not be judged by the small number of people who have an issue with it.<sup>14</sup>

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8 Mr Tony Cook, Associate Secretary, Schools and Youth, Department of Education and Training, *Estimates Hansard*, 25 February 2015, p. 51.

9 *Estimates Hansard*, 25 February 2015, pp 51–53.

10 Mr Robert Randall, Chief Executive Officer, Australian Curriculum Assessment and Reporting Authority, *Estimates Hansard*, 25 February 2015, p. 56.

11 Dr Stanley Rabinowitz, General Manager, Australian Curriculum Assessment and Reporting Authority, *Estimates Hansard*, 25 February 2015, p. 56.

12 Dr Stanley Rabinowitz, General Manager, Australian Curriculum Assessment and Reporting Authority, *Estimates Hansard*, 25 February 2015, p. 64.

13 Mr Robert Randall, Chief Executive Officer, Australian Curriculum Assessment and Reporting Authority, *Estimates Hansard*, 25 February 2015, p. 65.

14 Senator the Hon Scott Ryan, Parliamentary Secretary to the Minister for Education and Training, *Estimates Hansard*, 25 February 2015, pp 67–8.

## **Australian Institute for Teaching and School Leadership**

### ***Teacher quality and course entry requirements***

2.11 The committee asked about proposed literacy and numeracy testing for undergraduate teaching students. The committee heard that a field trial of the test, involving 1 300 teaching students from a range of institutions across Australia, had been completed and the results used to develop a benchmark.<sup>15</sup> Mr Cook explained that satisfactory completion of the test, once implemented, would become a mandatory requirement of teacher registration by way of the national standards accepted by each state and territory.<sup>16</sup>

## **Australian Research Council**

### ***Future Fellowships scheme***

2.12 The committee discussed the discontinuation of the Future Fellowships scheme. Professor Aidan Byrne, Chief Executive Officer of the Australian Research Council, explained that the scheme was created as a terminating scheme, with funding provided for a fixed five year period (followed by a one year extension).<sup>17</sup> This period had expired without provision being made for further funding, and consequently no Future Fellowships were available for the 2014–15 financial year. However, both Professor Byrne and Ms Paul noted the government's intention to make the Future Fellowships scheme ongoing, subject to the passage of legislation before the Parliament.<sup>18</sup>

## **Tertiary Employment Quality and Standards Agency (TEQSA)**

### ***Provider registration assessment***

2.13 The committee heard evidence about TEQSA's revised approach to provider registration assessment. Nicholas Saunders, Acting Chief Commissioner, explained that from the existing 42 provider registration standards, seven have been designated as core standards; low-risk providers seeking re-registration are assessed only against those core standards.<sup>19</sup> All 42 standards are applied to higher risk providers and new providers seeking initial registration.<sup>20</sup>

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15 Ms Margery Evans, Chief Executive Officer, Australian Institute for Teaching and School Leadership, *Estimates Hansard*, 25 February 2015, p. 70.

16 Mr Tony Cook, Associate Secretary, Schools and Youth, Department of Education and Training, *Estimates Hansard*, 25 February 2015, p. 71.

17 Professor Aidan Byrne, Chief Executive Officer, Australian Research Council, *Estimates Hansard*, 25 February 2015, p. 82.

18 *Estimates Hansard*, 25 February 2015, pp 81–3.

19 Professor Nicholas Saunders, Acting Chief Commissioner, Tertiary Employment Quality and Standards Agency, *Estimates Hansard*, 25 February 2015, p. 96.

20 Professor Nicholas Saunders, Acting Chief Commissioner, Tertiary Employment Quality and Standards Agency, *Estimates Hansard*, 25 February 2015, p. 97.

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## Australian Skills Quality Authority (ASQA)

### *Registered Training Organisations (RTOs)*

2.14 The committee discussed ASQA's oversight of RTOs, including Vocational Education and Training (VET) providers. Christopher Robinson, Chief Commissioner, explained that ASQA oversees RTO registration, undertakes audits and investigates RTO compliance in response to complaints or other concerns, using a cost-recovery fee model.<sup>21</sup>

2.15 The committee was advised that in 2013–14 there were a total of 7 600 registration applications of which 180 were rejected: 44 initial applications, 33 renewal applications and 103 change-of-scope applications.<sup>22</sup> Mr Robinson provided the committee with examples of serious noncompliance that might lead to rejection, including unqualified teaching staff and poor or invalid assessment processes.<sup>23</sup>

2.16 The committee heard that approximately 1 400 complaints are lodged with ASQA each year.<sup>24</sup> In relation to complaints, Mr Robinson informed the committee:

The whole VET regulatory reform strategy is about taking the information that comes through from complaints and other intelligence from the industry and using that to address poor-quality RTO provision at a much faster rate than we would if we had continued with the system that we were using before, where the placement of an application to get re-registered or the like would be the main trigger for our regulatory scrutiny. We are now wanting to re-prioritise our work to deal more quickly with the worst-quality providers.<sup>25</sup>

## Outcome 3

### *Higher education funding reform*

2.17 The committee asked the Department about proposed reforms to higher education funding, covering topics such as fee deregulation, projected changes to student enrolment and the effect those changes might have on the cost of higher education to government and the public, and the operation and future of the FEE-

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21 Mr Christopher Robinson, Chief Commissioner, Australian Skills Quality Authority, *Estimates Hansard*, 25 February 2015, pp 107–8.

22 Mr Christopher Robinson, Chief Commissioner, Australian Skills Quality Authority, *Estimates Hansard*, 25 February 2015, p. 108.

23 Mr Christopher Robinson, Chief Commissioner, Australian Skills Quality Authority, *Estimates Hansard*, 25 February 2015, p. 108.

24 Mr Christopher Robinson, Chief Commissioner, Australian Skills Quality Authority, *Estimates Hansard*, 25 February 2015, p. 105.

25 Mr Christopher Robinson, Chief Commissioner, Australian Skills Quality Authority, *Estimates Hansard*, 25 February 2015, p. 106.

HELP, VET FEE-HELP and HECS-HELP schemes.<sup>26</sup> The committee also heard evidence in relation to the National Collaborative Research Infrastructure Strategy.<sup>27</sup>

## **Outcome 1**

### ***Early childhood education***

2.18 The committee heard that all states and territories agreed to the national partnership for universal access preschool funding in 2015.<sup>28</sup> Mr Cook confirmed that there is an overarching national partnership agreement, under which each state or territory has its own bilateral agreement with the Commonwealth.<sup>29</sup> Universal access funding is contingent upon states achieving agreed benchmarks in areas such as enrolment and attendance.<sup>30</sup> The committee and the Department also discussed the Productivity Commission's report on early childhood education and care.<sup>31</sup>

## **Outcome 2**

### ***Independent Public Schools***

2.19 The committee discussed independent public schools, which are based on five key 'domains' that provide greater independence and autonomy for the principal and the school.<sup>32</sup> The Department explained that the Minister for Education and Training wrote to his state and territory counterparts inviting them to participate in a national IPS scheme, with each state or territory determining their own approach to the five domains in consultation with the Commonwealth.<sup>33</sup> Ms Paul described some of the benefits of the initiative:

I think what you will find parents see is things like their teachers and principals getting professional development in how to be more autonomous. Parents and families will see school councils being more active or set up—if they have not been set up before. They will see some schools taking more accountability for on staffing and hiring decisions and so on.<sup>34</sup>

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26 *Estimates Hansard*, 25 February 2015, pp 120–137.

27 *Estimates Hansard*, 25 February 2015, pp 137–9.

28 Mr Tony Cook, Associate Secretary, Schools and Youth, Department of Education and Training, *Estimates Hansard*, 5 March 2015, p. 2.

29 Mr Tony Cook, Associate Secretary, Schools and Youth, Department of Education and Training, *Estimates Hansard*, 5 March 2015, p. 3.

30 Mr Tony Cook, Associate Secretary, Schools and Youth, Department of Education and Training, *Estimates Hansard*, 5 March 2015, p. 4.

31 *Estimates Hansard*, 5 March 2015, pp 3–10.

32 Mr Tony Cook, Associate Secretary, Schools and Youth, Department of Education and Training, *Estimates Hansard*, 5 March 2015, p. 11; Ms Lisa Paul, Secretary, Department of Education and Training, *Estimates Hansard*, 5 March 2015, p. 11.

33 Mr Tony Cook, Associate Secretary, Schools and Youth, Department of Education and Training, *Estimates Hansard*, 5 March 2015, p. 11.

34 Ms Lisa Paul, Secretary, Department of Education and Training, *Estimates Hansard*, 5 March 2015, p. 12.

2.20 Mr Cook stated that seven jurisdictions have signed up to the program; negotiations continued with Western Australia, while the change of government in Queensland had caused a delay in that state.<sup>35</sup>

***Students with disabilities***

2.21 The committee sought information about additional funding for students with disabilities. Mr Cook advised that students with disabilities identified through state and territory processes receive a disability loading from the Commonwealth.<sup>36</sup> The committee heard that this loading has been in place since 2014 but will be subject to refinement based on a national dataset to be released in August 2015.<sup>37</sup> Ms Deb Efthymiades, Group Manager, Schooling, explained that classifications of need are based on the amount of adjustment a student requires, from 'extensive' to 'no adjustment required', rather than the nature of their disability.<sup>38</sup>

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35 Mr Tony Cook, Associate Secretary, Schools and Youth, Department of Education and Training, *Estimates Hansard*, 5 March 2015, p. 22.

36 Mr Tony Cook, Associate Secretary, Schools and Youth, Department of Education and Training, *Estimates Hansard*, 5 March 2015, pp 23–4.

37 Mr Tony Cook, Associate Secretary, Schools and Youth, Department of Education and Training, *Estimates Hansard*, 5 March 2015, p. 24.

38 Ms Deb Efthymiades, Group Manager, Schooling, Department of Education and Training, *Estimates Hansard*, 5 March 2015, p. 28.





# Chapter 3

## Employment portfolio

3.1 This chapter summarises certain key areas of interest raised during the committee's consideration of additional estimates for the 2014–15 financial year for the Employment Portfolio. It follows the order of proceedings and is an indicative, not exhaustive, account of issues examined.

3.2 The committee heard evidence on 26 February and 10 April 2015 from Senator the Hon Eric Abetz, Minister for Employment, along with officers from the Department of Employment (the Department) and agencies responsible for administering Employment policy, including:

- Fair Work Commission;
- Office of the Fair Work Ombudsman;
- Safe Work Australia;
- Comcare (including the Safety, Rehabilitation and Compensation Commission, and the Seafarers Safety, Rehabilitation and Compensation Authority);
- Asbestos Safety and Eradication Agency;
- Workplace Gender Equality Agency; and
- Office of the Fair Work Building Industry Inspectorate (Fair Work Building and Construction).

### Cross-portfolio matters

#### *Penalty rates*

3.3 The committee asked the Minister for Employment, Senator the Hon Eric Abetz, about the possibility of changes to penalty rates. The Minister explained that the Fair Work Commission (FWC) is the appropriate body to make decisions about penalty rates and advised that the FWC is currently considering penalty rates as part of a four-year review of modern awards.<sup>1</sup>

3.4 The committee also discussed the Productivity Commission's inquiry into the workplace relations framework. While there is no explicit reference to penalty rates, the terms of reference are sufficiently broad that penalty rates could be included and the Productivity Commission has interpreted them in this way.<sup>2</sup>

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1 Senator the Hon Eric Abetz, Minister for Employment, *Estimates Hansard*, 26 February 2015, p. 3.

2 Senator the Hon Eric Abetz, Minister for Employment, *Estimates Hansard*, 26 February 2015, p. 7.

### ***Departmental staffing***

3.5 The Secretary of the Department, Ms Renée Leon, indicated that the Department has engaged a number of non-ongoing employees to assist with the tender for Employment Services 2015.<sup>3</sup> Ms Leon explained that recruitment is underway for the Chief Financial Officer (CFO) position, following the transfer of the previous CFO to another department, and also noted that a number of positions in the Department are currently filled on an acting basis as the substantive occupant has been transferred to the employment services tender taskforce.<sup>4</sup> The committee heard that the Department accepted 69 voluntary redundancies in previous year, but was not planning any further voluntary or involuntary redundancies.<sup>5</sup>

### ***Shared Services centre***

3.6 The committee sought an update on the performance of the Shared Service Centre (SSC), a joint initiative of the Departments of Employment and Education and Training. The Minister stated:

This Shared Services Centre is being highly praised throughout the Public Service. I know in my discussions with the Public Service Commission and other areas that they are, in fact, looking at this as a potential model to save considerable money for the taxpayer while still ensuring excellent service delivery. It is an excellent model that I would commend to other departments.<sup>6</sup>

3.7 The committee heard that the SSC has expanded its operations to provide services to other departments and agencies, including the Department of Prime Minister and Cabinet, the Workplace Gender Equality Agency and the Public Service Commission, on a fee-for-service basis.<sup>7</sup>

### ***Enterprise bargaining agreement negotiations***

3.8 In response to a question about the Department's enterprise bargaining agreement negotiations, Ms Leon advised that a ballot was conducted in December 2014 following four months of consultation with staff, but the ballot was unsuccessful.<sup>8</sup> Ms Leon explained that the department would undertake further

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3 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 26 February 2015, p. 14.

4 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 26 February 2015, p. 14.

5 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 26 February 2015, p. 17.

6 Senator the Hon Eric Abetz, Minister for Employment, *Estimates Hansard*, 26 February 2015, p. 16.

7 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 26 February 2015, p. 16.

8 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 26 February 2015, p. 20.

discussion with staff and the Community and Public Sector Union before presenting a revised agreement.<sup>9</sup>

## **Fair Work Commission**

### ***Compliance reporting and assessment***

3.9 The committee heard evidence in relation to the FWC's oversight of registered organisations. Ms Bernadette O'Neill, General Manager, advised the committee that in the 2013–14 financial year, the voluntary compliance level across 398 reporting units was 89 per cent, rising to 98 per cent following intervention by the FWC.<sup>10</sup> Ms O'Neill confirmed that there is an increasing trend of voluntary, on-time compliance since the 2009–10 financial year.<sup>11</sup> The committee was informed that the FWC has undertaken a range of initiatives to assist entities to comply with their statutory obligations, including online educational seminars.<sup>12</sup>

### ***Right of entry permits***

3.10 The committee discussed the granting, suspension and revocation of right of entry permits. The Director of Regulatory Compliance, Mr Chris Enright, explained that a registered organisation must apply for a right of entry permit on behalf of the proposed permit holder, with both the organisation and the individual required to make declarations in relation to the application.<sup>13</sup> Mr Enright described the matters that may affect whether an applicant is a fit and proper person to hold a permit, including the training they have received, any contraventions of industrial relations law, and whether they have had a previous permit revoked or cancelled.<sup>14</sup> The committee heard also heard evidence in relation to the suspension and revocation of permits.<sup>15</sup>

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

### ***Small Business Helpline***

3.11 The Fair Work Ombudsman (FWO), Ms Natalie James, advised the committee that since commencing operation in December 2013, the Small Business

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9 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 26 February 2015, pp 21–2.

10 Ms Bernadette O'Neill, General Manager, Fair Work Commission, *Estimates Hansard*, 26 February 2015, p. 35.

11 Ms Bernadette O'Neill, General Manager, Fair Work Commission, *Estimates Hansard*, 26 February 2015, p. 37.

12 Ms Bernadette O'Neill, General Manager, Fair Work Commission, *Estimates Hansard*, 26 February 2015, p. 36.

13 Mr Chris Enright, Director, Regulatory Compliance, Fair Work Commission, *Estimates Hansard*, 26 February 2015, pp 40–41.

14 Mr Chris Enright, Director, Regulatory Compliance, Fair Work Commission, *Estimates Hansard*, 26 February 2015, p. 41.

15 *Estimates Hansard*, 26 February 2015, pp 43–5, 50.

Helpline received over 160 000 calls, almost 85 per cent of which were from businesses with 14 or fewer employees.<sup>16</sup>

### **417 visas**

3.12 The committee heard that there has been a dramatic increase in the number of complaints made in relation to working holiday visas, or 417 visas.<sup>17</sup> The Deputy Fair Work Ombudsman, Mr Michael Campbell, described the broader inquiry work the FWO is undertaking in this area:

We are trying to get a better grasp on some of the drivers of non-compliance when it comes to the 417 visa holders, particularly given their circumstances where they are working in the country, generally in regional Australia. Just to give you some of the headlines. We are trying to understand the employment relationships that are leading to the circumstances where the visa holder is being underpaid. We are trying to clarify the boundaries between the employment relationship which applies to the 417 visa holders while they are in country. Ultimately we are trying to do that to give us a better handle on not only the drivers but what our intervention can be to hopefully change those practices and build a better culture of compliance when it comes to the visa holders.<sup>18</sup>

### **Young workers**

3.13 Mr Campbell told the committee that young workers form a significant part of the FWO's compliance work and a specialist team has been established to deal with complaints from young workers.<sup>19</sup> In the previous financial year, the Office received 6 257 complaints from workers aged 25 and under and recovered a total of \$2 388 603 in unpaid or underpaid wages.<sup>20</sup> In addition to helping to resolve workplace complaints from young workers, the FWO engages in preventative work:

A lot of our work at the front end of our business is about trying to influence those relationships before they fall over. The vast majority of our work is about proactive work, whether it be on the phones or out in the field, in trying to influence those relationships before they break down and resolve any issues that might be in place in a particular workplace.<sup>21</sup>

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16 Ms Natalie James, Fair Work Ombudsman, *Estimates Hansard*, 26 February 2015, p. 65.

17 Ms Natalie James, Fair Work Ombudsman, *Estimates Hansard*, 26 February 2015, pp 66–67.

18 Mr Michael Campbell, Deputy Fair Work Ombudsman, *Estimates Hansard*, 26 February 2015, p. 67.

19 Mr Michael Campbell, Deputy Fair Work Ombudsman, *Estimates Hansard*, 26 February 2015, p. 67.

20 Mr Michael Campbell, Deputy Fair Work Ombudsman, *Estimates Hansard*, 26 February 2015, p. 68.

21 Mr Michael Campbell, Deputy Fair Work Ombudsman, *Estimates Hansard*, 26 February 2015, p. 68.

The FWO online learning centre offers a number of modules covering topics relevant to young workers, such as starting a new job and managing difficult conversations.<sup>22</sup>

## **Safe Work Australia**

### *Workplace fatalities*

3.14 The committee followed up on evidence presented in previous estimates hearings in relation to workplace fatalities. The committee heard that the total number of workplace fatalities decreased from 50 in 2013 to 46 in 2014, but had increased in certain sectors including mining and construction.<sup>23</sup> The committee also heard evidence from the Federal Safety Commissioner, Mr Alan Edwards, about his regulatory and accreditation powers.<sup>24</sup>

## **Comcare**

### *ACT exiting the Comcare scheme*

3.15 The committee discussed the Australian Capital Territory (ACT) seeking to exit the Comcare scheme. Ms Jennifer Taylor, Chief Executive Officer of Comcare, confirmed that discussions had taken place with the ACT government, but further assessment, consultation and negotiation would be required before any decisions could be made.<sup>25</sup>

## **Asbestos Safety and Eradication Agency**

### *Asbestos in imported goods*

3.16 In response to a question about allegations that contaminated goods are entering Australia from China, the Chief Executive Officer of the Asbestos Safety and Eradication Agency (ASEA), Mr Peter Tighe, acknowledged that there were 'a number of instances of products coming in from China with a variety of exposure to asbestos'.<sup>26</sup> Both Mr Tighe and the Minister emphasised the obligation on importers to ensure that goods they import are asbestos-free.<sup>27</sup>

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22 Mr Michael Campbell, Deputy Fair Work Ombudsman, *Estimates Hansard*, 26 February 2015, p. 68.

23 Ms Amanda Grey, Branch Manager, Policy and Services, Safe Work Australia, *Estimates Hansard*, 26 February 2015, p. 78.

24 Mr Alan Edwards, Federal Safety Commissioner, *Estimates Hansard*, 26 February 2015, p. 82.

25 Ms Jennifer Taylor, Chief Executive Officer, Comcare, *Estimates Hansard*, 26 February 2015, pp 84–5.

26 Mr Peter Tighe, Chief Executive Officer, Asbestos Safety and Eradication Agency, *Estimates Hansard*, 26 February 2015, p. 89.

27 Mr Peter Tighe, Chief Executive Officer, Asbestos Safety and Eradication Agency, *Estimates Hansard*, 26 February 2015, pp 90–91; Senator the Hon Eric Abetz, Minister for Employment, *Estimates Hansard*, 26 February 2015, pp 90–91.

## **Workplace Gender Equality Agency**

### ***Staffing***

3.17 The committee heard that the head of the Workplace Gender Equality Agency (WGEA) would be leaving and Ms Louise McSorley had been appointed in an acting capacity for 12 months.<sup>28</sup>

### ***'Daughter Water' campaign***

3.18 The committee discussed the 'Daughter Water' pay equity campaign. Yolanda Beattie, Public Affairs Executive Manager, advised that the campaign video was viewed 70 000 times and the website received almost 30 000 unique visitors.<sup>29</sup> Ms Beattie gave evidence that the number of pay equity ambassadors had doubled to 62, with the WGEA aiming to have 100 ambassadors by September 2015.<sup>30</sup>

### ***Employer reporting***

3.19 Ms Beattie advised the committee that approximately one third of employers had downloaded their benchmark reports, which she described as the 'critical output' of the data received by the WGEA from employers, and said that the number was expected to increase over time.<sup>31</sup> In addition, the data was the subject of approximately 150 media clips when released in November 2015.<sup>32</sup>

3.20 The committee also heard that 523 employers provided feedback on the pay equity reporting process, identifying the calculation of total remuneration and the classification of employees by manager and non-manager categories as the most difficult aspects of reporting.<sup>33</sup>

## **Fair Work Building and Construction (FWBC)**

### ***Compulsory powers***

3.21 The committee queried the nature and operation of Fair Work Building and Construction's (FWBC) compulsory powers. The Director, Nigel Hadgkiss, explained that FWBC's powers were modelled on those of the Australian Competition and

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28 Ms Sandra Parker, Deputy Secretary, Department of Employment, *Estimates Hansard*, 26 February 2015, p. 93.

29 Ms Yolanda Beattie, Public Affairs Executive Manager, Workplace Gender Equality Agency, *Estimates Hansard*, 26 February 2015, p. 93.

30 Ms Yolanda Beattie, Public Affairs Executive Manager, Workplace Gender Equality Agency, *Estimates Hansard*, 26 February 2015, p. 94.

31 Ms Yolanda Beattie, Public Affairs Executive Manager, Workplace Gender Equality Agency, *Estimates Hansard*, 26 February 2015, p. 96.

32 Ms Yolanda Beattie, Public Affairs Executive Manager, Workplace Gender Equality Agency, *Estimates Hansard*, 26 February 2015, p. 96.

33 Ms Sandra Parker, Deputy Secretary, Department of Employment, *Estimates Hansard*, 26 February 2015, p. 96.

Consumer Commission, albeit with 'much greater safeguards'.<sup>34</sup> Mr Hadgkiss gave evidence that these compulsory powers are needed to ensure the FWBC has the necessary evidence for prosecutions.<sup>35</sup>

### ***Staff safety***

3.22 In response to a question about the behaviour of Construction, Forestry, Mining and Energy Union officials towards FWBC staff, Mr Hadgkiss advised the committee that he was aware of 11 instances of abuse and 3 cases of assault since commencing in his role in October 2013.<sup>36</sup> Mr Hadgkiss described a further 25 cases of 'serious security matters'.<sup>37</sup>

## **Outcome 1**

### ***Job service providers***

3.23 The committee questioned the Department in relation to its monitoring, oversight and rating of job service providers. The committee heard that the Department is working to strengthen compliance arrangements:

For the new contract, we are adding in a specific compliance factor that will be part of the calculation. It will be used as part of the overall star rating. We are working on the actual techniques at the moment, but we are specifically strengthening it. So, where we find noncompliance, it will have a stronger impact on the star ratings. It is an area where we have identified we want to strengthen the contract relationship and send a very clear signal to providers that, where we see noncompliance, we are going to make sure it is recorded accurately and demonstrated in their star rating.<sup>38</sup>

### ***Jobactive tender***

3.24 The committee sought information in relation to the *jobactive* tender and the Department undertook to provide confidential briefings on the matter.<sup>39</sup>

## **Outcome 2**

### ***Building and Construction Industry (Fair and Lawful Building Sites) Code 2014***

3.25 The committee discussed the Building and Construction Industry (Fair and Lawful Building Sites) Code 2014 (the code). The committee heard that the code is a

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34 Mr Nigel Hadgkiss, Director, Fair Work Building and Construction, *Estimates Hansard*, 26 February 2015, p. 120.

35 Mr Nigel Hadgkiss, Director, Fair Work Building and Construction, *Estimates Hansard*, 26 February 2015, p. 121.

36 Mr Nigel Hadgkiss, Director, Fair Work Building and Construction, *Estimates Hansard*, 26 February 2015, p. 122.

37 Mr Nigel Hadgkiss, Director, Fair Work Building and Construction, *Estimates Hansard*, 26 February 2015, p. 125.

38 Mr Martin Hehir, Deputy Secretary, Department of Employment, *Estimates Hansard*, 10 April 2015, p. 5.

39 *Estimates Hansard*, 10 April 2015, p. 21.



voluntary, opt-in scheme, but its adoption is a prerequisite to tender for Commonwealth-funded building work.<sup>40</sup>

**Senator Bridget McKenzie**

**Chair**

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40 Ms Sandra Parker, Deputy Secretary, Department of Employment, *Estimates Hansard*, 10 April 2015, p. 39; Senator the Hon Eric Abetz, Minister for Employment, *Estimates Hansard*, 10 April 2015, p. 44.

# Appendix 1

## Committee oversight of departments, agencies and other bodies

### Education and Training Portfolio

- Department of Education and Training (including the Office for Learning and Teaching)
- Australian Curriculum, Assessment and Reporting Authority
- Australian Institute for Teaching and School Leadership
- Australian Research Council
- Tertiary Education Quality and Standards Agency
- Australian Skills Quality Authority
- Australian Institute of Aboriginal and Torres Strait Studies
- Australian National University

### Employment portfolio

- Department of Employment (including the Office of the Federal Safety Commissioner)
- Comcare (including the Safety, Rehabilitation and Compensation Commission, and the Seafarers Safety, Rehabilitation and Compensation Authority)
- Fair Work Commission (including the Road Safety Remuneration Tribunal)
- Office of the Fair Work Ombudsman
- Office of the Fair Work Building Industry Inspectorate (known as Fair Work Building and Construction)
- Safe Work Australia
- Coal Mining Industry (Long Service Leave Funding) Corporation
- Asbestos Safety and Eradication Agency
- Equal Opportunity for Women in the Workplace Agency (known as the Workplace Gender Equality Agency)



## **Appendix 2**

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