

The Senate

Education and Employment
Legislation Committee

Additional estimates 2015–16

March 2016

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RECOMMENDATION

Recommendation 1

1.22 The committee recommends that Standing Order 26(4) be referred to the Procedure Committee for consideration.

Chapter 1

Overview

1.1 On 4 February 2016, the Senate referred the following documents to the committee for examination and report in relation to the Education and Training and Employment portfolios:

- Particulars of proposed additional expenditure in respect of the year ending on 30 June 2016 [Appropriation Bill (No. 3) 2015-2016];
- Particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2016 [Appropriation Bill (No. 4) 2015-2016]; and
- Final budget outcome 2014-15—Report by the Treasurer (Mr Hockey) and the Minister for Finance (Senator Cormann).¹

1.2 Standing legislation committees are required to report to the Senate on 1 March 2016.²

Portfolio coverage

1.3 The committee has responsibility for examining the expenditure and outcomes of the Education and Training and Employment portfolios.³ Appendix 1 lists the departments and agencies under these portfolios.

Portfolio Additional Estimates Statements (PAES) 2015–16

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 Pursuant to the Administrative Arrangements Order of 21 September 2015, responsibility for child care and early childhood development has transferred from the Social Services portfolio to the Education and Training portfolio.⁴

Hearings

1.6 The committee held hearings on 10, 11 and 12 February 2016 to hear from the Department of Education and Training and the Department of Employment in relation to all outcomes as well as from relevant portfolio agencies.

1 *Journals of the Senate*, No. 137, 4 February 2016, p. 3720.

2 *Journals of the Senate*, No. 124, 10 November 2015, pp. 3335-3336.

3 *Journals of the Senate*, No. 1, 12 November 2013, pp. 15-16.

4 *Portfolio Additional Estimates Statements 2015–16*, Education and Training portfolio, p. 3.

1.7 In line with the Senate Standing Order of continuing effect⁵ in relation to annual and additional estimates hearings, Senators Lines (Deputy Chair), O'Neill and Simms wrote to the Chair requesting the additional hearing be held on 12 February 2016 to hear from Fair Work Building and Construction (FWBC) under the Employment portfolio.

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

- Department of Education and Training—Outcomes 1 and 2;
- Australian Curriculum Assessment and Reporting Authority;
- Australian Institute for Teaching and School Leadership;
- Australian Research Council;
- Tertiary Education Quality and Standards Agency; and
- Australian Skills Quality Authority.

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

- Department of Employment—Outcomes 1 and 2;
- Workplace Gender Equality Agency;
- Asbestos Safety and Eradication Agency;
- Fair Work Commission;
- Office of the Fair Work Ombudsman; and
- Office of the Fair Work Building Industry Inspectorate (Fair Work Building and Construction).

The operation of Standing Order 26(4)

1.10 In the Budget Estimates report of 2015-16, the committee noted the approximate distribution of time by party. Labor and Greens senators were allocated the majority of the time available to examine both portfolios. During these Additional Estimates hearings, a similar breakdown is apparent, with the Proof Committee Hansard suggesting that most time was allocated to Labor Senators.

1.11 Senate Estimates is an important opportunity for Senators, including Opposition Senators, to ask questions of Government Departments. It is essential to the democratic process of our Parliament. It is therefore not unusual that the majority of the time would be allocated to Opposition Senators, who are present at Estimates for the entirety of the hearing. It is also important to note that there is no included comparison of questions asked by opposition Senators in Estimates periods of the 43rd Government.

5 The Senate, *Standing Orders and other orders of the Senate*, August 2015, SO 26.

1.12 Whilst the Chair's report broadly notes the breakdown of questions by party, it does not include the number of interjections from Senators by party, or the time taken by such interjections.

1.13 In supporting the role that the estimates process plays in accountability, the committee is also mindful of the cost to the public purse for departmental and agency officers to attend, including the cost of their time, travel and other expenses.

1.14 The committee notes that senators are entitled to examine departments and agencies, but it is of some concern that the lack of hard markers during Estimates hearings can lead to many public servants waiting to appear, sometimes for many hours.

1.15 Whilst acknowledging the validity and purpose of Standing Order 26(4), it does require senators to exercise some discipline.

1.16 In its report of March 2015, the Procedure Committee noted that at the time, Standing Order 26(4) had been operating for two rounds of estimates hearings and that there were differing views on its effectiveness and value. The Procedure Committee also indicated that it would continue to monitor the operation of Standing Order 26(4) and report to the Senate as required.⁶

1.17 In its Budget Estimates report of 2015-16, the committee recommended that Standing Order 26(4) be referred to the Procedure Committee for consideration. The committee again recommends that Standing Order 26(4) be referred to the Procedure Committee for consideration and report back to the Senate on its effectiveness and value.

Public interest immunity claims

1.18 On 13 May 2009, the Senate passed an order relating to public interest immunity claims.⁷ 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

1.19 In accordance with Standing Order 26, the committee has drawn the attention of the department and its agencies to the agreed deadline of Tuesday, 29 March 2016 for the receipt of answers to questions taken on notice from this round.

1.20 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.

6 Procedure Committee, *First report of 2015*, March 2015, p. 4.

7 *Journals of the Senate*, No. 68, 13 May 2009, pp. 1941-1942.

Note on Hansard page referencing

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

Recommendation 1

1.22 The committee recommends that Standing Order 26(4) be referred to the Procedure Committee for consideration.

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 2015–16 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 10 February 2016, 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 Curriculum Assessment and Reporting Authority;
- Australian Institute for Teaching and School Leadership;
- Australian Research Council;
- Tertiary Education Quality and Standards Agency; and
- Australian Skills Quality Authority.

2.3 Senators present over the course of the day's hearing included Senator McKenzie (Chair), Senator Lines (Deputy Chair), Senators Carr, Dastyari, Johnston, McKim, O'Neill, Reynolds, Simms and Sterle.

Cross-portfolio

Departmental Secretary

2.4 Senators and Ministers opened proceedings by acknowledging the work of Ms Lisa Paul, who retired as Secretary of the Department as of the end of January 2016. Ms Paul was recognised as the second longest-serving Secretary in the federal government, having first been appointed to the role in 2004.¹

2.5 Mr Cook gave an overview of some of Ms Paul's achievements:

Lisa's career in the public service began as a graduate, and what followed was a career that focused on health, welfare, family services, housing, homelessness and education. In 2011, Lisa was recognised as an officer in the Order of Australia for her achievements in driving reform in education, employment and workforce relations. For her work in leading the domestic response to the Bali bombings, Lisa received a Public Service Medal in 2003.²

1 *Estimates Hansard*, 10 February 2016, pp. 2-3.

2 Mr Tony Cook, Acting Secretary, Department of Education and Training, *Estimates Hansard*, 10 February 2016, p. 3.

Enterprise Bargaining

2.6 The committee sought information regarding the status of the Department's enterprise bargaining, including the removal of certain provisions from the most recent draft proposal and the intention to move these provisions into policy. Those provisions discussed included rights to consultation prior to decisions being made and personal leave requirements. Mr Cook advised that the draft proposal had been provided to staff within the Department as well as bargaining representatives and that feedback would be gathered prior to a final determination being made.³

2.7 The committee also discussed the Department's current position in relation to a pay offer for departmental staff. Mr Cook explained that, as a result of a number of machinery-of-government changes, the Department has had to review their budget in order to make an informed decision regarding a pay offer. He also advised that this process was in its final stages and that the Department will then work with the Australian Public Service Commission (APSC) to obtain approval on an agreement.⁴

Australian Curriculum Assessment and Reporting Authority (ACARA)

'Refocusing' of ACARA

2.8 The committee asked for clarification regarding the coalition's policy for schools which refers to a 'refocus' of ACARA in relation to curriculum development. Mr Cook advised that this refocussing of ACARA formed part of the recent review of the agency. Mr Cook further advised that, in line with the recommendations made in the review of ACARA, focus would be shifted to assessment and the utilisation of online assessments.⁵

2.9 Mr Cook also responded to questions relating to how the roles and responsibilities of ACARA are reviewed. He explained that, in addition to the recently completed review of ACARA, which was a legislated requirement, ACARA submits a work plan to the Education Council. The Commonwealth and state and territory governments then examine and amend that work plan if necessary before it is approved for implementation.⁶

Assessment of general capabilities

2.10 ACARA responded to questions regarding the assessment of general capabilities such as problem-solving skills and critical and creative thinking. Chief Executive Officer of ACARA, Mr Robert Randall noted that, while seven general capabilities are included in the approved curriculum, these are not yet being measured.⁷ Mr Randall commented:

3 *Estimates Hansard*, 10 February 2016, pp. 6-8

4 *Estimates Hansard*, 10 February 2016, pp. 8-9.

5 *Estimates Hansard*, 10 February 2016, p. 18.

6 *Estimates Hansard*, 10 February 2016, pp. 19-20.

7 *Estimates Hansard*, 10 February 2016, pp. 20-21.

[W]e have ongoing discussion with the states and territories about how, expecting that young people are being taught and are learning those sorts of things, we might continue to adjust and improve our assessment program so that we can assess those.⁸

2.11 The committee also discussed the importance of general capabilities with regard to students' ability to perform well in areas such as specialist maths and science.⁹ Mr Randall acknowledged the challenge of broadening parents' focus from their children's literacy and numeracy abilities to encompass these general capabilities and noted that '[t]hose things go hand in hand, so, yes, that is why they are in the curriculum.'¹⁰

Students with disability

2.12 ACARA provided the committee with an update regarding their involvement in work to make the Australian curriculum more inclusive of students with disability. National agreement has not been reached on the matter. However, Mr Randall advised that, in line with a resolution of the Education Council, ACARA would provide access to relevant resources developed for teachers of students with disability through the Australian curriculum website.¹¹

Australian Institute for Teaching and School Leadership (AITSL)

Literacy and numeracy testing for student teachers

2.13 The committee requested information about the AITSL's involvement in the development of literacy and numeracy tests for student teachers. Ms Margery Evans, Chief Executive Officer, advised that AITSL had collaborated with contracted experts and a steering committee in order to put the tests together. AITSL was also involved in initial pilot testing to determine the tests' validity, how long they took and the quality of the test items.¹²

2.14 Ms Evans also described the structure of the tests:

It is an online test. It is done in two parts...While the examples are relevant to schools, the test does not go to how you teach literacy or numeracy...The test is in two parts, the literacy part and numeracy part. They are multiple choice questions and they use the context of schooling, but equally they could use the context of anything else. They are actually about your personal levels of literacy and numeracy.¹³

8 Mr Robert Randall, Chief Executive Officer, Australian Curriculum Assessment and Reporting Authority, *Estimates Hansard*, 10 February 2016, p. 21.

9 *Committee Hansard*, 10 February 2016, p. 23.

10 Mr Robert Randall, Chief Executive Officer, Australian Curriculum Assessment and Reporting Authority, *Estimates Hansard*, 10 February 2016, p. 21.

11 *Estimates Hansard*, 10 February 2016, pp. 34-36.

12 *Estimates Hansard*, 10 February 2016, p. 38.

13 Ms Margery Evans, Chief Executive Officer, Australian Institute for Teaching and School Leadership, *Estimates Hansard*, 10 February 2016, p. 38.

STEM capacity gap

2.15 The committee heard evidence from AITSL regarding how it has responded to the broadly identified capacity gap in the teaching of science, technology, engineering and mathematics (STEM). Ms Evans explained that these issues have in part been addressed through the implementation of new and strengthened standards and procedures around teacher accreditation. These new standards and procedures stipulate the prerequisites and amount of time graduates would be expected to have in relation to STEM subjects. Moreover, primary school teachers are now required to graduate with at least one subject specialisation.¹⁴

Involvement of teacher unions

2.16 Senator McKenzie raised questions about what efforts have been made by AITSL to include teacher unions in their work. Ms Evans noted that AITSL has invited teacher unions to participate in their expert standing committees, but that this offer has not been accepted. AITSL does, however, endeavour to keep teacher unions informed as to the agency's progress.¹⁵

Australian Research Council (ARC)

Budget savings

2.17 The committee asked the ARC to identify where savings are coming from as a result of delays in the implementation of higher education changes. Ms Leanne Harvey, Executive General Manager, informed the committee:

We have a delay of one year in the implementation of the 3.25 per cent efficiency dividend, which equates to \$17.842 million over four years. We also had a delay in the commencement of the ongoing funding for the Future Fellowships scheme by one year. So for one year we are doing 50 future fellows and then we go to ongoing after that, of 100... We then had a reclassification of \$6.887 million from the special appropriation to introduce and fund the continuous application process for the linkage scheme.¹⁶

Linkage Projects scheme

2.18 Professor Aidan Byrne, Chief Executive Officer, also responded to questions regarding the ARC's movement to a continuous application process for the Linkage Projects scheme. Professor Byrne explained the ARC would have to move from a process where a large number of applications are received and assessed at one time, allowing for applications to be scored and ranked. In moving to a continuous application process, the ARC has no control over what time an application is received. Consequently, the ARC will create a 'virtual pool' of grants that applications can be

14 *Estimates Hansard*, 10 February 2016, pp. 41-42.

15 *Estimates Hansard*, 10 February 2016, p. 52.

16 Ms Leanne Harvey, Executive General Manager, Australian Research Council, *Estimates Hansard*, 10 February 2016, p. 53.

referenced against; assuring that the integrity and consistency of standards is maintained in the assessment process.¹⁷

Tertiary Education Quality and Standards Agency (TEQSA)

Staffing levels

2.19 Representatives from TEQSA responded to questions regarding the agency's staffing levels and the resignation of six senior management personnel. Professor Nicholas Saunders, Chief Commissioner, advised the committee that these staffing losses related to the corporate restructure carried out in response to budget constraints. Mr Anthony McClaran, Chief Executive Officer, further advised that TEQSA's staffing levels have reduced to approximately 60 staff as compared to 90 in 2014. However, the implications of further reductions to TEQSA's annual budget on staffing have yet to be determined.¹⁸

Entrance requirements

2.20 The committee also raised the issue of the transparency of entrance requirements in higher education. Professor Saunders explained that, when evaluating applications for course accreditation or re-registration, TEQSA assesses providers' ATAR admission processes as well as the accessibility of information regarding entrance requirements.¹⁹

2.21 Professor Saunders elaborated on what TEQSA has done to address the transparency of entrance requirements:

[W]e have done a number of things in recent months. First of all, we have met with the Universities Australia quality committee...We have had discussions with them around the issue of ATARs generally and the transparency of the arrangements that individual universities have in terms of using the ATAR. Secondly, as you know, the matter has been referred to the Higher Education Standards Panel, which is the panel that oversees TEQSA...Thirdly, we have obtained some information about ATARs from the department and done a review of provider websites, university websites.²⁰

Australian Skills Quality Authority (ASQA)

Student complaints

2.22 Senator Robert Simms asked officers from ASQA about the proportion of complaints received from students and how these complaints are dealt with. Mr Christopher Robinson, Chief Commissioner, informed the committee that ASQA has received a total of 5783 complaints since it was established, with approximately 40

17 *Estimates Hansard*, 10 February 2016, p. 54.

18 *Estimates Hansard*, 10 February 2016, pp. 62-63.

19 *Estimates Hansard*, 10 February 2016, p. 66.

20 Professor Nicholas Saunders, Chief Commissioner, Tertiary Education Quality and Standards Agency, *Estimates Hansard*, 10 February 2016, p. 66.

per cent of those coming from students. ASQA endeavours to use the information gathered through complaints and marketplace intelligence to prioritise which registered training organisations (RTOs) they investigate and to inform their future activity.²¹

2.23 ASQA also advised that the decision as to whether or not a complaint warrants further investigation is made by assessing the complaint against set of criteria. These criteria include the nature and degree of noncompliance against the standards, whether students were provided with misleading information, and the number of complaints received.²²

2.24 The committee also discussed the issue of how students are informed about the complaints mechanisms and procedures available to them. ASQA noted that it is requirement under the standards that RTOs have a complaints policy in place, and that students are informed about the procedures available upon their enrolment. Mr Robinson stated:

I think this is an interesting issue in the VET sector, because most of the students are adults who are studying part-time in a vocational course and they do not have student associations and the same sorts of information channels that the university sector—particularly for the younger group of university students—has.²³

Security industry review

2.25 The committee sought information from ASQA regarding its review of RTOs within the security industry. Mr Robinson gave an overview of ASQA's findings, noting that there are significant issues in relation to consistency across the industry. The review found that, while occupational licensing is recognised across state and territory borders, training requirements are not nationally consistent.²⁴ Mr Robinson further emphasised the issue by noting that ASQA 'looked at five different jobs in the security industry and we did not find the occupational licensing arrangements the same in any two jurisdictions.'²⁵

Department of Education and Training - Outcome 2

Research Block Grants

2.26 The committee asked representatives from the Department for information regarding changes to Research Block Grants (RBG) in response to the recommendations of the Watt review and the implementation of the National Innovation and Science Agenda. The new RBG funding arrangements for universities

21 *Estimates Hansard*, 10 February 2016, pp. 75-76.

22 *Estimates Hansard*, 10 February 2016, p. 76.

23 Mr Christopher Robinson, Chief Commissioner, Australian Skills Quality Authority, *Estimates Hansard*, 10 February 2016, p. 77.

24 *Estimates Hansard*, 10 February 2016, p. 90.

25 Mr Christopher Robinson, Chief Commissioner, Australian Skills Quality Authority, *Estimates Hansard*, 10 February 2016, p. 90.

will allocate a greater proportion of funds to collaborative industry research and deemphasise publications.²⁶

2.27 The committee queried what work the Department had undertaken with regard to modelling the impact of the RBG changes. Mr Dom English, Group Manager—Research and Economic, advised:

[W]e have modelled the change in the funding outcomes that are possible with the new formulas for advising Dr Watt on the possible impact of his changes, but in terms of modelling the impact on the research behaviour of universities, that is a far more tenuous concept...The balance of judgement in the review by Dr Watt was that it would have a limited impact on the way universities prioritised the basic blue sky research, because there are strong incentives to maintain effort in those areas already. The expectation is that by elevating the importance of partnerships with external parties in the research endeavour that more of that activity would be done.²⁷

HECS-HELP debt

2.28 Officers from the Department responded to questions regarding the HECS-HELP changes that will require Australians living overseas to repay their higher education debts. As of 30 June 2015, a total 2.223 million individuals had an outstanding HECS-HELP debt. It is estimated that between one and three per cent of those debtors, representing approximately 44 000 individuals, reside permanently overseas. The requirements come into effect from 1 July 2017. The Department will work with the Australian Taxation Office over the coming period to identify and communicate the requirements to existing debtors.²⁸

Department of Education and Training - Outcome 1

School funding

2.29 The committee heard evidence from the Department regarding proposed changes to school funding whereby from 2018 funding will be based on the consumer price index (CPI) and student enrolments.²⁹ The Department clarified that Commonwealth funding for schools will continue to grow year on year. When asked about how Commonwealth expenditure on school funding compares with state and territory expenditure, Mr Cook noted:

[O]ver the 10 year period between 2004-05 and 2013-14...Commonwealth funding has increased to government schools by 66 per cent, and state

26 *Estimates Hansard*, 10 February 2016, pp. 97-100.

27 Mr Dom English, Group Manager—Research and Economic, Department of Education and Training, *Estimates Hansard*, 10 February 2016, p. 97.

28 *Estimates Hansard*, 10 February 2016, pp. 106-108.

29 *Estimates Hansard*, 10 February 2016, pp. 111-119.

funding has increased to government schools by 6.7 per cent. So almost a 10 times difference in relation particularly to government schools.³⁰

NCCD data

2.30 The Department responded to concerns raised by the committee regarding the progress of the Nationally Consistent Collection of Data (NCCD) on school students with disability. Mr Cook advised that an independent quality assurance process is currently being undertaken to ensure data consistency and reliability across sectors, states and territories. Once the quality assurance process is complete, a data report will be submitted to the Education Council for consideration. It was noted that while the implementation of the NCCD is following the same time frame agreed by the previous government, delays in the release of the data have resulted from the need for further consultation and consistency between states and territories.³¹

Child care reforms

2.31 The committee canvassed a number of issues relating to the child care reforms announced by the government in December 2015. The Department was asked to explain the particulars of claims that one million out of 1.2 million families will be better off as a result of the reforms.³²

30 Mr Tony Cook, Acting Secretary, Department of Education and Training, *Estimates Hansard*, 10 February 2016, p. 118.

31 *Estimates Hansard*, 10 February 2016, pp. 120-123.

32 *Estimates Hansard*, 10 February 2016, pp. 129-147.

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 2015–16 financial year for the Employment portfolio. This chapter of the report follows the order of proceedings and is an indicative, not exhaustive, account of issues examined.

3.2 On 11 and 12 February 2016, 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 policy, including:

- Workplace Gender Equality Agency;
- Asbestos Safety and Eradication Agency;
- Fair Work Commission;
- Office of the Fair Work Ombudsman; and
- Office of the Fair Work Building Industry Inspectorate (Fair Work Building and Construction).

3.3 Senators present over the course of the two days of hearings included Senator McKenzie (Chair), Senator Lines (Deputy Chair), Senators Cameron, Johnston, Lindgren, McLucas, Moore, Reynolds, Rice and Simms.

Cross-portfolio

Enterprise bargaining

3.4 The committee requested an update on the status of the enterprise bargaining process currently underway in the Department. Secretary of the Department, Ms Renée Leon, informed the committee that some minor changes had been made to the wording of the previous enterprise agreement that was voted down in December 2015. These changes aimed to clarify some matters of concern raised by staff in relation to consultation, flexible working arrangements, and graduate conditions. The amended agreement will be put out to a staff vote on 12 February 2016.¹

3.5 The committee continued by asking what productivity savings the Department had identified in order to demonstrate the affordability of the proposed agreement to the Australian Public Service Commission. Ms Leon advised:

The main avenues in which we have demonstrated the productivity savings that pay for the agreement are in business process changes, in consolidating

1 *Estimates Hansard*, 11 February 2016, p. 4.

accommodation, in increasing span of control and in the streamlining of the agreement.²

Breastfeeding policy

3.6 Representatives from the Department responded to concerns regarding the inclusion of breastfeeding conditions in departmental policy rather than the Department's enterprise agreement. Ms Leon clarified:

In the department, breastfeeding support for new mothers has always been in policy. We are very breastfeeding friendly and we ensure we have a smooth transition for mothers back to work. That has never been in the agreement; it does not need to be in the agreement; we do it because it is good management. It is good for our staff and that is what we want.³

3.7 In addition, the Department noted that, because of the nature of enterprise agreements, any procedure and detail included in an agreement is unable to be changed for the period that agreement is in place. In contrast, for matters included in departmental policy, there is capability to alter that policy should any problems or inflexibility be identified.⁴ Ms Leon emphasised this point with regard to the Department's breastfeeding policy:

Matters like what is best for new mothers to reintegrate back into the workforce are the kind of thing that I want to be open to input from the women's network in the department.⁵

IT systems

3.8 The committee asked officers about the Department's IT systems and the resources allocated to their operation. The Department explained that their operations are supported by two IT systems; SAP and the Employment Services System (ESS). The SAP system supports the Department's corporate functions such as those relating to human resources and financial management. The ESS is used by employment service providers in order to manage the activities undertaken in relation to job seekers.⁶

Department of Employment - Outcome 1

Jobactive

3.9 The committee began its examination of Outcome 1 by asking for an update on the current caseload of Jobactive and how this compares to that of its predecessor,

2 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 11 February 2016, p. 6.

3 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 11 February 2016, p. 17.

4 *Estimates Hansard*, 11 February 2016, p. 19.

5 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 11 February 2016, p. 19.

6 *Estimates Hansard*, 11 February 2016, pp. 25-29.

Job Services Australia. The Department advised that, as of 9 February 2016, the Jobactive caseload was 786 559. This caseload is similar to that which was managed by Job Services Australia at comparable point in the programme's history.⁷

3.10 However, as stated by the Deputy Secretary, Mr Martin Hehir, there is a significant difference between the two employment services programmes in terms of the sustained employment outcomes achieved. Under Jobactive, the Department has recorded 71 731 four-week outcomes as compared to 45 226 under Job Services Australia, representing a substantial difference of 59 per cent. Mr Hehir also noted that Jobactive places a greater emphasis on employment outcomes and on sustaining those outcomes.⁸

Wage subsidies

3.11 Senator the Hon Doug Cameron questioned officers from the Department on the amount of funding expended on the wage subsidies programme. Of the \$1.2 billion allocated to the programme, \$1.95 million had been expended as of 31 December 2015.⁹

3.12 Ms Leon explained that, of the 9418 job seeker placements currently under the wage subsidies programme, not all of those have reached the six-month payment milestone that was initially set when the programme was implemented. This payment milestone was changed on 1 November 2015 to allow employers to make subsidy claims at an early stage during a placement. The Department will assess whether this change increases the take-up of the programme.¹⁰

Work for the Dole

3.13 The Department responded to a number of questions regarding the Work for the Dole programme. Areas of discussion included the work health and safety protections for programme participants¹¹, the processes and penalties for non-compliance¹², and the potential transport limitations experienced by job seekers.¹³

3.14 Ms Leon advised the committee of how the Department responded to findings from the 12-month pilot of the programme before it was rolled out nationally on 1 July 2015.

One of the things that came to our attention as a result of the pilot program was that it took some time for the front-line staff in the 18 areas to understand what their obligations would be and what they needed to do in order to refer people to Work for the Dole. In response to that, we engaged

7 *Estimates Hansard*, 11 February 2016, p. 35.

8 *Estimates Hansard*, 11 February 2016, pp. 35-36.

9 *Estimates Hansard*, 11 February 2016, p. 39.

10 *Estimates Hansard*, 11 February 2016, pp. 39-40.

11 *Estimates Hansard*, 11 February 2016, pp. 54-56.

12 *Estimates Hansard*, 11 February 2016, pp. 64-65.

13 *Estimates Hansard*, 11 February 2016, p. 67.

the Work for the Dole coordinators two months earlier than the commencement of Work for the Dole so that they would have time to source places for job seekers and to be ready to make those places available to job active providers.¹⁴

3.15 It is worth noting that the Department of Employment indicated the 12-month pilot of the programme 'sought to find out how best to implement Work for the Dole from 1 July and to assess the effect of participation on participants' employability.'¹⁵ The Department indicated that from the post-program monitoring survey conducted, 81 per cent of participants identified an increased desire to find work, but acknowledged that this did not reflect the number of people who actually found work.¹⁶

Department of Employment - Outcome 2

Ministerial working group

3.16 Senator the Hon Michaelia Cash, Minister for Employment, provided the committee with an overview of the purpose of the Ministerial Working Group to help protect vulnerable foreign workers:

[T]he ministerial working group was established in response to allegations of underpayment and exploitation of overseas workers, including international workers on working holiday visas. This ministerial working group acknowledges that a multiportfolio and jurisdictional approach is needed to ensure that strong action can be taken against employers who exploit visa holders. It is going to allow better protection of these vulnerable workers through a better coordinated and implemented approach across government.¹⁷

Wage growth

3.17 Officers from the department provided the committee with information regarding the latest wage growth figures and how these compare with previous years. In terms of the Wage Price Index (WPI), which is the preferred measure by the Australian Bureau of Statistics, wages across the Australian economy grew by 2.3 per cent in the year from September 2014. This represents the lowest wage growth figure since the WPI measure was introduced in 1997. However, as clarified by the Department, inflation over the same period was only at 1.5 per cent, meaning that there has been growth overall with regard to purchasing power.¹⁸

14 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 11 February 2016, p. 62.

15 Ms Renée Leon, Secretary, Department of Employment, *Estimates Hansard*, 11 February 2016, p. 50.

16 *Estimates Hansard*, 11 February 2016, p. 51.

17 Senator the Hon Michaelia Cash, Minister for Employment, *Estimates Hansard*, 11 February 2016, p. 115.

18 *Estimates Hansard*, 11 February 2016, pp. 129-132.

Workplace Gender Equality Agency (WGEA)

Reporting changes

3.18 Senator Claire Moore asked officers from the WGEA to comment on the agency's preparation for the next round of reporting, particularly in relation to the recent changes to reporting requirements. Director of the WGEA, Ms Libby Lyons, explained that the reporting system is currently being tested to ensure that organisations can effectively respond to the new requirements. The WGEA has also conducted a number of webinars on the new reporting requirements in recent months, with more scheduled in 2016.¹⁹

3.19 With regard to the WGEA's reporting system, Ms Lyons also noted:

We are looking at, and are in the process of testing at the moment, pre-population of last year's questionnaire so that that can reduce the burden on employers as well. We have not gone live with that, but we are confident that we will have that available so that people who have reported previously can elect to, or elect not to, have some of the questions in their questionnaire pre-populated.²⁰

Asbestos Safety and Eradication Agency (ASEA)

ASEA's current work

3.20 The committee began its examination of ASEA by asking for an overview of what the agency is currently working on. Mr Peter Tighe, Chief Executive Officer, explained that the agency has completed a number of evidence based reports that have been circulated to the state and territory jurisdictions for consideration and comment. It is the intention that forums will be held to debate the issues covered in those reports.²¹

Budget constraints

3.21 ASEA informed the committee about the budget constraints that the agency is currently operating under. Mr Tighe explained that the agency encountered a number of difficulties at the time of its establishment. These difficulties, including machinery-of-government changes and recruitment limitations, resulted in implementation delays and a significant underspend of ASEA's budget by approximately \$3 million.²²

3.22 Mr Tighe further elaborated on this issue, stating:

[T]he operation of the agency costs around \$2.6 million a year...That basically takes up the totality of the budget. The money that we had for implementation of the plan, unfortunately, has now been forgone because of that delay. Other than trying to monitor things and work with some of the

19 *Estimates Hansard*, 11 February 2016, p. 133.

20 Ms Libby Lyons, Director, Workplace Gender and Equality Agency, *Committee Hansard*, 11 February 2016, p. 134.

21 *Estimates Hansard*, 11 February 2016, p. 138.

22 *Estimates Hansard*, 11 February 2016, p. 138.

jurisdictions to get them to move ahead, we really do not have the capacity to generate more research and to deal with and drill into some of the problems around all of the issues associated with asbestos.²³

3.23 The Committee notes that the Asbestos Safety and Eradication Agency, the only Commonwealth body addressing asbestos management and safety, was established on 1 July 2013 to provide a national focus on asbestos issues which goes beyond workplace safety to encompass environmental and public health concerns. The agency aims to ensure asbestos issues receive the attention and focus needed to drive change across all levels of government, and was set up following the recommendations of a two-year review.

Fair Work Commission (FWC)

Right of entry permits

3.24 The committee asked representatives from the FWC about the right of entry permit application forms. In particular, the committee enquired as to whether the forms have been changed to require that an applicant outline the actions undertaken to verify that a union official is a fit and proper person. Mr Chris Enright, Director—Regulatory Compliance, advised that the forms have not been amended to include those details, but that the right of entry forms and process is currently under review. This review will also take into account the recommendations made by the Trade Union Royal Commission.²⁴

FWC's current inquiries

3.25 Officers from the FWC responded to questions concerning the number and nature of inquiries being undertaken by the agency. Mr Enright informed the committee that there are currently nine non-formal inquiries and investigations underway. Of these, many are related to matters concerning the financial management of registered organisations. Mr Enright also noted that the Trade Union Royal Commission had made a number of referrals to the FWC in recent weeks.²⁵

Office of the Fair Work Ombudsman (FWO)

Underpayment of wages

3.26 During its very brief appearance before the committee at 10.56pm, the FWO responded to questions regarding the proportion of the agency's work relating to the underpayment of wages. The Fair Work Ombudsman, Ms Natalie James, acknowledged that while underpayment of wages makes up part of the agency's work, she clarified that she would not characterise such issues as 'widespread'.²⁶ Ms James elaborated on this assertion by stating:

23 Mr Peter Tighe, Chief Executive Officer, Asbestos Safety and Eradication Agency, *Committee Hansard*, 11 February 2016, p. 138.

24 *Estimates Hansard*, 11 February 2016, p. 141.

25 *Estimates Hansard*, 11 February 2016, pp. 142-143.

26 *Estimates Hansard*, 11 February 2016, p. 145.

There is no doubt that there are a range of reasons why underpayments happen in this country. You talk in the terms of noncompliance, but not all noncompliance is equal. Many, many people make errors, inadvertent mistakes, so we work with people to correct those, and they manifest in underpayments. Most of the underpayments we recover are recovered through voluntary processes as well. So, when you talk about the systemic and deliberate noncompliance, that is at an extreme end of the spectrum.²⁷

Fair Work Building and Construction (FWBC)

Bullying and harassment review

3.27 In his opening statement to the committee, Director of FWBC, Mr Nigel Hadgkiss, responded to recent allegations made regarding bullying and harassment within the agency. Mr Hadgkiss explained that, following his appointment to FWBC in October 2013, a survey was carried out by an independent consultant into the culture prevailing within the agency at that time.²⁸

3.28 Mr Hadgkiss continued by stating that, as a result of the survey's findings:

I directed that an independent review into bullying and harassment be carried out. Following the review, a bullying and harassment plan was developed. Every month FWBC's executive team reviews progress against this plan. From November 2014 to January last year, face-to-face bullying and harassment awareness training was delivered to all staff, including management and the senior executive service. An online module has been developed which all staff are required to complete annually.²⁹

3.29 In his evidence to the committee, Mr Hadgkiss referred to the latest Australian Public Service Commission survey, in which he indicated FWBC was found to score above the overall APS average across a range of categories in relation to staff satisfaction as well as staff understanding and commitment to APS values and code of conduct.³⁰ In response to claims that FWBC 'operates under a culture of bullying and harassment', Mr Hadgkiss stated:

I have provided evidence that FWBC does not have a culture of bullying and harassment.³¹

FWBC Court proceedings

3.30 Representatives from FWBC detailed the amount of penalties issued as a result of court proceedings initiated by the agency. In the six months following 1 July

27 Ms Natalie James, Fair Work Ombudsman, Office of the Fair Work Ombudsman, 11 February 2016, *Estimates Hansard*, p. 146.

28 *Estimates Hansard*, 12 February 2016, p. 5.

29 Mr Nigel Hadgkiss, Director, Fair Work Building and Construction, 12 February 2016, *Estimates Hansard*, p. 5.

30 *Estimates Hansard*, 12 February 2016, p. 6.

31 Mr Nigel Hadgkiss, Director, Fair Work Building and Construction, 12 February 2016, *Estimates Hansard*, p. 6.

2015, a total of \$865 475 in penalties have been issued in respect of FWBC cases. Of these penalties, 94 per cent represent action taken against the Construction Forestry Mining Energy Union (CFMEU) and its officials.³²

Royal Commission referrals

3.31 The committee sought information about the referrals made to FWBC from the Trade Union Royal Commission. Mr Hadgkiss confirmed that a number of matters had been referred to the agency and were under investigation by the Canberra office of FWBC. A working group has been established in order to provide a coordinated cross-agency response to deal with the civil referrals from the Royal Commission. While not all information will be able to be shared within the working group due to privacy and other considerations, it is hoped that this collaborative approach will achieve a more effective response.³³

Senator Bridget McKenzie
Chair

32 *Estimates Hansard*, 12 February 2016, p. 15.

33 *Estimates Hansard*, 12 February 2016, pp. 37-38.

Appendix 1

Committee oversight of departments and agencies

Education and Training Portfolio

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

Employment portfolio

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

Appendix 2

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