

Chapter 1

Overview

1.1 The Senate Education, Employment and Workplace Relations Legislation Committee presents its report to the Senate.

1.2 On 14 May 2013¹ the Senate referred the following documents to the committee for examination and report in relation to the Education, Employment and Workplace Relations portfolio:

- Particulars of proposed expenditure in respect of the year ending on 30 June 2014.
- Particulars of certain proposed expenditure in respect of the year ending on 30 June 2014.
- Particulars of proposed expenditure in relation to the parliamentary departments in respect of the year ending on 30 June 2014.

1.3 Standing committees are required to report to the Senate on 25 June 2013. This report of the Education, Employment and Workplace Relations Legislation Committee is provided to the Senate in fulfilment of that requirement.

Portfolio coverage

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

Hearings

1.5 The committee conducted four days of hearings, examining Employment and Workplace Relations outcomes and agencies on 3 and 4 June 2013 and Education outcomes and agencies on 5 and 6 June 2013. In total the committee met for 34 hours and 7 minutes, excluding breaks.

1.6 The following outcomes and agencies appeared before the committee:

- Outcomes 1 — 4;
- Fair Work Commission;
- Fair Work Ombudsman;
- Fair Work Building and Construction;
- Comcare;

1 *Journals of the Senate No. 89*, 14 May 2013, p. 3914.

- Safe Work Australia;
- Australian Curriculum Assessment and Reporting Authority; and
- The Australian Institute for Teaching and School Leadership.

Public interest immunity claims

1.7 On 13 May 2009, the Senate passed an order relating to public interest immunity claims.² 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 on the first day of the budget estimates hearing.

1.8 The issue of withholding information on the basis of legal professional privilege was raised during the hearing. On 4 June 2013, Mr Jeremy O'Sullivan, Chief Counsel in the Department of Education, Employment and Workplace Relations, stated during the hearings that:

As Chief Counsel I would not disclose the content of requests for advice to this committee as to do so would waive the legal professional privilege in that advice³

1.9 The Chair noted that similar statements had been raised in previous hearings, and had not been satisfactorily resolved. He said Mr O'Sullivan's refusal was unacceptable and made a statement the following day reiterating that the only basis for a witness withholding information from a Senate Committee is by making, and the committee accepting, a claim for public interest immunity.⁴ The Chair's statement, formulated on advice from the Clerk of the Senate, appears at Appendix 2. The Secretary, Ms Lisa Paul, responded to the Chair's statement saying:

Thank you for your comments and I will assure you now that the committee will pay very close attention to that question on notice in particular, and of course to the rules which you name, which are well known to us.⁵

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

3 *Proof Estimates Hansard*, 4 June 2013, p. 81.

4 *Proof Estimates Hansard*, 5 June 2013, p. 37.

5 *Proof Estimates Hansard*, 5 June 2013, p. 37.

Questions on notice

1.10 The committee has drawn the attention of the department and its agencies to the agreed deadline of Friday 19 July 2013 for the receipt of answers to questions taken on notice from this round, in accordance with Standing Order 26.

1.11 For this round, written questions on notice were received from Senators Back, Boyce, Ludlam, McKenzie, Nash, Siewert, Wright and Xenophon.

Note on Hansard page referencing

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