

Chapter 2

Employment portfolio

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

2.2 On 2 and 3 June 2014 the committee heard evidence from Senator the Hon. Eric Abetz, Minister for Employment, along with officers from the Department of Employment and agencies responsible for administering employment policy, including:

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

Fair Work Ombudsman

Small Business Helpline

2.3 The committee followed up from the previous Additional Estimates round with representatives from the Fair Work Ombudsman (FWO) on the Small Business Helpline. Since its launch on 6 December 2013 to the end of April, the helpline answered more than 65,000 calls.¹ Ms Natalie James, the Fair Work Ombudsman, explained that the primary concerns received by the FWO through the helpline relate to wages and modern awards, followed by queries about apprentice and traineeship wages.²

1 Ms Natalie James, Fair Work Ombudsman, *Estimates Hansard*, 2 June 2014, p. 8.

2 Ms Natalie James, Fair Work Ombudsman, *Estimates Hansard*, 2 June 2014, p. 9.

457 visas

2.4 The committee discussed the memorandum of understanding between the Department of Immigration and the FWO in relation to 457 visa abuse.³ In regards to allegations of 457 visa abuse at Roy Hill in Western Australia, Mr Michael Campbell, Deputy Fair Work Ombudsman-Operations, explained that although there is an overlap with the Fair Work Act, the matters raised were more properly dealt with by the Department of Immigration who has lead responsibility for the issue.⁴ He explained that the FWO does not have the powers under migration law to enforce the Migration Act.⁵

Office of the Fair Work Building Industry Inspectorate (Fair Work Building and Construction)

Surveillance on workers

2.5 The committee asked the Fair Work Building and Construction (FWBC) about the use of photographs and videotape surveillance of illegal industrial action.⁶ In response to concerns that rallies can be legal, Mr Nigel Hadgkiss, Director of the FWBC, agreed and explained that the FWBC would be:

...interested where people walk out of a site...They hold a meeting. They are addressed by certain senior union officials. The strike is unlawful. This is hypothetical. My people would film that.⁷

2.6 In response to the committee's concerns that footage was being collected covertly, Mr Hadkiss stated that there is no covert or undercover surveillance taking place anywhere in the country and that the FWBC does not have dual exemption under any laws for surveillance and that they must comply with the law in each state.⁸

Asbestos Safety and Eradication Agency

Scope of problems

2.7 The committee heard the scope of the problems relating to the asbestos agency, both in industry and residential areas. Mr Peter Tighe, Chief Executive

3 Senator the Hon. Doug Cameron, *Estimates Hansard*, 2 June 2014, p. 12.

4 Mr Michael Campbell, Deputy Fair Work Ombudsman-Operations, *Estimates Hansard*, 2 June 2014, p. 12.

5 Mr Michael Campbell, Deputy Fair Work Ombudsman-Operations *Estimates Hansard*, 2 June 2014, p. 12.

6 Senator the Hon. Doug Cameron, *Estimates Hansard*, 2 June 2014, p. 42.

7 Mr Nigel Hadgkiss, Director, Fair Work Building Construction, *Estimates Hansard*, 2 June 2014, p. 43.

8 Mr Nigel Hadgkiss, Director, Fair Work Building Construction, *Estimates Hansard*, 2 June 2014, p. 43.

Officer of the Asbestos Safety and Eradication Agency, said that there are continued increases in relation to people being diagnosed with asbestos related diseases.⁹ He said that there has been a continuing increase yearly in relation to deaths associated with asbestos related diseases (ARDs), with mesothelioma deaths moving close to 700 deaths a year and over 1,000 deaths from ARDs.¹⁰

2.8 Mr Tighe identified that there is widespread asbestos across Australia and expressed concern about the lack of knowledge and awareness. Mr Tighe noted that more people are moving into home renovation or DIY stating that:

There has, in my view, been a drop in the general public arena of the awareness of asbestos dangers. What we are starting to see now is the change in the demographics in relation to asbestos related diseases. The latest figures show that there is an increasing number coming from the home renovations area outside the occupational areas that should be aware of what is happening in relation to asbestos. The initial demographic, which were people involved in mining and the manufacturing of goods, as time has gone on, has started to change to people who are end users of the products, either in a commercial sense or a residential sense.¹¹

2.9 The committee heard that the issue of awareness is a critical exercise and that a lot of work needs to be done over the next couple of years to set up strategic steps to address the issues of identification and removal of asbestos.¹²

Workplace Gender Equality Agency

Workload

2.10 The committee heard from Ms Helen Conway, Director of the Workplace Gender Equality Agency (WGEA), that the peak workload for the agency to date has been dealing with inquiries from organisations and assisting them in the reporting process, especially with new reporting arrangements.¹³ She explained that the next phase for the agency is to check and cleanse the data provided and prepare confidential benchmark reports for each organisation. She highlighted the importance of the reports, saying:

9 Mr Peter Tighe, Chief Executive Office, Asbestos Safety and Eradication Agency, *Estimates Hansard*, 2 June 2014, p. 49.

10 Mr Peter Tighe, Chief Executive Office, Asbestos Safety and Eradication Agency, *Estimates Hansard*, 2 June 2014, p. 49.

11 Mr Peter Tighe, Chief Executive Office, Asbestos Safety and Eradication Agency, *Estimates Hansard*, 2 June 2014, p. 54.

12 Mr Peter Tighe, Chief Executive Office, Asbestos Safety and Eradication Agency, *Estimates Hansard*, 2 June 2014, p. 55.

13 Ms Helen Conway, Director, Workplace Gender Equality Agency, *Estimates Hansard*, 2 June 2014, p. 61.

The purpose of that report is to give them a clear indication of where they are doing well and where they might need to put more focus. This is an intelligence tool. It is an evidence base for them to focus their efforts going forward and certainly shows them how they are tracking in relation to their peers. So that is a very important report. We take the position that if people are reporting to us, we should return to them commensurate value.¹⁴

2.11 Ms Conway advised that the WGEA has tentatively scheduled the release of the benchmark reports at the end of October 2014.¹⁵ In regards to questions around the effect of workforce reductions and the impact on the workload, Ms Conway responded by saying that there has been a review of how the agency manages work across the agency and that they 'ensure that everybody is able to do multiple tasks.'¹⁶

Fair Work Commission

Default superannuation funds review

2.12 The committee heard evidence from Justice Iain Ross, President of the Fair Work Commission, regarding the constitution and reconstitution of the expert panel looking into the conduct of the default superannuation funds review. The committee heard that due to concerns of industry about possible conflict of interests and their directorships of superannuation funds, Ms Allen and Mr Gibbs were stood down from the expert panel.¹⁷ Justice Ross said that Mr Harcourt was the only member who did not have a conflict of interest and was appointed, as well as himself. Justice Ross said:

The act expressly provides in section 622 subsection 2(a) that, in the event of reconstitution, the panel can continue with two expert panel members provided the president is a member of the panel. For that reason, I went on to the panel.¹⁸

2.13 Justice Ross explained that the expert panel was appointed by the government of the day and not by him. He explained that the executive appoints six members to the expert panel and the allocation of those members to either the default

14 Ms Helen Conway, Director, Workplace Gender Equality Agency, *Estimates Hansard*, 2 June 2014, p. 61.

15 Ms Helen Conway, Director, Workplace Gender Equality Agency, *Estimates Hansard*, 2 June 2014, p. 61.

16 Ms Helen Conway, Director, Workplace Gender Equality Agency, *Estimates Hansard*, 2 June 2014, p. 62.

17 Justice Iain Ross AO, President, Fair Work Commission, *Estimates Hansard*, 2 June 2014, p. 72.

18 Justice Iain Ross AO, President, Fair Work Commission, *Estimates Hansard*, 2 June 2014, p. 72.

superannuation process or the annual wage review under the act is a matter for the president.¹⁹

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

Fit Note

2.14 The committee asked Mr Paul O'Connor, Chief Executive Officer, about the trial of Fit Note in the ACT and surrounding regions. Mr O'Connor explained that the initiative comes under the heading of what they are trying to promote with the Comcare Scheme, focusing on the health benefits of work.²⁰ He said he believed that workplaces should have an appropriate focus on the benefit of people getting back to work quickly after injury or illness. From the recent visit to Australia by Dame Carol Black, an expert work health adviser to the UK government, Comcare is attempting to change the way general practitioners view and prescribe time off work.²¹

2.15 Mr O'Connor outlined research from the United Kingdom and the World Health Organisation saying 'that people out of work are generally unhealthier and unwell and have higher rates and earlier timing of death the longer the period they are off work.'²² He said the Australian Medical Association and Royal Australian College of General Practitioners strongly supported this timely reform and welcomed the initiative.²³

2.16 The Minister also acknowledged that this Budget Estimates was Mr O'Connor's last estimates with Comcare as he is leaving in August and thanked him for his service over the past five years.²⁴

Safe Work Australia

Codes of practice

2.17 The committee raised concerns expressed by small businesses and employees in small businesses about the degree of complexity in the codes of practice. The committee heard that Safe Work Australia has been asked by the work health and safety ministers across Australia to revise a number of the codes of practice to ensure

19 Justice Iain Ross AO, President, Fair Work Commission, *Estimates Hansard*, 2 June 2014, p. 74.

20 Mr Paul O'Connor, Chief Executive Officer, Comcare, *Estimates Hansard*, 2 June 2014, p. 86.

21 Mr Paul O'Connor, Chief Executive Officer, Comcare, *Estimates Hansard*, 2 June 2014, p. 86.

22 Mr Paul O'Connor, Chief Executive Officer, Comcare, *Estimates Hansard*, 2 June 2014, p. 87.

23 Mr Paul O'Connor, Chief Executive Officer, Comcare, *Estimates Hansard*, 2 June 2014, p. 87.

24 Senator the Hon. Eric Abetz, Minister for Employment, *Estimates Hansard*, 2 June 2014, p. 94.

that they are clean, concise and practical.²⁵ Ms Michelle Baxter, Chief Executive Officer, said that the commentary Safe Work Australia has been receiving:

...has been quite positive in terms of the fact that the codes are briefer but more to the point, the language is more straightforward, and there is not a lot of repetitive work in those codes. However, the test will be on this Friday, 6 June, when members come together to consider the codes. Those codes will then be progressed to work health safety ministers.²⁶

Department of Employment Cross Portfolio

Shared Services Centre

2.18 The committee discussed with the Department of Employment the experience of setting out the shared services model and whether the department looked at the states' experience in moving towards shared services. Ms Renée Leon, Secretary, said the department had looked at experiences both in the states and overseas in the shared services area.²⁷ She explained that the department had an advantage of starting in a position where they already had shared IT and business systems. The committee heard that the:

...shared services centre was born out of a department that had previously been a single department, we already have a shared IT and HR system, and therefore it made good sense to retain that shared spine of services and simply treat it as a shared services centre that we both will contribute to and draw services from.²⁸

Department of Employment Outcome 1

Australian Jobs 2014

2.19 The committee asked representatives of the department about the *Australian Jobs 2014* document. The committee heard that the document is aimed at school leavers and career advisers to help with career choices.²⁹ The committee was concerned that the document only indicated where there was job growth, without regard for job decline. Ms Leon explained that school leavers want to know where

25 Ms Michelle Baxter, Chief Executive Officer, Safe Work Australia, *Estimates Hansard*, 2 June 2014, p. 97.

26 Ms Michelle Baxter, Chief Executive Officer, Safe Work Australia, *Estimates Hansard*, 2 June 2014, p. 97.

27 Ms Renée Leon PSM, Secretary, Department of Employment, *Estimates Hansard*, 3 June 2014, p. 6.

28 Ms Renée Leon PSM, Secretary, Department of Employment, *Estimates Hansard*, 3 June 2014, p. 6.

29 Mr Ivan Neville, Branch Manager, Labour Market Strategy Group, Department of Employment, *Estimates Hansard*, 3 June 2014, p. 50.

jobs are starting and that the document has been kept as simple and straightforward as possible.³⁰

2.20 In response to where information can be found about jobs in decline, the department said that on page 43 of the document under Department of Employment 2014 employment projections, information on detailed employment projections could be found.³¹ The committee was concerned that this was not very clear and the department advised it was happy to take feedback surrounding that issue.³²

Department of Employment Outcome 2

Road Safety Remuneration Tribunal

2.21 The committee heard about the National Heavy Vehicle Regulator that deals with the most common issues affecting the truck driving industry. These included fatigue management, making sure that trucks are in good order and that there is driver awareness and training. The National Heavy Vehicle Regulator also ensures that if a company operates across more than one state, the company is held to account.³³

2.22 Dr Alison Morehead, Group Manager of the Workplace Relations Policy Group, said that one of the main reasons that trucks crash is the quality of roads. She explained that from studies in the United States of America, it was found that having two or three lanes going in the same direction and having a well-maintained road can help. She said that:

Wherever roads can be of high quality, there will be fewer road accidents, per se, including ones involving trucks. Unfortunately, the majority of the fatalities that happen in the trucking industry have been found, when fully investigated at the site, to not be the fault of the truck driver.³⁴

2.23 The issue of fatigue was also addressed with Dr Morehead stating that the issue of fatigue can affect either party of the crash. She said the proportion of accidents that are primarily caused by fatigue, which is hard to determine in the coronial work that is done around a crash, has tended to halve over the last eight years. According to data from the National Truck Accident Research Centre, 26 per cent was caused primarily by fatigue in 2003, dropping to 11.9 per cent in 2011. She also noted

30 Mr Ivan Neville, Branch Manager, Labour Market Strategy Group, Department of Employment, *Estimates Hansard*, 3 June 2014, p. 50.

31 Mr Ivan Neville, Branch Manager, Labour Market Strategy Group, Department of Employment, *Estimates Hansard*, 3 June 2014, p. 51.

32 Ms Samantha Taylor, Deputy Secretary, Department of Employment, *Estimates Hansard*, 3 June 2014, p. 52.

33 Dr Alison Morehead, Group Manager of the Workplace Relations Policy Group, Department of Employment, *Estimates Hansard*, 3 June 2014, p. 124.

34 Dr Alison Morehead, Group Manager of the Workplace Relations Policy Group, Department of Employment, *Estimates Hansard*, 3 June 2014, p. 124.

that is has not fallen enough as they do not want to see any fatalities involving trucks, but it is something that is falling over time.³⁵

35 Dr Alison Morehead, Group Manager of the Workplace Relations Policy Group, Department of Employment, *Estimates Hansard*, 3 June 2014, p. 124.