

VERIFIED VERSION

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into Budget Estimates 2017–18

Melbourne — 2 June 2017

Members

Mr Danny Pearson — Chair

Mr David Morris — Deputy Chair

Mr Steve Dimopoulos

Ms Fiona Patten

Ms Sue Pennicuik

Ms Harriet Shing

Mr Tim Smith

Ms Louise Staley

Ms Vicki Ward

Witnesses

Ms Natalie Hutchins, Minister for Industrial Relations,

Mr Matt O'Connor, Deputy Secretary, and

Ms Lissa Zass, Director, Private Sector and Compliance, Industrial Relations Victoria, Department of Economic Development, Jobs, Transport and Resources.

The CHAIR — I declare open the public hearings for the Public Accounts and Estimates Committee inquiry into the 2017–18 budget estimates. All mobile telephones should now be turned to silent.

I would like to welcome the Minister for Industrial Relations, the Honourable Natalie Hutchins, MP; Mr Matt O'Connor, Deputy Secretary; and Ms Lissa Zass, Director, Private Sector and Compliance, Industrial Relations Victoria, Department of Economic Development, Jobs, Transport and Resources.

All evidence is taken by the committee under the provisions of the Parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review. Comments made outside the hearing, including on social media, are not afforded such privilege.

Witnesses will not be sworn but are requested to answer all questions succinctly, accurately and truthfully. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty.

All evidence given today is being recorded by Hansard, and you will be provided with proof versions of the transcript for verification as soon as available. Verified transcripts, presentations and handouts will be placed on the committee's website as soon as possible.

All written communication to the witnesses must be provided via officers of the PAEC secretariat. Members of the public gallery cannot participate in the committee's proceedings in any way and cannot photograph, audiorecord or videorecord any part of these proceedings.

Members of the media must remain focused only on the persons speaking. Any filming and recording must cease immediately at the completion of the hearing.

I invite the witness to make a very brief opening statement of no more than 5 minutes. This will be followed by questions from the committee.

Visual presentation.

Ms HUTCHINS — Thank you, Chair. I thought I would go straight to the slides and the key responsibilities that I have as industrial relations minister in the state of Victoria. Public sector bargaining is a key part of the role, and 155 enterprise bargaining agreements cover over 285 000 public sector employees in this state. Our aim is to ensure that we are supporting fair and equitable workplaces and standing up for Victorian workers. There is a monitoring role for our department in regards to major disputes across the state.

In terms of our achievements in the last 12 months, we have given support as a government to the labour hire inquiry recommendations and outcomes; we have established an Equal Workplaces Advisory Council; we have a family violence leave clause that has now been implemented into 46 new enterprise agreements; we have undertaken a review of the Long Service Leave Act; and we are also working on designs and options for a portable long service leave scheme. We are also reviewing the Owner Drivers and Forestry Contractors Act 2005, and we have had input into the modern awards four-yearly review, which is done at a federal level through the Fair Work Commission. We have also had input into the 2016–17 annual wage reviews. As you can see, Chair, the department has been extremely busy.

In terms of public sector bargaining, 95 per cent of agreements are approved within four weeks of being presented to Industrial Relations Victoria and through my office. New agreements for nurses and schools have been struck without any industrial action, and we have also brought into the Parliament through the lower house a referral bill to expand the range of powers of the commonwealth referral so that agreements can be fairer and have more terms for negotiation. We have also commenced a towards common practice initiative for consistent policies across the VPS, which has been a problem area for many years.

In terms of the private sector, private sector industrial relations has seen a decline in IR disputes since 2010, and we have seen the termination of industrial action on two occasions now to protect the electricity and gas suppliers across the state. We have established a new role within Industrial Relations Victoria to monitor and identify industrial relations risks for major government projects that are underway — something that obviously was not required under the previous government because there were not a lot of major projects in place.

In terms of the budget commitments that are made in this year's budget, there is \$4.8 million for the 2017–18 budget. This includes \$700 000 over two years for fair and equitable workplace initiatives. A further 1.3 was a Treasurer's advance in 2016–17, which has allowed the ground work to be done around both our labour hire schemes and the regulation system that needs to be scoped as part of our commitments to the inquiry, as well as further work to be done into portable long service leave initiatives. It is also being utilised to allocate some additional resources to the central bargaining unit within IRV to assist in the increased capacities that they have been required to bring forward.

Finally, our key priorities for 2017–18, looking ahead, are the labour hire licensing scheme and moving forward with that; support for the Equal Workplaces Advisory Council; considering and finalising some designs for the portable long service leave schemes for the contract cleaning, security and community sectors; and an update on the Victorian long service leave laws. There are new agreements still pending — negotiation and finalisation for doctors across the state and TAFE workers. We will continue on with our initiatives to have consistent policies across the VPS as well as to monitor IR issues on major government projects and also to consider the development of rates and cost schedules and a code of practice for the tip truck industry.

Ms SHING — Thanks, Minister. I thank you for your presentation and evidence. I would like to talk about the growth in family violence leave clauses. In your presentation you referred to 46 new enterprise agreements in the public sector that contained this family violence leave clause, which I think was first pioneered by the Australian Services Union in local council enterprise agreements a number of years ago.

As part of the work that is going on in the public sector, there is always a process of working alongside the private sector to try to — within the scope of the means that we have available and Victoria's referral of powers to the commonwealth — positively influence better practice within the private sector. I would like to hear more about the family violence leave provisions as they have been rolled out across public sector bargaining but also to understand the extent to which this is having a positive impact within the corporate sector and the private sector, which we cannot regulate because of the Fair Work Act and the way in which the amendment operates.

Ms HUTCHINS — Thank you for your question. Family violence leave is a really important tool in keeping women in the workforce that are experiencing the horrific facts of going through issues relating to family violence leave. Employment retention is an extremely important element of women being able to, I guess, do something about or step out of the situation that they may be experiencing at home in regards to family violence leave.

Since introducing the clause in the middle of last year the family violence leave standard has now been included, as I said, in 57 public sector agreements covering almost 200 000 employees, and there are a further 15 enterprise agreements covering around 20 000 public sector employees that the provisions also pertain to. We are seeing a great rollout of the standard across the public sector, and the family violence standard provides for up to 20 days of paid leave, which allows the employee to attend urgent matters in regard to health appointments, in regard to appointments with police, court appearances or putting in place safety arrangements.

What we are seeing is that it is having an effect and a flow-on to the private sector in a very, very positive way. We have seen now all of the major banks pick up clauses in their EBAs around this. We are seeing it roll out in the water sector as well. I have got to say this all started going back to, I think it was, Surf Coast Shire Council, when they first did this in the local government sector as an entitlement. We are still compiling the results in terms of days accessed across the public sector. It has not been a full 12 months yet, but it is a very minimal take-up in comparison to other access to leave but a very important one.

I think in the long term, a longitudinal study by us as a government into how it has kept women in employment is something that I look forward to being able to report back on to the committee in the future. At this stage we have received just over 50 claims. Fifty claims across the sector does not necessarily mean 50 times 20 days of leave. Sometimes those leave requests are for as short as one or two days. But it is a very, very important initiative and something that was recommended out of the Royal Commission into Family Violence as a need across all workforces, not just the public sector. But as the biggest employer in the state, it is really important that we set the benchmark on these sorts of things.

Ms SHING — Thank you, Minister. Onto the point of gender pay equity and the issue which again we see time and time again. The Minister for Women in her evidence the other day referred to the 87 cents in the dollar gap as far as the comparator for women's take-home pay versus men's. How are we in a position as a public

sector employer within government to influence the private sector to take account of the shortfall in earnings between men and women over their whole of life?

Ms HUTCHINS — I thank the member for her question. It is a very important topic for many Victorian women to talk about pay equity initiatives and how any government tackles this matter. Of course it is not just an issue that can be solved by government; it is a whole-of-community issue; it is an issue for the business community. We know that gender discrimination actually costs the bottom line in our workforce in the public sector but also in the private sector as well and that there is such an advantage to having gender equity, particularly in leadership roles in workplaces, that it actually improves the output of many businesses.

What we are doing is looking at ways in which we can promote best practice but also implement it across our own workforce, including doing a bit of analysis work across the state government around any gender equity issues that may lie within our own organisations as employers but also trying to look at setting a benchmark so that we can be an example for both large and small enterprises across the state. One way that we are doing that is by establishing a ministerial council to look at this matter, called the Equal Workplaces Advisory Council, to come up with strategies for the government to considering implementing — they could be legislative; they may be initiatives of running out programs in our workplaces and in the private sector as well. This committee have only just met this year, and I look forward to getting really good examples published through their work around the initiatives they are working on to promote gender equity in current workplaces and ones that we can pick up as an employer into the future.

Ms SHING — One of the key issues that comes across the gender spectrum but also in relation to the broader regional and rural economies is the issue of insecure employment. That was the subject of an extensive review and inquiry, and it dovetails into labour hire as well. In relation to insecure employment and underemployment, what are the opportunities available for the government to drive changes to provide that better certainty not just for women but for everyone working in employment which may not have the certainty or the longevity that they require?

Ms HUTCHINS — We know that women workers are way over-represented in the statistics of casual workers and insecure work. Our government's commitment to cracking down on the exploitation of workers is one that should not be underestimated. We have accepted 33 of the 35 recommendations that have come out of the Victorian inquiry into labour hire and insecure work, and as a result of that we are establishing and setting up a licensing scheme and developing a code of conduct to regulate labour hire, but also we are advocating at a national level for a new national scheme — and we have been working with other states on this — to regulate labour hire. We think this is the way forward to try to overcome some of the exploitation, some of the underpayment, some of the risk in occupational health and safety that many casual and labour hire workers face.

Ms WARD — Minister, with regard to the labour hire and insecure work recommendations the government is adopting, how will they help protect Victorian workers from exploitation?

Ms HUTCHINS — Part of the scheme will look at some minimum conditions — you need to meet those conditions to register as a labour hire company. They are very basic conditions that we are looking at putting into the model — firstly, being registered with the ATO; secondly, having registration, WorkCover — —

The CHAIR — Order! Maybe take that on notice.

Ms STALEY — Minister, page 140 of BP3 refers to the industrial relations output under your portfolio as including the provision of industrial relations policy advice and oversight of enterprise bargaining across the Victorian public sector. What role have you and your department had in advising on the proposal to combine CFA and MFB career firefighters into Fire Rescue Victoria?

Ms HUTCHINS — I thank the member for her question. There has been a long history to the involvement of Industrial Relations Victoria and in fact the portfolio of the Minister for Emergency Services in regard to both UFU-CFA and UFU-MFB negotiations. There was an agreement that was struck back in June 2016 and a resolution passed by the CFA board last year on 12 August in regard to an agreed version of an agreement for an enterprise bargaining agreement to go forward. Unfortunately due to the federal Fair Work Act amendments that were passed subsequent to this agreement being reached, the legal advice that this government received was that the Victorian government could not proceed with actually certifying the arrangements of that agreement

because of the ambiguity and I guess the uncertainty that had been created through the amendments to the Fair Work Act.

Ms STALEY — Sorry, Minister, could you clarify; are you saying you have had a role or you have not had a role?

Ms HUTCHINS — My department has had a role all through. As they do with any EBA across government, they advise the relevant — emergency services, in this case — ministers, departments, and also provide advice to all of government on any EBA that comes through. We do have standards around both our wages outcomes and our service delivery programs that come through our EBAs, and IRV does play a role in those.

Ms STALEY — So do you or any officers of your department have any involvement with or knowledge of discussions with Peter Marshall or other UFU officials about the possible terms of an EBA for FRV?

Ms HUTCHINS — I might ask my deputy secretary to take us through. There are numerous meetings on the record through the Industrial Relations Commission in regard to both trying to reach agreements with the MFB and the UFU and with the CFA and the UFU, but I might ask Matt to supplement that.

Mr O'CONNOR — Thank you. As the minister has indicated, IRV plays a role in relation to providing industrial relations advice on various matters across the public sector, which include restructures. We have been asked to provide some advice about the industrial relations implications of setting up FRV, and we have been doing that and providing advice mainly through to DPC on that.

Ms STALEY — So have you had discussions with Peter Marshall?

Mr O'CONNOR — No, I have not.

Ms STALEY — Do you think Peter Marshall's behaviour during negotiations generally has been acceptable?

Ms SHING — On a point of order, you are asking for an opinion. You might want to rephrase the question.

The CHAIR — You are asking the witness to offer up an opinion; I do not think that is permissible. If you would like to rephrase the question, Ms Staley.

Ms STALEY — Is the new agreement normal and acceptable to government practice with the level of control it hands to that union?

Ms SHING — Which new agreement?

Ms STALEY — The proposal to combine the CFA and the MFB.

Ms SHING — That is not an agreement. It has got nothing to do with the collective agreement.

Mr T. SMITH — There is clearly going to be an EB for this new body.

Ms SHING — On a point of order, Chair, speculation.

Mr T. SMITH — It is not a court, Chair.

The CHAIR — Are you directing the question to the minister or Mr O'Connor?

Ms STALEY — Mr O'Connor.

The CHAIR — You cannot expect a public servant to offer up an opinion. Would you like to have another go, Ms Staley?

Ms STALEY — I will return to the minister. Minister, has or will your department ensure that the FRV EBA contains provisions to protect the safety and working conditions of career firefighters seconded to work in the restructured CFA?

Ms SHING — On a point of order, Chair, it is speculation. Negotiations require good faith and in that sense it is not appropriate for parties to actually discuss negotiating positions in the course of parliamentary committees.

Ms STALEY — Sorry, they have just said that they have provided advice, and I am asking the minister a direct related question to her department in relation to protecting the safety and working conditions of career firefighters.

Ms SHING — Further to the point of order, Chair, good faith negotiations and the provisions of the Fair Work Act require in fact that that be undertaken in the course of negotiations and not a parliamentary committee.

Ms STALEY — So Ms Shing is answering the minister's question.

Ms SHING — I am not answering the question. I am raising a point of order.

Mr T. SMITH — Chair, this is shameless time wasting.

Ms STALEY — It is.

The CHAIR — On the point of order, because these matters are live, the minister, I am assuming, is going to be somewhat limited in what she can say, but I am happy for the question to stand and the minister can respond.

Ms SHING — To the extent that it is speculative?

The CHAIR — To the extent that she is able to do so.

Ms HUTCHINS — Thank you, Chair. Just to clarify my points before to the member, I did advise that my department has offered substantial advice and support to the parties in reaching an agreement in the middle of last year between the CFA and the UFU. That is their role, that is their job. They have spent a substantial amount of time working with the MFB and the UFU in gaining quite a lot of agreement up until the point at which the Premier and Deputy Premier announced the establishment of Fire Rescue Victoria.

We are now looking to transition workforces under those new arrangements, but we are also looking to build upon the commitment by the government for 450 extra paid firefighters in that new system, and that in itself is a substantial part of settlement for an agreement. In terms of an agreement to cover those staff within Fire Rescue Victoria, we are at very early stages, given the announcement was only weeks ago, in terms of receiving claims from the union and looking at what sort of agreement may come about in the days ahead of us. Certainly I think that the commitments that have been made by the government to date publicly are around delivering the best system that we can going forward to protect Victorians. Our paid firefighters will continue to be looked after. Our volunteers will continue to be valued.

Ms STALEY — Will the new EBA allow part-time work?

Ms SHING — On a point of order, Chair, again speculation and again based on matters which are the subject of a negotiation which has to be undertaken in good faith. Again the government is required to be a best practice negotiator, and the provisions of the Fair Work Act apply.

The CHAIR — Order! Ms Shing, again I restate my previous ruling on a point of order that these matters are the subject of a negotiation and the minister is limited in what she can advise the committee.

Ms STALEY — The question stands. Will the new EBA allow part-time work?

Ms HUTCHINS — Through the Chair, certainly there has been a commitment given by the emergency services minister for cultural diversity and to increase female participation. Given that we are negotiating in good faith as a government and assisting the parties, I would say that all issues are currently under negotiation and are on the table. Quite frankly this would have been made a whole lot easier if the federal government's legislation was not so negatively impacting on this sector and having a threat over the negotiations that took place last year.

Ms STALEY — Minister, will you support the work of the equal opportunity commission if it recommends part-time work?

Ms HUTCHINS — I look forward to being briefed on the outcomes of the equal opportunity commission, but I also equally look forward to increased participation in the fire services across this state. I think it will deliver a better fire service.

Ms PATTEN — Turning to budget paper 3, pages 27 and page 31, I just want a little bit more information about the \$400 000 in grants to community legal centres for employment and workplace law cases for temporary visa workers. Also, that money will be spent on social media and other digital information channels.

Four hundred thousand dollars does not seem like a great deal of money for those community legal organisations that to date have not dealt with workplace industrial issues. Do you think that is actually going to employ any lawyers to work in those organisations? I would have thought those industrial relations issues for migrant workers were a commonwealth matter.

Ms HUTCHINS — Thanks for your question. It is a pretty important issue that you touch on. Yes, it is a federal matter, but unfortunately this is thriving in our own jurisdiction, and we have found that through the inquiry into labour hire in particular. I do acknowledge that there can be more done in this area, but what we want to see is how successfully we can partner with organisations that are currently struggling to meet demand in this area and provide the service. Certainly this money will go some way to supporting the system that is already in place rather than building an entirely new scheme to assist. What I am hoping to do is get the results out of this to prove that there is a bigger role in the future to be played in supporting our community legal centres, which deliver these services on a shoestring currently, into the future.

I would love to see the workplace ombudsman partner further with some of these organisations to help. These sorts of legal centres that are dealing with these issues are at the forefront of dealing with some of the most substantial issues, particularly for refugees and foreign workers in our suburbs, and they are the major point of contact. I think there is more work to be done in this area, to be honest.

Ms PATTEN — Have you got any idea what the breakdown would be of the funds to the legal centres versus the funds to be spent on the digital communications strategies?

Ms HUTCHINS — No, I do not have that on me right now, but I am sure that in the detail of the budget submissions we would be able to provide that to you.

The CHAIR — I would like to thank the witnesses for their attendance: the Minister for Industrial Relations, the Honourable Natalie Hutchins, MP; Mr O'Connor and Ms Zass. The committee will follow up on any questions taken on notice in writing. I think Ms Pennicuik may have some questions for the minister, which have been provided to the secretariat. The response answering the questions in full should be provided in writing within 10 working days of the committee's request.

Witnesses withdrew.