

# VERIFIED VERSION

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

### Inquiry into Budget Estimates 2015–16

Melbourne — 21 May 2015

#### Members

Mr Danny Pearson — Chair

Ms Sue Pennicuik

Mr David Morris — Deputy Chair

Ms Harriet Shing

Dr Rachel Carling-Jenkins

Mr Tim Smith

Mr Steve Dimopoulos

Ms Vicki Ward

Mr Danny O'Brien

#### Staff

Executive Officer: Ms Valerie Cheong

#### Witnesses

Ms Natalie Hutchins, Minister for Industrial Relations,

Mr Richard Bolt, Secretary,

Ms Sue Eddy, Lead Deputy Secretary, Financial Management and Technology Services Group,

Mr Justin Hanney, Lead Deputy Secretary, Economic Development, Employment and Innovation Group, and

Mr Matt O'Connor, Deputy Secretary, Industrial Relations Victoria, Economic Development, Employment and Innovation Group, 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 2015–16 budget estimates. All mobile telephones should now be turned to silent.

I welcome the Minister for Industrial Relations, the Honourable Natalie Hutchins; Mr Richard Bolt, Secretary of the Department of Economic Development, Jobs, Transport and Resources; Ms Sue Eddy, Lead Deputy Secretary, Financial Management and Technology Services Group; Mr Justin Hanney, Lead Deputy Secretary, Economic Development, Employment and Innovation Group; and Mr Matt O’Connor, Deputy Secretary, Industrial Relations Victoria, Economic Development, Employment Innovation Group.

All evidence is taken by this committee under the provisions of the parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review. Any comments made outside the hearing, including on social media, are not afforded such privilege. The committee does not require witnesses to be sworn, but questions must be answered fully, 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. You will be provided with proof versions of the transcript for verification as soon as available. Verified transcripts, PowerPoint presentations and handouts will be placed on the committee’s website as soon as possible.

Departmental officers may approach the table during the hearing to provide information to the witnesses if requested, by leave of myself. However, written communication to witnesses can only be provided via officers of the PAEC secretariat. Members of the public gallery cannot participate in the committee’s proceedings in any way.

Members of the media are to observe the following guidelines: cameras must remain focused only on the persons speaking; operators must not pan the public gallery, the committee or witnesses; and filming and recording must cease immediately at the completion of the hearing.

I now 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.

**Ms HUTCHINS** — Thank you, Chair. I have put a presentation together that covers core responsibilities of the portfolio, our major achievements so far, the budget and then also looking forward on how we would implement the budget commitments. Primarily my responsibility as Minister for Industrial Relations covers seven acts. Those acts cover the issues of long service leave, protection for outworkers, owner-drivers, forestry contractors and Victoria’s reference of industrial powers to the commonwealth. In addition to the acts, of course, I have a key role in determining and implementing our policies on a day-to-day basis in regard to public sector employees and also into the private sector in terms of making sure that we are advocating as a state on behalf of all Victorian workers to a national workplace relations framework, that being, in the prime, the Fair Work Commission.

I have also got responsibility to finalise submissions — which I have already done — and to develop, finalise and submit to major workplace relations inquiries, which we have also had the opportunity to already do. Where there is industrial disputation that is affecting the broader economy, then I have the powers to intervene to be involved in that.

### **Visual presentation.**

**Ms HUTCHINS** — In terms of major achievements to date, as I mentioned, some of the submissions that we have worked on, particularly on behalf of workers in the private sector, include our submission to the annual wages review, which calls for a pay increase for the one in six Victorian workers on a minimum wage and highlights the significant differences in the growing inequity of wages for people caught in the minimum wages system. I note that that submission highlights the fact that many of those workers — over 60 per cent — are in fact female workers. We have also made a comprehensive submission to the Productivity Commission’s review into the fair work laws, which is a very wide-scoping review. However, that review still managed to miss the mark on actually calling for details around the gender pay gap, so we made sure we put that on the agenda for the federal government and the Productivity Commission to consider. We also, in that submission, supported the maintenance of the safety net, which is inclusive of modern awards, penalty rates and all of those minimum conditions which are currently outlined as the 20 national minimum standards across the country. We also

called for attention to be paid to problems that are still rife in Victorian workplaces, such as bullying, insecure work, misuse of labour hire arrangements and sham contracting.

In addition to this, our other major achievement has been that the government has been able to endorse a new approval process for public sector agreements as part of our pre-election commitments. This includes negotiating new agreements six months in advance of the nominal expiry date — commencing those negotiations — and also a commitment to approve new agreements within two months of receiving them from public sector agencies.

In terms of a wages policy, the government is in the process of developing a new wages strategy and policy that will deliver fair outcomes in the bargaining process, and it also commits to delivering that in a timely manner in all of our workplaces — looking to, I guess, secure improvements in our service delivery to Victorians across the state.

We have also made a submission in terms of award modernisation. It is my role to make sure that we are across the entire award modernisation process in terms of how it is affecting Victorians. We have made a submission to the commission with regard to the local government award modernisation and protecting existing safety nets for redundancy in that sector.

In terms of budget commitments, the overall budget provides for an additional 600 000 to establish a key initiative of the Andrews government, and that is the central bargaining unit to sit within my department. The unit will play a very strategic role in ensuring that we have consistency, timeliness and improved communications when it comes to negotiating across the public sector in a coordinated way. It is something that I think has been extremely wanting in the state and something that I think we could really use effectively once it is up and running.

It will provide advice to departments and agencies about the processes that we have committed to in undertaking bargaining in good faith but also the rights and obligations of each department as employers under the fair work system. In addition to this, the unit will also ensure that there is consistency across clauses that are negotiated but also working and consulting across core policies across the whole public sector in industrial relations.

In terms of the private sector, in looking forward, we have announced that we will commence an inquiry into insecure work, sham contracting and some elements of the labour hire industry. This has been issue that has been bubbling away and getting worse over the last few years. This is an attempt to basically get a snapshot of what is going on with these arrangements, with a view to developing a labour hire licensing system in the future.

We will also be undertaking a review of the Long Service Leave Act to ensure that it is operating effectively and to look at how it can be better operating. In addition to this, we are also supporting the Economic, Education, Jobs and Skills Committee's work in an inquiry into employer schemes that provide portability of long service leave for Victorian workers. This is another issue of equity in our workplaces in Victoria.

We will continue to monitor the modern awards system and we will also participate in any other significant inquiries in industrial relations as they come forward — —

**The CHAIR** — If the minister could please conclude her presentation.

**Ms HUTCHINS** — Yes. Finally, just in summary in terms of public sector commitments looking forward, bedding down the central bargaining unit is probably at the core of that and making sure that we are bargaining in good faith and in a timely manner for new agreements such as Victoria Police, the Victorian public service, health workers, nurses and teachers, among many others.

**The CHAIR** — Thank you, Minister. I will lead off with the first question. In the context of the 2015–16 budget in your own portfolio responsibilities, can you inform the committee as to how this budget acquires *Labor's Financial Statement*?

**Ms HUTCHINS** — Industrial Relations Victoria has a recurrent budget of 2.8 million, and in this budget we have seen an increase of 0.6 million to be dedicated to the formation of a central bargaining unit, which, as I have just outlined in the presentation, will deliver a much more coordinated approach across government in

negotiations with the public sector, ensuring that we are negotiating a fair and comprehensive system of good faith bargaining that underpins the social safety net of wages and conditions.

**Ms SHING** — That is 600 000, is it?

**Ms HUTCHINS** — Yes.

**Ms SHING** — I heard 6 million. My apologies.

**Ms HUTCHINS** — 0.6, yes. We acknowledge that there has been a real devolution of industrial relations in this state under the previous government — in fact I would say a dismantling of a central unit to deal with industrial relations. I think that has led to some pretty poor outcomes in recent years in being able to reach agreements or being in fact able to ensure that we are moving forward with delivering productivity in our public sector workplaces.

At the core of any negotiations, in my experience, you need to have openness, you need to have communications and you need to have respect. I guess from a government point of view you need to have cooperation and coordination rather than having silos, where some of the key components of good faith can actually slip through the fingers of government.

We want to ensure that we lead with a central bargaining unit, and we lead in setting the example of how we can best improve productivity and delivery of best government services going forward and by engaging the workforce in that process — rather than making decisions through written documents and saying, ‘This is the way it’s going to be’, actually having engagement and having representatives at the table to not only have the genuine discussion about where the level of wages and conditions are but also the genuine discussion and input around how particular agencies, particular departments, can deliver a better service to Victorians.

**Mr T. SMITH** — Minister, I refer you to budget paper 3, page 132, which states that the industrial relations output includes providing public and private sector industrial relations advice and strategic workforce management counsel to ministers, and I ask: does the government intend to give full effect to the terms of the agreement between the UFU and the now Premier to honour all collective agreements, and will this include giving effect to clause 28 of the MFB UFU operational staff agreement 2010 so as to scrap current MFB disciplinary procedures?

**Ms SHING** — On a point of order, Chair, I note that the industrial relations summary on page 132 indicates that the minister is in a position to provide public and private sector industrial relations advice and strategic workforce management counsel. On that basis, I do not see how the specific question that you have asked about an individual matter is relevant to the purposes of conversation about the budget papers and what they involve in the discharge of the minister’s obligations. Are you talking about a specific dispute in relation to a specific agreement?

**Mr T. SMITH** — I am talking about a specific dispute which the minister clearly knows a lot about. It is a massive issue of public interest, and it is entirely appropriate that it is put to the Minister for Industrial Relations. I seek your guidance, Chair.

#### **Members interjecting.**

**The CHAIR** — Order! Members are entitled to raise a point of order and they will be heard in silence. Mr Smith, have you finished your point of order?

**Mr T. SMITH** — I was just responding to Ms Shing’s point of order.

**Ms SHING** — Further to the point of order, Chair, I note that Mr Smith has referred to this as a dispute. I also note that within the scope of the dispute it is common practice, as I would hope Mr Smith would understand, that where there is a dispute in relation to the operation of an enterprise agreement, all proceedings are contemplated or are on foot, and that it would be not only improper but absolutely inappropriate to comment in relation to those matters or to seek assurances from the government in relation to that issue where it is a dispute between parties to an enterprise agreement, if indeed that is what Mr Smith is referring to.

**Mr D. O'BRIEN** — On the point of order, Chair, I draw your attention to slide 2 of the minister's presentation, the second dot point: 'I also oversee the development of IR policies to govern our dealings with our public sector employees and their unions'.

**Mr MORRIS** — In responding to Ms Shing's point, is there a serious suggestion that if a dispute exists, ministers cannot be asked about that dispute?

**Ms SHING** — Just to respond to that, Chair, if you are asking about commentary in relation to a dispute which is currently before a court or tribunal, then it would be sub judice to actually comment in relation to those matters, and there are rulings from previous Chairs in relation to how this operates, as well as this Chair.

**Mr MORRIS** — Matters of sub judice are where there is an active criminal case, but to suggest a minister cannot respond with regard to an industrial dispute in which the government is embroiled or involved, to use a less emotive term, is just completely — —

**Ms WARD** — No, that is not the issue — —

**The CHAIR** — Order! The Deputy Chair has the call.

**Ms SHING** — Further to the point of order, I note that the former Minister for Industrial Relations and Attorney-General was absolutely appropriate in refusing to comment in relation to matters which were on foot, whether they were an industrial jurisdiction or criminal or civil matters.

**The CHAIR** — *Erskine May* does say that if a civil matter has been set down, then you cannot raise that matter for the reasons of sub judice. I will confess I am a little bit hazy as to where an industrial dispute would sit within that. Mr Smith, I have no problem with you asking a question. I think the subject matter you are raising is appropriate. Can I just get you to repeat your question? I just want it repeated.

**Mr T. SMITH** — That is fine; I am happy to repeat it. Does the government intend to give full effect to the terms of the agreement between the UFU and the now Premier to honour all collective agreements, and will this include giving effect to clause 28 of the MFB UFU operational staff agreement 2010 so as to scrap current MFB disciplinary procedures?

**Mr D. O'BRIEN** — It does not refer to a current dispute.

**Mr T. SMITH** — I do not think it refers to any dispute. We are seeking some guidance and advice from the minister.

**Ms SHING** — Further to the question that Mr Smith raised, I would raise a point of order in relation to seeking to gain a minister's opinion in relation to the government intending to honour all — —

#### **Members interjecting.**

**The CHAIR** — Through the Chair!

**Ms SHING** — I have not actually concluded my point of order. Again, where you are seeking to ask the minister to express a view on behalf of all of government, you are not going to get the answer that you are after because the actual provision of the information and the advice is done within the scope of the minister's portfolio, and, beyond that, she is not in a position to comment on what the government will or will not do in relation to individual application of provisions in collective agreements.

**Mr DIMOPOULOS** — On a point of order, Chair, I think the minister has been given a question which is in some respects fairly ridiculous, because it is pre-empting negotiations that will happen in the future. The minister is within her right, I would imagine, to not disadvantage the state's position by expressing an opinion on negotiations that are yet to happen.

**The CHAIR** — I am relaxed for the question to be asked, but I agree with what Mr Dimopoulos has just said. It would be difficult for the minister to give away, I suppose, the state's position in relation to a negotiation that may be in the process of occurring. I will let the minister answer.

**Mr MORRIS** — On a point of order, Chair, on that point, the question was about an agreement that is in place and whether the government intends to honour it. It was not about negotiations. It is about an agreement that is in place and whether the government intends to honour it.

**Ms SHING** — On the point of order, Chair, I note that the output itself refers to the provision of workforce management counsel in relation to industrial relations advice and strategic workforce management. It does not refer to the ultimate decision or answer that you are looking for in the question. Again, if you wish to, through the Chair, rephrase the question so that it operates within the scope of the broader output, as far as provision of general information and advice, then it might actually come more properly within what is set out in the budget papers.

**Mr D. O'BRIEN** — Why are you so sensitive about unions?

**Mr T. SMITH** — Chair, my understanding was that you were happy with the question.

**The CHAIR** — I am relaxed for the question to stand and to be asked of the minister. All I am suggesting to you is that it may be difficult for the minister to give the answer that you are seeking. But I will let the minister speak for herself.

**Ms HUTCHINS** — Thank you, Chair. The simple answer is yes, we will honour agreements that are in place, but I would like to make the point that this particular agreement that the member has referred to expired almost 18 months before we came into government, so it is an old, expired agreement. There are new negotiations afoot, but of course we will abide by those clauses that are in existing agreements. I dispute that the clause in particular that has been raised is actually interpreted in the way that Mr Smith alleges in his question; However, I do note that there are 154 EBAs across the public sector. I have not at this stage memorised every clause of those 154 EBAs, but I am very aware of those that we inherited on coming into government that had actually expired, and that was almost a third of those agreements that had stalled and not progressed, either from the process of a log of claims or from where agreement had been reached and yet had been stalled by the previous government in not signing off. So there has been a big backlog of work to do in this space in cleaning up some of that, but yes, we will honour all clauses in agreements that are in existence.

**Mr T. SMITH** — Given that the current disciplinary procedures have not yet been replaced, why did you allow your then chief of staff, Simone Stevenson, to use the taxpayer-funded resources of Industrial Relations Victoria to try and head off disciplinary charges against an MFB firefighter for possession of pornographic and racist material and —

**Ms SHING** — A point of order.

**Mr T. SMITH** — and UFU secretary Peter Marshall said — —

**Members interjecting.**

**The CHAIR** — Order! There is a point of order before the Chair.

**Ms WARD** — Yelling doesn't make your question any better, Mr Smith.

**Mr D. O'BRIEN** — The point of order is: don't ask any union questions; is that right?

**Ms WARD** — The point of order is: do your homework and phrase your question properly.

**The CHAIR** — Through the Chair.

**Ms SHING** — Before I actually take up my substantive point of order, I have to take issue with Mr O'Brien's comment, 'Don't ask any union questions'. Again, when you come to this committee with questions that presuppose the grab that you are looking for, the story that you are looking for, the way in which you seek to demonise collective bargaining processes and negotiations, when you backstab — —

**Mr T. SMITH** — We are asking the minister — —

**Members interjecting.**

**The CHAIR** — Through the Chair.

**Ms SHING** — Where you seek to decry unions with the exception of the Police Association —

**Members interjecting.**

**The CHAIR** — Order!

**Ms SHING** — and until it satisfies your own subtext and your own agenda around the Labor policies and values that we have — —

**Members interjecting.**

**Ms SHING** — I seek that that be withdrawn. In addition to that, Chair, my substantive point of order is thus: I do not accept that the premise of the question is appropriate or is relevant to the budget papers in relation to the substantive question that was asked, and I ask that Mr Smith either withdraw it or that you rule the supplementary question out of order.

**Mr MORRIS** — On the point of order, Chair, the question goes to the heart of why we are here, and that is about the spending of public money. The minister, in her response to the initial question, indicated that as far as she is concerned the agreement has expired, and certainly it is well past its expiry date.

**Ms WARD** — Well past its expiry date.

**Members interjecting.**

**Mr MORRIS** — So there is clearly negotiation to be had. What the question is clearly seeking is the application of taxpayer-funded resources from IRV and how they are being used. That is where the heart of the question is.

**Ms SHING** — It is not IRV.

**Mr MORRIS** — It is about taxpayers money, and that surely is what the estimates are about because we are talking about taxing Victorians and spending their money. That is the heart of the question.

**Ms SHING** — On the point of order, Mr Morris, you have actually referred to taxpayers money, you have referred to IRV, and yet the supplementary question, as asked by Mr Smith, referred to the minister's chief of staff and to conversations in relation to a disciplinary matter.

**Mr MORRIS** — And to IRV.

**Ms SHING** — No, not IRV. That is not what the supplementary question was. If you are going to refer to matters which are the subject of individual negotiation, then again we are going to come up against the question and the problems that you had when you tried to ask the Premier this question around public sector bargaining negotiations and this very same matter in relation to disciplinary matters, which do not fall within the scope of the operation of enterprise agreements. So we can go back to IR 101 if you would like, but the upshot is that you are not going to get the story that you want or the grab that you want from this, so I seek that we get a ruling from the Chair that the supplementary question either be withdrawn or that it be asked in a different way.

**Ms WARD** — You need to be better at asking your questions. Do your homework.

**Mr MORRIS** — On the point of order, Chair, with great respect to Ms Shing, she may not have heard the full question because she was in the process of trying to call a point of order, but the question included the words 'to use the taxpayer-funded resources of Industrial Relations Victoria to try and head off disciplinary charges' et cetera. It referenced Industrial Relations Victoria.

**The CHAIR** — I have previously ruled that disciplinary matters do not form the basis of the estimates hearing. I am happy for Mr Smith to ask about another part or role that the minister's office played in what is clearly an issue of public interest with regard to this, but disciplinary hearings do not form the basis of the estimates hearings.

**Members interjecting.**

**Mr T. SMITH** — It is quite appropriate to ask about the conduct of staff in the minister's office.

**The CHAIR** — Mr Smith, do you want to ask another question?

**Mr T. SMITH** — No, I want to ask the question I put.

**The CHAIR** — You can't. I have ruled it out, so ask another one.

**Mr T. SMITH** — You can argue as much as you like, but it is not a good look for you, mate, but that is your problem!

**Members interjecting.**

**The CHAIR** — Order! Dr Carling-Jenkins on the last question.

**Mr MORRIS** — On a point of order, Chair, is it your ruling that questions that relate to IRV, a taxpayer-funded organisation, are not permitted in these hearings?

**The CHAIR** — Not at all. I ruled previously, Deputy Chair, that disciplinary hearings and disciplinary matters do not form the basis of an estimates hearing. I have been consistent.

**Dr CARLING-JENKINS** — Given the time, Chair, would you like me to ask my question, but perhaps it could be taken on notice? I am very conscious of the time. I will be very quick. My question is around industrial relations, Minister, in reference to the inquiry into insecure work that you have mentioned on slide 6 of your presentation. I have spoken to a lot of subcontractors in the commercial building trades and they have spoken to me about their struggles to compete in the current market. They have a commitment to providing award wages and secure working conditions. However, they are competing with firms that are not so committed to workers rights, and I am sure you are aware of those. The firms that have been undercutting them could be described as perhaps having the dodgy kind of labour hire practices where they expect their workers, from tradesmen to labourers, to provide their own ABNs and their own insurances and to pay their own superannuation and so on, all the while paying them an hourly rate well below award wages. My question is around: will this review into insecure work in Victoria address this issue of the minimisation of workers' wages and conditions, which makes it difficult for legitimate operators to compete? I was hoping to get a sense of what kinds of terms of reference you have for this inquiry.

**Ms HUTCHINS** — Chair, just quickly — and I would like to provide you with more information than what I can in a few minutes — yes, we are in the process of developing terms of reference, but it is extremely important that we talk to some of the parties involved in putting that together, which we have scheduled over the next week. The core of this is so much about the level playing field that is needed amongst small business in particular, where you do have some operators that are not doing the right thing, not abiding by the law and being able to undercut in their bidding process against their competitors. That is something we want to take very seriously with this inquiry. We want to come out with some solid recommendations on how we can better address this rather than sweeping it under the carpet.

**The CHAIR** — I thank the witnesses for their attendance. The committee will follow up on that question on notice, and if a response could be provided within 21 business days of that request, that would be appreciated. We will now have a changeover and move straight to local government.

**Witnesses withdrew.**