

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into the 2022-23 Budget Estimates

Melbourne—Friday, 13 May 2022

MEMBERS

Ms Lizzie Blandthorn—Chair

Mr Danny O’Brien—Deputy Chair

Mr Rodney Barton

Mr Sam Hibbins

Mr Gary Maas

Mrs Beverley McArthur

Mr James Newbury

Ms Pauline Richards

Mr Tim Richardson

Ms Nina Taylor

WITNESSES

Mr Tim Pallas MP, Minister for Industrial Relations, and

Mr Matt O'Connor, Deputy Secretary, Industrial Relations Victoria, Department of Premier and Cabinet.

The CHAIR: I declare open this hearing of the Public Accounts and Estimates Committee.

I ask that mobile telephones be turned to silent.

I again begin by acknowledging the traditional Aboriginal owners of the land on which we are meeting. We pay our respects to them, their elders past, present and emerging as well as elders from other communities who may be with us today.

On behalf of the Parliament, the committee is conducting this Inquiry into the 2022–23 Budget Estimates. The committee's aim is to scrutinise public administration and finance to improve outcomes for the Victorian community.

I advise that all evidence taken by the committee is protected by parliamentary privilege. However, comments repeated outside this hearing may not be protected by this privilege.

Witnesses will be provided with a proof version of the transcript to check. Verified transcripts, presentations and handouts will be placed on the committee's website.

We again welcome the Treasurer, in his capacity as Minister for Industrial Relations, as well as officers from the department. We invite you to make an opening statement or presentation. This will be followed again by questions from the committee.

Visual presentation.

Mr PALLAS: Thanks, Chair and committee members. It is good to be with you again, and thanks for the opportunity to present to you on the achievements of our industrial relations team this year—I am here with Matt O'Connor, the CEO of Industrial Relations Victoria—and really to highlight key areas of work for the coming financial year as well.

As many of you would be aware, IRV has separate divisions for public sector and private sector industrial relations issues. In the past financial year our public sector team have overseen the following achievements: the building equality policy was launched in early 2022 and aims to both create training and employment opportunities for women through government procurement on buildings, infrastructure, civil engineering and other capital works projects as well to set targets to help us build a more gender-inclusive industry; the development of a public sector gender equality model provision for use in public sector enterprise bargaining agreements to support public sector employers to enliven the dispute resolution powers of the public sector gender equality commissioner; the finalisation of approximately 70 public sector enterprise agreements and development of common practice policies to underpin the VPS agreement; maintenance of the lockdown employment supports policy, which provided income support to casual employees who were not eligible for Commonwealth assistance payments during the 2021 COVID restrictions period and various supports to public sector workers to provide flexibility in working arrangements and to support public sector employees to receive COVID-19 vaccinations; and submissions to the Fair Work Commission's review into casual conversion provisions in public sector awards.

Meanwhile our private sector team has overseen the following achievements: supporting the delivery and establishment of Victoria's Sick Pay Guarantee pilot scheme; developing Fair Conduct and Accountability Standards for on-demand platforms, which are the subject of an ongoing development process—a draft set of standards was released for public consultation on the Engage Victoria website in December 2021; support for workplace gender equity, including through the commissioning of research; a review of the *Child Employment Act*, which has resulted in amending legislation being tabled in the Legislative Assembly this week; multiple submissions to the Fair Work Commission, including on the family and domestic violence leave review, the 2021–22 annual wage review and proposed on-demand delivery services award; supporting DHHS in making

submissions to the work value case for the aged care industry; and updating rates and costs schedules for owner-drivers, including those applicable to tip truck drivers.

Our government believes that every Victorian deserves the security and dignity of a good, stable job and a decent wage. That is why in the 2022–23 Victorian budget funding has been provided to a range of IR initiatives aimed at fixing inequalities faced by workers across our state, including through reforms to the on-demand economy, funding Wage Inspectorate Victoria and provisioning for the Victorian Sick Pay Guarantee.

In relation to the gig economy, funding is provided to continue the implementation of the government's response to the inquiry into the Victorian on-demand workforce. This work includes the further development of our Fair Conduct and Accountability Standards. It also includes continuing work on developing support services for on-demand workers. It is anticipated to provide assistance to platform workers and businesses to understand their entitlements and obligations to assess work status and to assist parties to access appropriate dispute resolution services. The service will also administer and provide information about the Fair Conduct and Accountability Standards.

\$245.6 million in funding is provided towards program design and implementation of the Victorian Sick Pay Guarantee. That two-year pilot will support casual and contract workers in eligible occupations across priority industries by providing payments of up to five days of sick or carers pay at the national minimum wage—it is currently \$20.33 per hour—if they take time off due to ill health or to care for an ill family member. It is anticipated that more than 150 000 workers will be eligible to participate in the first stage of the Sick Pay Guarantee.

Funding has been allocated for gender pay equity workplace initiatives in the funding of the Equal Workplaces Advisory Council and to undertake relevant research. Last but not least, the government has committed \$2 million to continue funding to the construction industry safety training initiative.

Thanks for the opportunity to present today on the outstanding achievements of the IR portfolio team and the initiatives we are looking forward to working on in 2022–23 to deliver on our commitment to improving the lives of Victorian workers.

The CHAIR: Thank you, Treasurer. Mrs McArthur.

Mrs McARTHUR: Thank you, Chair. Thank you, Minister. I refer you to budget paper 3, page 313. As both Treasurer and Minister for Industrial Relations you have played a critical role in setting workplace policies for return to work after COVID. In the first instance, will you provide the committee with the current percentage of days worked from home in the Victorian public service? In the second instance, with the central city-based state employees, what percentage of those have returned to full-time city office work?

Mr PALLAS: Thanks for the question. Certainly the government is supportive of ensuring that workers return to the office in a safe and manageable way, and certainly the fact that Victorians have got vaccinated in unprecedented numbers has given us increasing levels of certainty that this will be able to be managed and be able to be managed appropriately.

I will throw to Mr O'Connor in a moment to deal with that aspect of your question that deals with the measures that are being taken with regard to the public service more generally. Mr O'Connor of course in IRV is part of the Department of Premier and Cabinet, which has, broadly, overall oversight in terms of public sector standards and how they are ultimately being implemented and delivered. But certainly what we are seeing is a very substantial return in terms of activity in the CBD, perhaps more dramatically than we are seeing in Sydney at the moment, and foot traffic is demonstrating that—

Mrs McARTHUR: We just want to know about the public service, actually. How many of them have returned to work full time in the CBD? Thank you.

Mr PALLAS: Well, I will leave it to Mr O'Connor to give you an appreciation of that.

Mr O'CONNOR: Thanks, Mrs McArthur. The government has in place a flexible work policy which covers the Victorian public service. One of the things that that requires is for each employee to negotiate with

their manager a flexible work plan. The default position from that is three days in the office and two from home, but employees and managers—

Mr NEWBURY: No, it's two, with one optional is what the department is saying.

The CHAIR: Mr Newbury, could you please allow—

Mr NEWBURY: That is not true at all.

The CHAIR: Mr Newbury, could you refrain from interrupting the witness and allow him the opportunity—

Mr NEWBURY: I have seen the emails from the secretary.

The CHAIR: Mr Newbury, could you please allow the witness to answer the question.

Mr O'CONNOR: The default position, as I said, is three days in the office, which could also include a hub—obviously a number of people are now working from some of the suburban hubs that have been set up during COVID—and two days from home. There is an ability, obviously, to negotiate up or down in relation to that default position. Most departments and employees would now have landed those policies, whether in writing or through discussions, but we are working across the departments at the moment to finalise them.

Mrs McARTHUR: So what would be the percentage?

Mr O'CONNOR: The percentage of—sorry, I am missing—

Mrs McARTHUR: Yes, that have returned to work.

Mr O'CONNOR: I cannot answer that. I do not have that information here today, but I can—

Mrs McARTHUR: Can you take it on notice?

Mr O'CONNOR: If it is available, I will provide it on notice.

Mrs McARTHUR: Surely it would be provided. So, Minister, noting the direct impact that CBD workers have on the viability of many small businesses in the central city area of Melbourne—or the non-viability of those businesses where only a small percentage of workers are back full time—when will city-based public servants be back at work at least four days per week permanently, if ever? Maybe the Deputy Secretary would like to answer the question.

Mr PALLAS: I will take the question, as it was directed firstly to me. What we are seeing—because the question went to the viability of the CBD and CBD businesses—is a very dramatic upswing in activity in the CBD on weekends.

Mrs McARTHUR: Of public servants?

The CHAIR: Mrs McArthur.

Mrs McARTHUR: It is public servants we are referring to.

Mr PALLAS: No, your question went to CBD activity, and I can choose to answer the question how I see fit. We are seeing—

Mr D O'BRIEN: No, you are actually meant to answer the questions we have asked.

Mrs McARTHUR: But we have asked about public servants.

Mr NEWBURY: It is not question time.

The CHAIR: Mrs McArthur, Mr Newbury and Mr O'Brien. You have asked a question and it was a broad-ranging question. If you would allow—

Mrs McARTHUR: No, it was about—

The CHAIR: Mrs McArthur.

Mrs McARTHUR: No, it is very simple, Chair. It was about public servants.

The CHAIR: Mrs McArthur, the minister is answering your question in an entirely relevant way.

A member interjected.

Mr PALLAS: So what we are seeing is a very substantial upswing in foot traffic. That means activity, and of course the public sector does play a substantial role in that foot traffic, particularly during the weekdays. We are seeing a more substantial, during the week, upswing in activity in Melbourne than, by comparison, for example, in Sydney. Now, those numbers do vary through the week, but I have seen data that would demonstrate close to 85 per cent at certain points of the week in terms of a return across the board in terms of foot traffic in the CBD.

With regard to the arrangements for the return of the public sector and on what basis, that is a matter for public service managers. As you would appreciate, they have a duty of care to their employees, and they need necessarily to put in place arrangements that not only get the efficiencies of people working in an office cooperatively but also provide levels of assurity that the workplace is safe for them to congregate together. As Mr O'Connor has indicated, the government sees that that would best be managed through a hybrid arrangement that does not necessarily lead to a full-time return to the office at the moment.

Mrs McARTHUR: Good. Minister, in your budget speech you suggested that the purpose of the Sick Pay Guarantee pilot, which will cost taxpayers \$132.8 million in the next financial year, was to provide insecure workers with sick pay. Do you agree with the ACTU that the definition of 'insecure work' includes all casual employees?

Mr PALLAS: Well, certainly it does. That is a fair and reasonable definition of insecure work, but we have been very specific about how the Sick Pay Guarantee will operate. We said it would apply as a pilot in respect of occupations included in the first phase, and those are hospitality workers, food trade workers, preparation assistants such as chefs and kitchen hands, supermarket and supply chain workers, retail and sales assistants, aged and disability care workers, cleaners and laundry workers and security guards.

Mrs McARTHUR: Thank you, Minister.

Mr PALLAS: So certainly that is phase 1. The government is open to extending it, but it does not apply to all insecure workers, just those that we have identified for the purposes of the pilot.

Mrs McARTHUR: And, Minister, what funding models have been considered or proposed for financing the scheme for the next two years?

The CHAIR: Mrs McArthur, I am sorry to interrupt you, but your time has expired. The call is with Mr Maas.

Mr MAAS: Thank you, Chair. Welcome back, Treasurer. And it is good to see you again, Mr O'Connor. Treasurer, I actually might pick up from where Mrs McArthur left off. Insecure work is unfortunately a feature of the Victorian landscape and indeed the national landscape, but I have not seen any public policy at that level which seems to address it. But in terms of the Victorian Sick Pay Guarantee pilot, perhaps you could explain the benefits of that package to Victorian workers and discuss the aims of the scheme.

Mr PALLAS: Certainly. Thanks very much, Mr Maas. But can I also say: yes, insecure work does cause enormous grief, and it affects certain sections of the community perhaps more disproportionately than others. One of the good news stories out of the 560 000 jobs that have been created under this government since we came to office is that about four in five of those jobs are full-time or permanent jobs. What that means is of course it is bucking the trend of long-term insecure employment, but insecure employment is still a manifest problem in the community.

Particularly in the context of being able to ensure this exciting innovation, which is piloted by the government and part of our agenda to reduce the negative consequences of insecure work, the first stage of the Victorian Sick Pay Guarantee, which is a two-year pilot program targeting casual and other insecure workers, commenced in March 2022. In the budget we have invested a total of \$245.6 million into the pilot program, which will provide eligible workers—and I went through that category of eligible work—who have an entitlement to sick or carer's leave with up to five days pay at the national minimum wage. This means that some of our most vulnerable workers will no longer have to choose between going to work whilst unwell or going without income, or indeed having to choose whether they are caring at home for sick members of their family.

Decades of labour market deregulation coupled with the increased adoption and capabilities of digital technologies, I think, have contributed to the rise in insecure work right across the economy, and it is compounded by a gap in national workplace relations frameworks where casual and indeed self-employed workers do not have paid entitlements in the event of sickness or needing to care for others. That of course leads to a problem, particularly in the environment of a pandemic, where people have to choose between earning income and indeed leaving the home and running the risk of potentially spreading disease into the community. Those workers who are forced to choose between attending work when either sick themselves or by forgoing their caring responsibilities or forgoing pay are also more likely to engage in absenteeism, where they are on the job but not fully functioning—or presenteeism I think it is called more notably.

Gaps in worker protections exist where insecure workers are more likely to be forced into sham contracting arrangements or where cash-in-hand workers are likely to be unpaid, noting that the most important part of these arrangements under an industrial relations framework lie within the Commonwealth government's remit. The pilot does not seek to directly resolve legal or industrial relations disputes in relation to insecure work nor, might I say, to alter the work arrangements or to provide leave as such. Rather, its aim is to offer a safety net in providing financial support to workers to utilise any existing rights or entitlements to take unpaid leave or to choose not to work or to decline a request to be available for work on a given day in accordance with their contractual obligations.

According to recent reports by the ILO, one in four workers is a casual worker in Australia and over half of casual employees report having no guaranteed hours. Across Victoria's workforce there are approximately 1 million casual and contract workers who do not have the entitlements many of us take for granted. As we have learned throughout the pandemic, the cost to business and to public health of unwell workers presenting at work is quite substantial and indeed can lead to catastrophic outcomes at a societal-wide level for the workers who are without a choice and for others at the workplace who face a risk of infection. So we intend not only for workers who receive payments through the scheme to derive a benefit but that the economy generally will derive a benefit as we ensure that there is not an unnecessary spread of disease but reduced rates of workplace injury, benefits of reduced presenteeism, reduced worker turnover rates and benefits from reduced infectious diseases—also reputational risks can be encountered by businesses if they are seen as amplification points of transmission of illness. We are also aiming to see improved mental health for workers due to the benefit of accessing income even when absent from work sick, and we hope that there will be a positive impact from the residual economic stimulus caused by worker payments.

We also know that some of the industries hit hardest by the pandemic and by necessary public health measures during the pandemic were those with a majority of female employees—such as hospitality, administrative and support services—and people from culturally and linguistically diverse groups. Women were more likely to lose their job during the pandemic. Statistics tell us that nearly 30 000 more women than men lost their jobs in 2020 and the pay gap widened from 11.2 per cent to 14.3 per cent between November 2020 and 2021. Women are in general over-represented in casual and insecure work and arrangements where workers have little control over the hours that they actually work or the shifts that they undertake. We know that women were often forced to choose between caring for family and going to work. Even before the pandemic women were more likely to be absent from work in order to undertake caring duties, so this is part of the reason the pilot offers carers pay as an alternative to sick pay.

Our economic recovery really is now well advanced. The jobs recovery continues to be broad and inclusive, which is vitally important, and it actually shows that there are substantial benefits now starting to emerge from our bounce back. By early 2022 the proportion of women and young workers and single mothers in employment has recovered to above pre-pandemic levels. However, look, structural inequities continue to

persist and include that we see higher rates of underemployment for women than men. We also are hopeful that by introducing a scheme like this thousands of Victorian workers, a high proportion of whom we expect will be women and other vulnerable groups, will benefit from not being forced to choose between attending work sick or while a loved one needs care and forfeiting their income.

Mr MAAS: Thanks, Treasurer. You have already touched upon some of the cohorts which will fall within phase 1 of the pilot. Would you be able to perhaps touch upon some of the eligibility criteria and explain why these cohorts have been selected?

Mr PALLAS: Yes. I will not go over the cohorts again because I have listed them, but to be eligible to participate in the Sick Pay Guarantee a worker has to meet all of the following criteria. They must be 15 years or older, casual or self-employed with no direct employees, have no entitlement to paid personal sick or carers leave in any job, be working in Victoria, be working in an eligible occupation and on average work at least 7.6 hours per week in an eligible occupation. The pilot program for the Sick Pay Guarantee will make five days of sick or carers pay per year available to casual and insecure workers in the targeted group of occupations that I have already listed. But in order to determine the priority occupations the government reviewed a broad cross-section of industries and occupations with a view to prioritising occupations where the levels of casual or other insecure work predominates, including if hours of work were considered to be unpredictable over the short and over the medium term. So the government also sought to prioritise occupation groups that were considered to have lower levels of financial security with wages at or close to national minimums or where earning levels were unpredictable. Finally, the pilot has been designed to support workers who are more likely to be impacted by insecure or casual work—for example, women, workers from culturally and linguistically diverse or non-English speaking backgrounds, young workers, temporary residents. These workers participated in a public consultation process. They have provided input to help shape the design and the implementation of the pilot.

Mr MAAS: Thanks, Treasurer. I will leave it there. Thank you.

The CHAIR: Thank you, Mr Maas. Right on time. Mr Barton.

Mr BARTON: Thank you, Chair. Thank you, Treasurer. I love the work that the government is doing towards the gig economy, but we keep missing a group of highly vulnerable workers. Taxi drivers did not qualify for the Sick Pay Guarantee. I did advocate for it, but they were not included in the trial. These workers—more often than not English is not their first language. They have no holiday pay, they have no sick pay, they have no superannuation, they get no carers allowance, they are in a highly vulnerable and insecure work environment, and they have not had a fare increase from the Essential Services Commission—only one since 2014. Whilst we acknowledge all this other fantastic work, the Fair Conduct and Accountability Standards—a consultation paper has been put out, and in the budget there is \$5.6 million towards that. I obviously have an interest in this, with a motion which was passed by the Council this week, and I would like to know how that would all mesh in and how we protect these highly vulnerable workers.

Mr PALLAS: Well, I am pleased, Mr Barton, that you support the government's desire to try and ensure that we can provide increased levels of employment security and avoid all of the adverse consequences of insecurity in employment. As a government, as a matter of principle, we support workers being provided with greater security in employment but also recognising that we do not necessarily have systems in place that assure that every worker is indeed an employee, and indeed that is why the gig economy inquiry undertook its work. Part of the difficulty and the complexity of the interaction of effectively on-demand workers, whether they are participating in online platforms or whether they are doing it through more direct access such as hail-and-ride opportunities, is that those arrangements effectively mean that it often becomes a murky process as to whether they are an employee or not, whether they are an individual contractor or not. The interaction between Commonwealth and state law is a very difficult problem in the sense that the first thing you have to decide is: is the worker an employee? If they are, they are outside of the purview of any state legislation, in effect, relating to industrial relations regulation.

What we do know is that the Commonwealth has also with regard to independent contractors—and often we find in the driving industry a lot of independent contractors being classified as such—through their legislative scheme sought to occupy the field in this area and effectively limited any redress or systems of relief that the state can put in place. The complexity of being able to classify employment is a quite unfair and inequitable process. One of the things that was advised by the on-demand inquiry was that there has to be a quick and easy

process so we can determine the status of a worker so that we can work out which jurisdiction those workers fall in for the purposes of adequately providing a system of regulation of entitlements. Through the work that we are doing through the on-demand workforce inquiry, which published all 20 recommendations, we supported, accepted, all 20—nine recommendations in full, 11 in principle. But the key recommendations involved support in full for a change to be led nationally and for Victoria to continue to advocate for national reform.

I am not doing this to avoid the state's responsibilities. We want to partner with the Commonwealth government on this, because there is this perverse interaction between Commonwealth and state responsibility. We cannot get certainty until we can work out the description of employees and we put in place what are clear and appropriate mechanisms of redress. At the moment, if you do not know what you are, you cannot necessarily access that. You have to go to a Federal Court to get a definitive ruling about whether you are an employee or not, and that is hardly a usable mechanism available to workers. We have as a government indicated our desire to find quicker, more efficient mechanisms going forward. We remain committed to it, and we are keen to work with anybody who sees injustice in these insecure forms of work to get adequate redress going forward.

The CHAIR: Thank you, Minister. Thank you, Mr Barton. That concludes the time we have set aside for consideration of the industrial relations portfolio today. Thank you to you both for appearing before the committee in that capacity. The committee will follow up on any questions taken on notice in writing, and responses will be required within five working days of the committee's request.

The committee will now take a 1-hour break before beginning consideration with the Premier. Thank you for your time.

Witnesses withdrew.