

TRANSCRIPT

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into Budget Estimates 2018–19

Melbourne — 29 May 2018

Members

Mr Danny Pearson — Chair

Ms Sue Pennicuik

Mr David Morris — Deputy Chair

Ms Harriet Shing

Mr Steve Dimopoulos

Mr Tim Smith

Mr Danny O'Brien

Ms Vicki Ward

Ms Fiona Patten

Witnesses

Mr Martin Pakula, Attorney-General,

Mr Greg Wilson, Secretary,

Mr Donald Speagle, Deputy Secretary, Civil Justice,

Mr Ryan Phillips, Deputy Secretary, Criminal Law Policy and Operations,

Ms Kylie Kilgour, Deputy Secretary, Criminal Justice Strategy and Coordination,

Mr Christopher Breitzkreuz, Chief Finance Officer, and

Mr David Ware, chief executive officer, Court Services Victoria, Department of Justice and Regulation.

The CHAIR — I declare open the public hearings for the Public Accounts and Estimates Committee inquiry into the 2018–19 budget estimates.

All mobile telephones should now be turned to silent.

I would like to welcome the Attorney-General, the Honourable Martin Pakula, MP; Mr Greg Wilson, Secretary of the Department of Justice and Regulation; Mr Donald Speagle, Deputy Secretary, Civil Justice; Mr Ryan Phillips, Deputy Secretary, Criminal Law Policy and Operations; and Ms Kylie Kilgour, Deputy Secretary, Criminal Justice Strategy and Coordination. In the gallery are Mr David Ware, Chief Executive Officer, Court Services Victoria; and Mr Christopher Breitzkreuz, Chief Finance Officer.

Any witness who is called from the gallery during this hearing must clearly state their name, position and relevant department for the record.

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, any PowerPoint presentations and handouts will be placed on the committee's website as soon as possible.

Witness advisers 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 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 10 minutes. This will be followed by questions from the committee.

Mr PAKULA — Thank you, Chair. It is a pleasure to be here at PAEC on my 12th occasion — six on this side and six on that side, so it is now even stevens. I will just briefly run through the presentation.

Visual presentation.

Mr PAKULA — If we move to the first slide, you can see that as a total of the justice budget the Attorney-General's portfolio is a relatively small part of the overall pie, with policing, corrections and emergency services obviously being by far the largest components. But in terms of the Attorney-General's portfolio, that is worth just over \$500 million of the total. The courts, which is obviously under the purview of Court Services Victoria, is over 600 million; infringements and warrants 122.5 million; and you can see the rest of the departmental breakdown on the pie chart there.

Moving on to the next slide, if we just turn briefly to some of the major initiatives in the portfolio in this budget, there is assistance for victims of crime — an extra \$7.2 million over two years, which comes on top of the \$28.5 million package which was in last year's budget. There is an extension of the intermediary scheme, which we announced last year, with an additional \$2.9 million. That is a very important scheme which helps children and vulnerable people who are victims of crime provide evidence to police and in court, and it provides skilled communication specialists to assist those people. Increased legal assistance of \$37.2 million to VLA. When I go through the rest of the presentation, you will see the very substantial investment in the justice system which necessitates additional support to legal aid to ensure that matters run smoothly in the courts. That is of course being supplemented by substantial additional support to our prosecution services — \$21.9 million to the OPP, and I will break that down at some point if people ask. That is in addition to \$97 million for additional police prosecutors, which is within the police minister's portfolio.

Moving on to other initiatives in the justice portfolios, there is \$20 million for land purchase for the redevelopment of our court precincts in both Werribee and Bendigo; and \$5 million to the Victorian Institute of Forensic Medicine to support the respectful treatment and prompt release of deceased persons as part of death investigations, and that is a very important supplementation to VIFM. Importantly, supporting the Office of the Public Advocate with \$5.4 million over two years. The OPA has had a substantial increase in its obligations, both through VCAT and changes to the guardianship legislation, and that will ensure that the Office of the Public Advocate is well geared to support those additional responsibilities.

Moving over to some of the initiatives within Court Services Victoria, probably the most substantial investment in a long time is \$128.9 million for additional court capacity. That will allow three new magistrates to establish a new bail and remand court in the Magistrates Court to hear bail applications after hours and on weekends, along with 15 additional magistrates over four years to deal primarily with criminal matters, along with an extra Supreme Court judge and two additional County Court judges. There is \$2.6 million to the County Court to ensure that the future needs of the County Court in regards to accommodation are secured; \$5.1 million for the Echuca court — people would be aware that there has been quite a degree of consternation between court services and the Shire of Campaspe in regards to the courthouse there at Echuca, so we are dealing with that; \$3.9 million to continue the Family Drug Treatment Court at Broadmeadows; and \$3 million to allow the courts to undertake strategic planning for future court infrastructure needs across metropolitan and regional Victoria.

I just want to talk about some of the important things that have been legislated for or achieved over recent times. We announced recently, along with New South Wales and now a number of other states, our intention to join the national redress scheme for institutional child sexual abuse, and I will talk about that more in some detail no doubt at some point during this hearing. That is a momentous event for victims of child sexual abuse, and it will make a substantial difference to their lives.

We have also last week passed the Legal Identity of Defendants (Organisational Child Abuse) Bill, and that means that sex abuse survivors can overcome the Ellis defence, which allowed some unincorporated NGOs to avoid liability for organisational child abuse due to the fiction that they did not legally exist. That is going to be overcome by this new legislation.

In regard to access to justice, we have passed the access to justice bill, and that is going to reduce barriers that disadvantaged people face when accessing the justice system. It will strengthen VLA's coordinating role, it will improve access to VCAT, it will increase the threshold for small civil claims and it will increase the maximum funding limit to legal aid from the Public Purpose Fund.

And we are also commencing fast-track mediation at VCAT. We have provided \$11 million in 2017–18 to establish a VCAT dispute settlement centre which provides fast-track mediation. That is available in the Melbourne CBD, and the program is intended to expand into regional areas in coming years, starting with Geelong and Warrnambool.

Just briefly, going through some of those other achievements, night court commenced operations shortly after the Bourke Street tragedy and continued operating until the commencement of the bail and remand court, which started on 30 April. That is now sitting between 10.00 a.m. and 9.00 p.m. in two sittings, seven days a week, and is having already an impact on those bail dispositions. There is the implementation of the specialist family violence integrated court response, which includes judiciary and staff education, the family violence contact centre project and the commencement of planning and implementation for the specialist family violence courts. We provided almost \$90 million in last year's budget for the creation of a modern case management system in the Magistrates Court and Children's Court, which is something that I think was long overdue. We are underway with the expansion of both the Court Integrated Services Program and the CISP remand outreach program, and 21 of 30 new roles have been recruited for that.

There are only a couple more slides. In regard to CSV achievements, we have already had access to justice initiatives implemented across VCAT and the Supreme, County and Magistrates courts. VCAT has implemented improved customer service, a single-point-of-call telephone line and fast-track mediation services. The Supreme Court has increased judicial mediation services to resolve civil disputes faster. The County Court is providing case managers to self-represented litigants to help them through the court process, and the Magistrates Court is updating its digital content to make court processes easier to navigate and understand.

The Melbourne Drug Court has been fully operational since last August, and that provides capacity to assist an additional 170 drug offenders over the course of a year. As at 24 May this year 142 drug treatment orders have been imposed at the Melbourne Drug Court since it commenced sitting. In terms of the ARC list — the assessment and referral court list — that has been expanded to Frankston and Moorabbin as part of forensic mental health implementation plans. That ARC list commenced in Moorabbin in January of this year. Last year we funded some critical safety and security upgrades for court assets across the state, and that included physical court upgrades at Bacchus Marsh, Maryborough, Portland, Seymour, Stawell and Swan Hill.

In terms of reforms — and this is the final slide — we have made significant changes in regard to the bail system. We have already introduced and passed two stages of bail reforms, which include a presumption against bail for a range of additional offences and greater police remand powers, which commence on 1 July. In terms of the preventative detention scheme, the Justice Legislation Amendment (Terrorism) Bill 2018 was recently introduced to Parliament, and under changes outlined in that bill police will be able to detain terror suspects without a court order or a warrant for up to four days and children aged 14 or above may also be detained for up to 36 hours. Those reforms will allow for detention to occur if a terrorist act is capable of being carried out and could occur within 14 days, and that is very much in line with the COAG agreement.

In regard to emergency workers, we have already indicated that we will introduce new laws to ensure that anyone who attacks and injures an emergency worker will receive a custodial sentence. We are going to further restrict the use of community correction orders for those offences. We are going to narrow the special reasons test, and we are going to strengthen the rights of the OPP to appeal where special reasons are found to exist. What has occurred in regard to paramedics in their efforts to save and protect lives is unacceptable. They should not be attacked for just doing their job, and the government is going to introduce strong measures to ensure that justice is served in those circumstances. I will conclude my presentation there, and I am happy to take the committee's questions.

The CHAIR — Minister, I might lead off if I may. The budget paper reference is budget paper 3, page 112, table 1.24, 'Additional court capacity'. There is \$128.9 million for this initiative. Can you just take the committee through what that funding provides and what it is responding to, please?

Mr PAKULA — Yes, thank you, Chair. I am happy to do that. There are, I think as everybody knows, growing demand pressures on the courts. That demand is only going to grow as population grows, as the major law reforms the government has carried out begin to take effect and as the government's significant investment in additional police rolls out over the coming years.

The \$128.9 million includes funding for an additional Supreme Court judge, who will sit in the criminal jurisdiction, two new County Court judges and 18 magistrates, all of whom will fundamentally work in the criminal jurisdiction of those courts. Three of the 18 new magistrates will be allocated to the bail and remand court, and that will ensure that the system is able to respond to high demand in the system to maintain case processing times as that demand continues to increase. That initiative will support the implementation of the *Community Safety Statement*, which includes 3135 frontline police currently being deployed and the implementation of the Coghlan review recommendations.

So just to give you a sense of the challenge, the courts experienced growth in criminal initiations of 57 per cent between 2010–11 and 2015–16, and the complexity of matters is also increasing. There have been substantial changes to the law, whether that is in bail or in sentencing, so all of that means that there is additional demand. These are substantial investments; they come on top of substantial investments that have been made over the last couple of years, but this is, I think, a very important additional investment and one that our court system has been seeking from government and which we are very pleased to provide in the budget.

The CHAIR — Thank you, Minister. Now you mentioned that there are 18 new magistrates. Can you talk to the committee in a little bit more detail about the work of those 18 magistrates in terms of responding to the *Community Safety Statement*, and can you talk in a little bit more detail too about the sort of demand that the court system is currently experiencing?

Mr PAKULA — Yes, sure. I think the additional demand has been well publicised, and when you have got 3000 additional frontline police, as was provided for in the *Community Safety Statement* last year, you do have an effect of more police detecting crime; that means more charges, more prosecutions, more hearings — primarily they happen in the Magistrates Court. And, as I indicated in my answer to your first question, there

have been major reforms in relation to bail, there have been major reforms in relation to serious sex offenders and serious violent offenders, there have been major reforms in relation to drug offences, youth justice, standard sentencing and community correction orders, and all of that means an increase in the complexity of court hearings and it means more hearings to successfully dispose of cases.

So the fact that we have got three magistrates who will be specifically designed or specifically allocated to the bail and remand court means that that court will be able to function effectively, and there are substantial other investments for the bail and remand court that will also ensure that; and 15 additional magistrates in the criminal division of the Magistrates Court being rolled out progressively over the next four years will mean that an impact will be had on case processing times and on the ability of the Magistrates Court to dispose of matters in a timely way. So we have got a well-established recruitment process for magistrates. We have got a magistrates appointment advisory panel, and that panel provides me with a wellspring of magistrates who can be appointed to the court, and we will roll that out as we go.

The CHAIR — I think being appointed to the bench and being a magistrate is a fairly stressful job — that would be my sense just in terms of looking at some of the commentary that has been around in recent times. Clearly with an increase in magistrates there is a need to support those magistrates, particularly the newer magistrates. Can you just outline to the committee what sorts of support services will be able to be provided to the magistrates as part of these initiatives?

Mr PAKULA — Yes. Chair, as you know, there has been some very well-publicised and very sad situations that I do not think we need to go into in detail, and it does bring to the fore the issue of judicial wellbeing more generally. Being a magistrate is not unlike a lot of other roles in that it can be extremely stressful, and it is something that both the government and Court Services Victoria, the Chief Justice and the other heads of jurisdictions are all very keenly aware of. So on 8 January this year a new entitlement came into effect for judicial officers to have biennial health assessments. There is a free confidential counselling service, which is available for judicial officers, which is known as the Judicial Officers Assistance Program; that is available seven days a week, 24 hours a day. That sits within a broader judicial wellbeing program that is being offered by the Judicial College of Victoria. Since 2015 JCV has offered a range of wellbeing courses to judges, magistrates and VCAT members. Those courses can be for up to two days. They focus on personal resilience and wellbeing; they focus on broader strategies that courts can implement to minimise stress and vicarious trauma. JCV also has a dedicated judicial wellbeing website which provides links to a wide variety of resources relevant to the social and psychological wellbeing of judicial officers. There are also initiatives being rolled out in individual courts.

I am aware that the Chief Magistrate has established a committee to consider wellness and wellbeing in the court; that is chaired by former Supreme Court judge Bernie Teague, who is well-known to a lot of members of this committee and the Parliament more generally. The County Court of Victoria has created a Supporting Judicial Resilience Program as a pilot to support the wellbeing of County Court judges, and that is especially in terms of judges' exposure to vicarious trauma.

The CHAIR — Thank you, Minister. Now just changing tack — the budget paper reference is budget paper 5, page 125, 'National redress scheme — sexual abuse of children in institutions'. Are you able to provide the committee an update on the progress towards a national redress scheme, please?

Mr PAKULA — Yes. In the brief time I have available, Chair — and I am happy to come back to it —

The CHAIR — We can come back to it, yes.

Mr PAKULA — The national redress scheme — and I will pay due credit to the relevant federal minister, Minister Tehan — there has been very, very good progress made. As you would be aware, Victoria and New South Wales were the first states to sign up to the national redress scheme. Since then the Northern Territory, the ACT, Queensland, Tasmania and South Australia have all indicated their preparedness to join the scheme. So we are now only waiting on Western Australia to have a full national buy-in from the states and territories. We are still obviously waiting for the NGOs to sign up, but I know that Minister Tehan is very confident that that will occur quickly once all states and territories are in.

New South Wales passed their referral legislation a couple of weeks ago. The Victorian referral legislation — I think I am right in saying this — has passed the Assembly and is yet to pass the Legislative Council, but that

should happen very soon. The federal bill has been introduced to Parliament and is now off to a Senate committee, but I am told it is expected to pass both houses by about 25 June. That will allow the national redress scheme to commence from 1 July, which is the stated date that the commonwealth has indicated they want to start by. Hopefully by then we will all be ready to go with the full sign-up of all state and territory jurisdictions and a range of non-government organisations included as well. This is a scheme that is going to do so much for victims of child sexual abuse, and the Victorian government is very proud to have played a role in being one of the first jurisdictions in —

The CHAIR — Order! We might come back to that in government time next, Minister. The Deputy Chair until 10.04 a.m.

Mr MORRIS — Thanks, Chair. Good morning, Attorney-General.

Mr PAKULA — Good morning, David — Mr Morris.

Mr MORRIS — Budget paper 3, page 102 and page 268, which are the outputs for DPC and DJR: in the Ombudsman's report tabled in the Victorian Parliament on 21 March, you were named as one MP who had engaged in a scheme the Ombudsman herself described as an artifice. In her report, on page 12, she found that a staff member employed to work for you had in fact been paid \$5354 in respect of work that staff member performed other than in relation to you. Do you accept that?

Mr DIMOPOULOS — On a point of order, Chair, I understand that the Deputy Chair made a budget paper reference — tick number one — but he did not fulfil tick number two. His question has nothing to do with the Attorney-General's portfolio. The Attorney-General is accountable to PAEC on the portfolio outputs in the budget, not in his capacity as a member for —

Mr MORRIS — Do I understand, Chair, that the point of order is that this has nothing to do with the Attorney-General's portfolio?

The CHAIR — The question, Deputy Chair, relates to a previous Parliament, when the Attorney-General was not the Attorney-General. He was a member of —

Mr MORRIS — The question relates to the Ombudsman's report that was tabled in the current financial year.

The CHAIR — You are right — the report was handed down this year — but the matter that you are canvassing does not relate to the Attorney-General's conduct as an Attorney-General. It does not relate to the current budget year. It does not relate to the forward estimates. It relates to the 57th Parliament.

Mr MORRIS — Chair, the relevance of this question is that, as we are all aware, the issue of whether the Ombudsman had jurisdiction in this case was litigated. The Attorney-General was a party to that litigation, and in fact the litigation is referred to extensively in the report, a report that has been tabled in this year, not just this parliamentary term — this year, this financial year, which is explicitly recognised in the budget.

The CHAIR — Mr Morris, if you are asking a question of the Attorney-General in relation to his conduct as the Attorney-General in relation to the —

Mr MORRIS — I am asking the Attorney-General a question that —

Ms WARD — Again you are interrupting the Chair when he is explaining to you what his ruling will be, Mr Morris.

The CHAIR — Please don't interrupt.

Mr MORRIS — Don't you have a conflict in this, as someone who is named in this report?

Ms WARD — No I don't believe I do, Mr Morris.

Mr MORRIS — I tell you what: if I were you, I would think I had a conflict.

Ms WARD — I'm glad you are not me, Mr Morris.

Mr MORRIS — I think we are both comfortable with that.

The CHAIR — Mr Morris, you were saying?

Mr MORRIS — If I can make the point without being interrupted, the question relates to a report which was tabled on 21 March this year. These budget estimates hearings relate to the current year and the forward estimates. The budget references that I quoted were the output summaries for DPC and DJR, and I think I am entitled to ask a question about that report of someone who was referred to extensively in the report and a party to the investigation.

The CHAIR — Deputy Chair, when you asked your question you specifically related it to actions that the member may or may not have undertaken in the 57th Parliament, which is outside the current financial year and outside the forward estimates. If you are asking a question about the conduct of the Attorney-General —

Mr MORRIS — Chair, the report was tabled less than two months ago. You cannot for a second pretend that this is outside the estimates period.

Ms WARD — We can still hear you, Mr Morris. There is no need to yell, and you might want to be respectful of Hansard, who have to listen to your raised voice.

Mr MORRIS — I'm sorry; how much did you get through the report? What was the benefit to you?

The CHAIR — Order!

Ms WARD — There was no benefit to me.

Mr T. SMITH — I think there might have been.

Ms WARD — Mr Morris, I am not here to be questioned, and I don't appreciate your tone —

Honourable members interjecting.

Mr T. SMITH — Labor members are trying to shut down these questions. Let the record reflect this.

Ms WARD — Mr Smith, grow up.

Honourable members interjecting.

Mr T. SMITH — Well, it is true. Do you deny you are trying to shut down these questions?

Ms WARD — Mr Smith, I am asking the Deputy Chair to adhere to the rules of this committee, to be respectful when the Chair is speaking and to allow the Chair to actually finish his sentence without continually being interrupted.

Mr T. SMITH — I think the Deputy Chair has made a very strong argument that his question is entirely in line with the rules of this committee. The Attorney-General does not need your protection racket this morning, Ms Ward.

Ms WARD — Mr Smith, you continue to use this and you have been asked to withdraw it before, and I really think that you need to grow up and use parliamentary language. Your immaturity is shocking. Grow up.

The CHAIR — Order! If there is a question to the Attorney-General in relation to his conduct as the Attorney-General in the 18 —

Mr MORRIS — Chair, there is absolutely nothing in standing orders that prevents this question being asked — absolutely nothing.

The CHAIR — The question relates —

Mr MORRIS — Absolutely nothing. How many times have you sat in the chamber — and I remind you that the standing orders of the Legislative Assembly apply in this case — and heard the Speaker say that the preamble forms part of the question?

The CHAIR — That is in relation to an answer that is being provided. What I am saying —

Mr MORRIS — You are trying to artificially corral this issue to say, ‘Look, in most cases you can’t talk about what happened last year because it’s not in the budget’, and in this case, you are trying to say, ‘You can’t talk about this issue because the report relates to events that didn’t occur inside the budget period’. The report was funded in the budget period, the litigation was run in the budget period and I am perfectly entitled to ask the Auditor-General about his actions and what his views are on this issue.

The CHAIR — I am happy for you to ask a question of the Attorney-General in his capacity as the Attorney-General. I do not think asking questions of the Attorney-General in relation to his capacity as the member for Lyndhurst —

Mr PAKULA — Keysborough.

The CHAIR — Keysborough, sorry — that relate to the 57th Parliament is in order, Mr Morris.

Mr MORRIS — You may not think that, Chair, but I have asked the question. Remember the question is — and I am asking the first law officer of Victoria — that the Ombudsman found that a staff member employed to work for you had in fact been paid \$5354 for work that was performed other than in relation to you, and I asked: does he accept that?

Mr DIMOPOULOS — On a point of order, Chair, when the Deputy Chair said ‘you’ — ‘work for you’ — does he mean the member for Keysborough or does he mean the Attorney-General? This is a very material point. You cannot make up your own rules, Mr Morris. This is about the public accounts and estimates process, not —

Mr MORRIS — Are you seriously trying to tell us that the Attorney-General and the member for Keysborough are two different people?

Mr DIMOPOULOS — In terms of their accountability to Parliament, they are.

The CHAIR — For the purpose of this exercise —

Mr MORRIS — Talk about artificial constructs and hairsplitting —

Members interjecting.

The CHAIR — Order!

Mr D. O’BRIEN — On the ongoing point of order, Chair, can I remind you for the committee’s benefit that this item has been canvassed with the Premier, the Presiding Officers and I believe with the Treasurer as well, although I stand to be corrected on that. There were no objections at the time to asking about what happened four years ago with the Premier. This is asking about the chief law officer of this state’s conduct in relation to matters that have been canvassed in the budget papers themselves, and I submit to you that there is no reason and no precedent for the question not to stand.

Members interjecting.

The CHAIR — Order! Again, as I indicated, Mr Morris, if there is a question of the Attorney-General in relation to this current financial year and his conduct as the Attorney-General, I am happy for the question to stand. If you are asking questions in relation to when the Attorney-General was formerly the member for Keysborough —

Mr PAKULA — Actually Lyndhurst.

The CHAIR — Lyndhurst, sorry — back in the 57th Parliament, then it is out of order.

Members interjecting.

The CHAIR — Order!

Ms PENNICUIK — Good morning, Attorney-General, Secretary, deputy secretaries and all the other staff of the department. Thank you for coming this morning. If I just follow on a little bit from the national redress scheme that the Chair raised with you, the \$7.7 million for this financial year —

Mr PAKULA — Where are you referring to?

Ms PENNICUIK — Sorry. Budget paper 3, page 72, ‘Civil claims costs for historical institutional child abuse’, \$7.7 million, and you were talking about that. I am just wondering whether there is a time line and process for forecasting liability beyond that budgeted \$7.7 million into the forward estimates?

Mr PAKULA — I should just point out to you, Ms Pennicuik, that 7.7, which is in the DHHS output initiative, is not related to redress.

Ms PENNICUIK — In any case, if you —

Mr PAKULA — In regard to the redress scheme more generally, the intention of the commonwealth is for the scheme to roll out and be in force for 10 years so that claims would be accepted for that period of time. As for the actual cost of the redress scheme to the state of Victoria, the funds for redress are held in contingency. They are held in contingency because, until legislation is passed and the final parameters of the redress scheme are clear, the exact dollar amount that will be budgeted for is not yet determined. The way these things work in practice is that once the legislation is passed there would be a process of the expenditure review subcommittee of cabinet and the funds would then be released to the scheme. Then there is obviously the issue of the NGOs and others who will hopefully join the scheme. There is also of course the issue of how many people apply for redress. In all of these things there are some assumptions made and there have been some assumptions made in Victoria about how many people we think are likely to apply, but only time will tell. The assumption is that it will be somewhere north of 5000 individuals for the state of Victoria.

Ms PENNICUIK — Thank you very much. You would be aware of course that the national scheme focuses on sexual abuse and children who have been sexually abused, but the *Betrayal of Trust* report recommended that there be a scheme for any criminal abuse suffered by children in Victorian institutions, and the Victorian government previously agreed to that. So is there any plan to augment that national redress scheme with a scheme for children who suffered criminal abuse which may or may not be related to sexual abuse in Victorian institutions?

Mr PAKULA — Ms Pennicuik, as I think you probably know, there was a difference in the federal royal commission recommendations as against the Victorian recommendations in that the federal royal commission recommended a sexual abuse redress scheme. The way that the scheme has been set up is that there will be a separate and additional payment for physical abuse which is related to sexual abuse but not physical abuse that stands alone.

Ms PENNICUIK — I know. That is why I am asking the question.

Mr PAKULA — Right. There is no intention to augment the redress scheme itself, but I should make the point that there is nothing in the creation of a redress scheme that prevents anyone from pursuing litigation separately. As you would be aware, the government has taken some steps in regard to that by, for instance, removing the statute of limitations. We are part of a national arrangement. The commonwealth made a determination. And I am not laying this on them, that in some respect they have stood alone; there was obviously a great deal of negotiation in order to get a nationally agreed scheme. We do not at this stage have the NGOs, even as the scheme stands, and so standalone physical abuse will not be covered.

Ms PENNICUIK — Thank you for that answer, even if I do not like it. Can I change tack a little bit, Attorney, and just go to the extra resources that the budget has put into the court system. You mentioned the extra Supreme Court judge, two County Court judges, 18 magistrates and three in the bail and remand court. You also mentioned — and I was going to actually mention this myself — the massive pressure that the court system is under, which I have raised many times in the Parliament because it has been raised many times in the public by the courts. You mentioned a 57 per cent increase since 2010–11. There is a measure — and I think it is on page 112, budget paper 3 — which says that this will ‘maintain case processing times’. I just wonder if you could comment on whether you think these increases are going to actually allow the courts to get ahead of themselves or that it is not just a stopgap measure, given everything you have said — the number of extra

judicial officers. Could I also ask you to comment: I think the Chair was asking about extra resources, but I am talking specifically about extra staffing and the wellbeing of the actual staff rather than the judicial officers in the courts.

The CHAIR — One minute.

Ms PENNICUIK — You might have to take some of this on notice, Attorney because the Chair has given us 1 minute.

Mr PAKULA — I would make the point, Ms Pennicuik, that whenever you provide additional judicial officers, there is an attendant increase in staff as well. One of the reasons that extra judicial officers cost more than just the salary of those officers is that there are a range of additional staff persons who are —

Ms PENNICUIK — I wonder if you could provide some of the detail on that on notice.

Mr PAKULA — I cannot provide that now, but I am happy to provide additional information to the committee if I can. Whenever you provide additional judicial officers, there are a range of additional staff members that come with that —

Ms PENNICUIK — Also could you go to — sorry to cut you off, Attorney, because we are now down to 15 seconds — whether your advice is that this is going to alleviate the pressure on the courts to the extent where they actually can be functioning properly and not in crisis capacity.

Mr PAKULA — I think you have just taken up all the time.

The CHAIR — Order! We have government question time until 10.22 a.m. Attorney, I think you were talking about the national redress scheme. Do you have anything further to add from your previous evidence and your answer to Ms Pennicuik's question?

Mr PAKULA — Chair, in regard to that I just wanted to go to some of the key elements of the scheme because there is a cap of \$150 000 in redress payments. That has been the nationally agreed cap. That is the one area where it is not strictly in line with the recommendations of the royal commission, but the average payment that will be paid out is higher than the average payment that was recommended by the royal commission. We have, as I have said, a payment of \$5000 that is part of that to recognise non-sexual abuse which is connected to the survivor's sexual abuse, and we are going to ensure that the scheme works well in that regard.

I think it is worth talking a little bit about the exclusion of certain people with criminal convictions. There has been a lot of toing and froing about that, and it is important in my view for the credibility of the scheme moving forward that you do not have situations where it is accessed by people with very, very serious criminal convictions who may have committed very serious crimes against their victims. So there is a provision in the national bill that survivors with a criminal conviction that led to a prison sentence of five years or more or who are currently incarcerated are not immediately eligible for redress, but the scheme operator does have a discretion to allow people in those categories to access redress and in doing so will take into account the views of the relevant state or territory jurisdiction. That is a different position to the one that was originally announced by the commonwealth last year. As I say, it is important that we maintain public confidence in the scheme, and we think that we have struck that balance pretty well.

Ms WARD — Before I get to my question, Attorney, and welcome everyone, you mentioned waiting for the NGOs to sign up. I think the Anglican Church has recently signed up. Is that right?

Mr PAKULA — My understanding, Ms Ward, is that a number of NGOs have indicated a preparedness to sign up but no-one actually has yet. I understand that, from my conversations with Minister Tehan, their expectation is that that will occur once all state and territory jurisdictions have agreed to enter, and we are just waiting on WA. And I think that is very close.

Ms WARD — Thanks for the clarification. Attorney, can get you to go to budget paper 3, page 94. Up the top it talks about 'Strengthening the Victorian prosecution service'. Could you please talk us through what support is being provided to the Office of Public Prosecutions in the budget?

Mr PAKULA — Yes, I can. As I say, this comes on top of last year's investment in the OPP, but we are investing \$21.8 million over four years for the OPP to recruit additional prosecutors to support prosecution of the most serious criminal offences in Victoria but also to respond to justice reforms to complement the government's investment in additional judges and magistrates. There is 11.4 million to respond to an increase in court capacity through additional judges and magistrates, 7.4 million over three years to respond to continued growth in demand for prosecution services, \$2.4 million to respond to changes to the bail system and 600 000 to provide for continued technology upgrades to support moves to electronic case management. I should indicate that that comes on top of \$97 million for new police prosecutors and extra staff as part of this budget as well, and it builds on the 18.9 million over two years in the 2017–18 budget.

You might recall last year it was clear that the VLA could in its briefing practices offer more to criminal lawyers than the OPP was able to offer in terms of a daily rate. We considered that to be an unacceptable situation. We thought that the OPP needed to be able to compete for the highest skilled criminal lawyers, and we provided that funding. This funding augments that.

Ms WARD — Attorney, you spoke about justice reforms in your response to me just then. Could you please expand on what those reforms are and how they will help?

Mr PAKULA — I think all members would be very clear about the bail reforms. The first tranche and the second tranche have now passed the Parliament, and the only thing left to go is the 1 July changes, which primarily relate to police remand. But there is a massive increase in the number of offences where there is either a presumption against bail or where bail will only be provided in exceptional circumstances. You have got a situation where it will be much harder for people to get bail if they have committed an offence while on bail or on parole or on another kind of order. In regard to the presumption against bail for specific high-risk offences, it is our expectation that there will be a higher level of contested bail hearings. That will mean potentially an increase in duration and complexity. As a result the OPP will be handling an increase in cases which involve them and which, for instance, involve mental health or substance abuse issues. This will allow them to add prosecutors and specialist expertise to their team in response to all of those very significant reforms.

Ms WARD — From what you are saying, there appears to be a fair bit of pressure being put on the courts, so what is happening with the additional judges and magistrates that have been appointed?

Mr PAKULA — In regards to the OPP, when you increase the courts' capacity, as we are doing, whether that is the extra judge in the Supreme Court or the extra judges in the County Court, the expectation is that you will have more judges hearing more matters and so you need additional prosecutors. In the same way that you need additional police prosecutors, you need additional duty lawyers for the VLA, so if you have got more judges hearing more matters, you need more prosecutors. The specific investment for that is \$11.4 million. Our expectation, based on our discussions with the OPP, is that will allow the OPP to recruit two additional Crown prosecutors, one additional senior Crown prosecutor, and of course I have been effectively pilfering them — I made Peter Kidd, who was the senior Crown prosecutor, the chief judge. John Champion, who was the DPP, is now a Supreme Court justice, so they have been having to backfill based on my very inconvenient judicial appointments taking prosecutors. Two additional Crown prosecutors, one additional senior Crown prosecutor and also more solicitors in the Office of Public Prosecutions to provide capacity, and that will be in response to the additional caseload that particularly we will have in the County and Supreme courts.

Ms WARD — Can also then get you to talk us through victims of crime? There has been a funding increase, I understand, can you talk us through that? There has been a funding boost of 18.9 million for the OPP as a part of this budget. Can you please talk us through that?

Mr PAKULA — So you want to talk about the increase to funding for victims of crime or the way that the OPP is responding?

Ms WARD — The way the OPP is responding.

Mr PAKULA — There is going to be an increased demand for prosecution services more generally. When the OPP deals with more matters, it deals as a by-product of that with more victims. We have over the last two budgets enhanced the ability of the OPP to properly service victims of crime, so they have put on more counsellors and more support services in their dealings with victims of crime to ensure that they are properly guided through the process. The new DPP, Kerri Judd, has already made it clear that one of her priorities as the

DPP is the way that the office interacts with victims of crime, and the additional funding that we are providing to the office will assist them to do that.

Ms WARD — That is terrific, thank you. I understand that she is the first woman to be appointed in that role. Is that correct?

Mr PAKULA — She is indeed.

Mr MORRIS — Back to those BP references of pages 102 and 268, the output summaries for DPC and DJR. Returning to the same issue. Attorney, you allowed three first-term MPs, including the committee chair and another member who is implicated in the rorts to the tune of \$21 148 courtesy of Mr Tee, to run interference and effectively — you have not said you will not answer the question, you have just sat back and let the arguments range.

The CHAIR — Is there a question that relates to the budget estimates, Mr Morris?

Mr MORRIS — We have sat on this committee together. You know that when a question is asked it is reasonable to expect an answer. Why won't you answer it?

The CHAIR — Mr Morris, the question must be in order. It must relate to the budget, and must relate to the current financial year or the forward estimates, Deputy Chair.

Mr MORRIS — And it relates to all three, Chair.

The CHAIR — As I indicated in our previous discussions on this matter, Deputy Chair, I disagree. So is there a question for the Attorney in relation to the current financial year or the forward estimates?

Mr MORRIS — I think you really should start to consider your position as chair of this committee, because this is not manipulating the rules, this is making up the rules as we go along.

Mr T. SMITH — This is a rort in itself. The feed is down but let the record reflect that the Attorney-General is rendered mute by these questions.

Mr DIMOPOULOS — Chair, can I just say that it is completely unfair in terms of Mr Morris's question —

Mr MORRIS — Is this a point of order or a commentary?

Mr DIMOPOULOS — This is a point of order in terms of you are absolutely misrepresenting the actions of the witness, because he has no power to answer your question if the Chair says that the question is out of order. You are pretending he has, and you know on this committee that he does not make the rules, the committee does.

Mr MORRIS — The witness is able to answer anything he likes.

Mr T. SMITH — When you tried your protection racket on old Dick Wynne he was more than happy to answer.

Mr MORRIS — I am sure, Attorney, the same opportunity is available to you.

The CHAIR — So is there a question? I have ruled on this previously, Deputy Chair.

Members interjecting.

Mr PAKULA — Can I suggest —

Mr MORRIS — Chair, I will try —

Mr PAKULA — Go on, David.

Mr MORRIS — Please, I would hate to interrupt you, Attorney.

Mr PAKULA — Well, I have not been called to answer a question yet because the Chair has not ruled one in order. As soon as one is, I will answer it.

Mr MORRIS — This is from the man who said, ‘Oh no, the Attorney-General and the member for Keysborough are two different people’. Come on. Seriously?

Members interjecting.

The CHAIR — Order!

Mr MORRIS — The Ombudsman found on page 14 of her report that you breached clause 9 of the Members Guide, which prohibits the use of electorate officers for political or party duties. Do you accept that?

Mr DIMOPOULOS — Chair, on a point of order, when the Deputy Chair talks about ‘you’, he talks about the member for Lyndhurst. He does not get it. This is not a committee of backbenchers interviewing backbenchers. This is a committee interviewing executive members of the government who have portfolio responsibilities.

Members interjecting.

Mr DIMOPOULOS — They can go on and on. They just want a Channel 9 or Channel 7 news grab. That is what they want

The CHAIR — Again, the question is out of order because it does not relate to the current financial year or the forward estimates.

Mr MORRIS — Chair, the question is not out of order.

The CHAIR — Well, I am ruling it is.

Mr MORRIS — The question is clearly not out of order. I have cited the references in the first period of questioning. They are references in the budget paper. They are events that occurred in the last 12 months and have been reported on in the last 12 months. That is the purpose of these hearings. To engage —

Mr DIMOPOULOS — Unrelated to the Attorney-General.

Mr MORRIS — I am sorry, the Attorney-General was the second defendant in the case where your government tried to nobble the Ombudsman, all the way to the High Court.

Members interjecting.

Mr PAKULA — Chair, if this will help, if the Deputy Chair wants to ask about the conduct of the court matters, I am more than happy to deal with it.

Mr MORRIS — I am trying to establish your role first.

The CHAIR — Order! Mr Morris, I have ruled on this. If it relates to —

Mr MORRIS — You are running a protection racket.

The CHAIR — I’m not.

Mr MORRIS — You are.

Members interjecting.

Mr MORRIS — Chair, the Attorney was happy — well, he may not have been happy but he chose to go and talk to Neil Mitchell on 22 March and to talk about these matters. So it is all right to talk about it on the radio but we cannot talk about it in a parliamentary committee. Is that what you are saying?

The CHAIR — This committee relates to the budget estimates. It relates to the current —

Mr MORRIS — Yes, it does and I have cited the references and I have cited an Ombudsman's report that was tabled on 21 March, which is only just over two months ago.

The CHAIR — But the references you are citing relate to —

Mr MORRIS — The Attorney-General —

Mr Dimopoulos interjected.

The CHAIR — Mr Dimopoulos!

Mr MORRIS — You been here three and a half years. Surely you can read the budget papers?

The CHAIR — The question that you asked related to the conduct of the member for Keysborough in the 57th Parliament. It does not relate to —

Mr MORRIS — The conduct of the Attorney-General as cited in a report tabled on 22 March, not yet two months ago.

The CHAIR — It explicitly goes to the point —

Mr MORRIS — To make a distinction between Martin Pakula, Attorney-General, and Martin Pakula, member for Lyndhurst or member for Keysborough, is just nonsensical.

Members interjecting.

Mr MORRIS — Why is the Attorney-General allowing himself to be protected by someone with a conflict and someone who clearly does not understand the standing orders?

Mr PAKULA — It is out of my hands, David.

Members interjecting.

The CHAIR — Order! Is there a question for the Attorney in relation to the current financial year or in relation to the forward estimates?

Mr MORRIS — Now this will probably get ruled out of order as well but it is an important precursor to the second question that I was invited to ask. Do you accept that you were a participant in the scheme?

Mr PAKULA — Chair, let me simply say I have not taken issue with anything in the report as it relates to me.

Mr MORRIS — Given that the Ombudsman has found that you were a participant in the scheme, how do you reconcile your involvement in the scheme with your role as a litigant, when you clearly had a conflict? How do you reconcile that conflict of interest?

Mr PAKULA — That I am happy to deal with. We have got until when?

The CHAIR — 10.32 a.m.

Mr PAKULA — Okay. Well, we might have to come back to this. Let me simply make the point that from the time that the report was handed down on the 22 or 21 March I think there have been 10 question times. That means there have been 100 opportunities for questions. No-one has taken the opportunity to ask me one in the house, and we are now using the budget estimates process, so I will deal with it in regard to the budget estimates process.

Mr MORRIS — On a good day we get five questions. There have been one or two other things going on.

Mr PAKULA — I am just making the point. Understand the way that the litigation unfolded: the initial action was not taken by the government; it was taken by the Ombudsman in the Supreme Court in response to queries —

Mr MORRIS — Attorney, in —

Mr PAKULA — David, you have been wanting me to answer a question for 20 minutes, and now I am doing it you are interrupting me.

Mr MORRIS — You are suggesting that the Ombudsman initiated the litigation. While technically that may be correct, that decision was effectively forced on her by your colleague Minister Jennings telling her she did not have jurisdiction.

Mr PAKULA — No, the minister —

Mr MORRIS — The government tried to shut it down; that is the point.

Mr PAKULA — Well, no, that is not right, David. The minister expressed an opinion in the house —

Mr MORRIS — The Special Minister of State said she has no jurisdiction.

Mr PAKULA — I think the fact here, David, is that you actually do not want me to answer the question, because —

Mr MORRIS — I would love you to, but I am not going to sit here and have you blame —

Members interjecting.

Mr PAKULA — So you do not want me to answer the question.

Ms PATTEN — Good morning, Attorney-General and secretaries. Just in reference to your presentation this morning, also budget paper 3, page 92, and announcements — and this is around mandatory sentencing — those announcements have been made post the budget. I note that the Sentencing Advisory Council has noted that we are cracking 113 per 100 000 people in our jail system now, which beats the records of 1896, so going up from 38 people per 100 000 in 1977. The evidence shows that imprisonment increases reoffending. We know that mandatory sentencing will generally, most often, affect young people, intellectually disabled people and mentally ill people — being the most adversely affected. With reference to the increased expenditure in the court system and also in our prison system, as well as in the budget papers, have you given any thought to what the extra expenses of the mandatory sentencing that you are introducing will cost?

Mr PAKULA — I will make a couple of points about this, Ms Patten. First of all, I do not think you have ever heard me describe it as mandatory sentencing, and I would suggest to you that we do not have mandatory sentencing. What we have is statutory minimum sentencing that was first introduced by the previous government in relation to a number of different types of offending, including the emergency workers legislation that has been so topical recently, and in terms of people — I think originally it was related to people who were found guilty of intentionally causing serious injury in certain circumstances. Those statutory minima have special reasons exemptions, and we do not resile from the fact that as part of this more recent suite of reforms that we have announced those special reasons will be constrained. We are doing that because we think that they have been used more liberally than was the Parliament's intention.

In regard to the resources that are being provided there are a range of resource implications that have already been contemplated in the budget. As I have said we have got bail reform and sentencing reform, much of which had already been contemplated and which has led to additional resources being provided not just in relation to judges, legal aid, the DPP and police prosecutors but also in the corrections system. So we have funded a substantial increase in all of that. We have modelled the changes that we have recently announced, and we think that over a period of a couple of years it may require up to an additional 200 prison beds.

Ms PATTEN — Thank you, Attorney-General. That sort of segues into, staying on budget paper 3, the additional funding for Victoria Legal Aid. I note that in the 2014 Victorian Auditor-General's report the Auditor-General at that time had some real concerns around how legal aid was providing its services and whether they were doing it effectively and efficiently. They felt that they needed added performance monitoring within the system, and certainly we provided additional legislation through the access to justice bill that just passed our house last week. I am just wondering if you would consider another Auditor-General's report,

another review or another audit on Victoria Legal Aid given the expanded funding that we have given them, noting the concerns made the last time the Auditor-General looked at Victoria Legal Aid.

Mr PAKULA — There are no plans for an additional Auditor-General's report at this stage, but as part of the *Access to Justice Review* and as part of the legislation, because we are creating that formal oversight role for VLA — and I understand the concerns that the community legal centres have about that — that is why we have established that new collaborative planning committee. That supports the coordination role of legal aid. It includes representatives from both the CLCs and the legal profession more generally. It is about providing strategic, evidence-based advice to the board about legal and related community needs, the provision of legal aid and the coordination functions of the VLA, but it also requires the VLA to prepare and submit to the Attorney-General a four-year strategic plan. It requires the VLA to prepare an annual corporate plan that outlines their budget, their priorities, their intended achievements and their activities. It is also about broadening the skill base of the VLA board. So there are a number of things that we are doing to ensure that there are some fences built around that additional power that they have.

Ms PATTEN — Just in the last minute or two I have got, as you and I have spoken about in the past, I am still perplexed that Victoria is one of the few states that has not got spent convictions. Looking at the increases in our budget in strengthening our systems, is there any funding to consider introducing spent convictions in Victoria?

Mr PAKULA — There is not any funding in the budget for a spent convictions scheme. It is not clear to me that were there to be one it would necessarily need a budget allocation. You may be aware, Ms Patten, that there is a sort of COAG model scheme. That COAG model scheme, as I understand it, is only enforced in South Australia. There are a range of other schemes in different states.

Ms PATTEN — Every one except here.

Mr PAKULA — One of the issues with the COAG model is that in certain respects it would be less advantageous to people than the current Victoria Police practice in terms of information release, and I can see that we have been grappling with that for some period of time. Given the fact that we only have seven sitting weeks remaining, I do not think you should assume that a spent convictions scheme will be introduced or legislated during this term of Parliament.

Mr DIMOPOULOS — I just wanted to pick up where Ms Ward left off in terms of victim support, but less related to the OPP's work and more about the victims assistance funding. Budget paper 3, page 93, refers to victims assistance funding. I just wanted to get some background about how you think that investment will enhance victim support services.

Mr PAKULA — We recognise that victim services such as the victims assistance program are incredibly crucial in terms of helping victims manage and recover from the effects of crime. We are providing \$7.2 million over two years under the assistance for victims of crime initiative. That funding will be allocated in a number of ways. The victims assistance program provides victims with support through flexible case management according to the individual's needs. Those services include practical assistance information, support with criminal justice processes, counselling and assisting them to access entitlements, whether that is through VOCAT, the TAC or WorkSafe. There is support for the victims of crime helpline, which provides telephone support from 8.00 a.m. to 11.00 p.m seven days a week, and the victims register, which allows victims of offenders who have committed violent crimes to receive certain information about the offender such as their earliest possible release date. We are also strengthening the ability of the Victims Support Agency to respond to major critical incidents, such as after the Bourke Street strategy, and we are significantly improving the IT capacity of victims services.

That is all very important, but as important, if not more, is new funding for the child witness service. There is \$6.9 million over four years to enhance the capacity of the child witness service. That is a specialist support service for child witnesses and their families. It hosts four remote witness rooms in Melbourne and provides outreach to regional court. Just to give you an example, in the 12 months up to 31 March this year that supported 976 child witnesses and their families, including 544 new referrals for child witnesses.

Mr DIMOPOULOS — That is extraordinary. With the 7.2 million you referred to, is that an additional investment?

Mr PAKULA — That is an additional investment on top of the 28.5 that was provided in last year's budget.

Mr DIMOPOULOS — I just want to take you to the intermediary scheme. You touched on it very briefly in your presentation. Budget paper 3, page 93, refers to the extension of the scheme. There was a bill recently in Parliament that I had the pleasure of speaking to that I think made the use of intermediaries more clear in law. Can you just give us a bit more detail about the extension of the scheme, what it will do and how many more people it will cover?

Mr PAKULA — We provided \$2.6 million in last year's budget for the scheme to run it as a pilot for two years. We are providing an extra 2.9 in this year's budget to extend the scheme. Our intention is for it to run for two years from the middle of this year. Those funds will allow the engagement of intermediaries who are skilled communication specialists. They are about assisting vulnerable victims and witnesses, many of which are children, to give their best evidence. So it helps communication with the victims to assist them to give evidence to police and in court. They do things like assess the communications needs of children. They provide them with practical recommendations and provide practical recommendations to the police on how they should best communicate with witnesses to elicit the evidence that they need to elicit. Leading up to a court hearing the intermediary will assess the communications need of a child, they will prepare a court report at the ground rules hearing and the court will discuss the intermediary's recommendations. This is a scheme that was, I think, long overdue.

We do have a number of vulnerable people who have to give evidence in court, and the intermediaries play, I think, a very important role in doing that. In terms of the sorts of preparation, we need to recruit, apart from senior policy officers and learning and development consultants, in-house intermediaries as well as contractors from a whole range of disciplines. To give you an example of the sorts of disciplines that we would be getting people from, you want people who have psychiatric experience, you want people who are speech pathologists. All of those sorts of skills are really important in the scheme and they will form part of a panel once they have completed relevant training. It is a very important scheme, Mr Dimopoulos, and I think a lot of witnesses will benefit from it and I think those police and other prosecuting agencies that want to elicit that best evidence will have a far better time as a consequence of this scheme when introduced.

Mr DIMOPOULOS — I agree, and I think it is one of those things that you do not initially think of as victim support, but it clearly fits into investment in victim support, because you want the best outcome for the victim, you want their truth to be heard. Is it possible either through you or the other witnesses that we can get a sense of the cohort in the last two years of the trial? Is it mainly young people, children who are intellectually disabled — do you have some —

Mr PAKULA — No, no, the trial is commencing in the middle of this year.

Mr DIMOPOULOS — Sorry, so the trial is commencing for the next two years from the middle of this year?

Mr PAKULA — Yes.

Mr DIMOPOULOS — So it would be interesting to see the outcomes of that, Attorney, thank you. I want to take you to the Office of the Public Advocate investment, budget paper 3, page 94, 'Sustainable public advocate services for Victorians with disability'. I just want to get a sense from you what your view is about the need for this investment and what it will entail.

Mr PAKULA — Well, the Office of the Public Advocate and the public advocate herself do some pretty amazing work. They are there to protect the rights and interests of people living with a disability in Victoria. Their roles are set out in the Guardianship and Administration Act. There are something like 100-odd staff at the OPA. They act as guardian of last resort when appointed by VCAT. They conduct the investigations that are referred to them by VCAT. Their statutory role means that they have to do that. They advocate for people with a disability who are under guardianship or at risk of abuse, at risk of exploitation, at risk of neglect. They manage the community visitors program, which I know a lot of people have a lot to do with. They manage the independent third-person program, the community guardianship program, and in recent years the demand on their services has climbed significantly. That is a consequence of the fact that we have an ageing population and the fact that we have experienced significant population growth. So OPA experienced record high demand for guardianship in 2016–17.

We think that will probably be eclipsed in 2017–18. They are statutorily required to accept all VCAT orders appointing them as guardian or referring investigations in relation to guardianship matters. So for that reason we have had to allocate \$5.4 million over two years; that is 2.6 in the next financial year and 2.8 after that. That will allow them to hire an additional 17.5 FTE staff — seven more staff at the advocate guardian team, five staff to continue and expand the investigations team, two officers to enhance the capability of the legal unit to provide legal support for the advocate guardians, and three and a half additional officers for the independent third-person program, along with asset funding to deal with the additional accommodation requirements.

Mr DIMOPOULOS — It is a huge growth in two years, 17 staff. Again, I am interested in the cohorts. You said there has been a huge increase. Can you give us a sense, or can the department, of who they are? Is it older people, is there a geographic spread, is there a gender spread in this growth?

Mr PAKULA — Look, I could not go to the question of either geographic or gender spread but, as I say, you have got an ageing population, more people being subject to VCAT guardianship orders. You have got something like 900 people as well who offer their time to OPA through their volunteer program. We know about the community visitors program. They make sure that people living in disability accommodation services or supported residential services are being cared for appropriately.

Mr DIMOPOULOS — And they are all volunteers, aren't they?

Mr PAKULA — They are volunteers, as are the independent third persons. They are the people who go along and assist people with interviews, particularly when people are being interviewed by the police. So all of the additional staff that we are providing do not just provide direct services to the people that OPA look after but also to the volunteers.

Mr DIMOPOULOS — To the volunteers. Great. Thank you so much.

Mr MORRIS — Again, the budget paper reference is BP 3, 102 and 268, the output initiatives for Premier and Cabinet and Justice and Regulation. Attorney, with regard to the litigation, isn't the real reason that you opposed the Ombudsman because there are serious question marks over your behaviour, serious question marks over the behaviour of some of your colleagues, particularly about what you knew or what you did not know when you certified employment forms and time sheets that were false?

Mr DIMOPOULOS — Chair, with this again, I think we are going around in a circle here. This is clearly a question for the member for Keysborough.

Mr PAKULA — Chair, can I indicate that I am not prepared to have the opposition walk out of here and suggest that I did not answer the questions about the legal action. So let me deal with Mr Morris's question. Given that they have spent 20 minutes asserting that I did not want to answer them, I would hope to be able to do so with minimal interruption.

Let me say that there are, first of all, a number of errors. The answer to his question fundamentally and first of all is no. Let me deal with some of the complete misunderstandings, and I will be generous in saying that, attendant on his question. As I indicated originally, the initial Supreme Court action was taken by the Ombudsman. Now —

Mr MORRIS — In response to correspondence from the Special Minister of State.

Mr PAKULA — Deputy Chair, if you continue to interrupt, you will not get an answer.

Mr MORRIS — We are only getting half the story.

The CHAIR — Order! The minister to continue.

Mr PAKULA — It is okay. So the initial action was taken by the Ombudsman —

Mr MORRIS — In response to an action by the Special Minister of State.

Mr PAKULA — In response to an opinion expressed by the Special Minister of State.

Mr MORRIS — You were trying to shut the investigation down.

Ms WARD — He clearly does not want to hear the answer.

Mr PAKULA — You clearly do not want an answer, Mr Morris. You clearly just want the —

Mr MORRIS — Sorry, we know the facts and we are starting halfway in and suggesting that it was the Ombudsman who took the court action. Yes, the Ombudsman took the court action, in response to an action by the government to try and shut down her investigations. Let us be clear about that.

Mr PAKULA — Well, that is not correct. I am not going to allow —

Mr MORRIS — The record makes it clear that it is.

Mr PAKULA — I am not —

Mr DIMOPOULOS — Attorney, your generosity has gone unrewarded. They are ungrateful, but I am more than happy to let you answer the question in full under our government time.

Mr PAKULA — Chair, I am not sure how I am supposed to answer the question if the Deputy Chair continues to interject. I will —

Mr MORRIS — I do not want the attorney giving false testimony to the committee.

Mr PAKULA — I am not giving false testimony, Mr Morris, and you know it. I am not, and you know it.

The CHAIR — Mr Morris, you have asked the question and the witness is attempting to answer your question. I will let the minister continue without interruptions.

Mr PAKULA — So the initial action was undertaken by the Ombudsman, and if Mr Morris wants to assert that that is in response to an opinion expressed by the Special Minister of State, that is fine. The government became a party to that matter, and you might note that both the Ombudsman and the court thanked the government for being a party to that matter, because it meant that information was provided to the court that would not otherwise be provided. That is the first point. Secondly, your constant assertions that the government was at odds with the Ombudsman in those matters before the court is incorrect. The Ombudsman at all times took a neutral position in the matters before the court. The parties were effectively the government in the name of the Attorney-General and the Legislative Council in the name of the President of the Legislative Council. The Ombudsman —

Mr MORRIS — I am aware of who was a participant in the case.

Mr PAKULA — Yes, that is right, but I think I am entitled to step that through. These were fundamentally matters not between the government and the Ombudsman but between the government and the Legislative Council not relating to the powers of the Ombudsman but relating to the powers of the Parliament about what sorts of matters could be referred to the Ombudsman for investigation.

Mr MORRIS — Chair, whatever construction the Attorney-General may choose to put on it, the question relates to his role given his agreed position that he was part of the original scheme. The question was around his role. Perhaps I could put it another way. I ask you: did you recuse yourself from all cabinet decisions relating to whether the government would and eventually did appear as a party given your involvement in what the Ombudsman herself described as an artifice?

Mr DIMOPOULOS — Chair, point of order. The construction that Mr Morris talks about is absolutely material to the answer the Attorney-General is giving. So you can call it a construction, but it is absolutely material —

Mr MORRIS — The question goes to the Attorney-General's role —

Mr DIMOPOULOS — Mr Morris cannot even wait for a point of order — that is how democratic he is — to be delivered. He has to interrupt a point of order, for God's sake.

The CHAIR — Order! I think, Mr Morris, as you would know, the Attorney-General cannot comment on cabinet-related matters, but —

Mr MORRIS — He can comment on whether he took himself out of the room or not.

The CHAIR — Well, I do not think that is right.

Mr PAKULA — I am certainly not going to comment on the internal decision-making process of government, as I think —

Mr MORRIS — I am asking you to comment on whether you did the right thing and withdrew. Did you do the right thing, or did you follow the example we have had this morning of a beneficiary from the rorts sitting here trying to derail the conversation?

Mr DIMOPOULOS — On a point of order, Chair, is there a question? I would like to hear the Attorney-General's response.

Mr MORRIS — The question has been asked.

The CHAIR — Again, the question goes to whether the Attorney-General participated in a cabinet discussion or not, and that is not a subject for discussion. So is there a question?

Mr MORRIS — That is the question.

Mr PAKULA — I have just indicated to you, Mr Morris, that I have no intention of talking about the internal decision-making processes of government in relation to this or anything else. I would also —

Mr MORRIS — I am not asking you to talk about the decisions; I am asking you to say whether you recused yourself or not.

Mr PAKULA — Well, as I said, Mr Morris, I am not going to talk about the internal decision-making processes of the government. What I will say to you is that you are —

Mr MORRIS — Well, can I ask it another way: don't you think it would represent a conflict of interest if you did participate in such a decision?

The CHAIR — Order! Again that is asking the witness for an opinion.

Mr MORRIS — No, this goes to character.

The CHAIR — Sorry, Deputy Chair, if you are asking a question, 'Do you think?', by its nature that is asking the witness to offer up an opinion, which again I think would be ruled out.

Mr MORRIS — Well, if you want to —

Mr PAKULA — Let me say this, Chair, in response to the question: it is premised on a false premise, and I am not going to allow it to go unchallenged. The fact that the government —

Mr MORRIS — You tried to shut it down —

The CHAIR — Order! Mr Morris, the witness is answering your question.

Mr MORRIS — You tried to shut down the Ombudsman, and now you are trying to —

The CHAIR — Order! The Attorney-General to continue without interruptions.

Mr PAKULA — It is based on an entirely false premise. We have a situation, Mr Morris, where the government, whether it is this matter or whether it is any manner of other matters, including safe access zones or you name it, becomes the party to litigation to clarify the impact and the import of legislation. In this case —

Mr MORRIS — And the convention is that those who are conflicted are not part of the decision-making. We know, as I said, there are serious question marks over your involvement and over the involvement of your colleagues. You tried to shut down the Ombudsman, and what I am asking is: were you part of the process that tried to shut down the Ombudsman?

The CHAIR — The Attorney-General has already answered the question in relation to government decision-making processes, and the Attorney-General is seeking to provide further explanation to your question, Mr Morris. I would like the Attorney-General to continue without interruption.

Mr PAKULA — Thank you, Chair. As I have attempted to indicate, which I have been unable to do effectively because Mr Morris keeps —

Mr MORRIS — Well, you have tried to blame everyone except yourself, and I have asked you if you were a party to the decision-making, and you refused to answer.

Members interjecting.

The CHAIR — Order! Mr Morris! Government members! The Attorney-General to conclude his answer.

Mr MORRIS — Given we have only got a minute left, this is a very simple question: why did the government oppose the Ombudsman investigating this scheme?

The CHAIR — Order! The Attorney-General has already answered that question.

Mr PAKULA — Can I just make the point, Mr Morris, because again I am not going to allow falsehoods to go unchallenged, that the government was not in opposition —

Mr MORRIS — You fought her every step of the way.

The CHAIR — Order! The Attorney-General to continue without interruptions.

Mr PAKULA — The government was not opposed to the Ombudsman in those matters. The Ombudsman initiated the original matter —

Mr MORRIS — Why did you try and shut it down?

Members interjecting.

The CHAIR — Order! Mr Morris!

Mr PAKULA — The government at no stage sought to injunct the Ombudsman's investigations. It made it clear that while court matters were proceeding —

Mr MORRIS — No, because you knew you would get thrown out, so you wrote to her and tried to shut it down.

The CHAIR — Order! I would like to thank the witnesses for their attendance —

The PAKULA — Chair, I am going to finish the sentence. The government made it clear that while court matters were proceeding, the Ombudsman was more than entitled to continue with her investigation, and she did.

Mr MORRIS — Yes, but you tried to tell her it was outside her jurisdiction.

The CHAIR — Order! I would like to thank the witnesses for their attendance: the Attorney-General, the Honourable Martin Pakula, MP; Mr Wilson; Mr Speagle; Mr Phillips; Ms Kilgour; Mr Ware; and Mr Breitkreuz. The committee will follow up on any questions taken on notice in writing. A written response should be provided within 10 days of that request.

Witnesses withdrew.