

# VERIFIED VERSION

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

### Inquiry into Budget Estimates 2016–17

Melbourne — 18 May 2016

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Ms Sue Pennicuik

Mr David Morris — Deputy Chair

Ms Harriet Shing

Dr Rachel Carling-Jenkins

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#### Witnesses

Ms Natalie Hutchins, Minister for Industrial Relations, and

Mr Matt O'Connor, Deputy Secretary, Industrial Relations Victoria, Department of Economic Development, Jobs, Transport and Resources.

**The CHAIR** — I declare open the public hearings for the Public Accounts and Estimates Committee inquiry into the 2016–17 budget estimates. All mobile telephones should now be turned to silent.

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

All evidence is taken by the committee under the provisions of the Parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review. Comments made outside the hearing, including on social media, are not afforded such privilege. Witnesses will not be sworn but are requested to answer all questions succinctly, accurately and truthfully. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty.

Questions from the committee will be asked on a group basis, meaning that specific time has been allocated to members of the government, opposition and crossbench to ask a series of questions in a set amount of time before moving on to the next group. I will advise witnesses who will be asking questions at each segment.

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

All written communication to witnesses must be provided via officers of the PAEC secretariat. Members of the public gallery cannot participate in the committee's proceedings in any way and cannot photograph, audio record or videorecord any part of these proceedings. Members of the media must remain focused only on the persons speaking. Any filming and recording must cease immediately at the completion of the hearing.

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

### **Visual presentation.**

**Ms HUTCHINS** — Thank you, Chair. As Minister for Industrial Relations I have the key responsibilities of ensuring that all legislation is overseen — and there are seven different acts that fall within that; that there is an overview of public sector enterprise agreement negotiation; and that I am an advocate on behalf of Victorian employers and employees, particularly at a national level, where most of our conditions have been referred under the referral act. Also it is my responsibility to intervene in disputes to protect Victoria's interests.

In terms of our major achievements over the last 12 months, there are many, including advocacy work that the government has participated in and including major reviews and inquiries. Firstly, our submission to the Fair Work Commission four-yearly modern award review in support of the maintenance of current penalty rate conditions in the retail and hospitality sector and also paid family violence leave in modern awards, which has been lodged just this week. The Fair Work Commission current annual wage review — we have been able to put a submission into that along with submissions into the Productivity Commission's review of workplace relations framework late last year.

We have also undertaken a number of inquiries since I appeared before this committee last year. Firstly, an inquiry into insecure work and labour hire arrangements, which has received over 700 submissions and heard from over 200 individuals across the state. I know that that report is being finalised as we speak. We are also reviewing the Long Service Leave Act to ensure that it effectively meets the needs of the current workforce, both for employers and employees, and that review again is well underway, having taken many submissions on board.

In addition to this is public sector bargaining, and of course there have been many agreements that have been ticked off in the last 12 months, and lots of hours of negotiation, and of course the creation of the central bargaining unit. We have also managed to finalise in the last financial year to date 45 sets of management logs and 32 final agreements, and we are meeting our target to deliver these in a timely manner. We are tracking at 83 per cent in timeliness. The government has finalised major agreements for Victorian police, the Victorian public sector, and nurses and midwives, with an in-principle agreement reached just last week, and also many other small agreements. The government has finalised also the bargaining process and the case and made their

decisions around the Ambulance Victoria agreement and the Fair Work decisions that were passed down in reference to paramedic pay increases.

In terms of the budget commitments, this government has committed to an additional \$2 million in funding for the central bargaining unit in supporting their role to deliver for the whole of government. The additional funding will enable the government to expand the unit, enhance its capacity and facilitate cooperation consistent with this government's approach to industrial relations.

Looking forward there are a number of key priorities for the government in going forward. We will continue to advocate for Victorian employers and employees by continuing to participate in significant inquiries to ensure that we are getting Victorian workers' interests and employers' interests on the record, particularly at a federal level. We will expand the central bargaining unit to facilitate a cooperative and consistent approach across government and bargain for major new agreements covering public health sector workers, operational firefighters and teachers. We will finalise the content of the new public sector industrial relations policies, which are very close to being completed, and consistent with our election commitments we will amend the Fair Work (Commonwealth Powers) Act 2009, known as the referral act, to expand a range of matters that can be included in public sector agreements.

We will ensure the enforceability of redundancy entitlements for public sector employees, and we will also respond in the year ahead to the inquiry that is underway into labour hire and insecure work. We will also finalise the Long Service Leave Act review, and we will look forward to responding to the parliamentary committee review into portability of long service leave, which I think is due to be handed down in June this year. I might leave my comments there, Chair, and take questions.

**Ms WARD** — Thank you, Minister. I will be brief, because I know Ms Shing has got a number of questions that she wants to go through with you and our time is limited. What I would like you to do is go back to your presentation, page 2, where you speak about advocating in Victoria's interests. Speaking to your presentation you talked about continuing to advocate, and I quote, 'particularly at a federal level'. What I am deeply concerned about is the federal government's new youth pathways plan, which could see young unemployed Victorians working for below the legal minimum wage, including, as I understand it, for around \$4.00 an hour. Is this program legal, Minister, and what are you going to do to advocate on behalf of young Victorians who deserve to be paid a living wage?

**Ms HUTCHINS** — Thank you for the question. Yes, the legality of this scheme is very much under question. My department is currently seeking further advice on the application of such a program, particularly post its potential introduction later in this year, depending on the outcome of the federal election. But certainly there are many concerns about the scheme, including the moves to undercut the minimum wage through this process. It also raises a range of issues as to whether — it is being labelled as an internship, but whether in fact it is an internship or not, because it does not necessarily provide any training that goes with it.

**Ms WARD** — I understand you can get this internship at Hungry Jack's or McDonald's.

**Ms HUTCHINS** — There is potential for it to expand in those areas. If it does roll out in the hospitality sector, there is potential for many, many young workers who are currently under the age of 25 working in those sectors to be displaced out of their current employment. As we know, in those sectors many people are employed on a casual basis, so they are easily disposed of and can be replaced by unemployed welfare recipients that fall into this scheme. It does raise huge concerns around the occupational health and safety liabilities of these young workers. How will they be looked after, how will they be protected if they are not actually an employee and are in fact an intern, as the government refers to them?

**Ms WARD** — And given superannuation.

**Ms HUTCHINS** — Yes, of course.

**Ms SHING** — Minister, thank you for that particular answer. I would like to take you to budget paper 3 and the measure around Victoria being represented in major industrial relations cases and inquiries. That is a 100 per cent target at page 132. It also goes to your submission in relation to the four-yearly modern awards review on penalty rates and family violence leave, and the annual wage review in 15–16. What is the content of your submission to the Fair Work Commission review of modern awards as they relate to penalty rates, and what

impact would any proposed changes, as they relate to submissions being made across the board, have for Victorian workers who are dependent upon penalty rates as they currently stand?

**Ms HUTCHINS** — Thanks for the question. To begin I just need to acknowledge that there are thousands of Victorian workers that are reliant on penalty rates currently. They are not just a part of the take-home pay that is a little bit of an add-on for them to be able to go out. There are many, many workers in this state who rely on that to pay and meet their core financial pressures, whether — —

**Ms SHING** — This is not a new situation, is it?

**Ms HUTCHINS** — No, it is not. Can I say, quite often arguments are mounted at a federal level that cutting penalty rates, particularly on weekends, will grow more employment. But in fact many years ago this occurred in WA in the retail sector, and it did not produce one new job out of that. In fact our retail sector in Victoria has grown at double the rate of WA's, which actually undertook to do this.

**Ms SHING** — In relation to the way in which the submission has been made to the Fair Work Commission on the review of modern awards about penalty rates, what is the position that has been taken by the Andrews government in that submission?

**Ms HUTCHINS** — We do not believe that penalty rates should be reduced in any way, shape or form. In fact we have provided information to the Fair Work Commission around the statistics and the figures of how it will affect Victorian workers. We have around 374 000 Victorians who usually work on a Saturday in their main job and around 213 000 who usually work on a Sunday. Having a reduction of penalty rates, particularly on a Sunday, will really severely affect the take-home pay of many workers. For example, if a worker was to work a Sunday at a Saturday rate, say a level 1 retail worker, they would lose up to \$105 per week of their income. I know, particularly in my electorate, there are many young workers, in particular many women workers in hospitality and retail, who only work the weekends in order to earn a wage. So having those cuts will really deeply affect some of the most vulnerable workers in our state and, in the main, women workers.

**Ms SHING** — Thank you. In relation to not just minimum standards as they relate to modern awards but the Productivity Commission review of workplace relations, again budget paper 3 and the measure that I referred to earlier at page 132, what was the submission in relation to the Productivity Commission review of the workplace relations framework, and what were some of the key things that this review has examined and their impact on Victorian workers?

**Ms HUTCHINS** — Certainly one of the key areas, as we have just mentioned, is penalty rates. Certainly we have made a submission on that, but in particular I think one of the things I would like to point out to the committee is what was omitted from being looked at, and one of those key factors was pay equity. It was not something that was committed to by the Productivity Commission to review, and yet we see the pay gap between men and women growing every year and unfortunately growing to the rate of about 19 per cent this year. Yet having a Productivity Commission review into workplace relations and ignoring this fact I think is a major step back — —

**Ms SHING** — Unfortunately, like climate change, it is something that people are still in the habit of denying, Minister.

**Ms HUTCHINS** — That is right. We have certainly focused our submission into workplace relations to the Productivity Commission and called for action and change around the growing pay gap, also noting that any reductions in the minimum wage or penalty rates would adversely affect many vulnerable workers, and in particular women in Victoria.

**Ms SHING** — Does that include people working in the labour hire and insecure work area? I note that there has been an inquiry, which you have indicated will be part of a report in the coming months, but your presentation also refers to that inquiry as one of the priorities. How does insecure work fit in with the gender pay gap and other areas of insecure work and employment?

**Ms HUTCHINS** — There is a major link, because when you look at the statistics of casual workers, it is overwhelmingly women. It is around the 60 per cent mark. But just to give you a concrete example, in the western suburbs, in my own catchment area of my electorate, there is a secondary school that I address every

year to talk about rights at work for young workers. I have been doing this for five years. Every year I ask those young women — and it is a girls-only school — at the year 10–year 11 level to identify if they work part-time, to stand up, if they are receiving junior rates to stay standing, and if they are receiving cash payments. Every year I have watched the numbers grow — of cash payments — and I have heard horrific stories of young women in the workplace, in the hospitality and retail sectors in the main, who cannot get a pay slip, who do not have any entitlements on record to even claim if they are being underpaid or even know if they have got the protection of workplace safety.

**Ms SHING** — Are you satisfied that the central bargaining unit, which is referred to in your presentation as a cooperative approach to public sector bargaining, along with the wages policy, can and will deliver outcomes around collective bargaining that resolve industrial negotiations swiftly and in a collaborative way?

**Ms HUTCHINS** — I certainly do. I think one of the biggest achievements in industrial relations based in Victoria in the last 12 months has been the establishment of a central bargaining unit to be able to ensure that the government wages policy, that the government's policies and industrial relations are filtered through all of our departments and agencies and that we are bargaining in a fair way with good economic outcomes.

**Ms SHING** — That is obviously subject to the federal requirements around good faith bargaining and negotiation?

**Ms HUTCHINS** — It certainly is.

**Ms SHING** — Okay. Thank you very much, Minister.

**The CHAIR** — The Deputy Chair, until 1.25 p.m.

**Mr MORRIS** — I have a series of questions for Mr O'Connor, and I will indicate when there is a change from that. Mr O'Connor, have there been any changes to the government's wages policy since there was a document sent to stakeholders in July last year; have there been any changes since then?

**Mr O'CONNOR** — Sorry, can I just ascertain what the document is, Mr Morris?

**Mr MORRIS** — It is a bullet point — I am happy to hand it up if someone can pass it through to you.

**Ms SHING** — Are you referring to the presentation or to a budget paper, Mr Morris?

**Mr MORRIS** — BP3, 132, 133 — all the questions are related to that.

**Ms SHING** — That is fine, yes.

**Mr MORRIS** — See IR output.

**Ms SHING** — Sorry, what is that document that has been handed to Mr O'Connor?

**Mr D. O'BRIEN** — Government wages policy.

**Ms SHING** — So it is just that wages policy document. okay.

**Mr MORRIS** — Given that the clock is ticking, if that is not the current — —

**Mr O'CONNOR** — Yes, I am just making sure it is, Mr Morris. Sorry, could you ask the question again?

**Mr MORRIS** — I was just wondering if that is the current policy.

**Mr O'CONNOR** — I think it is, yes.

**Mr MORRIS** — If it is not, can you provide the committee with a copy of the current policy. If on further examination you find — —

**The CHAIR** — On notice, Mr O'Connor.

**Mr MORRIS** — There was a — —

**Ms SHING** — If the committee could get that document as well, that would be helpful, because I do not know what you are talking about.

**Mr MORRIS** — Accompanying that document there was advice to stakeholders on the new enterprise bargaining framework that was to be circulated, I think, shortly after July. Can you provide the committee with copies of those template documents?

**Mr O'CONNOR** — That is the advice to agencies on the — —

**Mr MORRIS** — Yes, the templates that were to come out shortly after July last year.

**Mr O'CONNOR** — We can provide what was provided to the agencies, yes.

**Mr MORRIS** — Thank you. In addition to the wages policy document, the enterprise bargaining framework and the submission templates that I have referred to, does the current government have a document equivalent to the public sector workplace relations policies of the former coalition government or the public sector industrial relations policy manual of the former Labor government?

**Mr O'CONNOR** — Yes, we do, Mr Morris, and the policy is currently under review. The government is considering changes to those policies, and we are working through those at the moment with agencies and with public sector unions.

**Mr MORRIS** — Are you able to provide us with a copy of the document that is currently in use?

**Mr O'CONNOR** — It is actually a draft document. It has not been finalised or approved by government.

**Mr MORRIS** — It has not been — —

**Ms SHING** — It is under review.

**Mr O'CONNOR** — Yes.

**Mr MORRIS** — Okay. But what is the likely finalisation date of that?

**Mr O'CONNOR** — We would hope that it would be finalised within the next month.

**Mr MORRIS** — Thank you. The same budget paper reference, but I want to move to EBA outcomes, and again to Mr O'Connor: can you provide to the committee on notice — happy to have it — a list of the annual pay increases agreed to under the various EBAs that the central bargaining unit has been involved in, including the ones that the minister referred to, such as the public sector EBA, the police EBA, the nurses EBA?

**Mr O'CONNOR** — Just so I can be clear, you are asking for the outcomes of the major agreements.

**Mr MORRIS** — I am asking for each of the various EBAs that the central bargaining unit has been involved in.

**Mr O'CONNOR** — That would essentially be those that we have been either participating in negotiations over or assisting in the approval process. So what happens is that a number of smaller agreements come through the system. We obviously brief the minister on those agreements, and they go through. Now we are not necessarily at the table for each of those agreements. We could obviously provide that information, but it would be quite voluminous, given that — —

**Ms SHING** — Are you talking about the 32 agreements?

**Mr O'CONNOR** — Thirty-two agreements, or 40 agreements, were approved in that period.

**Mr MORRIS** — If you could provide that, the committee would appreciate it, I am sure.

**Ms SHING** — On those 32.

**Mr MORRIS** — Not within that but in the context of those EBAs is the capacity to provide a breakdown of any increase above 2.5 per cent, which comes under the different headings of government wages policies. So

how much is classified as performance improvements, how much is classified as workplace-related organisational change and how much is employee-related improvements?

**Mr O'CONNOR** — In relation to the major agreements, that can probably be done reasonably efficiently. Given the number of agreements, that will take a bit longer.

**Mr MORRIS** — The major ones would be fine in that context.

**Mr O'CONNOR** — We would also have to liaise with the Department of Treasury and Finance on that, who are the chief unit for costing those agreements.

**Mr MORRIS** — No, the major ones would be fine.

Moving on, the nurses outcome was an eight-year agreement, and obviously the EBA covers the first four years. Can you indicate to the committee what was the annual pay increase for the first four years in that agreement?

**Mr O'CONNOR** — As I understand the increases, Mr Morris, there are two 3 per cent increases, then a 3.25 per cent increase, and the fourth increase varies depending on the classifications. It is in the vicinity of an average of 9 per cent.

**Mr MORRIS** — Thank you. As of course you know, the Fair Work Act does not allow EBAs to last more than four years, and I understand from Minister Hennessy's evidence the other day that the eight-year term is being achieved through a common-law deed. Is it possible to provide the committee with a copy of that common-law deed?

**Mr O'CONNOR** — It is not finalised as yet, Mr Morris. It is currently being drafted by DHHS's legal team and DHHS, in consultation with us, so in that respect I cannot give you the final document as we speak today, no.

**Mr MORRIS** — When would you expect the finalisation?

**Mr O'CONNOR** — Again, possibly within the next week, two weeks, but that is subject to obviously the usual processes and legal back-and-forth.

**Mr MORRIS** — Sure. Could I just ask, given that we have got some time before this report will be published, that when the document is agreed and the release is appropriate we be provided with a copy, please?

**Ms HUTCHINS** — Well, can I just make the point with all of these requests, Chair —

**Mr MORRIS** — Very quickly, Minister.

**Ms HUTCHINS** — they are all on the public record once they are registered with the Fair Work Commission, so the department of industrial — —

**Mr MORRIS** — Minister, I did not ask you the question. I am addressing the question to Mr O'Connor. No, you do not have a role unless I ask you a question.

**Ms HUTCHINS** — My department is not a research unit for the opposition. I will just make that point.

**The CHAIR** — The Deputy Chair, to continue.

**Mr MORRIS** — So, moving on to the central bargaining unit — budget paper 3, page 40, and the former reference of 132 and 133 — I understand the CBU undertakes a strategic negotiation role in public sector agreements, and you mentioned something earlier about the involvement. Have there been any major EBAs that the CBU has not been involved with since it was formed?

**Mr O'CONNOR** — The question hinges in part on the definition of 'major', Mr Morris, but to give you some examples, we have been involved in the proceedings in the Fair Work Commission in relation to both of the firefighters negotiations; we participated in the negotiating team for the recent nurses agreement; we are currently a participant in relation to the teachers agreement. They are the ones that spring to mind initially — and we directly negotiated, with a number of other agencies, the Victorian Public Service agreement. They are

four major agreements that we have direct involvement in. There are others in the pipeline that I expect we will be involved in now that, as was mentioned by the minister, at least three of those have been finalised.

**Mr MORRIS** — Thank you. That is helpful. Can I ask you: is the CBU or Industrial Relations Victoria involved in the private sector negotiations that affect the public sector, so things like Metro-Yarra Trams EBA, the Level Crossing Removal Authority? Is there an involvement there?

**Mr O'CONNOR** — We did have involvement, yes, in relation to the Metro Trains and the Yarra Trams negotiations. It is fair to say probably, Mr Morris, more at the tail end of those. It is something that we do from time to time; when negotiations get difficult we can get involved in those, and we did on this occasion.

**Mr MORRIS** — Thank you. Minister, on the same budget paper reference, given IR Victoria's role in providing workplace management counsel to ministers, were you invited to go along to the meeting with the Premier and the UFU's Peter Marshall?

**Ms HUTCHINS** — I am pretty sure you have already asked that question of the Premier.

**Mr MORRIS** — I am asking if you were invited.

**Ms HUTCHINS** — I was not in attendance at that meeting.

**Mr MORRIS** — Were you invited, or did you decide not to attend?

**Ms HUTCHINS** — I am not going to — the Premier is entitled to meet with who he wants, but — —

**Mr MORRIS** — I am asking you whether you were invited.

**Ms HUTCHINS** — On that particular day I was actually on annual leave.

**Mr MORRIS** — But were you invited in any case?

**Members interjecting.**

**The CHAIR** — Order!

**Mr MORRIS** — Were you invited?

**The CHAIR** — Dr Carling-Jenkins, until 1.30 p.m.

**Dr CARLING-JENKINS** — Minister, I want to thank you for your presentation in this area and take this opportunity to commend you for your work on the Long Service Leave Act review in particular and also your ongoing work in the area of sham contracting arrangements — and by that obviously I mean in advocating against and exposing sham contracting arrangements, not advocating for them.

But what I would like to do in the short time I have is to follow on from Ms Shing's questions earlier, when she spoke about the review into the modern awards. I would particularly like to concentrate on the family violence leave that is being introduced. This links into that whole-of-government commitment to family violence in budget paper 3, as explained on page 8, and I commend your government for this. I note that you mentioned this in your presentation as well, and it is on slide 3.

My understanding is the family violence leave provisions will form part of EBAs and will also come in across the board in Victoria's public sector. I just wonder if you could speak to this point, to the positive impact in reference to your portfolio, and perhaps provide some comment on initial reactions in negotiating EBAs with this leave provision of family violence and the time frame for when these leave provisions will begin to roll out.

**Ms HUTCHINS** — Yes.

**Dr CARLING-JENKINS** — I know that is a lot.

**Ms HUTCHINS** — No, that is fine.

**Dr CARLING-JENKINS** — But I am sure you can handle that.



**Ms HUTCHINS** — Yes, I can. This is such an important issue, and I am extremely proud that this government has taken the initiative to really tackle family violence in so many ways — through the royal commission, but these clauses in particular. I would just point out the fact that two-thirds of the women who report violence by a current partner are actually in paid employment.

**Dr CARLING-JENKINS** — Sure; it is a good point.

**Ms HUTCHINS** — And of course there are many, many examples that have been given to me by employers, by employees and in fact by the manager of a bank just last week. He had a female worker, and he just could not understand why so much leave was being taken until she disclosed that in fact she was living in a car with her children. Despite turning up at the bank every day to work, she actually had just left the family home due to family violence. Tackling family violence is obviously a major community issue, but it is a workplace issue where there is a woman in particular that is engaged in employment.

**Dr CARLING-JENKINS** — Absolutely.

**Ms HUTCHINS** — And they deserve to have the support and the capacity to be able to leave that relationship and have the support of their workplace in doing that.

In terms of this government's commitment, we have committed to a clause in regard to family violence which is inclusive in all public sector agreements. I note the Victorian public sector agreement was recently voted on by the employees here in Victoria and had a 95 per cent 'yes' support rate, and that is in the commission for certification today. Those provisions will actually roll out coming out of that agreement. In terms of the implementation of this clause in other areas of the public sector, that will be a matter as those agreements expire and come up. I know that this is a clause that has been included in the heads of agreement terms that were reached last week or the week before with the nurses federation — so they will continue to roll out.

**Dr CARLING-JENKINS** — Thank you, Minister. I agree with you that it is an extremely important initiative. I wonder — just another point on this initiative — if you could describe your advocacy on this policy of family violence leave at the federal level, because I understand Victoria is really leading the way in this area.

**Ms HUTCHINS** — That is correct. Thank you. It is an issue that we are hoping the federal government will take up and that the Fair Work Commission will take seriously. I know a number of agreements have been approved by the Fair Work Commission that include such clauses, and I hope they will continue to roll out. But certainly there are, I guess, backward steps when it comes to negotiations at a federal level currently with the federal government and their own workforce in not including clauses such as this one. So unfortunately there is a long way to go in getting a balanced national system that stands up for workers experiencing workplace violence.

**The CHAIR** — I would like to thank the witnesses for their attendance: the Minister for Industrial Relations, the Honourable Natalie Hutchins, MP; and Mr O'Connor from DEDJTR.

The committee will follow up on any questions taken on notice in writing. A written response should be provided within 14 calendar days of that request.

**Witnesses withdrew.**