

VERIFIED VERSION

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into Budget Estimates 2015–16

Melbourne — 19 May 2015

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Mr Martin Foley, Minister for Equality,

Ms Rebecca Falkingham, Deputy Secretary, Social Policy and Service Delivery Reform,

Ms Anna Faithful, Acting Executive Director, Women and Equality, NDIS and Royal Commission
Engagement, and

Mr Mark Duckworth, Chief Resilience Officer, Department of Premier and Cabinet.

The CHAIR — I declare open the public hearings for the Public Accounts and Estimates Committee inquiry into the 2015–16 budget estimates. All mobile telephones should now be turned to silent.

I am pleased to welcome the Minister for Equality, the Honourable Martin Foley, MP, Mr Chris Eccles, Secretary of the Department of Premier and Cabinet; Ms Rebecca Falkingham, Deputy Secretary, Social Policy and Service Delivery Reform; Ms Anna Faithfull, Acting Executive Director, Women and Equality, NDIS and Royal Commission Engagement; and Mr Mark Duckworth, Chief Resilience Officer.

All evidence is taken by this committee under the provisions of the Parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review. Any comments made outside the hearing, including on social media, are not afforded such privilege. The committee does not require witnesses to be sworn, but questions must be answered fully, accurately and truthfully. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty.

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

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

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

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

Mr FOLEY — Thank you, Chair, and I should note Mr Eccles' apology, but he will be more than adequately represented by Ms Falkingham.

As the Minister for Equality in the Andrews Labor government, this portfolio role is dedicated to lesbian, gay, bisexual, trans, gender diverse and intersex community issues. It is about making sure that the issues of equality are front and centre of all aspects of Victorian government activity. I am honoured to be Victoria's first Minister for Equality, indeed Australia's first Minister for Equality, but I note I am not the only one, with some jurisdictions now following this path.

In 2015 discrimination, whether it be against bi, transgender or gay and lesbian people, sadly still exists. Homophobia is unacceptable and has a significant impact on the lives of many LGBTI Victorians. It creates poorer health and wellbeing issues. This is well researched and has been understood for many years and the opportunities provided in this portfolio will make sure that we do something about it.

So long as LGBTI Victorians have to explain who they are, almost on a daily basis, have to assess what the reaction from strangers might be and plan for some, in many cases, bad case scenarios, just in case that happens, is unacceptable in 2015. So long as LGBTI Victorians have to ask themselves, 'Will I be taken seriously?', 'Will I be accepted?', 'Will I be respected?' and indeed, 'Will I be safe?', then we all have a way to go to ensuring that equality and decency is available for all Victorians.

It is no wonder that so many LGBTI Victorians keep a profound and fundamental part of who they are to themselves in their interactions with neighbours, work colleagues, healthcare providers, in dealing with many services and indeed in their public interactions. It must be exhausting to spend life anticipating and managing the reactions of other people in order to make the place exist as a safe place just for yourself.

It is time that the government stopped accepting the status quo and started making a serious commitment to addressing this inequality. Rather than being a source of historical attacks on LGBTI Victorians — which, sadly, governments have been — this is an historic opportunity for the government to become an ally of LGBTI

Victorians. Our government is proud to stand with LGBTI Victorians. We are committed to equality, fairness and decency as outcomes in our community.

If I could perhaps take you through a quick whistle stop tour of the portfolio slides.

Visual presentation.

Mr FOLEY — This budget seeks to deliver on those goals by allocating in this equality portfolio a dedicated Gender and Sexuality Commissioner for Victoria. This position will consult with LGBTI Victorian communities, particularly for those who have had difficulty having their voices heard in community and government. The allocation will make possible a whole-of-government task force to provide advice to the government about how it could do its job better in representing LGBTI Victorians. The task force will be made up of members of the community in Victoria and will be working with senior public servants to provide practical advice about how the government can do a better job.

Turning to the next slide, we have already begun an ambitious agenda around this. We will be reviewing many — indeed all — of the laws of Victoria to make things fairer for LGBTI Victorians, particularly in a number of areas, including relationships, adoption and anti-discrimination exemptions. This work has commenced with the introduction into the Parliament, and its passing of the Assembly so far, of the repeal of section 19A of the Crimes Act. This was enacted in 1993, and to date no prosecutions for the intentional transmission of HIV under section 19A have succeeded. In rare cases where someone may intentionally seek to transmit HIV, existing laws that cover intentionally causing serious injury, as well as provisions of the public health act, are better places to deal with this. The law does nothing to prevent HIV from spreading and has only served to increase the stigma of the disease of those Victorians who are living with HIV.

Turning to the next slide, same-sex adoption review has been a priority for the government in reviewing our adoption laws, and we are currently reviewing the Adoption Act to establish the best way to legalise adoption by same-sex couples. A person's sexual orientation as distinct from their capacity to be a loving and caring parent is the key issue here. By restricting the pool of eligible adoption applicants, a child in need may potentially be deprived of the opportunity to be placed with their most suitable carers. Children have the right to equality before the law, whatever the structure of the family and the sexual orientation or gender of their parents. All children have the right to certainty about the legal status of their families, which sadly many do not currently. Government is not examining the merits of whether we will change the law; these arguments have already been made thoroughly and convincingly over the years.

I have now received the final report from the independent reviewer, Mr Moran, which includes the proposed legislative changes. Any legislation arising from this review will be guided by the principles of always acting in the best interests of the child concerned. We are currently considering the report and will introduce legislation into the Parliament within this legislative year.

The CHAIR — If the minister can conclude his presentation.

Mr FOLEY — I might perhaps leave my last slide there, which you can consider at your leisure.

The CHAIR — I am happy for maybe a 20-second quick snapshot.

Mr FOLEY — This just sets out a range of other proposed reforms that the government has in mind, and I am happy to take questions.

The CHAIR — Minister, I refer you to budget paper 3, page 92. Could the minister outline how measures in this budget deliver on Labor's election commitments to Victoria's LGBTI communities in *Labor's Financial Statement* and the election campaign?

Mr FOLEY — Around the principle that equality is not a negotiable issue for LGBTI Victorians, the Andrews Labor government is committed to recognising that lesbian, gay, bisexual, transgender and intersex Victorians need to be assisted in dealing with and responding to discrimination in their daily lives. As I have already indicated, this budget allocates \$3.1 million to establish and resource Australia's first dedicated equality portfolio, and that operates now within the Department of Premier and Cabinet, and it is located within the heart of government to drive a whole-of-government approach to addressing inequality faced by LGBTI Victorians.

This funding will resource the department to conduct policy work and research work and to develop the strong connections between and across government, so as to make sure that LGBTI community groups are in a position to partner with us to deliver on this policy agenda.

The creation of the gender and sexuality commissioner in Victoria and the LGBTI advisory task force, which we have started to advertise for in recent days, are key commitments set out in our election agenda, and what we want to do is make sure that that commissioner role is led by and reflects the community experiences. We want to entrench communication and consultation opportunities. We also want to roll out, as part of this plan for a whole-of-government approach, our commitments around the Safe Schools program, a program that was initiated by the former Labor government and expanded by the Baillieu-Napthine government. Now we wish to make it accessible to all Victorian schools so as to deal with homophobic and trans bullying, and beyond that to make sure that such young children, who are identifying and are reconciling their identity, are supported in every way they can be.

There is also funding for the \$5.88 million for the Department of Health and Human Services in the mental health area so as to take what was formerly the HEY program to a wider audience and try to seek to review it in regard to a more assertive rights framework. We also have specific commitments, as I pointed out, whether it is the Adoption Act review, so as to allow that to occur for same-sex couples, or amending the Equal Opportunity Act to undo the backward steps that we say the former government took in restricting that act's application when it comes to same-sex discrimination issues.

We also want to recognise same-sex marriages entered into in overseas jurisdictions to the extent that it is possible, given the High Court decision on the application of the federal Marriage Act, and we want to remove barriers that transgender, gender diverse and intersex Victorians face when it comes to issues such as birth certificates and other documentation. Then there is the commitment, which all jurisdictions are obliged to do anyway, in dealing with the review of all of our legislation base to remove discrimination against LGBTI Victorians.

Mr MORRIS — Minister, the same budget paper reference as the Chair used — page 92, budget paper 3 — outlines the allocation of 3.2 million over the next four years for the establishment of the equality portfolio. I also note your media release of 5 May, which detailed some \$5.9 million from the Department of Health and Human Services to continue the former coalition government's successful promotion of suicide prevention for same-sex attracted and gender-questioning young people.

Given that the latter program sits outside the equality portfolio that was included in the release, and also noting your words about the advisory committee and the sort of whole-of-government coverage there, can you indicate to the committee whether any additional funds will be provided in this budget year for increasing the provision of services from the Royal Children's Hospital gender unit and the Monash Gender Dysphoria Unit, and if not, can you indicate why the complex specialist needs of increasing numbers of trans and gender diverse Victorians seeking appropriate treatment have been ignored in this budget?

Mr FOLEY — Thank you. As we indicated in the presentation, the reason that the government has taken the view that this portfolio sits within the Department of Premier and Cabinet is to make sure that the issues of LGBTI equality are taken seriously across all of government. So placing what is a small portfolio in the heart of DPC is built around the notion that, when you look across the institutional framework of what we see as the role of state governments around decency and how we treat our diverse communities in an appropriate way, LGBTI Victorians are, in my view and in the government's view, the missing plank. We have institutional frameworks dealing with multicultural communities, with disability communities, with women and with a whole range of other groups that for a variety of reasons the community takes the view that there needs to be specific attention given to government programs and community programs to bring their rights and their interests into the heart of what government does. Whilst there has been significant progress around the rights of LGBTI Victorians over the last couple of generations, I think there is still a way to go on any measure.

In terms of the specifics that you have identified in your question, Deputy Chair, you are right. We acknowledge the work done by the former government in mental health in this area. What I am keen to do, as that just coincidentally falls under another one of my portfolios, as part of how government works, so the equality portfolio can engage with the Department of Health and Human Services — is to take that important program about supporting young people right across the state as they explore and resolve questions of their own identity

to a new level, and rather than dealing with it in just a deficit frame, focusing on the rightly identified disadvantages that those young people face — is to take it to a new level around an assertive agenda of saying that young people should be supported in resolving those identity issues.

As a part of that, also in the Department of Health and Human Services, there is the work done, as you have identified, at both Monash and the Royal Children's Hospital in the gender dysphoria area. The gender dysphoria clinic for young people is really a Victorian success story by any measure. This is a service run by the most dedicated group of medical and social professionals that when it was set up, I think in 2002, had something like a handful, certainly under 10, referrals annually. It has grown to the point that when I last spoke to the director of that facility she had nine referrals on her desk in one day. It has passed over 200 referrals a year from right across the state, and it deals with a complex mix of state and federal legislation and arrangements whereby the services that are delivered there have to cross legal, medical and social arrangements in a timely way that protects those young people and their families' arrangements.

In terms of the specific issues around making sure that the services that that clinic delivers, I am on the record as having spoken to that unit and senior officials, including the CEO and the chair of the Royal Children's Hospital and that community, that within the outputs of the Minister for Health's portfolio, I am confident that this strategy that we have of this portfolio guiding the work of other portfolios, whether it be education, safe schools or a range of others, that we will have some very positive announcements to make in the context of the Minister for Health's budget in the support particularly for the Royal Children's Hospital gender dysphoria unit in the near future.

Mr MORRIS — I thank the minister for that comprehensive response. I certainly agree with your assessment of the success of the program. Taking up your point, I understand that the RCH gender unit's waiting list is now out to 14 months, and I understand that at Monash's gender dysphoria clinic there is a 6 to 9 months waiting list out there. I did hear what you said about potential announcements, but just so it is on the record, can I ask you: clearly you are now aware of the demand pressure, but have you advocated to the Minister for Health for additional funding for both these services?

Mr FOLEY — I am pleased to say on the record that I did not have to advocate to the Minister for Health for extra support for these services. The Minister for Health sought me out to have this discussion, and I am confident that her commitment to the services, and indeed the departments' and the health services' commitment to the services, is deep and serious. To be clear for the record, I am confident, particularly when it comes to the Royal Children's Hospital unit, which shows not only the growth that you have referred to but actually shows no sign of plateauing in terms of that growth for young people seeking the assistance of the unit, that the measures that I have spoken about with the minister and which we have both spoken to the hospital about will go a serious way towards addressing those needs, as quite rightly they should.

Ms PENNICUIK — Thank you for your presentation, Minister. I am sure you understand that this is an area that has been of deep interest to me the whole time I have been a member of Parliament, so it is good to see some positive developments in this area above what has happened before. I have been interested in your comments in answer to the Deputy Chair with regard to the health initiatives and the gender dysphoria clinic et cetera. Obviously with the creation of this new equality portfolio in DPC a lot of the work that you have already mentioned will be done in other portfolios, so in health, in education and with the legislative change in the Department of Justice and Regulation.

Looking at the \$800 000 per year over four years, some of the feedback we have had, and notwithstanding the great appreciation for what has been done, is that perhaps there is a lot to do and maybe there is not enough funding. But also there is not a clarity of understanding about what that portfolio does. You have mentioned some things, but if you could go to what that \$800 000 per year will be spent on in that portfolio, particularly with regard to the Commissioner, what will be the priorities of that office et cetera.

Mr FOLEY — Thank you. I am indeed aware of your longstanding commitment to these issues, and I think it reflects a growing recognition across the political divide that all Victorians recognise that who we are in our sexual orientation or gender identity should not be a barrier to participation in our society. You are correct in identifying in BP3 the contribution of the \$800 000 line item for the establishment of the equality portfolio. The details of the projects that we wish to essentially use as a key point for engaging across government and across

the community are, as you have identified and as I have said in earlier comments, so as to act as an agent of change across government and across community.

In terms of how that will happen, a key part of that is the establishment of the LGBTI taskforce and ministerial advisory council, and again you have correctly identified the main areas of those. In the weekend just gone, in the run-up to IDAHOT Day, we announced via social media and the LGBTI press expressions of interest for a whole-of-government taskforce. Small in numbers but strategically placed, the taskforce will be supplemented by the hard work being done in the departments, which you identified as health and human services for the programmatic changes and needs that we have identified in our policy documents there, and equally in the legislative framework through the Department of Justice and Regulation. They are the two main working groups that we have set up, which will be made up of larger numbers of people and which will determine to an extent, subject to available resources, their own work programs. The role of the Commissioner will be, as part of that role, to facilitate those programs.

But we do not rule out other areas of government establishing, as needs be, further working groups. An obvious one, I suspect, will be the Department of Education and Training as we seek to roll out the Safe Schools Coalition Victoria work across the state. In terms of the small in number but, can I say, high-quality support that we have from the Department of Premier and Cabinet in this area, it will be as to how they can facilitate those changes within and across government. I must say that I have been more than pleasantly surprised by the level of enthusiasm of all of the departments that have engaged with us through DPC as to their support for this program.

I think this is very much an issue whose time has come, and I think whether it is across the operations of state government activity or across community activities, that we will have no shortage of issues by which that taskforce and that Commissioner will be kept busy. It will really be an issue of prioritising and then, through the relevant departments, properly resourcing it with policy and the legislative changes that we know need to happen, or perhaps more importantly from deep-seated cultural change and how government programs and community programs go about being delivered through the service delivery arms of government, which I think is where the really challenging work about confronting homophobia and transphobia will be undertaken.

Whilst I concur with the thesis that you propose in terms of the challenges, I would like to think that the structures we have in place, the resources that we will bring through the small-scale unit in DPC, but, more importantly, through the consultative and whole-of-government arrangements of trying to lever off those resources to the programmatic and wider resources of government will give us the opportunity not just to deliver on our election commitments but over the course of this Parliament, and hopefully beyond, make some real important changes as to how the lives of LGBTI Victorians can be made safer and better.

The CHAIR — Ms Pennicuik, we have 1 minute to go, so if you could be succinct with your supplementary question, that would be absolutely fantastic.

Ms PENNICUIK — Thank you, Chair. The Minister had a lot to say, and it is good that he did have a lot to say on this issue and the challenges that face us. Turning to the \$800 000, I see that you talked about the working groups, and you even talked about establishing another one. Does the \$800 000 in the portfolio include both departmental staff who service that portfolio and some staff for the commissioner who clearly is doing work more externally? Is that what we are meant to understand?

Mr FOLEY — To be as succinct as I possibly can, yes.

The CHAIR — I would like to thank Ms Falkingham, Ms Faithfull and Mr Duckworth for their attendance this morning. We will now move straight on to the housing portfolio.

Witnesses withdrew.