

TRANSCRIPT

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into Budget Estimates 2018–19

Melbourne — 14 June 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

Ms Natalie Hutchins, Minister for Industrial Relations,

Mr Matt O'Connor, Deputy Secretary, Industrial Relations Victoria, and

Ms Lissa Zass, Director, Private Sector And Compliance, 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 2018–19 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; Mr Matt O'Connor, Deputy Secretary, Industrial Relations Victoria, from the Department of Economic Development, Jobs, Transport and Resources; and Ms Lissa Zass, Director, Private Sector and Compliance, Industrial Relations Victoria.

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 5 minutes. This will be followed by questions from the committee.

Visual presentation.

Ms HUTCHINS — As Minister for Industrial Relations I have responsibility for seven acts covering areas including long service leave, protection of outworkers, owner-drivers and forestry contractors, and Victoria's referral of industrial powers to the commonwealth. I oversee the government's framework for bargaining processes across the public sector, which covers 151 enterprise agreements and just over 297 000 public sector employees. I participate in the major workplace relations inquiries and cases, particularly on a national level, and advocate to ensure the national workplace relations system is meeting the needs of Victorian employees and employers. My department also monitors industrial disputations and intervenes where those disputations are affecting the state.

In terms of public sector bargaining, approximately 50 agreements were expired when we came into government and 130 agreements have been approved since December 2014. We had a long list to clean up. Six EBAs have in-principle agreements and 12 EBAs are outstanding as of June 2018. Achievements in bargaining include legislative nurse-patient ratios, the introduction of family violence leave clauses, a minimum eight weeks of paid parental leave, additional paid prenatal leave, secure ongoing employment for teachers — which was a major achievement in the teachers EBA — and workplace reform for Victorian TAFEs.

Our overall major achievements in the last year, since appearing before this committee, include the Labour Hire Licensing Bill, the new Long Service Leave Bill, the portable long service leave bill, review of the Owner Drivers and Forestry Contractors Act, annual wage review submissions for the 17–18 period, the commonwealth Black Economy Taskforce and putting submissions into that, monitoring IR issues on government projects, and support for fair and equitable workplaces and gender equality.

As mentioned before, in my earlier presentation on the portfolio of women, my two departments collaborated to help put on the Women@Work conference held on 21 March this year and brought together key business leaders and decision-makers to help tackle gender pay inequality and provide practical tools for businesses. The conference was really well attended, with around 300 persons in attendance. Gender equity pledges were made

by seven public service departments and a range of public and private organisations across the state, including Westpac, Deakin University, EnergyAustralia, CoINVEST, Yarra Valley Water, Victoria Police, the Uniting Church and the Girl Geek Academy as well.

In terms of budget commitments out of this year's budget, commitments have been given to a total of \$13.2 million, and the budget includes funding for several new initiatives. These include the establishment of a portable long service leave scheme, which is \$8.2 million over the next five years; \$2 million to support occupational health and safety initiatives in the construction industry; and \$500 000 to support the development of a strategy to increase women's participation in the construction sector.

A further announcement that has been made by the government is of the establishment of the Victorian Wage Inspectorate. That involves a new employment watchdog for Victoria to promote fair employment and ensure better compliance with both Victorian laws and the national laws, and the state budget has allocated \$22 million over the next four years for that. It is intended that the inspectorate will seek to work in partnership with the commonwealth's Fair Work Ombudsman, and it will also collaborate with WorkSafe and the Victorian Labour Hire Licensing Authority, once that agency is established. I will leave it there.

The CHAIR — Great. Thank you, Minister. I might start off. In your presentation under major achievements you list, at the bottom of slide 4, support for fair and equitable workplaces and gender equality. Earlier this year the government released data on the gender pay gap and the representation of women at different levels in the public sector. Can you outline for the committee some of that data and some of the findings from that data that you released?

Ms HUTCHINS — Yes. Thanks, Chair. Certainly the gender pay gap does exist and it is certainly prevalent in our public sector. We did release a report that goes to the heart of that, and we think that being transparent as a government is a pretty important step. What has been identified in the Victorian public service is around a 12 per cent gap on average across the entire sector. The report that was released by government shows that there are certainly some issues around supporting women across the public sector into leadership roles and also some issues in regard to Victorian women working in traditionally female friendly or female-dominated areas of work such as junior clerical roles, education aides, nurses, teachers and welfare support workers. This comes off the back of the recent community-wide study that shows women are under-represented in senior roles, suffer most from the lack of workplace flexibility in terms of hours and carry a disproportionate share of unpaid caring and domestic work.

At 12 per cent, the gender pay gap is lower than the federal measured gap, but still there is a long way to go for us to make some real changes, and we are tackling this through a raft of reforms. Some of these are outlined in our strategy *Safe and Strong*, the gender equity strategy. Some of them will be tackled through industrial relations policies and certainly by the actions of our departments in implementing flexibility in our workplaces. It is really important that we do what we can to maintain women in their jobs in a long-term fashion.

Certainly at the conference that I pointed to in my presentation, Women@Work, earlier in the year, we went to the heart of some of the issues that we see as forming that gender inequality in our workplaces by getting companies and our public sector to commit to closing the gap in a range of areas, including undertaking pay audits in the workplace to see where the differences arise.

The CHAIR — Thank you, Minister. I will pass on to Ms Ward.

Ms WARD — Minister, what made the government decide to release those statistics?

Ms HUTCHINS — Certainly the premise of us as a government, being the biggest employer in the state and having a gender equality statement and strategy, not actually looking at our own backyard and tackling that as a first step is really quite important. You have got to set the scene. We note that in terms of the implementation of family violence leave, there were a number of clauses that had been brought to our attention in setting the benchmark from the local government sector that we then picked up for the public service and extended that commitment. We are really proud that that sits in most of our EBAs nowadays. But without us taking that initiative to make that change — we have now seen the flow-on into the private sector for that particular condition, and we know that the same will happen, as a model employer, if we are doing the same in doing pay audits and looking at where the gaps are.

Ms WARD — You have briefly outlined a bit of the work that you are doing in the public sector. Could you elaborate a little bit more on that in terms of decreasing the pay gap? I am particularly interested in what you are doing in the private sector — how the government is helping the private sector to also address its own anomalies.

Ms HUTCHINS — A couple of things that we are doing are obviously the pledge that I talked about in an earlier session, in my role as Minister for Women, that was signed by participants at the Women@Work conference, which many of the companies that were present signed up to — Maurice Blackburn Lawyers, EnergyAustralia, Deakin University, Westpac, CoINVEST, Wodonga City Council, Property Promotions.Com, Eastern Domestic Violence Service, the Uniting Church, HESTA, Yarra Valley youth projects, La Concierge Pty Ltd. All of these signed up to those five key areas but, most importantly, agreed to come back to government and work with us around how successful they have been in implementing some of those policies but also giving us feedback on what tools they need from us as a government to assist. And there are some common tools that are available. WGEA is a national body that looks at these sorts of policies and issues, and we are looking to take up as many of the tools that they are currently offering as well and supporting those in the state, rather than recreating the wheel in this space.

Mr DIMOPOULOS — Minister, just quickly, in the previous hearing I think you mentioned that your department had a better pay gap — off my head, I think it was 6 per cent or thereabouts?

Ms HUTCHINS — Yes.

Mr DIMOPOULOS — So, well done on the work, as Ms Ward said, to come clean in terms of the biggest employer in Victoria. But within the diverse and huge public service, there would be outliers and those who are doing better. Is that an opportunity for learning within the public sector? Who are the ones that are doing the worst, and what are they doing that they should not be doing? Have you or the officers got any sense of that kind of —

Ms HUTCHINS — Yes. Just for the benefit of the officers at the table, I mention that the Department of Health and Human Services had a smaller pay gap when you look at just that as a department than other departments across the board. Certainly it is not only about the pay gap. It is about also the flexible hours, it is also about women in leadership roles. It is a raft of things that I can honestly say that some departments and some agencies do better in some of those roles and some do worse.

I would not say across the board all of our departments do wonderfully in one thing or another. I do note, though, that DELWP has done some fantastic work in offering all-flexible roles and also running some programs to ensure that women and men who are taking maternity or paternity leave are captured back into the workforce and stay in contact and connected, and their retention rates with those have really shown that that sort of programming works.

Mr DIMOPOULOS — In terms of the non-pecuniary side of it — well, it all ends up being pecuniary, I suppose, to some extent. On the women in leadership positions and flexibility, there is I think a sense that the tighter your resources are and the more you workload is, while it is offered — it is in-principle policy, supports your having flexibility, in any job, not just in the public sector — you cannot really take it. Is there any work done in terms of actually counting that cost, it is a hidden cost, of, ‘Yes, you can take six months off, but it is going to be hard to in terms of the reality of the workplace’, and how your colleagues feel about it?

Ms HUTCHINS — Look, there are probably dozens and dozens of academic reports that go to the heart of women in the workforce and their ability to get back into the same position as when they left, because quite often there are statistics that show that when women leave they do not come back in at the same level. But also we will do some work and we are doing some work with the workplace ombudsman to have a look at where we have got systemic problems in particular industries. There are some industries where women are well under-represented, such as IT and finance, and they are not getting access to the support policies that they need to stay in the industry.

Mr DIMOPOULOS — There is no scientific evidence for what I am saying, really, but it may be that other than pervasive attitudes it may also be resourcing issues in some cases —

The CHAIR — Order! Mr Smith until 12.45 p.m.

Mr T. SMITH — Minister, if I could refer you to the report on equity and diversity in the fire services that has been —

Ms Ward interjected.

Mr T. SMITH — I note that the member for Eltham is laughing about this.

Ms Shing interjected.

The CHAIR — Order! Ms Shing!

Mr T. SMITH — into diversity and equity in the fire services.

Ms Ward interjected.

Mr T. SMITH — Has that report been shared with you or your office or department in this financial year?

Ms HUTCHINS — Can I just clarify? You are talking about the report that has been undertaken by VEOHRC?

Mr T. SMITH — Correct, yes.

Ms HUTCHINS — I am happy to say that I have met with the commissioner herself because she is part of my ministerial council for women and advice. She has not provided me with a copy of the report to date; I believe it is subject to Supreme Court action. But certainly we have talked about the broad coverage of her work across both emergency services and the police force.

Mr T. SMITH — So given Ms Hilton's views on, particularly, the MFB EBA, what steps have you taken as Minister for Industrial Relations to satisfy yourself that that EBA that your government supports does not include discriminatory and unlawful clauses?

Ms HUTCHINS — Firstly, with 20 years' experience in industrial relations and having written clauses, interpreted clauses, taken EBAs to the commission for certification, first of all I read the clauses in the EBA.

Ms SHING — Perhaps more than Mr Smith has done.

Ms HUTCHINS — I also took advice from my department around this matter. I have had conversations with the emergency services minister around tackling cultural and diversity issues. I have worked closely with his staff and department around making sure that we have the support mechanisms going forward to really change the culture and encourage women to participate in our fire services. We know that the best way to do that is to have a new fire services department in place that is going to support that. But certainly on my reading, the clauses within the relevant agreement that you are referring to do provide the opportunity for part-time employment.

Mr T. SMITH — Yet the human rights commission says it does not.

Ms HUTCHINS — I think that is a matter of interpretation around clauses that have not yet been certified by the industrial relations commission.

Mr T. SMITH — I am not asking —

Ms HUTCHINS — I actually have faith in the Fair Work Commission to do their job. I have always had faith in them to do their job.

Mr T. SMITH — But, Minister, I am not asking about the Fair Work Commission. I am asking about your government's support for an EBA that your own equal opportunity and human rights commissioner thinks is discriminatory against women because it does not allow for flexible working hours.

Ms SHING — Did you just say you don't believe in a federal umpire, Mr Smith?

The CHAIR — Order! Ms Shing.

Mr T. SMITH — Minister, this is about your support for an agreement that is discriminatory.

Ms SHING — It is not actually about the approval processes of the Fair Work Commission.

Ms HUTCHINS — I just want to clarify for the record that before this agreement was struck there was no opportunity for part-time employment in the fire services kind of realm. This agreement is actually taking a big step forward, and this government is taking a huge step forward in making the investment in diversity that we need in attracting more women to the fire services, in investing in more women in leadership roles and in putting in quotas.

Mr T. SMITH — How many part-time firefighters are there in the MFB, Minister?

Ms HUTCHINS — Well, as I said, the previous agreements, which are currently in place, do not provide strong avenues for that. The current agreement that is being considered does.

Mr T. SMITH — And the current agreement does not either, Minister. You said yourself that flexible working hours are important for women in the workforce, but this agreement does not provide it, and Peter Marshall, the secretary of the UFU, is opposed to part-time work in the fire services.

Ms HUTCHINS — And the new agreement is different to the agreement that has expired. That agreement expired under the previous government, and you were unable to reach an outcome between the parties. This government has been successful in getting agreement between the parties.

Mr T. SMITH — I do not think characterising the previous government's position with regard to Peter Marshall helps your cause, Minister.

Ms HUTCHINS — I do not think going to war with firefighters is a smart thing for your government to have done — and to treat them with such disdain and disrespect.

Mr T. SMITH — Minister, your government has given Peter Marshall, who has amongst other things threatened to put an axe into a minister's head, has behaved appallingly — in fact there was a memo written by Mr Blandthorn in the Premier's office who said that his conduct and behaviour had 'crossed the line', particularly with regard to the way he treated staff and public servants —

Members interjecting.

The CHAIR — Order! Ms Shing!

Mr T. SMITH — You raised the previous government, and I am simply making the point to you, Minister, that giving Peter Marshall every single thing he wants is not an appropriate way to conduct industrial relations.

Ms SHING — Do you think you know how to appropriately conduct yourself in industrial relations, Mr Smith?

The CHAIR — Order! Ms Shing!

Ms SHING — Is that your claim to fame —

The CHAIR — Order! Ms Shing!

Ms SHING — that you can do IR?

The CHAIR — Order! Ms Shing!

Ms SHING — Wow! Let the record reflect that.

The CHAIR — Order! Ms Shing! Sorry, Mr Smith; are you asking the witness for an opinion in that question?

Mr T. SMITH — We were engaging in a conversation between the witness and myself, Chair.

The CHAIR — Okay. Is there a question?

Mr T. SMITH — So, Minister, you think that the EBA that has been supported by your government will make the MFB a more diverse and safe workplace for —

Ms SHING — Are you asking for an opinion, Mr Smith, because you might want to rephrase your question?

Ms HUTCHINS — The government supports the right of all employees —

The CHAIR — Order, Minister! Deputy Chair?

Mr MORRIS — Chair, you have asked Ms Shing to sit out for this session — well, I think this is the last one —

The CHAIR — It is.

Mr MORRIS — But the expectation when I was put out last week was that I would not participate, and I honoured that — and the TV coverage shows that. I sat it out. I would like —

Ms SHING — It is not sitting it out; it is not asking questions, Mr Morris.

The CHAIR — Sorry, Deputy Chair; I think you did participate.

Mr MORRIS — I think if you look at the vision, I was sitting here, not saying a word.

The CHAIR — I think if you looked at the transcript, you would be on the record for having made interjections, because we had that discussion.

Mr MORRIS — Not constant interjections.

Ms SHING — Constant — so it is a question of degree.

Mr MORRIS — You are doing your usual snide attempts to chair the hearings from the third seat.

Ms WARD — Mr Morris, firstly you said you did not say anything, and now you are saying you said a little bit.

The CHAIR — Order! Ms Ward! You did participate in the rest of the hearings, but you did not ask questions. Mr Smith to continue with a question.

Mr T. SMITH — Minister, will the MFB be a safer and more diverse workplace because of this EBA?

Ms HUTCHINS — The proposed agreement that is currently before the Fair Work Commission will have to ensure that it meets the national employment standards, and part of those national employment standards is the right for employees to have access to flexible work arrangements. So the industrial relations commission is not going to certify this EBA if it does not meet the national employment standards, and that is something that is up to the umpire

to be able to put in place, and then once the agreement is certified it is about interpretation.

Mr T. SMITH — When you met with Ms Hilton, did you have a discussion about these issues?

Ms HUTCHINS — We had a high-level discussion, but I did not see the report that they have done.

Mr T. SMITH — Did Ms Hilton suggest to you that this EBA was discriminatory?

Ms HUTCHINS — This particular clause, no. We did not have a discussion about that.

Mr T. SMITH — This particular clause or any other clause?

Ms HUTCHINS — This particular clause.

Mr T. SMITH — Did she say to you that this EBA — the MFB EBA — whether we are talking about flexible work hours or any other clauses, is discriminatory against women, carers or parents?

Ms HUTCHINS — We did not talk about the clauses in the EBA; we did talk about the culture and the need for change in the fire services.

Mr T. SMITH — So despite the fact that you had met with the human rights commissioner and she said that she had issues with this EBA, you support it because — why?

Ms HUTCHINS — No, she said she had issues with cultural changes and the need for diversity. We talked about the support that the government was giving to turn that around.

The CHAIR — Order! Mr Dimopoulos to read some questions from Ms Pennicuik into the record.

Mr DIMOPOULOS — Question 1, budget reference, *Gender Equality Budget Statement*, page 1. The question is: Minister, during last year's budget estimates you said:

I think in the long term, a longitudinal study by us as a government into how it has kept women in employment is something that I look forward to being able to report back on to the committee in the future. At this stage we have received just over 50 claims.

Can you provide an update on those figures in terms of the number of people making claims, the number of public sector agreements covered and the number of employers covered? Regarding the study you mentioned to assess the impact of these provisions, are there any plans for that to take place, and have any budgetary provisions been made for that?

Question 2, the budget paper reference is BP3, 'Service Delivery', page 139, and the question is: one of the concerns with the introduction of the labour hire licensing scheme relates to how the transition will impact on a large number of undocumented workers that will lose their jobs and livelihoods when this scheme is introduced, which is an unintended consequence of the bill. What, if any, measures are being put in place to identify and assist these workers, who are particularly vulnerable?

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

The committee will follow up on any questions taken on notice in writing. A written response should be provided within 10 business days of that request.

Witnesses withdrew.