

VERIFIED VERSION

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into budget estimates 2014–15

Melbourne — 15 May 2014

Members

Mr N. Angus

Ms J. Garrett

Mr D. Morris

Mr D. R. J. O'Brien

Mr C. Ondarchie

Mr M. Pakula

Mr R. Scott

Chair: Mr D. Morris

Deputy Chair: Mr M. Pakula

Staff

Executive Officer: Ms V. Cheong

Witnesses

Mr R. Clark, Minister for Finance;

Mr D. Martine, Secretary,

Ms M. Skilbeck, Deputy Secretary, Budget and Finance,

Mr C. Cato, Director, Construction Code Compliance,^aAnd

Ms C. Archer, Assistant Director, Insurance and OHS, Department of Treasury and Finance.

**Necessary corrections to be notified to
executive officer of committee**

The CHAIR — We resume our estimates hearings with no. 18, for finance. I welcome back the Honourable Robert Clark; and from the Department of Treasury and Finance the Secretary, Mr David Martine; Deputy Secretary, Budget and Finance, Melissa Skilbeck; Director, Construction Code Compliance, Cathy Cato; and Assistant Director, Insurance and OHS, Chris Archer. The minister now has an opportunity for a brief presentation of no more than 5 minutes on the budget estimates for the finance portfolio.

Overheads shown.

Mr CLARK — Thank you, Chair. I am pleased to have this opportunity to present on matters relating to the Minister for Finance's portfolio. The first of the slides that I have got simply recaps what those responsibilities are, because there can sometimes be some issues about responsibilities relating to my portfolio and those of the Treasurer or Assistant Treasurer. Most remain as previously, but the item to note is that responsibility for public sector industrial relations has transferred from my role as Minister for Finance to my role as Minister for Industrial Relations.

The next slide simply identifies the outputs within DTF that relate in whole or in part to my portfolio, so they are available for reference by members.

The next slide outlines some of my responsibilities in relation to financial governance and oversight. I have responsibility for coordinating the government response to the Auditor-General's whole-of-government reports when those are tabled in the Parliament. I am responsible for many matters relating to the government response to this committee's review of the Audit Act, and of course I have ongoing responsibilities for standing directions under the Financial Management Act.

I turn to the next slide in relation to insurance and risk management. I have a lead role in relation to the Victorian government risk management framework arising out of the overall portfolio responsibility for insurance and risk management and the work of the Victorian Managed Insurance Authority. As members will know, the VMIA provides those services to departments and agencies, and as part of that — and I will touch on it a bit more later on — VMIA has a current role in relation to the provision of domestic building insurance coverage and has a key role in relation to the domestic building consumer protection reform strategy that is currently being implemented by the government. I mention the VCEC review of the Wrongs Act, on which VCEC has now reported and the report is being considered by government.

The next slide provides more details about the domestic building consumer protection reforms. There is a bill currently before the Parliament. I will not anticipate debate on that, but it seeks to give effect to the legislative aspects of the government's reform package, which aims to ensure that building disputes are resolved quickly, fairly and cost efficiently, that claim triggers are improved and processes streamlined and simplified to make the Victorian Building Authority a one-stop shop. I mentioned the role of the VMIA earlier in relation to that.

The following slide talks about the risk management framework and the steps that are being taken to build on what has previously been done to ensure that we have an effective whole-of-government risk management framework.

I also mention in the next slide the Victorian code of practice for the building and construction industry, and that is now operating on many projects across Victoria and applies to many contractors. I am happy to elaborate on that if members want to ask me about it during questions.

The next slide identifies the work of the Essential Services Commission. Again, as members will know, that has a key role in economic oversight of a number of key industry sectors. The following slide gives a bit more detail about the work of the Essential Services Commission in relation to specific sectors. Chair, that completes my overview of the portfolio.

The CHAIR — Thank you, Minister. We have until 11.45 for questions, and again I will start. Minister, would you outline to the committee the budget initiatives in this portfolio that contribute to the growth of Victorian jobs both in the coming year and over the forward estimates period?

Mr CLARK — Thank you, Chair. As Minister for Finance I am in a sense pleased to be able to say that the new budget funding sought for my portfolio was modest, because the less funding taken in my portfolio, the more funding there is available for front-line service delivery and for infrastructure. There has been one new

initiative in my portfolio in the budget papers. Budget paper 3, page 73, refers to supporting the role of the Essential Services Commission. The ESC will be enabled to continue its retail energy functions arising as a result of the deferral of the transition to the national energy customer framework. Some \$1.8 million is being provided as a one-off to the Essential Services Commission so there is no reduction in the protections available to Victorian consumers, and the cost of this regulatory function will be fully recovered by licence fees.

However, I can assure you and the committee that just because there is only one new initiative appearing in the budget papers it does not mean that other resources being made available to my portfolio are not being used, and used effectively, to support other government initiatives and objectives. I refer in particular to the work of the construction code compliance unit in upholding the Victorian government's implementation guidelines to the Victorian code of practice for the building and construction industry. I have touched on these in previous presentations to the committee, and the current government believes that the construction code compliance unit and the implementation guidelines are crucial for ensuring that there are law-abiding, safe and productive workplaces in the building and construction industry here in Victoria and ensuring that Victorian taxpayers get value for money. Value for money for infrastructure projects is vital, particularly when a government has the breadth of the infrastructure initiatives that the current government has under way and particularly those that were announced in the current budget. One only needs to contrast that, for example, with projects such as the desalination plant and the horrific industrial relations consequences that flowed from that to realise the importance of the work of the construction code compliance unit.

I am pleased to be able to inform the committee that the work of the CCCU was commended by the commonwealth government's Productivity Commission in an interim report they handed down in March this year on infrastructure costs and financing in Australia. They described our code as being most influential and a most promising policy approach to addressing issues relating to rising construction costs and suggested that the introduction of these guidelines would contribute to improving labour productivity in the construction industry by countering under-the-table and other improper deals and coercion. The report identified that Victoria appears to have been more subject to unlawful conduct by unions and officials than other jurisdictions, and that is certainly borne out by many industrial relations statistics.

We were pleased to receive that endorsement from the Productivity Commission for that work within my portfolio, and indeed by the fact that jurisdictions including Queensland and New South Wales have adopted similar codes and guidelines in recent times. Indeed the recently announced commonwealth code draws in many aspects on the code we have introduced in Victoria. I think this shows the folly of any suggestions that the CCCU should be scrapped and that we would see a return to the bad old days prior to the commencement of the CCCU and militant unions imposing horrific costs on taxpayers and undermining law-abiding and productive workplaces. As I indicated, although there is only one new initiative relating to my portfolio in the budget, ongoing initiatives are adding substantial value to the work of the government in ensuring we get value for taxpayers dollars across the budget.

Mr SCOTT — Minister, it is good to hear you — of course it is not actually good — in lock step with the federal government. In previous PAEC hearings — —

Members interjecting.

The CHAIR — When we have all finished, Mr Scott has the floor.

Mr SCOTT — Is that the dump button?

The CHAIR — It was the dump button, and it will be used even more often if I need to. That is what it is there for.

Mr SCOTT — Minister, you have previously presented to the committee in relation to performance measures — and I will not go into the deliberations of the committee because that would be inappropriate in relation to those matters where there is a relationship, but at last year's hearing you presented to the committee in relation to performance measures and targets. Targets provide information on what the government seeks or expect to achieve on an annual basis. This is the first hearing that has occurred where Mr Martine has been present subsequent to the federal budget. I am not expecting an answer in relation to any particular performance measure, because that is outside the scope of your shared responsibilities in this area, but will the government be providing further information to the Parliament and the community on any revisions to performance targets in

relation to funding announcements that were made in the federal budget, because there is a very live public debate at the moment about the impact of the federal budget on performance and the ability to deliver services. Will there be an issuing of revised performance measures to the community subsequent to the federal budget?

Mr CLARK — Mr Scott, you have asked a very broad-ranging question, and you have put great effort into finding a hook to link that broad question to my portfolio. In relation to my portfolio performance, measures are updated through a well-established process, and obviously any external factors that affect the budget will be reflected when performance measures are updated, as has been the practice to date.

Mr SCOTT — By way of supplementary, if I understand your answer correctly, there is not an intention to provide the public or the Parliament with updated performance measures, particularly in terms of what will be expected to be achieved for those performance measures, despite the very significant issues that have arisen regarding changes made by the federal government to federal grants that affect the ability to deliver services in Victoria.

Mr CLARK — I think you are trying to put words into my mouth.

Member interjecting.

The CHAIR — Order! The minister is more than capable of responding without assistance from either side.

Mr CLARK — What I have indicated is there is a process — a long-established process — whereby performance measures and indicators are updated, responding to external factors as and when those factors arise, and those processes will continue to apply. In terms of the broader government response to the commonwealth budget, my understanding is that the Premier and Treasurer and others have been responding to that, as is entirely appropriate.

Mr ANGUS — Minister, I refer you to budget paper 4, page 3, regarding the government's implementation guidelines to the Victorian code of practice for the building and construction industry. You mentioned it in your previous answer, and it was mentioned also in passing in your presentation. Can you please update the committee on the work of the construction code compliance unit and the impact it is having on the Victorian building and construction industry?

Mr CLARK — Thank you, Mr Angus. I am pleased to be able to inform the committee that the CCCU and its application of the guidelines are having a very noticeable beneficial impact on the Victorian building and construction industry. The guidelines came into operation from 1 July 2012. They are guidelines that build on the Victorian code of practice for the building and construction industry. Alongside those, the CCCU was established, and these guidelines and the establishment of the CCCU are, as I referred to in my presentation, designed to ensure that taxpayers obtain value for money on government construction projects through encouraging productive, safe and law-abiding workplaces. Particularly in the context of the previous commonwealth government refusing to take action against union disruption and militancy, and indeed abolishing the commonwealth Australian Building and Construction Commission, the establishment of the guidelines and the CCCU was intended to seek to fill that gap. The guidelines now apply to well over 200 public projects currently in construction and, by extension, to an estimated thousand or so private projects, to which those doing government public work have committed to apply the guidelines.

Estimates are that the guidelines are currently applying to something in excess of 350 head contractors and something in the order of five and a half billion dollars worth of government, public sector, construction work. The role of the CCCU in relation to the guidelines is to monitor compliance with the guidelines, to investigate alleged breaches and, if necessary, to issue warnings or recommend sanctions to the minister. Under the guidelines every Victorian public construction project over \$10 million has to have a workplace relations management plan to address productivity and industrial relations risk management aspects of the project, and the CCCU not only monitors the conduct of the head contractor but also ensures that the overall on-site conduct of contractors complies with the guidelines and the workplace relations management plan. There have been substantial numbers of contractors awarded government construction contracts under the guidelines. A very large proportion of those have been visited by the CCCU, either in terms of site inspections or of audits, and that has led to the issue of a number of rectification notices, show-cause letters and formal warnings.

In consequence of that I think it is fair to say we are seeing behavioural change on construction sites here in Victoria, as was the objective of these reforms, particularly in relation to ensuring that existing commonwealth laws, as well as Victorian laws, are upheld. I flag, by way of one example, the application of commonwealth laws relating to right of entry, where it is expected that those laws will be upheld, and if persons seek to enter sites in breach of those laws, appropriate action will be taken, including, if necessary, to call police and have actions taken in relation to trespass. That has occurred on a number of construction sites, and arrests have occurred consequent upon contractors upholding not only the law and their legal rights but also their commitments under the guidelines and the plans that they have submitted to the government. In short, the government believes the guidelines and the construction code compliance unit are having a very beneficial effect. I reiterate my concern that some have proposed to scrap the CCCU if they were to win office, and I think that would be a very detrimental move for the Victorian building and construction industry.

Mr SCOTT — Minister, in your presentation you made reference to a number of actions that have been taken in relation to domestic builders warranty insurance. I am seeking some clarification particularly around the reasoning for a government policy in relation to the provision of domestic builders warranty insurance by the VMIA during the period up to, I understand, the end of the 2014–15 year, when it will transfer across to a new body, the Victorian Building Authority. There has been a decision made to cease the private provision of that particular form of insurance. I would say it is unusual for a Liberal-Nationals government to introduce a statutory monopoly state provision of goods or services. I would just like to understand: why is it that the government has chosen to establish a statutory monopoly and state provision of that particular service?

Mr CLARK — Thank you, Mr Scott; you ask a question about a very important issue. Domestic building consumer protection has been a problem in Victoria for many years. I have often characterised the regime that was put in place by the previous government as resulting in lose-lose-lose outcomes: lose for consumers because they have not got adequate protection and redress; lose for builders because they have often had their livelihood dependent on assessments by insurance clerks and having a two-step process where they not only get registered but then separately have to go out and secure insurance cover on a project-by-project basis; and indeed lose for insurers because insurers have walked out on the system progressively because they have considered themselves unable to earn a reasonable return on their investment.

Notwithstanding all the good intentions of the regime that was put in place — and of course a lot of it was put in place in response to the public liability insurance crisis in the early parts of the last decade — it has not worked and consumers have suffered. We have been going through a process of seeking to reform that framework since we came to government and not to do it in a piecemeal manner where different ministers have done things in relation to their own portfolios. We have sought to bring together all ministers with portfolios involvement — consumer protection, planning, finance and indeed the Attorney-General in relation to VCAT. We have released a reform strategy that seeks to better provide in the future for all aspects of domestic building consumer protection. The key aspects of that include the capacity for the Victorian Building Authority to issue rectification orders, and those rectification orders, if they are not complied with by the time a project is completed or terminated, themselves provide a ground for a trigger of claims.

In terms specifically of the role of insurers, as I referred to, notwithstanding that the regime put in place by the previous government provided for insurers to provide cover, they were progressively leaving. The previous government then mandated the VMIA to provide cover. When we came to office we left those arrangements in place and indeed were keen to see if the private sector was interested in re-entering the market, but that was not the case. Looking more intensively at the issue of how best to provide that aspect of cover for consumers, we concluded that it would be better for there to be a fund administered by the Victorian Building Authority rather than the continued operation of the insurance cover. That is what we have announced, and we have put in place the transition arrangements to move to the establishment of the fund. We are providing a transition period of around a year where we move through to the full commencement of the fund on 1 July 2015.

In order to ensure the integrated operation of the fund with the VBA and with the registration of builders by the VBA, we wanted to ensure that VMIA had complete coverage of the data that was necessary for the VBA in relation to the functions that it was going to take on. So that was the reason for the announcement that we made. There is an issue in part in relation to owner-builders, but essentially we want to ensure, as part of the transition, that VMIA is in a position to ensure effectively a seamless transfer to the VBA when the fund comes into operation in 2015.

Mr SCOTT — You have mentioned in your presentation and your answer the role of the VMIA in that transitional process. If you could provide information to the committee — and this may be required on notice — about the resourcing involved in that particular transitional role, if there has been any provision made within the VMIA and what the cost of that process would be. This is not part of the general government sector, therefore there will be cost recovery of those costs in my understanding through the insurance premiums, but I am presuming. If you could clarify that matter.

Mr CLARK — I take it your question relates to the establishment costs — —

Mr SCOTT — Well, the VMIA's role during that transitional process.

Mr CLARK — The VMIA has a team that already provides the domestic building insurance services, and effectively that team will move from the conduct of that insurance business to supporting the transition to the new fund and working with the VBA to establish the fund and provide the logistical support for the establishment of the fund and the transitional arrangements. So that, I think, is the long and the short of it in answer to your question.

Mr O'BRIEN — I would like to refer you to budget paper 3, page 293, and the reference to workplace relations management plans, and I ask you: could you please update the committee on the implementation of the government's announcement that it will require companies that tender for public construction work to have drug and alcohol screening policies and site security practices in place?

Mr CLARK — This initiative builds on the work of the construction code compliance unit and the guidelines that I referred to extensively in a previous answer. It identifies opportunities to further contribute to productive, law-abiding and safe workplaces in Victoria. Both of the issues that you referred to have been vexed ones. Unfortunately there have been a number of concerns about not only drug and alcohol consumption but the availability of illicit drugs on building sites and whether building sites are being used as an outlet by those seeking to peddle drugs and the harm that those drugs cause. We announced in February this year that from around the middle of this year we would be moving to tackle that issue and to require that those who tender for government work have in place strategies and arrangements to ensure proper testing and protection against drug and alcohol presence on the building sites that they control.

Similarly we want to ensure better arrangements for site security. Again the issue of unauthorised entry onto building sites by people who are not known to be there and are not authorised to be there is clearly a safety risk, and it is also a risk in relation to what those persons might be doing when they are on that building site, so ensuring there is proper site security is a very important aspect of making sure that building sites work properly.

We announced that, as I said, earlier this year, and the construction code compliance unit has been preparing draft guidelines, undertaking consultation. It undertook a public consultation process from late March through to mid-April this year asking people to address a series of questions about what the appropriate thresholds and standards and measures should be. I am pleased to be able to say that stakeholders engaged in relation to that and there were responses received from 15 stakeholders including the CFMEU, the ETU and the plumbers union. On the basis of considering all of the responses that have been received, we are proceeding to finalise the relevant changes to the guidelines with a view to having them in place around the middle of this year.

As I said at the outset, we believe that the introduction of those guidelines will have a very substantial additional contribution to promoting safe, law-abiding and productive workplaces.

Mr O'BRIEN — And jobs.

Mr CLARK — Therefore, as you say, Mr O'Brien, to facilitate jobs, because one of the things that has tended to add to costs and therefore impede the creation of jobs has been avoidable costs. When you see projects, as we saw under the previous government, that were not well run, not well managed and had horrific industrial relations practices, then that did detract from the capacity of infrastructure investment to create jobs, both directly in construction and equally importantly through that infrastructure then being available to add to the productiveness of the state economy as a whole.

Mr O'BRIEN — I am tempted to ask you how many hospitals we could have built with the desalination plant, as a supplementary.

The CHAIR — That would be a speculative question.

Mr O'BRIEN — It is a good question though, and my friends over there would like to answer it.

The CHAIR — That would be a speculative question, so you will not ask it.

Mr SCOTT — In your capacity as Minister for Finance you are either jointly or wholly responsible for a number of acts of Parliament whose purpose is to ensure the prudent use of financial resources by the Victorian government and funded agencies. Are there no steps you could have undertaken to prevent the \$230 000 credit card splurge by the management of the Country Fire Authority?

Mr ANGUS — On a point of order, Chair, I believe this matter was dealt with by the relevant minister yesterday or the day before. My question would be to you: is it applicable to the Minister for Finance?

The CHAIR — In ruling on the point of order, on the face of it, no. However, Mr Scott has quite cleverly sought to link the question to the minister's responsibilities. I think I know how the minister is going to respond, but I will allow him to respond.

Mr CLARK — Responsibility for these matters and for the administration of and compliance with the relevant directions and guidelines relates to the specific departments and portfolios concerned, and in relation to the specific topic you refer to, as Mr Angus indicates, my understanding is that the minister responded to that at his appearance before this committee.

Mr SCOTT — Will you be taking any steps in relation to the regulations that apply to the use of credit cards? Will you be seeking to change, modify, investigate them in response to the revelations relating to the credit card splurge by the Country Fire Authority?

Mr ANGUS — On a point of order, Chair, again that is really a speculative question inasmuch as the minister has identified that it does not relate to his portfolio. Therefore why would he have to answer the question?

The CHAIR — I will invite the minister to respond, but I think it is important the minister be aware that the Minister for Police and Emergency Services yesterday made two points about this: that it was an operational matter and that the matter is going to be investigated. If there is going to be a response, it needs to be an informed response.

Mr SCOTT — On the point of order, Chair, while the Minister for Finance is clearly not the minister for emergency services, the minister does have significant responsibilities for the rules that exist within the public sector relating to issues such as the use of credit cards ultimately, therefore the question is completely in order, and I have asked specifically in that context.

The CHAIR — I have not said it is out of order.

Mr SCOTT — That is the context of the question.

The CHAIR — I agree with that, and I have not said it is out of order, but I think it is also unfair to ask the minister to respond without knowledge of the comments made yesterday by the minister for emergency services. This is not a gotcha committee: this is an investigation into the estimates process. If you are going to ask these sorts of questions — and I am going to allow them — we are not going to have ministers set up on the basis of only being aware of half the facts.

Mr CLARK — Let me simply add to and reinforce the points I made earlier. There are mandatory procedures in place under the standing directions of the Minister for Finance both in relation to credit card use and more generally in relation to practices that may be improper. Those have been arrangements that have been in place for a considerable period of time. Without responding directly to the issue that Mr Scott raises, on an ongoing basis governments look to whether there are opportunities to improve any arrangements. But I express no judgements on the specific matters that Mr Scott refers to because, as you indicate, they are not matters that come directly within my portfolio responsibilities, and my understanding is they were responded to at your previous hearing.

Mr ONDARCHIE — Minister, I refer you to slide 8 of your presentation and also to budget paper 4, page 3, regarding the government's implementation of the Victorian code of practice for the building and construction industry. I also refer you to the commonwealth government's announcement that it intends to reintroduce the ABCC. Can you let the estimates committee know of the government's views on this proposal and what implications it would have for the Victorian government's guidelines and its work with the CCCU?

Mr CLARK — Thank you, Mr Ondarchie. In short, the Victorian government greatly welcomes the move by the commonwealth government to reinstate the Australian Building and Construction Commission. During the period when there was previously the Australian Building and Construction Commission it was highly effective in tackling unlawful and other improper practices on building sites, not only in Victoria but around Australia, and that had an enormously beneficial effect for the building and construction industry, particularly in Victoria because Victoria unfortunately has tended to be the home of much union militancy. I well recall during that previous period when you spoke to those in management working on project delivery how they remarked that they actually enjoyed going to work because their work time was not being taken up in aggravating disputes and disruptions by unions and that they could get on with actually building and constructing things.

Unfortunately when the previous commonwealth government, despite promising a strong cop on the beat, abandoned that and abolished the Australian Building and Construction Commission that did open up a very significant gap, and I touched earlier on the Victorian government's response in establishing our guidelines and the CCCU to try to fill that gap to the extent state governments were able to, but we were always of the view that the first, best way forward was for the commonwealth to bring back the Australian Building and Construction Commission.

So the commonwealth now has legislation before its Parliament to do that. I understand it is currently before the second-reading stage in the Senate after having passed the House of Representatives. It has been the subject of various Senate committee inquiries and reports. It is currently listed for further debate in the Senate. Whether passage has to await the change of composition of the Senate after July this year or not, we will see what happens during the course of commonwealth parliamentary debate.

If the Senate does pass the legislation and the ABCC is reinstated, we believe that the ABCC and the CCCU will work very well together and that the ABCC will play predominantly a regulatory role of investigating breaches of relevant legislation and of, potentially, the commonwealth code. I should say we also very much welcome the commonwealth's recent announcement of its changes to its building and construction industry code, which in a number of respects pick up on features that were included in the Victorian guidelines.

That will be the role of the ABCC, but we envisage that the CCCU will continue to play a very valuable proactive role in relation to assessing compliance, by those who seek to undertake Victorian government work, with the Victorian guidelines and assessing the workplace relations management plans and other documents that I mentioned earlier and then being proactive in ensuring that those commitments of the successful tenderers are complied with and that the law more generally is upheld on Victorian government projects, including measures such as the alcohol and drug screening and side entry that I touched on earlier.

I am very much looking forward in hope to the re-establishment of the Australian Building and Construction Commission, and we expect that alongside the CCCU together they will achieve even more than the CCCU has been able to achieve on its own in supporting productive, law-abiding safe workplaces in Victoria.

Mr SCOTT — This should be a relatively simple question to answer. It relates to the VMIA. Minister, will you rule out privatising any part of or functions currently carried out by the Victorian Managed Insurance Authority over the estimates period?

Mr CLARK — Certainly that is not something that government has any plans to do in relation to privatisation of part or all of the VMIA. You will be aware, and I add this just to avoid any misconceptions, that the VMIA on instruction — that is, on direction from government — provides insurance to fill gaps where the private sector is unable to provide insurance, and those directions are given by governments from time to time. Sometimes if it becomes apparent that the private sector is in future able to provide insurance coverage, directions such as that might lapse. I do not think that was the subject matter of your question, but I add that just for completeness.

Mr ANGUS — Minister, I was originally going to ask you about the domestic building consumer protection framework, but I think you have adequately addressed in answer to Mr Scott's earlier question. So I want to turn my attention and yours to the financial reporting and financial and resource management framework, and in particular I refer you to budget paper 3, pages 281 and 297.

Minister, I also refer to the bill to establish a parliamentary budget office that was introduced into the Parliament and blocked in fact in the Legislative Assembly on 6 February 2014. Does the government intend to attempt to introduce such legislation again prior to the election?

Mr CLARK — Thanks, Mr Angus. You raise an important issue there because — —

Mr PAKULA — On a point of order, I do not mind the minister answering this question but I note, Chair, that when I asked the minister a question in the last portfolio about whether he intended to introduce particular legislation I was ruled out of order. So I wonder how this one can be in order.

Mr ANGUS — On the point of order, it is a very clear differentiation, because this is in fact legislation that has been before the Parliament and connects directly back into the budget papers that we are talking about.

The CHAIR — I cannot uphold the point of order.

Mr CLARK — The government on coming to office considered that providing arrangements for independent assessment evaluation of political parties' election policy costings was a very important part of the democratic process. We put substantial effort into developing a bill that would ensure that that would occur through the establishment of the parliamentary budget office. This proposal was to remedy the deficiencies of process that we had seen in successive elections previously, most notably in the 2010 election, where there was a scheme that sought to impose on the Department of Treasury and Finance the responsibility for costing election policies on a very constrained and artificial basis that did not provide the sort of assurance that we believed was appropriate for the community to have by way of independence of those assessments.

So we put in place a proposal that would enable that to occur, and we did so on what we believed would be a basis that was eminently fair to all sides of politics, both for the government of the day, and the or opposition of the day — because as we all know, governments can change from time to time — we wanted to ensure a regime that was fair — —

The CHAIR — Minister, I believe the sound is not particularly clear on the webcast, so could you perhaps move a bit closer to the microphone.

Mr CLARK — As I was saying, we put in place an arrangement that we believed was eminently fair to all political parties that would be involved. It did not seek to ambush them, as previous proposals had done, by forcing them to lodge policies and then have them made public before they had an opportunity to consider the result of the costings. That would therefore enable them to obtain informed feedback on their proposal before they decided to commit to an announcement. We provided for that to be within an office within the Parliament — someone entirely independent. It was very disappointing that that legislation was blocked in the Legislative Assembly. Those concerned can account for why they did it.

Mr PAKULA — We did so at the time; we accounted for at the time. We made it very clear why we opposed it. We wanted a standing body.

The CHAIR — Order!

Mr CLARK — My conclusion, Chair, was that the opposition simply did not want to be accountable for their election costings in the run-up to the election and took any measure — —

Members interjecting.

Mr SCOTT — On a point of order, Chair, the opinions of the minister regarding the opposition's motivations or otherwise are hardly the business of this committee.

Mr PAKULA — Correct.

The CHAIR — The minister is free to answer the question in any way he chooses.

Mr SCOTT — No, within standing orders.

Mr PAKULA — On the point of order, Chair, the opposition is not entitled under standing orders to speak an opinion and equally the minister is not entitled to express one.

The CHAIR — He is entitled to express an opinion.

Mr PAKULA — About the opposition?

The CHAIR — He is in the position of answering the question in the way he chooses. But as the minister is aware, and as all members — —

Mr PAKULA — So we cannot ask for his opinion but he can — —

The CHAIR — I am ruling. But as the minister is aware, and as all Assembly members are certainly aware, in responding to questions ministers should not reflect on the opposition.

Mr CLARK — Chair, as I was saying, people can defend their positions as they think fit, but it was highly regrettable that the opposition parties went to the lengths they did and resorted to the arguments they did to block that legislation. Under the rules that apply to the Parliament and the capacity for the further consideration of legislation that has previously been considered, the government has formed the view that unless there is a dramatic change of heart on the part of those who blocked that legislation, regrettably we are not — —

Mr PAKULA — Blocked it? We opposed it.

Members interjecting.

The CHAIR — Order!

Mr CLARK — If Mr Pakula prefers me to refer to ‘opposing’ rather than ‘blocking’, I am happy to do so.

Mr ANGUS — It is the same outcome.

Mr PAKULA — It was blocked because the member for Frankston also opposed it.

The CHAIR — The minister does not need the assistance of either side of the table.

Mr CLARK — I was seeking to be technically correct, given that there was a reasoned amendment involved, but indeed the outcome is exactly the same. The opposition opposed the legislation and prevented its passage, and under the rules that apply, unless there is a dramatic change of heart on the part of those who opposed it, it will not be possible to bring this legislation back before the current Parliament.

Mr SCOTT — Minister, I wish to ask you a question relating to your role in relation to performance measures. Particularly there is a performance measure which appears at page 319 of budget paper 3, which is a performance measure referred to the Public Accounts and Estimates Committee for review, and it reads:

Proportion of homelessness support episodes where an accommodation need was unable to be either provided or referred.

This measure has been replaced by another measure on page 175, which reads:

Proportion of clients where support to sustain housing tenure was unable to be provided or referred.

The replacement or otherwise of performance measures is obviously a serious matter, which you have referred to I think two times previously in these hearings — not last year but the year before that and the year before that. I would be grateful if you would explain the difference between these two performance measures because they appear to be measuring very similar things. The concern I have — and this is a serious concern — is that the replacement of performance measures can mask previous performance on an ongoing basis. I am particularly concerned where the target was set well below the expected outcome. I would just like to have some background on the difference between these two performance measures.

Mr ONDARCHIE — On a point of order, Chair, Mr Scott refers to some performance measures relating to housing assistance. I am just wondering if this question is better framed for the Minister for Housing as opposed to the Minister for Finance?

Mr ANGUS — It is not relevant.

The CHAIR — The point of order is relevance, and it raises a difficult issue, which probably goes back to a series of recommendations the committee has made over time and over a number of parliaments, particularly about the responsibility of the Department of Treasury and Finance and their role either of oversight and responsibility for implementation or simply as facilitators. As members are aware, that is a subject that has been raised at our table, both in private session and public session, on many occasions. Given that we still do not have a clear resolution of that, I think it is appropriate that I give the minister the opportunity to respond, but in the recognition that the specific performance measures that are being identified do not relate to his department in a ministerial sense.

Mr SCOTT — On the point of order, Chair, the issue that I am concerned about is the review and the changes of performance measures and how they relate to the ability of the Parliament —

The CHAIR — And the process.

Mr SCOTT — and therefore an explanation of the difference between the two performance measures. It is not the Department of Human Services or the Minister for Housing that make the final determination to change a performance measure; it is the finance minister.

The CHAIR — I think that is a matter for conjecture, but on that basis I think it is a reasonable question to address to the minister. But if his response is, 'Well, it's not my department', I think that is the response we have got to accept.

Mr CLARK — Chair, I do not propose to comment on the specifics of the performance measure concerned because it does relate to another department and another portfolio. But I will say, more generally, this government and I as Minister for Finance have been very supportive of establishing a process so there can be a review where there are significant changes to performance measures. For the first time under this government, as the Chair and the committee will be aware, there is a process where this committee is asked to examine and provide feedback on performance measures where they are proposed to be discontinued. I think that has been a very valuable and worthwhile initiative, and I am very grateful for the consideration that the committee has given to these matters and the feedback that it has provided. As the committee would know, where the committee has raised concerns about measures being discontinued, that has been taken on board and responded to. There is a process to address the sorts of issues that Mr Scott raises, and I think that has been a valuable process.

Mr SCOTT — I do have a supplementary. Does the department and your role in relation to performance measures have a process in place which deals with the setting of targets by departments significantly below expected outcomes; what is that process; and how does —

Mr ANGUS — That is three questions.

Mr SCOTT — How does the Department of Treasury and Finance ensure that that does not occur?

Mr ONDARCHIE — That is four supplementaries.

The CHAIR — We will go with the first one, I think.

Mr CLARK — Mr Scott, you are almost asking for an essay or to canvass a subject that could take up a substantial amount of time. I will just say succinctly today that the primary responsibility for the development of performance measures is with the department concerned. There are standards and guidelines that are put in place to assist departments in relation to that and to seek to ensure that measures are as well designed and as well specified as they can be. But if there are further aspects, more detailed aspects, that you want to pursue, I think they need to be matters for another day.

Mr O'BRIEN — The budget papers for the first time classify Victoria's courts separately from the Department of Justice, and BP3, page 82, explains that this is consistent with the commencement of Court Services Victoria from 1 July this year. Can you inform the committee about this reform and its implications for the budget papers?

The CHAIR — Before I ask the minister to respond, I note that we have only got 2 minutes left in this session, so a succinct answer would — —

Mr PAKULA — You might only have one, Chair, because I have a point of order. It would appear to me that this question would have been more appropriately directed to the minister in his capacity as Attorney-General rather than as Minister for Finance.

Mr O'BRIEN — I asked the question to be answered in his capacity as Minister for Finance.

The CHAIR — Order! I do not uphold the point of order. The question was linked to the budget papers and the specific responsibilities of the Minister for Finance.

Mr CLARK — I did in my capacity as Attorney-General touch on those aspects of this reform that relate specifically to the courts, but it does have a flow through to the presentation of the budget papers. It is a very important flow through, because for the first time as part of this reform the budget papers now provide for funding to Victoria's courts independently of funding to the Department of Justice, or indeed any other government department, in a way akin to the Parliament. There is now a separate line for the courts in the budget papers, alongside the Parliament and alongside the different government departments. That is an important recognition and reflection across the whole of the government that courts are very appropriately independent of government and will become fully so in an administrative and funding sense from the 14–15 financial year. That is why the budget papers provide as they do. I should say that although the heading used is 'Courts' because that is the succinct way of referring to it, it does include funding for VCAT and the Judicial College of Victoria. But the important point is that this is a recognition of the independence of our courts, free from executive government, from 1 July this year.

The CHAIR — Thank you, Minister. That concludes the hearing for the finance portfolio. I thank Ms Cato and Ms Archer for their attendance. We will have a very quick turnover and resume with the industrial relations portfolio.

Witnesses withdrew.